Westmorland & Furness Council

Private Sector Housing Enforcement Policy

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1 Document Details

1.1 Document summary

1. This housing enforcement policy sets out the council's policy framework for dealing with the enforcement of housing legislation. All policies relating to housing enforcement provisions and the service of financial penalties are contained within this enforcement policy.

2. Throughout this document, the following terminology definitions apply:
   - 'landlord' is used to refer to the property owner, property manager or letting agent
   - 'local housing authority/LHA' is used to refer to local authority housing teams
   - 'the council'/'we'/'us' is used to refer to Westmorland and Furness Council
   - 'officers' is used to refer to all authorised officers of the Westmorland and Furness private sector housing team
   - 'the Act', 'the Regulations' and 'the Order' will be separately defined within each section.

3. This housing enforcement policy will be reviewed as and when required, or annually as a minimum frequency.

1.2 Accessibility

4. The information in this document is available in different languages or formats upon request. Contact the relevant private sector housing team in your area:
   - For legacy Barrow, privatehousing@westmorlandandfurness.gov.uk or 01229 876543
   - For legacy South Lakeland, housingstandards@westmorlandandfurness.gov.uk or 0300 373 3300
   - For legacy Eden, housing.services@westmorlandandfurness.gov.uk or 01768 810 086

If you require this document in another format (eg CD, audio cassette, Braille or large type) or in another language, please telephone

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1.3 Document provenance

DOCUMENT PROVENANCE			
Status	Draft	**Current version no.**	1
Organisation	Westmorland and Furness Council	**Version date**	31 January 2024
Author	RHE Global	**Approved by:**	
Audience	Public	**Approval date:**	
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1.4 Document review history

DOCUMENT REVIEW HISTORY			
Revision date	**Version no.**	**Author of changes**	**Summary of changes**
January 24	V1.0	RHE Global	First version
May 2024	V1.1	Denis Rice, Legal	Review of draft policy from the point of view of a solicitor
June 2024	V1.2	Steven Kendall	Formatting following legal review

2 Housing Enforcement Policy

2.1 Introduction

1. The purpose of private sector housing enforcement is to improve the standard of private sector housing through education, advice and enforcement. Local housing authorities have a range of statutory duties and legislative powers related to private sector housing which enable them to tackle a wide range of housing issues such as disrepair, coldness, dampness, overcrowding and property licensing.

2. The private rented sector (PRS) housing function is responsible for ensuring all statutory powers and duties specific to private sector housing are implemented. The council has a statutory duty to enforce the provisions of the Housing Act 2004 and various other pieces of legislation, and this is undertaken by officers in the private sector housing team. The team deals with a wide range of housing issues, such as the licensing and inspection of houses in multiple occupation (HMOs) and complaints from tenants regarding housing standards. They also conduct proactive work to tackle identified priorities that would improve housing conditions in the district. One such example of proactive work is the 2023 ‘Healthy Homes PRS Pathfinder Project’.

3. The purpose of this policy is to set out clearly the way in which the council intends to act proportionately to secure effective compliance with legislation. This policy is intended to provide guidance on the principles and processes that will apply when officers consider the options available for dealing with a case.

4. Whilst the focus of this policy is to outline the way enforcement and regulation will be undertaken, advice, assistance and education will continue as the main focus of the private sector housing team.

5. Although the function is named private sector housing, the private sector covers not only PRS properties; it can also include properties managed by registered providers of social housing and owner-occupied properties. This policy sets out what all stakeholders of domestic properties in the council district can expect from officers, and as such it is therefore relevant to all housing stakeholders, such as landlords, managing agents, letting agents, RPSHs, tenants, owner occupiers, and any other person(s) who deal with housing related issues.

6. Any areas that are not included within the policy will be determined on a case-by-case basis having regard to relevant legislation and guidance available.

2.2 Aims of enforcement policy

7. The purpose of this policy is to set out clearly the ways in which the council intends to secure effective compliance with legislation, ensuring that the expectations of the council of itself, individuals, organisations and businesses is proportionate to the need.

8. This policy is intended to provide guidance on the principles and processes that will apply when council officers consider the options available for dealing with a case. It sets out what all housing stakeholders of private sector properties can expect from our officers.

9. The policy is intended to be aligned to national strategy and has therefore considered national non-statutory guidance documents such as 'Improving the Private Rented Sector and Tackling Bad Practice: A guide for local authorities',[1] 'Rogue Landlord Enforcement: Guidance for local authorities'[2] and 'Regulation of Private Renting'[3].

2.3 The principles of enforcement

10. Section 21 of the Legislative and Regulatory Reform Act 2006[4] requires that any person exercising a regulatory function must have regard to the principles below in exercising those regulatory functions:
    a. Regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent
    b. Regulatory activities should be targeted only at cases in which action is needed.

11. The council must follow the principles laid down by the Regulators' Code,[5] which came into statutory effect on 6 April 2014 and sets out certain requirements for how enforcement should be carried out.

12. This housing enforcement policy is based on the following principles, which are defined in the Regulators' Code:
    - **Openness**: We will provide clear information about the rules and regulations we have a duty to enforce, minimising use of jargon and complex terminology. 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 judgement 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 any group in a dispute.

2.4 Local housing authority duties and powers

13. The council's enforcement and regulation activities are dictated by certain pieces of legislation. Legislation can set down duties and powers:
    - **Duties** are things that the council is legally obliged to do.

[1] DCLG (2015). Improving the Private Rented Sector and Tackling Bad Practice: A guide for local authorities. Available here (accessed 29 January 2024)
[2] MHCLG (2019). Rogue Landlord Enforcement: Guidance for local authorities. Available here (accessed 29 January 2024)
[3] NAO (2021) Regulation of private renting. Available here (accessed 29 January 2024)
[4] Legislative and Regulatory Reform Act 2006, c.51. Available here (accessed 18 January 2024)
[5] Department for Business Innovation & Skills (2014) Regulators' Code. Available here (accessed 18 January 2024)

— **Powers** are things that the council can do if we think it is necessary or appropriate.

2.5 Authorisations

14. All officers undertaking enforcement action will be appropriately authorised and have the necessary training and competency to enable them to exercise the powers available to them. Authorisation documents will be in writing and signed by the relevant head of service.

15. Authorised officers of the council will abide by this policy when making enforcement decisions, and all operational procedures are written to correlate to the guiding principles within it.

2.6 Investigating and inspecting properties

16. The council has two mechanisms that trigger investigations:
    a. **Reactive**: This is where the council react to information received about a property, as a result of, for example, a complaint from the tenant themselves, a report from a neighbour or a referral from a third party, such as a social worker, health visitor, fire officer or tradesperson.
    b. **Proactive**: The council may decide that it is appropriate to carry out inspections in properties where no complaint, report or referrals has been received. Usually this is on account of proactive work being undertaken due to the general conditions of properties in a specific area, but another trigger could be a property owner's record of non-compliance with the requirements of the Housing Act 2004, resulting in a property portfolio inspection. Essentially, there are no limitations on the circumstances that might precede the design of a proactive programme of work; however, such a programme would be designed around the principles of the Regulators' Code as set out in section 2.4.

17. Regardless of the reason/source of the case, the council will target resources to ensure that matters believed to be the most serious are dealt with as a priority. We will not normally respond to anonymous complaints unless a safeguarding risk has been identified.

18. The council has the power to require documents to be produced in connection with our investigation, by a notice under section 235 of the Housing Act 2004. If such a notice is served, it will clearly specify what is required, by when, and the consequences of not complying. It is a criminal offence not to supply the information required, or to supply false or misleading information, by virtue of sections 236 and 238 of the Housing Act 2004 respectively.

19. Where it is considered necessary to carry out an inspection, the council is required to provide 24 hours' notice, by virtue of section 239 of the Housing Act 2004, unless we are investigating offences of failures to licence or breaches of the management regulations. This notice may be in writing, by electronic means, or verbally, either by telephone or in person.

20. The council may apply to the Magistrates' Court for a warrant to enter the property under section 240 of the Housing Act 2004. This might be because we gave notice of entry and it was refused, or if providing a notice would defeat the object of entry.

2.7 Likely approach by the nature of tenure

21. The majority of investigations, inspections and enforcement action are likely to be directed at the PRS. The following approach by us can be expected for PRS properties:

    a. **Tenants:**
        - We will expect you to have already advised your landlord of the issues affecting the property, in writing, before you contact us.
        - When you contact us, we will respond as soon as possible, with an aim to respond within three working days.
        - If an inspection is required, we will aim to carry this out within one week, or within a timescale agreed with you.
        - We will advise you of the possible courses of action we may take and of the likely timescales involved in taking action.
        - We will keep you informed of relevant developments throughout our dealings with your case.
        - We will expect you to cooperate with your landlord to allow any necessary work to be completed and to keep us informed of what action has been taken by them.

    b. **Landlords:**
        - 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 take the most appropriate course of action in all cases, following the principles of this enforcement policy.

            I. We will aim to offer an opportunity to work informally, where appropriate, advising you what action needs to be taken and asking you to undertake it within a reasonable timescale.
            II. If you do not respond to us, your proposals are not acceptable, or you do not carry out the necessary action, we will take one of the courses of enforcement action listed in section 3
            III. If you have a history of non-compliance, or the breach is serious, we may commence enforcement action immediately
            IV. If you do not comply with enforcement action taken, we will take one of the courses of further enforcement action detailed in section 3.11.

c. **Managing/letting agents:**
- We expect you to be a member of a property redress scheme.
- We expect you to be a member of a client money protection scheme if you hold clients' money.
- We expect that the properties you let/manage are safe and healthy and managed in a professional manner.
- We expect that you will set tenancies up correctly, providing the relevant documentation.
- We will aim to work with you wherever possible.

22. Housing legislation applies to all tenures; however, our approach to enforcement will vary dependent on property tenure. Our approach to other tenures will be as follows.

a. **Council-owned stock:**
- The council cannot take enforcement action against itself, and therefore complaints, reports or referrals relating to council housing are not dealt with by the private sector housing team. We may, however, have internal conversations with the maintenance team for council-owned stock and will seek to operate at the standards we require of others.
- Proactive work is not undertaken in relation to council-owned stock.

b. **Registered providers of social housing (RPSH):**
- These are housing associations and can also be subject to enforcement. However, as they are deemed to be responsible social landlords, the council will usually liaise with them as appropriate regarding any complaint, report or referral. This does not mean that enforcement will not be considered if an RPSH does not respond adequately or if the proposed timescale is not considered acceptable, based on the severity of the hazard.
- Where an RPSH is repeatedly non-compliant, or is known to frequently not respond adequately, we may alter our approach and may commence enforcement action immediately.
- Proactive work will not usually be undertaken in relation to RPSH stock.

c. **Owner occupiers:**
- When a complaint, report or referral is received about an owner-occupied property, it will be investigated in the normal way, but generally, owner occupiers would not be subject to enforcement action. This is because ordinarily, the most appropriate course of action would be to allow owner occupiers to make their decisions about their own homes. However, the council may, in certain circumstances, need to take enforcement action in respect of an owner-occupied dwelling. Examples of cases where we might take enforcement action in respect of an owner-occupied property are where:
  i. there is an imminent risk of serious harm to the occupiers, such as electrocution, fire or structural collapse;
  ii. the condition of the dwelling is such that it may adversely affect the health and safety of persons within or outside of the property;
  iii. there are vulnerable individuals occupying the dwelling or the occupants have been deemed not to have capacity in relation to decision-making and

may require the intervention of the council to ensure their welfare is best protected;

iv. there is a requirement to carry out fire precaution works to a flat on a long leasehold within a block in multiple occupation;

v. there are other exceptional circumstances that mean intervention is necessary; or

vi. as part of an area-based initiative or scheme, such as the declaration of a clearance area (see section 3.7.2)

— Proactive work is not undertaken in relation to owner-occupied stock.

d. **Empty properties:**

— The council will take enforcement action against empty properties, where necessary. This is likely to be (but is not limited to) circumstances where properties pose a nuisance, detriment or danger to neighbouring properties and/or passers-by.

— In order to deter landlords from undertaking retaliatory eviction, the council will make it clear in their interactions that enforcement action will continue if properties are made empty. We will not consider that removal of a tenant achieves compliance with any notice (except in cases of a crowding and space hazard where reduction of occupancy was a specific requirement of enforcement).

— In cases where properties are subject to enforcement and the property is subsequently vacated, notices/orders will be reviewed to consider whether it would be appropriate for such notices or orders to be varied, suspended or revoked.

— The council may undertake proactive work in relation to empty properties.

2.8 Legislation relevant to housing

23. The primary piece of legislation used to deal with housing is the Housing Act 2004. There are various other pieces of legislation that are used to deal with housing conditions. Some of these have their own specific enforcement policies, dealt with in sections 4–15 below.

24. Other pieces of legislation are used less commonly but may be considered when determining the most appropriate course of action to take in any particular case, or when conducting investigations. Action taken under such provisions will follow the general enforcement principles covered in this policy.

25. Officers are authorised as per section 2.5 for all of the pieces of legislation listed in Appendix G over and above those mentioned in other sections.

2.9 Enforcement options and decisions

26. The following range of enforcement options will be applied to private sector housing enforcement, regardless of whether the case has come to the team via proactive or reactive means:

— No action

— Informal action

- Statutory notices and emergency measures
- Further enforcement for non-compliance, including works in default; simple caution; prosecution; financial penalties; banning orders; and rent repayment orders.

27. In some cases, no action will be taken. There are a few circumstances where this may be appropriate, including, but not limited to where:
    - the landlord/responsible party is largely compliant with their obligations and action is not necessary;
    - formal action by us is considered to be disproportionate to the level of risk;
    - the case came in by way of a complaint that was considered to be malicious or vexatious; or
    - the case came in by way of proactive work or a referral from a third party, and the occupants do not want the council's assistance or involvement and there is no other pressing need to do so.
28. In some cases, informal action may be appropriate. The council may use informal procedures when we believe that such an approach will secure compliance with the requirements of the appropriate legislation within a reasonable timescale. Informal action will usually involve discussion with the stakeholders and might include offering advice, a verbal warning and/or an advisory or warning letter or report.

29. There are several circumstances where an informal approach may be appropriate, including, but not limited to where, in our view:
    - the non-compliance does not pose a risk to anyone;
    - there are no grounds for us to take enforcement action; or
    - from the past history of the landlord/responsible party, it is reasonable to expect that informal action will lead to resolution/compliance.

30. Statutory notices, emergency measures and further enforcement for non-compliance will be considered in the sections below that refer to specific statutory controls.

2.10 Partnership working

31. The council will, in all cases, consider working jointly with other departments where necessary.

32. Sometimes, a housing case can trigger enforcement responsibility for several departments, both within and outside the council. We will therefore take a comprehensive approach to enforcement wherever possible by:
    - co-ordinating action between council departments and other agencies;
    - ensuring that we take the most effective action by deciding which department should lead enforcement action, depending upon the offence committed and the powers available;
    - sharing information where it is appropriate and lawful to do so;
    - working collaboratively on joint prevention strategies; and
    - aiming to speak with a single/consistent voice.

33. The council may work with other external services/organisations where it is deemed appropriate. This could include (but is not limited to) the fire and rescue service, the police

and the NHS. Any partnership working will be assisted by formal information-sharing agreements, where appropriate.

2.11 Safeguarding

34. Officers of the housing team have varied levels of contact with children, young people and adults at risk as part of their duties and responsibilities for the council. The housing team has regard to all relevant policies, plans and procedures when carrying out those duties and responsibilities, including, but not limited to, Westmorland and Furness Council's safeguarding procedures[6], the Cumbria Threshold Guidance[7] and the Cumbria Safeguarding Adults 5 Year Strategic Plan[8].

35. Information sharing may occur as and when the team feels necessary in terms of the critical role they play in safeguarding, both in prevention and detection.

[6] Westmorland and Furness Council, 2024. Available here and here (accessed 23 February 2024)
[7] Cumbria Safeguarding Children Partnership, 2024. Cumbria Threshold Guidance. Available here (accessed 23 February 2024)
[8] Cumbria Safeguarding Adults Board, 2022. Cumbria Safeguarding Adults Board: 5 Year Strategic Plan, 2022-2027. Available here (accessed 23 February 2024)

3 Enforcement under the Housing Act 2004

3.1 Introduction

1. The main legislative framework for housing control is contained within the Housing Act 2004[9]('the Act'), and the associated Housing Health and Safety Rating System (England) Regulations 2005[10] ('the Regulations'). In considering cases under this legislation, appropriate regard is given to the relevant statutory guidance; the HHSRS Operating Guidance,[11] and the HHSRS Enforcement Guidance[12].

2. The Act and 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.

3. 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 (e.g. people over the age of 65 are most vulnerable to 'excess cold' and children under the age of 5 are most vulnerable to 'falling between levels'). However, in determining what action to take, the council will take account of not only the hazard score but also the risk to the current and likely future occupiers and visitors, the views and circumstances of the occupiers and property owners and whether more than one significant hazard is present.

4. The score resulting from an assessment will place the hazard in a hazard banding between A and J. Hazards in bands A–C are classed as Category 1 hazards, and those in bands D–J are classed as Category 2 hazards.

5. Where an inspection and consequent HHSRS assessment shows Category 1 hazards to be present, the council has a legal obligation to take one of the appropriate courses of action under the Act (i.e. those courses of action listed in sections 3.2–3.7 below).

6. Where an inspection and consequent HHSRS assessment shows Category 2 hazards to be present, the council has the power to take one of the appropriate courses of action under the Act (i.e. those courses of action listed in sections 3.2–3.7 below).

7. In reality, the council will often offer landlords an opportunity to comply with our requirements informally, as detailed in sections 2.7 and 2.9.

3.2 Most appropriate course of action

8. The council must take the most appropriate course of action, which cannot be pre-determined. It is for the council to determine what the most appropriate course of action is

[9] The Housing Act 2004, c.34. Available here (accessed 18 January 2024)
[10] The Housing Health and Safety Rating System (England) Regulations 2005, No. 3208. Available here (accessed 18 January 2024)
[11] ODPM, 2006. HHSRS Operating Guidance. Available here (accessed 16 January 2024)
[12] ODPM, 2006. HHSRS Enforcement Guidance. Available here (accessed 16 January 2024)

to take with regard to each perceived hazard. Each case will be considered on its own merits, making reference to this policy and principles of enforcement listed in section 2.3 and the statutory enforcement guidance.[13]

9. In determining the most appropriate course of action, the circumstances of the case will be considered. This is likely to include (but is not limited to) the:
    a. extent, severity and location of hazard(s), including the cumulative effect of multiple hazards;
    b. proportionality of the cost of remedial works to the risk;
    c. practicability of remedial works;
    d. extent of control an occupier has over works to the dwelling;
    e. vulnerability of current occupiers;
    f. likelihood of occupancy changing;
    g. views of the current occupiers; and
    h. views of the fire authority, with regard to the hazard of fire.

10. The relevant courses of action listed under the Act are detailed in sections 3.3–3.7.

11. When one of these courses of action is taken, the notice/order will provide:
    — an explanation the defects in the property or the specific area of legislative noncompliance, what is needed to rectify matters and the next steps if the notice is not complied with
    — a reasonable timescale for compliance, having regard to the seriousness of the defects or contraventions; and
    — information regarding the right of appeal, where necessary and appropriate.

12. The council will also make a statement of reasons explaining their justification for taking the course of action we have chosen.

13. The council can take more than one course of action in respect of different hazards. We cannot take more than one course of action at a time in relation to the same hazard. Where a course of action is taken but is deemed not to have achieved the required outcome, we can withdraw this course of action and take another form of action.

3.3 Hazard awareness notice (HAN)

14. A HAN is served under in accordance with section(s) 28 and/or 29 of the Act:
    — HAN relating to Category 1 hazards: section 28.
    — HAN relating to Category 2 hazards: section 29.

15. A HAN is used where a more serious form of action is not considered appropriate. It does not require any action to be taken but does, however, act as a formal way of drawing attention to the need for remedial action.

16. A HAN is not required to be registered as a land charge. There is no right of appeal to a HAN.

[13] ODPM, 2006. HHSRS Enforcement Guidance. Available here (accessed 16 January 2024)

3.4 Improvement notice (IN)

17. An IN is served under section(s) 11 and/or 12 of the Act:
    - IN relating to Category 1 hazards: section 11.
    - IN relating to Category 2 hazards: section 12.

18. 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.

19. An IN can 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.

20. An IN can be varied with the agreement of the landlord. A suspended IN can be varied to alter the specified time or event for which it has been postponed. The council will review suspended INs at least annually.

21. When an IN is complied with, the council will revoke the notice.

3.5 Prohibition order (PO)

22. A PO is made under section(s) 20 and/or 21 of the Act:
    - PO relating to Category 1 hazards: section 20.
    - PO relating to Category 2 hazards: section 21.

23. 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. In accordance with the Act, the order will be served within 7 days of being made, and appeals may be brought within 28 days of the date of the order.

24. A PO 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. The council will review suspended POs at least annually.

25. Where the remedial works listed in the PO are carried out, the council will re-inspect the property and, if appropriate, revoke the PO.

3.6 Emergency action

26. Emergency courses of action, as detailed in sections 3.6.1 and 3.6.2 below, are only available in relation to Category 1 hazards, where there is considered to be an imminent risk of serious harm to the health and safety of occupiers of the relevant premises.

3.6.1 Emergency remedial action (ERA)

27. ERA is taken under section 40 of the Act.

28. Where the criteria in paragraph 26 above are met, the council may take ERA. We will do this when we consider that immediate action is needed to remove the hazard, that the property owner cannot or will not do this, taking into account the council's ability to recover our costs of carrying out the action. If this action is taken, then a notice must be served within 7 days. Appeals may be brought within 28 days of the date the action is taken.

3.6.2 Emergency prohibition order (EPO)

29. An EPO is made under section 43 of the act.

30. Where the criteria in paragraph 26 above are met, the council may make an EPO. This action imposes a prohibition on part or all of the property with immediate effect.

31. This action is likely where ERA is not considered appropriate for some reason. For example, if the work cannot be completed in a reasonable timescale to remove the harm to occupiers and includes circumstances where 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.

3.7 Other courses of action under the Housing Act 2004

32. Chapter 4 of the Act amended the Housing Act 1985[14] to revise the provision for demolition orders and declarations of clearance areas.

33. Both measures are considered extreme and would be considered only in exceptional circumstances.

3.7.1 Demolition order (DO)

34. A DO is made under Part 9 of the Housing Act 1985 and requires a property to be demolished.

35. A DO can be made in respect of a Category 1 hazard unless the dwelling is a listed building. It can be made in respect of a Category 2 hazard unless there is a management order in place.

36. If the council is considering a DO, we will take into account the local environment, the prospective use of the cleared site and the availability of alternative housing for the occupants.

[14] Housing Act 1985 c.68. Available here (accessed 30 January 2024)

3.7.2 Clearance area (CA)

37. A declaration of a CA is served under Part 9 of the Housing Act 1985[15] and requires a defined area of properties to be demolished.

38. The council can declare a CA if it is satisfied that each of the residential buildings in the area contains one or more Category 1 hazards. In a building containing flats, two or more of those flats must contain a Category 1 hazard before a clearance area can be declared. Clearance orders may also be declared in certain circumstances where a Category 2 hazard exists.

39. If the council is considering declaring a CA, we will take into account the local environment, the prospective use of the cleared site, whether additional land acquisition would be necessary, the proportion of 'hazard-free' dwellings that would be included in the clearance and the suitability of arrangements for displaced occupants.

40. Due to the extreme and complex nature of this action, it is likely that an in-depth assessment will be undertaken alongside consultation.

3.8 Appeals to enforcement action under the Housing Act

41. Landlords and tenants have a statutory right of appeal to the First-tier Tribunal (Property Chamber) (FTT), in the event of a notice being served or an order being made. This right of appeal will be fully outlined on the notice/order, including the period within which an appeal can be made.

42. The council will generally take the view that any complaints that are within the jurisdiction of the FTT should be dealt with through that mechanism. However, if any party has a complaint about any matter that cannot be dealt with by the FTT, they will be encouraged to use our complaints policy[16].

43. Where an appeal is made to an improvement notice or prohibition order, the notice/order will be suspended until such time as the appeal is heard.

44. When an appeal is heard, the FTT may confirm, quash, vary or suspend any notice, order or decision.

3.9 Charges for enforcement action

45. Sections 49 and 50 of the Housing Act 2004 allow local housing authorities to charge and recover reasonable costs incurred by taking the most appropriate course of enforcement action.

46. The council will normally make a charge for our enforcement costs when taking the following action:

[15] Housing Act 1985 c.68. Available here (accessed 30 January 2024)
[16] Westmorland and Furness Council Corporate Complaints and Compliments Procedure, Available here (accessed 20 February 2024)

- Serving improvement notices (including suspended notices)
- Making prohibition orders (including suspended orders)
- Carrying out emergency remedial action
- Making emergency prohibition orders
- Making demolition orders.

47. The council will not normally make a charge when action is limited to the service of a hazard awareness notice, but we may make a charge in exceptional circumstances.

48. The council charge for enforcement action is set presently at a standard rate of £347[17] per notice/order. This is based on the estimated time taken to incur the eligible expenses set out in section 49 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; and
    - serving the notice/making the order.

49. The council may consider waiving the charge if the landlord makes representations and agrees to the extent of the works and timescales.

50. A demand for payment of the charge will be served on the person who the enforcement action was take against. The demand becomes operative (if no appeal is brought against the underlying notice or order) at the end of the period of 21 days beginning with the date of service of the demand. A land charge (see section 3.10) will be placed on the property until the sum is paid in full.

3.9.1 Charges for non-statutory inspections

51. 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 to establish whether there is overcrowding. The charge for this service is £123[18].

3.10 Land charges

52. Where a notice has been served or an order has been made, a local land charge will be registered against the property. This means that in the event of a property being placed on the market for sale, any prospective buyer is made aware of the current enforcement action being taken.

53. For this reason, final management orders (see section 8) must also be registered as a local land charge.

[17] £347 at the time of writing, February 2024. Due to rise to £372 in April 2024. This charge is reviewed annually and subject to change. For up-to-date charges please check our website.
[18] £123 at the time of writing, February 2024. Due to rise to £132 in April 2024. This charge is reviewed annually and subject to change. For up-to-date charges please check our website.

3.11 Further enforcement for non-coFmpliance

3.11.1 Non-compliance with enforcement

54. Failure to carry out the works specified as required in an improvement notice is classed as failure to comply with it. This is a criminal offence by virtue of section 30 Housing Act 2004.

55. Using a dwelling or permitting a dwelling to be used in contravention of the terms specified in a prohibition order or emergency prohibition order is classed as failure to comply with it. This is a criminal offence by virtue of section 32 Housing Act 2004.

56. Where an offence is committed, the council will consider the courses of action listed in sections 3.11.2–3.11.6.

3.11.2 Works in default

57. Where the council serves an improvement notice and the person responsible does not comply, we have powers available to ‘act in default’. This means that we can carry out the works specified in the notice. Works in default will be undertaken where there is an unacceptable risk to the occupier’s health.

58. The council can reclaim the cost of the works in default, including administration costs. In most cases, costs can be registered as a charge on the property and can be recovered through the courts. Where there is no prospect of the money being recovered, the debt may be placed on the property as a land charge.

59. Charges may be made for abortive costs in preparing to carry out work in default where an order has been placed and the owner then carries out the work required.

3.11.3 Simple caution

60. A simple caution may be issued in certain cases where an offence has been committed. A simple caution may be considered, often as a means of diverting less serious offences away from the courts, when the circumstances of the offence satisfy the following criteria:
    a. The offence is serious to warrant prosecution and it is a first offence
    b. The council believes that a caution will prevent further offences

61. A simple caution may be offered only where all of the following requirements are met:
    a. There is evidence of the offender’s guilt, sufficient to give a realistic prospect of conviction
    b. The offender admits the offence
    c. The offender accepts the simple caution and understands its significance
    d. The offender clearly understands the significance of the caution and gives informed consent to being cautioned
    e. It is considered to be in the public interest.

3.11.4 Prosecution

62. Legal proceedings may be instigated in circumstances where:

a. the alleged offence involves a flagrant breach of the law such that health, safety or the environment has been placed at serious risk;
b. the alleged offence involves a failure to comply with a statutory notice;
c. the matter concerned is related to a history of non-compliance involving risk to the public;
d. it is a first offence but is considered to be a very serious breach;
e. a financial penalty has previously been issued and the alleged breach continues;
f. an individual has demonstrated an unwillingness to prevent a reoccurrence or resolve the matter;
g. an officer has been unlawfully obstructed in the course of their duties; and
h. in circumstances breach of a prohibition order has occurred (as this is not an offence for which a financial penalty can be imposed).

63. The council must be satisfied that we can show, beyond reasonable doubt, that the landlord has committed the offence and that if heard in a magistrates' court there would be realistic prospect of conviction. In substantiating the case, we are likely to invite the landlord to undertake an interview under caution in accordance with the provisions of Code C of the Codes of Practice to the Police and Criminal Evidence Act 1984.

64. The council will have consideration of the Crown Prosecution Service 'Code for Crown Prosecutors'[19] when considering whether or not to prosecute a person or persons for the alleged offence(s).

65. Legal services will then consider whether,
    a. there is sufficient evidence available to prove beyond reasonable doubt that the alleged offence(s) have been committed by the relevant person (see evidentiary stage of the full code test[20]); and
    b. there is a public interest in prosecuting the relevant person in respect of the offence (see public interest stage of the full code test[21]).

66. Legal Services will also ensure that any other relevant policies and this policy have been complied with and that the alternative option of imposing a financial penalty for the offence has been considered, where appropriate. A convicted defendant can, in appropriate circumstances, be ordered by a sentencing court to pay compensation for any personal injury, loss or damage resulting from the offence (Sections 130 - 133 Powers of Criminal Courts (Sentencing) Act 2000).

3.11.5 Financial penalty

67. Section 249A of the Housing Act 2004 allows for financial penalties of up to £30,000 per offence to be imposed as an alternative to prosecution for certain offences.

68. The full policy regarding the issue of financial penalties under the Housing Act 2004 can be found in Appendix B.

[19] Director of Public Prosecutions (2018). The Code for Crown Prosecutors. Available here (accessed 12 January 2024)
[20] See page 7 of reference 23.
[21] Director of Public Prosecutions (2018). The Code for Crown Prosecutors, page 8. Available here (accessed 12 January 2024)

3.11.6 Further enforcement measures

69. There are other consequences of non-compliance with INs, POs and EPOs, which each have their own policy. These are:
    a. Banning Orders (section 6);
    b. The Rogue Landlord Database (section 7); and
    c. Rent Repayment Orders (section 8).

4 HMO Policy

4.1 Introduction

1. HMOs are defined in section 254 of the Housing Act 2004 ('The Act'). HMOs are a building, or part of a building, that is/are occupied by persons who do not form a single household[22], and where basic amenities (i.e. kitchens and/or toilets/bathrooms) are shared.

2. Due to their nature of occupation, HMOs tend to pose additional risk to occupants, and additional legislative requirements exist in relation to them.

4.2 HMO licensing

3. HMOs that are occupied by five or more people forming two or more separate households, regardless of the number of storeys, are required to be licensed by Part 2 of the Act. The council will take reasonable steps to ensure property owners make licence applications.

4. To gain an HMO licence, the licence holder (and, where applicable, the manager) must make an application that provides the required information about the property and its management. The application process should demonstrate that they are fit and proper persons to hold a licencee and that satisfactory management arrangements are in place.

5. Each licence application will be dealt with systematically and will require a degree of checking before a licence can be issued. Checks with other agencies such as the Police, Fire Service, Building Control and Planning are likely to be carried out. Checks will carried out within agreed timescales and a notice either granting or refusing a licence will be issued.

[22] Single households are defined in section 258 of the Act, and paragraphs 3 and 4 of the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006. A single household consists of people who are all members of the same family, or their circumstances are of a description specified for the purposes of this section in regulations made by the appropriate national authority. A person is a member of the same family as another person if those persons are married to each other, in a civil partnership, or live together as if they were; one of them is a relative of the other; or one of them is, or is a relative of, one member of a couple, and the other is a relative of the other member of the couple. A couple means two persons who are married to each other, are civil partners or are in an equivalent relationship. A relative means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin. A relationship of half-blood shall be treated as a relationship of whole blood, and the stepchild of a person shall be treated as their child. The following are also to be treated as forming part of a single household where their living accommodation is in the same building or part of a building: Domestic staff who provide services exclusively for the occupier of the premises and do not pay rent in respect of the accommodation for example, a nanny, au pair, carer or personal assistant; a carer who provides care in living accommodation for not more than three other persons under the Adult Placement Schemes (England) Regulations 2004; or a foster child and foster parent under the provisions of the Fostering Services Regulations 2002.

6. In assessing whether an applicant or manager are fit and proper persons, the council must take account whether the applicant has:
   - any previous convictions of the applicant involving violence, sexual offences, drugs or fraud;
   - contravened any laws relating to housing or landlord and tenant issues;
   - been found guilty of unlawful discrimination practices; and
   - managed HMOs other than in accordance with any approved code of practice.
7. An HMO licence is granted for up to five years and will specify the maximum number of persons permitted to occupy the HMO. It will also be subject to the appropriate conditions contained contained in Schedule 4 (mandatory conditions), and section 67 (discretionary conditions) of the Act.

8. Mandatory conditions: A licence under Part 2 always includes the following conditions:
   - Produce gas safety certificates annually for the council's inspection.
   - Keep electrical appliances provided by the landlord in a safe condition and produce a declaration to that effect on demand.
   - Keep furniture provided by the landlord in a safe condition and produce a declaration to that effect on demand.
   - Ensure that smoke alarms are installed in the house,keep them in proper working order and produce a declaration as to the condition and positioning of these alarms on demand.
   - Supply to the occupiers of the house a written statement of the terms on which they occupy it.

9. Discretionary conditions: A licence under Part 2 can include the following:
   - 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 section 65 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 period.

10. The council is entitled under section 63(2) of the Act to charge a fee for HMO licences. The fees at present are £525 for a 5-bedroom property, £30 per room thereafter for both new licences and renewals[23].

11. The purpose of HMO licensing is to ensure that landlords are providing accommodation that is properly managed and is compliant with health and safety regulations. Part 2 of the Act requires a licence holder to be a fit and proper person. The Act stipulates the necessary criteria to achieve this. Where the proposed manager or licence holder is not considered to be a fit and proper person, they will be given the opportunity to develop proposals to meet the fit and proper person test. If this is not possible, it may be necessary to refuse the licence.

[23] £525 for 5-bedroomed HMOs plus £30 per additional room at the time of writing, February 2024. Due to rise to £33 per additional room in April 2024. This charge is reviewed annually and subject to change. For up-to-date charges please check our website.

12. The council will consider issuing a temporary exemption notice (TEN) in response to a request from the owner or managing agent to exempt the property from licensing on the grounds that it is no longer going to be used as an HMO. A TEN remains in force for 3 months, after which the property must have a licence if it is still in such a condition as to require one. If further notification is received and the authority considers that there are exceptional circumstances, a second TEN may be served, which will remain in force for a further 3 months.

4.2.1 Granting a licence

13. Where an application for a licence has been received and the council is satisfied that the proposed licence holder is fit and proper, that the house is suitable for multiple occupation and that the application submitted is valid, we must grant a licence. Each licence must only relate to one HMO and can last for up to 5 years. In some cases, in may be necessary to grant the licence for less than 5 years.

4.2.2 Refusing a licence

14. A licence can be refused if the council is not satisfied that the criteria stipulated in the Act have been met.

15. If a licence is to be refused, the council will give serious consideration to the consequences of this decision. Depending on the reasons for the refusal, it may be appropriate to consider the options available for dealing with the property.

16. Where a licence is refused, the council has a duty to serve an interim management order and carry out the steps set out in section 106 of the Act. A management order will be the last resort and other avenues will be considered before instigating this action, including a TEN. For further details on management orders see section 8.

17. The council will take all reasonable steps to assist the proposed licence holder or owner of the property to take action to enable the property to become licensed or to take the property out of use as an HMO.

4.2.3 Revoking a licence

18. The council may revoke a licence, in line with circumstances stipulated under Part 2 of the Act. If the property is to remain a licensable HMO, we must make an interim management order (see section 8). If it is no longer an HMO, no further action is required.

4.2.4 Varying a licence

19. A licence may be varied where either the licence holder makes a request, or the council feels it is necessary to do so. It may be varied where there has been a change in circumstances, which also includes the discovery of new information[24].

[24] At present no charge is being made for variations. This is under review, and subject to change. For up-to-date charges please check our website.

4.3 HMO declarations

20. Under section 255 of the Housing Act 2004, the council may declare a building an HMO where it is satisfied that it passes the statutory tests listed in section 254(24) of the Act. A house may not be an HMO if it is listed as exempt in Schedule 14 of the Act.

21. To be declared as an HMO, the house (or part of a house) must meet the:
    - standard test (s. 254(2));
    - self-contained flat test (s. 254(3)); or
    - converted building test (s. 254(4))

22. Once the council has determined that a building is an HMO, we will serve a notice declaring this. This notice will include the date the declaration comes into force, and how to appeal the council's decision.

23. An HMO declaration may be revoked at any time as a result of a request from the owner or by the council if we consider that the statutory tests are not met. Before revoking a declaration, we must serve a notice of our intention to do so, stating the date the decision was made. If the council receives a request from an owner to revoke a declaration, and we have determined that we will not do so, we must serve a notice of our decision.

4.4 Representations and appeals

24. A person who is served a proposal relating to licensing, including an HMO declaration, has 28 days (starting from the day after the date the proposal was sent) to make written representations and objections to the council in relation to the proposal.

1. Where a representation is received, the council will give the representations careful consideration. We may decide to uphold the decision, or we may amend it.

2. Following the issuing of a final decision related to licensing, including an HMO declaration, the recipient may appeal to the FTT against the decision. No action can be considered regarding offences a, b and c listed at section 4.9 paragraph 35 until the appeal is either determined or withdrawn.

3. Appeals can be made to the following decisions:
    - Granting of a licence.
    - Refusal to grant a licence.
    - Varying of a licence.
    - Refusal to vary a licence.
    - Revoking of a licence.
    - Refusal to revoke a licence.
    - Service of an HMO declaration.

4. The FTT will review the council's decision. It has the power to confirm, reverse or vary licensing decisions. In the event of service of an HMO declaration, it has the power to confirm the decision, or reverse it and revoke the declaration.

5. The FTT can also dismiss an appeal, should it consider the appeal has no real prospect of success or is considered to be vexatious, trivial or an abuse of process.

4.5 HMO management

25. All HMOs must comply with the Management of Houses in Multiple Occupation (England) Regulations 2006[25] ('the management regulations') and amendments made under section 234 of the Act.

26. The management regulations impose duties on both the manager(s) and occupiers of an HMO. The duties imposed are as follows:
    - Manager(s) duties are to:
        a. provide and display contact information to occupiers (Regulation 3);
        b. take safety measures to protect occupiers from injury and maintain the escape routes (Regulation 4)'
        c. maintain water supply and drainage (Regulation 5);
        d. supply and maintain gas and electricity (Regulation 6);
        e. maintain common parts, fixtures, fittings and appliances (Regulation 7);
        f. maintain living accommodation (Regulation 8); and
        g. provide waste disposal facilities (Regulation 9).
    - Occupier duties (Regulation 10) are to:
        a. not obstruct the manager(s) in performing their duties;
        b. allow the manager(s) access to carry out their duties
        c. provide the manager(s) any relevant information needed to carry out their duties;
        d. take care to avoid damaging anything which the landlord must supply, maintain or keep in good condition;
        e. store and dispose of waste appropriately; and
        f. comply with arrangements made by the landlord in respect of fire prevention, means of escape and fire-fighting equipment.

4.6 HMO amenity standards

27. The council will require the provision of amenities in all HMOs to be in accordance with management regulations and, for licensed HMO properties, the Licensing and Management of Houses in Multiple Occupation and other houses (Miscellaneous Provisions) (England) Regulations 2006[26] as amended.

28. To provide some basic guidance to landlords for amenities in relation to the legislation, the council has adopted an amenity standards document which is referenced in Appendix A. This document sets out the expected standards in licensed HMOs and should also be used as a reference for compliance for non-licensed HMOs where there are a higher number of letting units.

29. If a landlord is not able to comply with the requirements and the property does not lend itself to adaptation, or there is no evidence of the tenants being inconvenienced, then a lesser standard may be accepted, but this will be reviewed at each inspection.

[25] The Management of Houses in Multiple Occupation (England) Regulations 2006 (SI 2006/372) Available here (accessed 30 January 2024)
[26] The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 (SI 2006/373) Available here (accessed 30 January 2024)

4.7 The HHSRS in HMOs

30. The council does not have a duty to consider the HHSRS before an HMO licence is issued. However, our current practice is to carry out inspections prior to issuing a licence, wherever possible. We may carry out further inspections if we have reason to be concerned about the likelihood of category 1 or 2 hazards at any time during the term of the licence.

31. The assessment of hazards in HMOs is made for each unit of accommodation but will consider the common parts and other areas connected to the unit of accommodation.

32. If enforcement action is taken in relation to an HMO and it reverts to single occupation, the council will consider whether the change of use is relevant to the impact of the hazard. If the impact of the hazard is altered by the change of use, we may review our enforcement decision.

4.8 Other statutory requirements for HMOs

33. Compliance with the legislative requirements enforced by the Housing team does not guarantee compliance with all legislative requirements. For example, compliance with the HHSRS, licensing requirements and management regulations does not guarantee compliance with planning legislation or building regulations. It is the prospective licence holder's responsibility to check the requirements of other regulatory regimes.

4.9 Offences relating to HMOs

34. There are a number of possible criminal offences relating to HMOs with section 72 of the Act. The council will consider taking action where there is evidence of an offence and they consider it is appropriate to take such action.

35. Offences include:
    a. managing or having control of an unlicensed HMO that should have a licence;
    b. allowing the HMO to become occupied by more than the agreed number of households or persons on the licence;
    c. breaching licence conditions;
    d. breaching management regulations; and
    e. providing false or misleading information (section 238 of the Act).

36. There are no enforcement notice provisions for these offences. If enforcement action is required, this must take the form of prosecution. Alternatively, a financial penalty can be imposed for those offences where this is applicable.

5 Housing and Planning Act Policy

5.1 Introduction

1. The Housing and Planning Act 2016 introduced additional instruments to assist local authorities in tackling irresponsible landlords:
    a. It amended the Housing Act 2004 to introduce the provision for financial penalties of up to £30,000 to be imposed by an LHA (financial penalties can be imposed on an individual or organisation as an alternative to prosecution for certain housing offences under the Housing Act 2004 and/or a breach of a banning order under the Housing and Planning Act 2016).
    b. It extended the provisions for rent repayment orders (see section 9).

2. The ability to impose financial penalties serves as an alternative to prosecution (as covered in section 3.11), in circumstances of a contravention of the following offences under the Housing Act 2004 of :
    a. Failure to comply with an improvement notice (Housing Act 2004, section 30);
    b. offences in relation to licensing of HMOs (Housing Act 2004, section 72);
    c. offences in relation to licensing of houses under Part 3 of the Act (Housing Act. 2004, section 95);
    d. offences of contravention of an overcrowding notice (Housing Act 2004. section 139;
    e. failure to comply with management regulations in respect of HMOs (Housing Act 2004, section 234); or
    f. breach of a banning order (Housing and Planning Act 2016 section 21).

3. The council will have regard to section 2 of this policy and the statutory guidance 'Civil Penalties under the Housing and Planning Act 2016: Guidance for local housing authorities'[27] in the exercise of our functions when considering serving a financial penalty.

5.2 Burden of proof

4. The council must be satisfied that we can show beyond reasonable doubt that the landlord has committed the offence and that if heard in a magistrates' court, there would be a realistic prospect of conviction.

5. The council will consider all the circumstances, including whether:
    we believe we have sufficient evidence to prove beyond reasonable doubt that an offence has been committed by the landlord;

    a. there is a public interest in imposing a financial penalty on the landlord in respect of the offence (see public interest stage of the full code test[28])
    we have properly taken into account this policy when deciding to impose the financial penalty, including the alternative option of prosecuting for the offence.

[27] Ministry of Housing, Communities and Local Government (2016). Civil Penalties under the Housing and Planning Act 2016: Guidance for local housing authorities. Available here (accessed 12 January 2024)
[28] Director of Public Prosecutions (2018). The Code for Crown Prosecutors, page 8. Available here (accessed 12 January 2024)

5.3 Determination of sanctions

6. The council will consider the appropriateness of sanctions on a case-by-case basis. To ensure that financial penalties are set at an appropriate level in each case, we will consider the:
   - severity of the offence;
   - culpability and track record of the offender;
   - any harm caused to the tenant;
   - necessity to punish the offender and, with regard to financial penalties, ensure that there is an economic impact on the offender consequent to the offending;
   - potential impact of a fine to act as a deterrent to reoffending;
   - deterrent effect on others; and
   - removal of any financial benefit the offender may have obtained from committing the offence.

7. In setting our financial penalty calculation guidance, the council has ensured that these factors are appropriately considered within the process.

8. Information in relation to how financial penalties will be calculated is detailed in Appendix B of this policy.

5.4 Issue of financial penalties

9. Once a decision has been made to issue a financial penalty and the amount of the financial penalty has been calculated, the council will serve a 'notice of intent' in accordance with the process set down in Schedule 13a of the Housing Act 2004.[29] This will be served within 6 months of the council having evidence of the offence, or, where the offence is continuing, at any time.

10. The notice will specify the amount of the financial penalty and the reason(s) it is being issued. The notice will allow the recipient 28 days to make representations to the council.

11. If no representation is received within 28 days, a final notice will be served. Alongside reiterating the amount of the financial penalty and the reason(s) the notice is being issued, this will specify how the penalty can be paid, the period for payment, information on how to appeal and the consequences of failure to comply with the notice.

12. The council may, at any time, choose to withdraw a notice of intent and/or a final notice, or amend it to reduce the amount of the financial penalty.

5.5 Representations and appeals

13. A person who is served with a notice of intent has 28 days (starting from the day after the date the notice of intent was sent) to make written representations and objections to the council in relation to the proposed fine.

[29] The Housing Act 2004, c.34. Available here (accessed 18 January 2024)

14. Where a request for a review is received, the council will give the representations careful consideration. We may decide to uphold the penalty or reduce the amount.

15. Following the issuing of a final notice for a financial penalty, the recipient may appeal to the FTT against the decision to issue a financial penalty or the amount of the financial penalty. If an appeal is submitted, the final notice is suspended (and the fine cannot be enforced) until the appeal is either determined or withdrawn.

16. Appeals can be made on any of the following grounds:
    a. The decision to impose a fine was based on a factual error or was wrong in law.
    b. The amount of the fine is unreasonable.
    c. The decision was unreasonable for any other reason.

17. The FTT will review the council's decision. It has the power to confirm, vary (reduce the amount) or cancel the financial penalty. The FTT can also dismiss an appeal, should it consider the appeal has no real prospect of success or is considered to be vexatious, trivial or an abuse of process.

5.6 Recovery of financial penalties

18. A financial penalty must be paid within 28 days of the final notice, which starts on the day following the notice being issued (unless the notice is suspended due to an appeal). The final notice will contain information with regard to making payment.

19. Where a financial penalty is payable, is no longer subject to review or appeal, and remains unpaid after the specified payment period, the council will pursue this as a debt owed to us. This means that we will instigate legal proceedings to recover outstanding penalties.

20. Where proceedings are necessary for the recovery of the fine, a certificate signed by, or on behalf of, the person having responsibility for the financial affairs of the enforcement authority, stating that the amount due has not been received by the date specified on the certificate, will be taken as conclusive evidence that the fine has not been paid.

5.7 Income from financial penalties

21. Income received from financial penalties must be used by the council to further our statutory functions in relation to enforcement activities covering the PRS.

6 Banning Order Policy

6.1 Introduction

1. A banning order is an order made by the FTT, on application by a council. It bans a landlord from:
   a. letting housing in England;
   b. engaging in English letting agency work; and
   c. engaging in English property management work.

2. A banning order must last for at least 12 months and can be publicised. Breach of a banning order is an imprisonable offence.

3. Banning order offences are set out in the schedule to the Housing and Planning Act 2016 (Banning Order Offences) Regulations 2018[30]. There are several offences not listed here that relate to general criminal activity. The relevant housing offences for which a banning order can be considered are:
   - Using or threatening violence for securing entry into premises (Criminal Law Act 1977,[31] section 6)
   - Illegal eviction or harassment, (Protection from Eviction Act 1977,[32] section 1)
   - Failure to comply with an improvement notice, (Housing Act 2004,[33] section 30)
   - Failure to comply with a prohibition order (Housing Act 2004, section 32)
   - Managing/having control of an unlicensed property (Housing Act 2004, section 95)
   - Managing/having control of an unlicensed HMO (Housing Act 2004, section 72)
   - Contravention of an overcrowding notice (Housing Act 2004, section 139)
   - Failure to comply with management regulations in respect of HMOs (Housing Act 2004, section 234)
   - Providing false or misleading information (Housing Act 2004, section 238)
   - Fire safety offences (Regulatory Reform (Fire Safety) Order 2005,[34] section 32)
   - Gas Safety Offences (Health and Safety at Work etc. Act 1974,[35] section 33 and associated gas safety regulations)
   - Landlord and agent offences (Immigration Act 2014,[36] section 33).

6.2 Enforcement policy

4. The council has regard to this policy and the statutory guidance 'Banning Order Offences under the Housing and Planning Act 2016: Guidance for local housing authorities'[37] in setting this policy regarding applications for banning orders.

5. When considering applying to the FTT for a banning order, the council may use our strategic partnership working protocols through local crime prevention partnerships to acquire and share data and information relating to activities of landlords and letting agents

[30] Housing and Planning act 2016 (Banning Order Offences) Regulations 2018, (SI 2018/216). Available here (accessed 24 January 2024)
[31] Criminal Law Act 1977, c.45. Available here (accessed 24 January 2024)
[32] Protection from Eviction Act 1977, c.43. Available here (accessed 24 January 2024)
[33] The Housing Act 2004, c.34. Available here (accessed 18 January 2024)
[34] (Regulatory Reform (Fire Safety) Order 2005, (SI 2005/1541). Available here (accessed 24 January 2024)
[35] Health and Safety at Work etc. Act 1974, c.37. Available here (accessed 24 January 2024)
[36] Immigration Act 2014, c.22. Available here (accessed 24 January 2024)
[37] Ministry of Housing, Communities and Local Government (2018). Banning Order Offences under the Housing and Planning Act 2016: Guidance for local housing authorities. Available here (accessed 18 January 2024)

due to the number of non-housing related banning order offences. We will also consider whether it is appropriate to collaborate with other local authorities.

6. A banning order has significant implications for a landlord and, therefore, the council will reserve banning orders for what it considers are the most serious offenders. If a landlord is convicted of a banning order offence, then we will apply to the FTT for a banning order to be granted.

7. The council can require the provision of information when considering whether to apply for banning order under section 19 of the Housing and Planning Act 2016. Failure to provide the information requested, or providing false or misleading information, is an offence.

8. In considering whether to make an application for a banning order, the council will consider the:
   - severity of the offence;
   - culpability and track record of the offender;
   - harm caused to the tenant(s);
   - punishment of the offender - to ensure that there is a proportionate economic impact on the offender;
   - punishment would deter reoffending by the perpetrator and others and;
   - length of the banning order (a minimum of 12 months).

9. Once the council has decided to apply for a banning order, we will serve a notice of intended proceedings on the person subject to the application within 6 months of their conviction. This notice will include the reasons why we are applying for a banning order and the length of ban being applied for.

10. The length of the ban is a decision for the FTT; but the council will make a recommendation for a banning order period.

11. If the council is successful in obtaining a banning order, then we must make an entry on the database of rogue landlords (see section 7).

12. The council may consider an application for a management order (see section 8) if a banning order is made.

6.3 Representations and appeals

13. A person who receives a notice of intended proceedings may submit representations in writing to the council to review their decision. The council will consider any representations submitted before proceeding to make an application for a banning order. We will keep a record of the decision we make and notify the applicant of our decision in writing.

14. If an appeal is submitted, the FTT has the power to revoke or vary a banning order. The variation of an order might include adding exceptions to the order, varying the activities banned by the order or varying the duration of the banning order.

7 Rogue Landlord Database Policy

7.1 Introduction

1. The rogue landlord database is a tool for local housing authorities in England to keep track of rogue landlords and property agents. Officers can view all entries on the database, including those made by other local housing authorities. The database can be searched to help keep track of known rogues, especially those operating across council boundaries, and will help authorities target their enforcement activities.

2. Details held on the database are not available to members of the public.

7.2 Enforcement policy

3. The council has had regard to section 2 of this policy and the statutory guidance 'Database of Rogue Landlords and Property Agents under the Housing and Planning Act 2016: Statutory guidance for Local Housing Authorities'[38], in setting this policy regarding applications for entries onto the rogue landlord database.

4. The council must must make an entry on the register of rogue landlords when we have obtained a banning order against a landlord or agent.

5. The council has discretion to make an entry when a landlord or agent is not subject to a banning order but has committed either:
   - At least one banning order offence for which they have been convicted
   - Two or more banning order offences within a 12-month period for which they have received financial penalties.

6. Before making an entry on the rogue landlord database, the council must issue the person with a decision notice, specifying the period for which the entry will be maintained.

7. In considering whether to make an entry on the rogue landlord database, the council will consider:
   - the severity of the offence;
   - any mitigating factors;
   - the culpability and track record of the offender;
   - how the fine can act as a deterrent to reoffending; and
   - the deterrent value with regard to others

8. In considering the length of time for which an entry should be present on the rogue landlord database, the council will consider the same factors.

9. The council has the right to vary or remove any entry on the rogue landlord database. In relation to this, we will::
   - remove an entry if the relevant conviction is overturned on appeal;

[38] Ministry of Housing, Communities and Local Government (2018). Database of Rogue Landlords and Property Agents under the Housing and Planning Act 2016: Statutory guidance for local housing authorities. Available here (accessed 18 January 2024)

- consider removal of an entry or reduction of the period of an entry if the entry was made on the basis of more than one conviction and some (but not all) have been overturned;
- consider removal of an entry or reduction of the period of an entry if the basis of conviction(s) on which the entry was made has been spent;
- consider removal of an entry or reduction of the period of an entry if it was made on the basis of the person receiving two or more financial penalties and more than one year has elapsed since the entry was made.

10. If the council removes or varies an entry on the rogue landlord database, we will notify the person to whom the entry relates.

7.3 Representations and appeals

11. A person in respect of whom an entry is made on the rogue landlord database can make a request in writing to the council to remove the entry or reduce the period for which it must be maintained.

12. Where the council receive such a request, we will consider whether to comply with the request and give notice of that decision. If a decision is made not to comply with the request, we will include the reasons for our decision and a summary of the rights of appeal to the decision.

13. A person who receives notice that the council will not be complying with their request may appeal to the FTT against our decision within 21 days of the notice being given.

14. The FTT can order the council to remove the entry or reduce the period for which the entry must be maintained.

8 Management Order Policy

8.1 Introduction

1. There are two types of management order: an interim management order and a final management order, with the relevant legislation being Schedule 6 of the Housing Act 2004,[39] the Housing (Interim Management Orders) (Prescribed Circumstances) (England) Order 2006[40] and the Housing (Management Orders and Empty Dwelling Management Orders) (Supplementary Provisions) (England) Regulations 2006[41].

2. Management orders are not designed primarily to punish a landlord but are intended to be used by an LHA to ensure that:
   - immediate steps are taken to protect the health, safety or welfare of the occupiers of a house; and/or
   - immediate steps are taken to protect the health, safety or welfare of the other occupiers or landowners in the neighbourhood; and/or
   - any other appropriate steps are taken to ensure the proper management of the house pending the making of a final management order in respect of it (or, if appropriate, the revocation of the interim management order).

3. An interim management order transfers the management of a residential property to the council for a period of up to 12 months.

4. A final management order can be made only immediately after an interim management order or final management order has been in place. It transfers the management of a residential property to the council for the duration of the order, which can be up to 5 years.

5. Both orders allow the council, in particular circumstances, to take the place of a failing landlord and manage the rented house. They both enable us to:
   - take possession of the house against the immediate landlord, and subject to existing rights to occupy;
   - anything in relation to the house, which could have been done by the landlord, including repairs, collecting rents, etc.;
   - spend monies received through rents and other charges for carrying out our responsibility of management, including the administration of the house; and
   - create new tenancies (with the consent of the landlord).

8.2 Enforcement policy

6. The council has had regard to section 2 of this policy and the non-statutory guidance documents 'Interim and Final Management Orders'[42] and 'Banning Order Offences under

[39] Housing Act 2004 c.34. Available here (accessed 31 January 2024)
[40] The Housing (Interim Management Orders) (Prescribed Circumstances) (England) Order 2006 (SI 2006/369) Available here (accessed 31 January 2024)
[41] The Housing (Management Orders and Empty Dwelling Management Orders) (Supplementary Provisions) (England) Regulations 2006 (SI 2006/368) Available here (accessed 31 January 2024)
[42] Department for Communities and Local Government (2004). Interim and Final Management Orders. London: HMSO

the Housing and Planning Act 2016: Guidance for local housing authorities'[43] in setting this policy regarding the making of management orders.

7. The council will instigate this action only as a last resort, where all other avenues of resolution have been exhausted. Where a management offer is being considered for the lack of a licence, the council will take all practical steps to assist the owner of the property to satisfy the licensing requirements.

8. The council has a duty to make an interim management order in respect of an HMO where there is no reasonable prospect of it being licensed in the near future or it is necessary to protect the health, safety and welfare of the occupants. An order can also be served in circumstances that the council assesses to be appropriate, with a view to ensuring the proper management of the house pending the licence being granted.

9. Therefore, if a licence has been refused or revoked for any reason and there is no reasonable prospect of the property regaining its licence, the council must make an interim management order. The council also has the power to make a management order following the imposition of a banning order.

10. The order requires the council to take over the management of the property for up to 12 months. This includes carrying out any remedial works necessary to deal with the immediate risks to health and safety.

11. If there is no prospect of a licence being granted after 12 months, then a final management order must be made, which may be in force for up to 5 years. If after this there is still no prospect of the property being licensed, a further management order must be made.

12. A management order may be varied or revoked at any time as a result of a request from the owner or by the council. Before varying or revoking an order, we must serve a notice of our intention to do so, stating the reasons for our decision. If the council receives a request from an owner to vary or revoke a management order, and we have determined that we will not do so, we must serve a notice of our decision.

8.3 Representations and appeals

13. Before making a management order, the council must serve a copy of the proposed order on each relevant person, stating the terms of the order and the reason(s) for serving it.

14. A person who receives a notice of a proposed interim or final management order may submit representations in writing to the council to review their decision. The council will consider any representations submitted before proceeding to make an order.

15. Should the request outlined in the previous paragraph be refused, the person in question has the option to appeal to the FTT against the council's decision. The FTT has the power to revoke or vary a management order.

[43] Ministry of Housing, Communities and Local Government (2018). Banning Order Offences under the Housing and Planning Act 2016: Guidance for local housing authorities. Available here (accessed 18 January 2024)

9 Rent Repayment Order Policy

9.1 Introduction

1. A rent repayment order is an order made by the FTT requiring a landlord to repay a specified amount of rent (up to a maximum of 12 months' rent).

2. An application to the FTT for a rent repayment order can be made by:
   a. an occupier; or
   b. the council, if rent was paid by Housing Benefit or Universal Credit.

3. The relevant offences for which a rent repayment order can be considered are:
   - using or threatening violence for securing entry into premises (Criminal Law Act 1977,[44] section 6);
   - illegal eviction or harassment, (Protection from Eviction Act 1977,[45] section 1);
   - failure to comply with an improvement notice, (Housing Act 2004,[46] section 30);
   - failure to comply with a prohibition order (Housing Act 2004, section 32);
   - managing/having control of an unlicensed property (Housing Act 2004, section 95);
   - managing/having control of an unlicensed HMO (Housing Act 2004, section 72); and
   - breach of a banning order (Housing and Planning Act 2016,[47] section 21).

4. Where a landlord has been convicted of the offence the order relates to, the FTT must award a rent repayment order. In this circumstance, it must be awarded at the maximum amount. Rent repayment orders are capped at a maximum of 12 months.

5. Where a landlord has not been convicted of the offence the order relates to, the FTT must be satisfied beyond reasonable doubt that one of the relevant offences has been committed before granting a rent repayment order. In this circumstance, discretion may be applied regarding the amount of the order.

6. A rent repayment order is granted to the person who paid the rent. If the tenant paid the rent themselves, then the rent will be repaid to the tenant. If rent was paid through Housing Benefit or through the housing element of Universal Credit, then the rent will be repaid to the council. If the rent was paid partially by the tenant, with the remainder paid through Housing Benefit/Universal Credit, then the rent will be repaid proportionately.

9.2 Enforcement policy

7. The council has had regard to section 2 of this policy and the statutory guidance 'Rent Repayment Orders under the Housing and Planning Act 2016: Guidance for local housing authorities'[48], in setting this policy regarding applications for rent repayment orders.

[44] Criminal Law Act 1977, c.45. Available here (accessed 24 January 2024)
[45] Protection from Eviction Act 1977, c.43. Available here (accessed 24 January 2024)
[46] The Housing Act 2004, c.34. Available here (accessed 18 January 2024)
[47] Housing and Planning Act 2016, c.22. Available here (accessed 24 January 2024)
[48] Department for Communities and Local Government (2017). Rent Repayment Orders under the Housing and Planning Act 2016: Guidance for local housing authorities. Available here (accessed 18 January 2024)

8. In cases where a person has been convicted of any of the offences listed in paragraph 3, the council must consider a rent repayment order.

9. The council will consider each case on its own merits. In all cases where we are confident that there would be a realistic prospect of the order being granted, we will choose to take action if it is reasonable in the circumstances.

10. Tenants also have the option of applying for an order independently if they have paid the rent themselves. In such cases, the council is not obliged to assist, but we do so where we are able.

11. The council will follow the statutory guidance[49] in suggesting the amount repayable. The following factors should be taken into consideration when deciding how much rent the council should seek to recover:
    - Punishment of the offender.
    - How the fine can act as a deterrent to others.
    - Removal of any financial benefit the offender may have obtained as a result of committing the offence.
    - The financial details and track record of the offender.

12. Where the council is applying for an RRO, we must give the landlord notice of our intention to do so.

13. The notice of intended proceedings must be served within 12 months of the offence being committed. It must explain the reasons the council is applying for the RRO and the amount we intend to recover. It will allow 28 days for representations to be submitted.

9.3 Representations and appeals

15. A person who receives a notice of intended proceedings may submit representations in writing to the council to review their decision. The council will consider any representations submitted before proceeding to make an application for an RRO. We will keep a record of the decision we make and notify the applicant of our decision in writing.

16. If the council proceeds with the application for the RRO and the FTT awards it, the FTT may give the landlord a right of appeal to the Upper Tribunal.

9.4 Recovery of monies

17. The amount payable under an RRO is recoverable as a civil debt. The statutory guidance[50] advises councils to apply for county court judgments and use bailiffs, if necessary, to recover unpaid RROs.

[49] Department for Communities and Local Government (2017). Rent Repayment Orders under the Housing and Planning Act 2016: Guidance for local housing authorities. Available here (accessed 18 January 2024)
[50] See reference 78.

18. Where proceedings are necessary for the recovery of the fine, a certificate signed by, or on behalf of, the person having responsibility for the financial affairs of the enforcement authority, stating that the amount due has not been received by the date specified on the certificate, will be taken as conclusive evidence that the fine has not been paid.

10 Electrical Safety Policy

10.1 Introduction

1. The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020[51] ('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 5 years. Landlords must provide a copy of the electrical safety report to their tenants and, if requested, to the council.

2. If a private tenant has a right to occupy a property as their only or main residence and pays rent, then these regulations apply. This includes assured shorthold tenancies and licences to occupy. Exceptions are set out in Schedule 1 of the Regulations.

3. Landlords of privately rented accommodation have the following duties:

    a. To ensure national standards for electrical safety are met. These are set out in the 18th edition of the wiring regulations; published as British Standard 7671[52].
    b. To ensure all electrical installations in their rented properties are inspected and tested by a qualified and competent person at least every 5 years.
    c. To obtain a report from the person conducting the inspection and test which gives the results and sets a date for the next inspection and test.
    d. To supply a copy of this report to the existing tenant within 28 days of the inspection and test.
    e. To supply a copy of this report to a new tenant before they occupy the premises.
    f. To supply a copy of this report to any prospective tenant within 28 days of receiving a request for the report.
    g. To supply the council with a copy of this report within 7 days of receiving a written request for a copy.
    h. To retain a copy of the report to give to the inspector and tester who will undertake the next inspection and test.
    i. Where the report shows that further investigative or remedial work is necessary, to complete this work within 28 days or any shorter period if specified as necessary in the report.
    j. To supply written confirmation of the completion of the further investigative or remedial works from the electrician to the tenant and the council within 28 days of completion of the works.

4. As set out above, landlords must obtain a report giving the results of the test and setting a date for the next inspection. Landlords must comply within 7 days with a written request from the council for a copy of the report and must also supply us with confirmation of any remedial or further investigative works required by a report.

5. The council may request reports following inspections of properties to ascertain the condition of the electrical installation and confirm the landlord is complying with the Regulations.

[51] The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 (SI 2020/312). Available here (accessed 24 January 2024)
[52] British Standards Institution (2018) BS 4761: Requirements for Electrical Installations IET Wiring Regulations Eighteenth Edition. London: British Standards Institution

6. The following classification codes are used on electrical reports, and will be used to determine where a landlord must undertake remedial work:
   - Code 3 (C3): Improvement recommended. Further remedial work is not required for the report to be deemed satisfactory.
   - Code 2 (C2): Potentially dangerous.
   - Code 1 (C1): Danger present. Risk of injury.
   - Further Investigation (FI): Further investigation required without delay.

7. The C3 classification code does not indicate remedial work is required, only that improvement is recommended. However, if the report contains a code C1, C2 or FI, then the landlord must ensure that further investigative or remedial work is carried out by a qualified person within 28 days (or less if so, specified in the report).

10.2 Enforcement policy

8. The council has had regard to section 2 of this policy and the statutory guidance 'Guide for local authorities: electrical safety standards in the private rented sector'[53] in setting this policy on enforcement activities in relation to electrical safety.

9. Where the council is satisfied that a landlord has not complied with one or more of their duties under the Regulations, we must serve a remedial notice. The notice must be served within 21 days of the decision that the landlord has not complied with their duties.

10. A remedial notice will specify what the council believes the landlord has failed to do, and what remedial action we require them to take in respect of that failure within 28 days. It will also explain the landlord's entitlement to make written representations within 21 days and give details about financial penalties and rights of appeal.

11. If a landlord can demonstrate that they have taken all reasonable steps to comply with a notice, but could not, they will not be in breach of their duty to comply. For example, a landlord could have been prevented from accessing the premises. They could show reasonable steps by keeping copies of all communications with their tenants and with electricians as they tried to arrange to carry out the work, including any replies received. Landlords may also want to provide other evidence of the electrical installation being in a good condition while they attempt to arrange works. This could include the servicing record and previous condition reports.

12. Should a landlord not comply with the notice, the council may, with the tenant's consent, arrange for a qualified person to undertake the remedial action and recover the costs. We may authorise a qualified and competent person in writing to undertake remedial work and recover the costs where:
   - the landlord has not complied with a remedial notice; or
   - a report indicated that urgent remedial action is required, and the landlord has not carried this out within the period specified in the report.

[53] DLUHC (2020) Guide for Local Authorities: Electrical safety standards in the private rented sector. Available here (accessed 15 January 2024)

13. In order to carry out the remedial works the council must:
    - arrange for an authorised person to take the remedial action within 28 days of the end of the notice period;
    - ensure that the tenant has given their consent and the authorised person as given at least 48 hours' notice to the tenant; and
    - give the landlord notice that we are going to do work, specifying the date when the remedial action will be undertaken (at least 28 days from the date served), and the right of appeal against this decision.

14. Where the council has reasonable grounds to believe a landlord is in breach of one or more of the duties in the Regulations and the report indicates urgent remedial action is required, we may, with the consent of the tenant or tenants, arrange for a qualified person to take the urgent remedial action and recover the costs.

15. Where the council undertakes urgent remedial action, we will serve a notice within 7 days of the work commencing, either by sending the notice to the responsible parties or fixing it to the premises. The notice will specify the action that is being undertaken and the date the action was undertaken or will be taken. It will also give details of the right of appeal, the details of any financial penalty that is to be imposed and the right to appeal against the penalty.

16. The council will recover the costs of taking the action from the landlord and will also impose a financial penalty of up to £30,000 on landlords who are in breach of their duties. In setting our financial penalty calculation guidance, the council has ensured that relevant factors are appropriately considered within the process, such as the severity of the offence, and the previous record of non-compliance. Information in relation to how financial penalties will be calculated is detailed in Appendix C of this policy.

10.3 Service of financial penalties

17. Once a decision has been made to serve a financial penalty, and the amount of the financial penalty has been calculated, the council will serve a 'notice of intent' in accordance with the process set down in schedule 2 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020[54]. This will be served within 6 months of the council having evidence of the offence, or at any time, where the offence is continuing.

18. The notice will specify the amount of the financial penalty, and the reason(s) it is being served. The notice will allow the recipient 28 days to make representations to the council. If no representation is received after 28 days, a 'final notice' will be served. Alongside reiterating the amount of the financial penalty, and the reason(s) it is being served, this will specify how the penalty can be paid, the period for payment, information on how to appeal, and the consequences of failure to comply with the notice.

[54] The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 (SI 2020/312). Available here (accessed 24 January 2024)

10.4 Representations and appeals

19. Landlords have the right to make written representations to the council against the service of a remedial notice or a notice of intent to impose a financial penalty. They should do so within 21 days for a remedial notice, and within 28 days for a notice of intent.

20. Where a request for a review is received, the council must respond to the representations within 7 days. We will give the representations careful consideration. We may decide to uphold the penalty or reduce the amount.

10.4.1 Remedial notice

21. If a landlord does not agree with our decision regarding the service of a remedial notice, then they have the right to appeal to the FTT within 28 days of the decision. The landlord can appeal on the following grounds:
    - That they undertook all reasonable steps to comply with the notice.
    - That reasonable progress had been made towards compliance with that notice.

22. Where there is an appeal against a remedial notice, remedial action should be suspended until the appeal is withdrawn or determined. Action must then be arranged within 28 days of the appeal decision if the decision confirms or varies the council's decision.

10.4.2 Financial penalty notice

23. If a landlord does not agree with our decision to impose a financial penalty, then they have the right to appeal to the FTT within 28 days of the final notice being served. The landlord can appeal:
    - the decision to impose a financial penalty; and
    - the amount of the penalty

24. The requirement to pay the penalty is suspended until the appeal has been withdrawn or determined. The Tribunal may confirm, quash or vary notices served by the council.

10.5 Recovery of financial penalties

25. A financial penalty must be paid within 28 days of the final notice, which would start the day following the notice being issued (unless the notice is suspended due to an appeal). The final notice will contain information with regard to making payment. If the landlord or property manager/agent fails to pay a financial penalty, the council can refer the case to county court for an order of that court. If necessary, the Council will use county court bailiffs to enforce the order and recover the debt.

26. Where proceedings are necessary for the recovery of the fine, a certificate signed by, or on behalf of, the person having responsibility for the financial affairs of the enforcement authority, stating that the amount due has not been received by a date specified on the certificate, will be taken as conclusive evidence that the fine has not been paid.

10.6 Income from financial penalties

27. Proceeds of financial penalties can be used to carry out PRS enforcement. Any amount that is not used in this way must be paid into the Consolidated Fund (the government's general bank account at the Bank of England).

11 Smoke and CO alarm policy

11.1 Introduction

1. The Smoke and Carbon Monoxide Alarm (England) Regulations 2015[55] and the Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022[56] ('the Regulations') place duties on private landlords to install smoke alarms and carbon monoxide (CO) alarms in properties subject to residential tenancies. These requirements are designed to protect the physical safety of tenants, at relatively low cost to the landlord.

2. Regulation 4 places the following duties on landlords of residential property:
   a. To install at least one smoke alarm on each floor of a property that contains a room used as living accommodation.[57]
   b. To install a CO alarm in each room that is used for living accommodation and contains a solid-fuel combustion appliance (excluding gas cookers).
   c. To check alarms to ensure they are working at the start of any new tenancy.

11.2 Enforcement policy

3. The council has had regard to section 2 of this policy and the non-statutory guidance 'Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022: Guidance for local authorities'[58] in setting this policy on enforcement activities in relation to smoke and CO detectors.

4. Where the council is satisfied that a landlord has not complied with one or more of their duties under the regulations, we must serve a remedial notice. The notice must be served within 21 days of the decision that the landlord has not complied with their duties.

5. A remedial notice will specify the work that the council believes the landlord has failed to do, together with what remedial action we require them to take, within 28 days, in respect of that failure. It will also explain the landlord's entitlement to make written representations within 21 days and give details about financial penalties and rights of appeal.

6. The Regulations do not stipulate the type of alarms (such as mains powered ('hard wired') or battery powered) that should be installed. The council will require that alarms be compliant with British Standard BS 5839-6[59] and will normally recommend the installation of mains-wired alarms with battery backup, or battery-powered alarms with 'sealed for life' batteries rather than alarms with replaceable batteries.

7. A council will decide whether a breach has occurred by judging on a balance of probabilities. We will determine whether any evidence provided confirms compliance. Some examples of evidence could be dated photographs, confirmations by the tenant or installation records.

[55] The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (SI 2015/1693). Available here (accessed 24 January 2024)
[56] The Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022 (SI 2022/707). Available here (accessed 24 January 2024)
[57] For the purposes of requirements a and b, the definition of 'living accommodation' includes bathrooms and toilets, and the definition of 'room' includes halls and landings.
[58] DLUHC (2022) Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022: Guidance for local authorities. Available here (accessed 24 January 2024)
[59] British Standards Institution (2019) BS 5839-6:2019+A1:2020: Fire Detection and Fire Alarm Systems for Buildings. London: British Standards Institution.

8. If a landlord can demonstrate that they have taken all reasonable steps to comply with a notice but ultimately failed to do so, they will not be in breach of their duty to comply. For example, if a landlord has been prevented from accessing the premises and can demonstrate that they have made several access attempts at reasonable times for the tenant and have attempted to work with the tenant to find a solution, they will be viewed as having taken all reasonable steps to comply.

9. The Regulations do not require the council to enter the property or prove non-compliance to issue a remedial notice.

10. Should a landlord not comply with the notice in the given period, the council will arrange for a qualified person to undertake the remedial action. Where we are carrying out remedial action, we will give 48 hours' notice to the tenants and only take the action with their consent, as there is no right of entry for compliance.

11. These regulations also introduced the ability for a council to seek to impose a financial penalty of up to £5,000 on non-compliant landlords. We will impose a financial penalty on landlords who are in breach of their duties.

12. In setting our financial penalty calculation guidance, the council has ensured that relevant factors are appropriately considered within the process, such as the severity of the offence and the previous record of non-compliance. Information in relation to how financial penalties will be calculated is detailed in Appendix D of this policy.

11.3 Service of financial penalties

13. Once a decision has been made to serve a financial penalty and the amount has been calculated, the council will serve a 'penalty charge notice' in accordance with the process set down in section 8 of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015[60]. This will be served within 6 weeks of the council having evidence of the offence.

14. The penalty charge notice will specify the amount of the financial penalty, the reason(s) it is being served and how it can be paid. The notice will allow the recipient 28 days to either pay the penalty or make written representations to the council.

15. The council can, at any time, withdraw a penalty charge notice or amend it to reduce the amount of the financial penalty.

11.4 Representations and appeals

16. Landlords have the right to make written representations to the council against the service of a remedial notice or a penalty charge notice. They should do this within 28 days.

[60] The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (SI 2015/1693). Available here (accessed 24 January 2024)

11.4.1 Remedial notice

17. Where a request for a review is received, the council must respond to the representations within 7 days. We will give the representations careful consideration. We may decide to uphold the notice, vary it, or withdraw it.

18. The remedial notice is suspended whilst we consider the written representations. Landlords are not expected to take remedial action during the period of the remedial notice being suspended.

19. We will inform the landlord in writing of the outcome of our review. If the notice is confirmed, the landlord will have a further 21 days for compliance.

11.4.2 Penalty charge notice

20. Where a request for a review is received, the council must respond to the representations within 7 days. We will give the representations careful consideration. We may decide to uphold the notice, vary it, or withdraw it. We will serve a notice of our decision.

21. If the penalty charge notice is confirmed or varied by the council and a landlord does not agree with our decision to impose a financial penalty, then they have the right to appeal to the FTT within 28 days of the decision notice being served. The landlord can appeal on the following grounds:
    - The decision of the council to vary or confirm the penalty charge notice was based on a factual error, was wrong in law or was unreasonable for any other reason.
    - The amount of the penalty is unreasonable.

22. The requirement to pay the penalty is suspended until the appeal has been withdrawn or determined. The FTT may confirm, quash or vary notices served by the council.

11.5 Recovery of financial penalties

23. Where a penalty charge is payable and no longer subject to review or appeal, and remains unpaid after the specified payment period, the council will pursue this as a debt owed to us. This means that we will instigate legal proceedings to recover outstanding penalties.

24. Where proceedings are necessary for the recovery of the fine, a certificate signed by, or on behalf of, the person having responsibility for the financial affairs of the enforcement authority, stating that the amount due has not been received by a date specified on the certificate, will be taken as conclusive evidence that the fine has not been paid.

11.6 Income from financial penalties

25. Sums recovered through penalty charges may be used in support of any of the council's functions.

12 Minimum Energy Efficiency Standards Policy

12.1 Introduction

1. The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015[61] and subsequent amendments in 2016[62] and 2019[63] ('the Regulations') are designed to tackle the least energy-efficient properties in England and Wales – those rated F or G on their energy performance certificate (EPC).

2. The Regulations, often referred to as the 'minimum energy efficiency standard' (or MEES), apply to all domestic properties required to have an EPC (under the Energy Performance of Buildings (England and Wales) Regulations 2012[64]). They introduced a minimum requirement for an EPC of E or above in order for an applicable property to be rented.

3. Landlords of privately rented properties have the following duties:
    a. To not rent out a 'substandard property' (one that has a band F/G EPC) unless an exemption has been registered (Regulation 23).
    b. To not register false or misleading information on the PRS exemptions register (Regulation 36).
    c. To comply with a compliance notice served by the council (Regulation 37).

4. These regulations also introduced the ability for a council to seek to impose a financial penalty of up to £5,000 on non-compliant landlords.

12.2 Exemptions

5. In certain circumstances, landlords may be able to claim an exemption from the prohibition on letting sub-standard property. There are six types of exemptions listed in the Regulations, with exemptions a-e being valid for 5 years:
    a. The high-cost/cost-cap exemption: Landlords do not have to spend more than £3,500 on energy efficiency improvements.
    b. The 'all improvements made' exemption: All relevant energy efficiency measures have been carried out and property still does not attain an E or above.
    c. The wall insulation/negative impact exemption: Expert evidence suggests that the building is of a type that wall insulation would have a negative impact on the fabric or stricture of the dwelling.
    d. The consent exemption: A third part has refused consent for energy efficiency improvements (e.g. the tenant, the freeholder, or the planning department).
    e. The devaluation exemption: Expert evidence suggest that energy efficiency improvements would cause a market value reduction of more than 5%.
    f. The new landlord/temporary exemption: A 6-month exemption can be registered by new owners that are unable to comply straight away.

[61] The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (SI 2015/962). Available here (accessed 25 January 2024)
[62] The Energy Efficiency (Private Rented Property) (England and Wales) (Amendment) Regulations 2016 (SI 2016/660). Available here (accessed 25 January 2024)
[63] The Energy Efficiency (Private Rented Property) (England and Wales) (Amendment) Regulations 2019 (SI 2019/595). Available here (accessed 25 January 2024)
[64] The Energy Performance of Buildings (England and Wales) Regulations 2012 (SI 2012/3118). Available here (accessed 25 January 2024)

6. Further details on exemptions can be found in the guidance on PRS exemptions.[65]

7. Where a valid ground for an exemption applies, a landlord must register this exemption on the national PRS Exemptions Register. Registered exemptions are not transferable to a new owner of a property.

12.3 Enforcement policy

8. The council has had regard to section 2 of this policy and the non-statutory guidance documents, The Domestic Private Rented Property Minimum Standard[66] and Domestic Private Rented Property: Minimum energy efficiency standard – landlord guidance[67] ('the Regulations'), in setting this policy on enforcement activities in relation to MEES.

9. The Regulations do not require the council to enter the property to take enforcement action. This is intelligence-led enforcement, and will be carried out proactively.

10. The council will proactively check for different forms of non-compliance with the Regulations, namely breach of:
    a. Regulation 23 – Prohibition on letting sub-standard property; a landlord must not let out a sub-standard property[68] (The council will investigate all properties where an EPC F or G is registered and may issue a financial penalty. This does not apply where the landlord has registered an exemption.)
    b. Regulation 36(2) – The registering of information on the PRS exemptions register (The authority will check the national PRS exemptions register. Where an authority believes that a landlord has registered false or misleading information under the section above, a financial penalty may be issued (40(4)).)
    c. Regulation 37(4a) – A landlord must comply with a compliance notice (Compliance notices are served where a breach under regulation 23 or 36 is suspected.)

11. The council will proactively check the EPC register and EPC open data to find properties that are non-compliant with these regulations. We will also check exemptions registered on the EPC exemptions register to scrutinise entries and ensure that the entry on the register demonstrates genuine circumstances for exemption.

12. Where the council suspects non-compliance with Regulation 23 (prohibition on letting sub-standard property), we will serve a compliance notice. This requests any information about the property (such as EPCs, tenancy agreements and any other assessments that may have been made) that we feel is required to determine whether an offence has been committed; and where an offence has been committed, for how long[69].

13. A compliance notice will specify what documents and set out the period of one month from the date of service in which to do so.

[65] BEIS (2019). Guidance on PRS Exemptions and Exemptions Register Evidence Requirements. Available here (accessed 25 January 2024)
[66] BEIS (2020). The Domestic Private Rented Property Minimum Standard. Available here (accessed 15 January 2024)
[67] BEIS (2017) Domestic Private Rented Property: Minimum energy efficiency standard – landlord guidance. Available here (accessed 15 January 2024)
[68] A 'sub-standard property' under these regulations is one where the EPC is an F or a G.
[69] In terms of the length of time, this is relevant as the regulations differentiate between breaches committed for less than 3 months, and those committed for 3 months or more.

14. A compliance notice can be served up to 12 months after the suspected breach has occurred, irrespective of whether ownership of the property has since changed hands.

15. The council can withdraw or amend a compliance notice we have served at any time, in writing, if we deem it necessary, for example, if we become aware of new information.

16. The Regulations introduced the ability for a council to seek to impose a financial penalty of up to £5,000 on non-compliant landlords up to 18 months after the breach. We will impose a financial penalty on landlords who are in breach of their duties.

17. The Regulations also introduced the ability for a council to publish, for at least 12 months, details of the breach on a publicly accessible part of the PRS Exemptions Register. We will impose a publication penalty on non-compliant landlords. This publication will include the address of the property, the nature of the breach and the financial penalty imposed. Where the breach was committed by a company rather than an individual, the company name will also be published.

18. In setting our financial penalty calculation guidance, the council has ensured that relevant factors are appropriately considered within the process, such as the severity of the offence and the previous record of non-compliance. Information in relation to how financial penalties will be calculated is detailed in Appendix E of this policy.

12.4 Service of penalty notice

19. Penalty notices will be served whenever the council determines that a landlord is in breach of regulation 23 or 37(4)(a) or has been at any time in the preceding 18 months.

20. Once a decision has been made that a landlord has committed a breach, the council will serve a penalty notice in accordance with the process set down in section 38 of the Regulations[70] imposing a financial penalty, a publication penalty or both penalties.

21. The penalty notice will specify which regulations have been breached, with reason(s). It will specify the action required to remedy the breach and the period within which such action should be taken. It will specify the amount of the financial penalty, how it was calculated, and how it can be paid. It will also specify whether a publication penalty is being imposed.

22. The notice will allow the recipient one month to either pay the penalty or make written representations to the council.

23. The financial penalty amount will be determined in accordance with the financial penalty calculation procedure set out in Appendix E.

24. The council can, at any time, withdraw a penalty charge notice or amend it to reduce the amount of the financial penalty.

[70] The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (SI 2015/962). Available here (accessed 25 January 2024)

25. Where a landlord fails to take the action required by a penalty notice in order to remedy a breach within the period specified in that notice, the council may issue a further penalty notice.

12.5 Representations and appeals

26. Landlords have the right to make written representations to the council against the service of a penalty notice. They should do this within 28 days.

27. Where a request for a review is received, the council will respond to the representations within 7 days. We will give the representations careful consideration. We may decide to uphold the notice, withdraw it or vary it to either reduce the financial penalty or remove the application of a publication penalty. We can also allow additional time for payment if so requested within the representations. We will serve a notice of our decision.

28. If the penalty charge notice is confirmed or varied by the council and a landlord does not agree with our decision to impose a financial penalty, then they have the right to appeal to the First-tier Tribunal (General Regulatory Chamber) (GRC) within 28 days of the decision notice being served. The landlord can appeal on the following grounds:
    a. The issue of the penalty notice was based on an error of fact.
    b. The issue of the penalty notice was based on an error of law.
    c. The penalty notice does not comply with a requirement imposed by the Regulations.
    d. The issue of the penalty notice was inappropriate in the circumstances of the case.

29. The requirement to pay the penalty will be suspended until the appeal has been withdrawn or determined. The GRC may confirm, quash or vary notices served by the council.

12.6 Recovery of financial penalties

30. Where a financial penalty is payable and is no longer subject to review or appeal but remains unpaid after the specified payment period, the council will pursue this as a debt owed to us. This means that we will instigate legal proceedings to recover outstanding penalties.

31. Where proceedings are necessary for the recovery of the fine, a certificate signed by, or on behalf of, the person having responsibility for the financial affairs of the enforcement authority, stating that the amount due has not been received by a date specified on the certificate, will be taken as conclusive evidence that the fine has not been paid.

12.7 Income from financial penalties

32. Income from financial penalties recovered under the Regulations will be used to meet the costs and expenses associated with carrying out enforcement functions in relation to energy efficiency in the PRS.

13 Letting Agent Redress Scheme

13.1 Introduction

1. The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014[71] ('the Order') requires letting agents and property managers to belong to a government-approved redress scheme if they engage in:
   - lettings agency work in England;
   - property management work in England; or
   - estate agency work in the UK dealing with residential property.

2. The terms 'letting agency work' and 'property management work' are defined in the Enterprise and Regulatory Reform Act 2013.[72] They are also defined in the non-statutory guidance 'ANNEX C Guidance for Local Authorities on the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014'.[73]

3. There are several exclusions as to what constitutes lettings agency work or property management work. These exclusions can be found listed in the order[74]:
   - Lettings agency work does not include those items listed in Article 4.
   - Property management work does not include those items listed in Article 6.

4. There are two approved redress schemes that letting agents and property managers can join to satisfy this requirement. They are the:
   - Property Ombudsman; and
   - Property Redress Scheme.

13.2 Enforcement policy

5. The council has had regard to section 2 of this policy and the non-statutory guidance document 'ANNEX C Guidance for Local Authorities on the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014'[75] in setting this policy on enforcement activities in relation to the redress scheme.

6. Each scheme publishes a list of members on their respective websites so, to establish instances of non-compliance, the council will proactively verify whether a letting agent or property manager has joined one of the schemes.

7. The order introduced the ability for a council to seek to impose a monetary penalty of up to £5,000 on non-compliant letting agents and property managers. We will impose a

[71] The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014 (SI 2014/2359). Available here (accessed 25 January 2024)
[72] The Enterprise and Regulatory Reform Act 2013 c.24. Available here (accessed 25 January 2024)
[73] CLG, 2014. ANNEX C Guidance for Local Authorities on the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014. Available here (accessed 25 January 2024)
[74] See reference 100.
[75] See reference 102.

monetary penalty on letting agents and property managers who are in breach of their duties.

8. In setting our financial penalty calculation guidance, the council has ensured that we have had regard to the relevant guidance[76]. Information in relation to how financial penalties will be calculated is detailed in Appendix F of this policy.

13.3 Service of penalties

9. Once a decision has been made to impose a monetary penalty, and the amount of the monetary penalty has been calculated, the council will serve a 'notice of intent' in accordance with the process set down in the schedule of the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014[77]. This will be served within 6 months of the council having evidence of the failure to comply with Article 3 (letting agency work) or Article 5 (property management work), or at any time.

10. The notice will specify the amount of the monetary penalty and the reason(s) it is being imposed. The notice will allow the recipient 28 days to make representations to the council.

11. If no representation is received after 28 days, a 'final notice' will be served. Alongside reiterating the amount of the monetary penalty and the reason(s) it is being imposed, this will specify how the penalty can be paid, the period for payment, information on how to appeal and the consequences of failure to comply with the notice.

12. The council can, at any time, withdraw a notice of intent and/or a final notice, or amend it to reduce the amount of the monetary penalty.

13. The council can impose further penalties if a letting agent or property manager continues to fail to join a redress scheme despite having previously had a penalty imposed. There is no limit on the number of penalties that may be imposed on an individual letting agent or property manager, so further penalties can be applied if they continue to be in breach of the legislation.

13.4 Representations and appeals

14. Letting agents and property managers have the right to make written representations to the council against the service of a notice of intent to impose a monetary penalty. They should do so within 28 days.

15. Where a request for a review is received, the council must respond to the representations within 7 days. We will give the representations careful consideration. We may decide to uphold the penalty or reduce the amount.

[76] CLG, 2014. ANNEX C Guidance for Local Authorities on the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014. Available here (accessed 25 January 2024)
[77] The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014 (SI 2014/2359). Available here (accessed 25 January 2024)

16. Following service of a final notice imposing a monetary penalty, there is a right of appeal to the First-tier Tribunal (General Regulatory Chamber) (GRC) against it on any of the following grounds:

    a. The decision to impose a monetary penalty was based on an error of fact,
    b. The decision was wrong in law.
    c. The amount of the monetary penalty is unreasonable,
    d. The decision was unreasonable for any other reason.

17. The requirement to pay the penalty is suspended until the appeal has been withdrawn or determined. The GRC may confirm, quash or vary notices served by the council.

13.5 Recovery of financial penalties

18. Where a penalty charge is payable and no longer subject to review or appeal, the council may recover the charge through a court order if it remains unpaid after the specified payment period.

19. Where proceedings are necessary for the recovery of the fine, a certificate signed by, or on behalf of, the person having responsibility for the financial affairs of the enforcement authority, stating that the amount due has not been received by a date specified on the certificate, will be taken as conclusive evidence that the fine has not been paid.

13.6 Income from financial penalties

26. The penalty fines received by the council may be used for any of our functions.

14 Protection from Eviction Policy

14.1 Introduction

1. The only way a landlord or agent can force a tenant to leave a property is by following the relevant legislation and procedures set in law. For example, for assured shorthold tenants, this means the relevant notice must be served and then a possession order and warrant obtained. Only a court bailiff can evict an assured shorthold tenant.

2. Tenants have legal protection of their rights of occupation:
   - The Deregulation Act 2015[78] protects tenants from retaliatory eviction.
   - The Protection from Eviction Act 1977[79] protects tenants from harassment and illegal eviction.

14.1.1 Retaliatory eviction

3. Retaliatory eviction is a term used where a tenant has made a legitimate request for repairs to be carried out, and their landlord chooses to evict them rather than carry out the remedial work. This is not an acceptable practice.

4. The Deregulation Act 2015 restricts a landlord's ability to serve a Section 21 Notice[80] in circumstances where the tenant has complained about the condition of the premises or the common parts of a building of which the premises form part, and the landlord either did not respond within 14 days or they provided an inadequate response. The tenant can complain to the council if they are not satisfied, and we may investigate the matter for breaches of legislation under the Housing Act 2004[81].

5. In the event that the council serves a 'relevant enforcement notice' on the landlord, the landlord will not be able to serve a Section 21 Notice within 6 months of the date of the notice. A relevant enforcement notice is classed as:
   - an improvement notice (see section 3.4); or
   - a notice of emergency remedial action (see section 3.6.1).

14.1.2 Illegal eviction and harassment

6. Illegal eviction is a term used when a landlord or another person deprives, or attempts to deprive, a residential occupier of their occupation of the property without following the correct legal process. Actions that are deemed to be an illegal eviction include:
   - forcible removal from a home;
   - being forced to leave due to threatening behaviour or intimidation;
   - preventing tenants from accessing certain parts of their home; and/or
   - changing the locks while the tenant is out.

[78] Deregulation Act 2015 c.20. Available here (accessed 30 January 2024)
[79] Protection from Eviction Act 1977 c.43. Available here (accessed 30 January 2024)
[80] A section 21 notice (often referred to as a 'no fault' eviction), is a notice served under section 21 of the Housing Act 1988, which starts the legal process to end an assured shorthold tenancy
[81] Housing Act 2004 c.34. Available here (accessed 30 January 2024)

7. Harassment is a term used to describe conduct interfering with occupier's rights or causing them alarm or distress. It is defined in the Protection from Eviction Act 1977 as:
   - acts likely to interfere with the peace and comfort of those living in the property; and
   - persistent withdrawal of services that are reasonably required for the occupation of the premises.

8. An offence of illegal eviction can be committed by:
   - the landlord;
   - the landlord's agent; and
   - any other person (and this can include a head landlord where there is a subtenancy).

9. Actions that could be deemed to be harassment include:
   - making threats to persuade a tenant to leave;
   - cutting off services such as gas, electricity or water;
   - preventing access to shared kitchens and bathrooms;
   - entering a tenant's room without permission;
   - not carrying out or completing essential repairs;
   - anti-social conduct by the landlord's agent;
   - physical violence;
   - verbal abuse;
   - changing locks and/or withholding keys;
   - removing belongings;
   - sending in builders without notice;
   - visiting at unsociable hours; and
   - constant telephone calls or text messages.

10. An offence of harassment can be committed by:
    - any person if it can be shown that they had an intent to cause an occupier to leave all or part of the property or refrain from exercising any right or remedy in respect of the premises; and
    - a landlord or their agents if it can be shown that they should have known or had reasonable cause to believe that their actions were likely to have this effect.

11. In certain circumstances, some acts of harassment can also fall under the Protection from Harassment Act 1997[82].

14.2 Enforcement policy

12. The council has had regard to section 2 of this policy and the non-statutory guidance 'Retaliatory Eviction and the Deregulation Act 2015'[83]; pages 34–37 of 'Rogue Landlord Enforcement: Guidance for local authorities'[84] and 'My Landlord Wants Me Out: Protection against harassment and illegal eviction'[85], in setting this policy on enforcement activities in relation to retaliatory and illegal eviction.

[82] Protection from Harassment Act 1977 c.40. Available here (accessed 30 January 2024)
[83] DCLG (2015). Retaliatory Eviction and the Deregulation Act 2015. Available here (accessed 29 January 2024)
[84] MHCLG (2019). Rogue Landlord Enforcement: Guidance for local authorities. Available here (accessed 29 January 2024)
[85] DCLG (2011) My Landlord Wants Me Out: Protection against harassment and illegal eviction. Available here (accessed 29 January 2024)

14.2.1 Retaliatory eviction

13. Although the provisions of the Deregulation Act 2015 suggest that tenants should contact the council to make complaints regarding housing standards and that this action will result in immediate enforcement action, this is not in the spirit of our approach in dealing with complaints under the Housing Act 2004, and each case will be dealt with on an individual basis. The overall aim is to ensure a satisfactory outcome for all parties and secure the accommodation through a preventative approach rather than through enforcement.

14. To assist tenants in protection against retaliatory eviction, all tenants who contact the housing team with a complaint of disrepair are advised to ensure they have contacted their landlord in writing, as prescribed by the Deregulation Act 2015. There are standard 'proforma' letters available on the shelter website[86] to assist them in doing so.

15. Whenever it is deemed to be the most appropriate course of action, the housing team will serve an improvement notice without delay in order that tenants are adequately protected against retaliatory eviction.

14.2.2 Illegal eviction

16. The council will take a proactive stance and investigate any allegation we receive regarding harassment and/or illegal eviction. It is therefore hoped that landlords and agents will be deterred from taking any action that could constitute harassment or illegal eviction and will be deterred from following such courses of action.

17. The council generally regards these offences as very serious because of our commitment to:
    a. protecting the interests of vulnerable people;
    b. promoting respect for the individual's home; and
    c. preventing homelessness.

18. Illegal eviction can often be avoided through education, advice and mediation with the landlord, and the council would always advocate this approach unless there are other mitigating factors such as violence, which would render this approach unsuitable. However, where there are occasions when the landlord continues to harass or even illegally evict a tenant despite advice and information that they may be committing a criminal offence, then we will take action.

19. Harassment and illegal eviction can cause considerable distress, anxiety and disruption to households and may lead to homelessness. Where necessary, we will assist residents in this situation, including taking appropriate action to help tenants regain occupancy of their home.

20. The council will work with our partner agencies where necessary to provide an efficient coordinated approach to complaints of harassment and illegal eviction. Referrals may be made to the police where threats of violence have been made or where we are made aware that an illegal eviction is currently being undertaken.

[86] Shelter, 2023. Repairs letter templates for private tenants. Available here (accessed 23 February 2024)

21. The law provides grounds for landlords to lawfully regain possession of their premises, and these procedures must be followed when a landlord wants a tenant (or licensee) to leave. Where an allegation is made that an offence has been committed under the Protection from Eviction Act 1977, the council will investigate with a view to:
    - informing the landlord and occupier of their rights and responsibilities where appropriate; and
    - prosecuting offences where there is sufficient evidence and where it is in the public interest to do so (Prosecution of offences and the issue of simple cautions will be dealt with in accordance with this policy.)

22. In considering whether a case is suitable for the application of a caution or prosecution, the council will consider the criteria set out in section 3.11.3 and 3.11.4. We can also consider a banning order (section 6) and/or a rent repayment order (section 9).

15 Appendix A: HMO Standards

15.1 Standards applicable to licensable HMOs

1. These standards provide a list of requirements that must be attained, applicable to those HMOs that are required to be licensed. They are also made available to managers and owners of non-licensed HMOs as good practice. They are based on the national minimum standards contained in the Licensing of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006[87] as amended, but provide more specific guidance as to what the council will deem to be suitable/adequate/appropriate where such terminology is used.

2. The council will be able to advise about standards, which may be appropriate where a particular HMO has a layout or amenity provision that varies from the specified standard but where the facilities provided have an equivalent benefit.

15.2 Crowding and Space Standards

15.2.1 Introduction

3. Lack of space and overcrowded conditions have been linked to a number of health outcomes, including psychological distress and mental disorders, especially those associated with a lack of privacy and childhood development. Crowding can result in an increased in heart rate, increased perspiration, reduction of tolerance, and a reduction of the ability to concentrate. Crowded conditions are also linked with increased hygiene risks, an increased risk of accidents, and spread of contagious disease.

4. Within a dwelling there should be sufficient space for the separation of different household activities, either by physical separation or by a clearly defined space within a larger space. The degree of separation is partly dependent on the number of people who can be expected to share the space, and whether or not they are expected to be part of the same household.

15.2.2 Crowding and the HHSRS

5. Guidance has been provided by the Government to assist officers in assessing the hazard posed by overcrowding in HMO properties[88]. Where an officer believes that conditions are overcrowded, a risk assessment will be undertaken using the HHSRS and the score generated will guide any action taken. Sufficient space must be provided for the separation of household activities and adequate space provided to allow households tasks to be undertaken in a safe manner without the risk of collision (e.g. cooking). Within each unit there must be sufficient space for the separation of domestic activities e.g. cooking and sleeping in bedsit type accommodation. Privacy must also be considered to allow occupants to spend time alone, for example bathrooms and toilets must have locks to allow occupants to feel they have the right to privacy.

[87] The Licensing of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 (SI 2006373) Available here (accessed 30 January 2024)
[88] MHCLG, 2018. Houses in Multiple Occupation and residential property licensing reform. Available here (accessed 26 February 2024)

6. The tables provided in this section are to provide landlords with guidance as to what room sizes are acceptable for a variety of HMO type accommodation.

15.2.3 Minimum bedroom sizes

7. The floor area of any room in a HMO used as sleeping accommodation by one person aged over 10 years must not be less than 6.51 m^2.

8. The floor area of any room in a HMO used as sleeping accommodation by two persons aged over 10 years must not be less than 10.22 m^2.

9. A separate living/communal space will also be required in addition to the above. See section 15.2.5 below for details.

15.2.4 Room sizes for self-contained HMO's

10. These are buildings that have been converted into and consist of self-contained flats where the building work undertaken in connection with the conversion did not comply with the appropriate building standards and still does not comply with them.

Table 1: Room sizes (in m^2) for self-contained HMOs dependant on occupancy

	Kitchen	Bedroom	Living room	Living/ Bedroom	Living/ Kitchen	Living/ Kitchen/ Bedroom
1 person	4.65	6.51	9.0	10.22	11.0	13
2 persons	4.65	10.22	12.0	14.0	15.0	20

11. The above table can be used to calculate the minimum room sizes for self-contained units that are classified as HMOs.

12. Single room units are only suitable for individuals, unless they are married or co-habiting couples. In the case of a couple living in one room accommodation, it must not be less than 15 m^2. Persons of the opposite sex over the age of ten, who are not living as partners, are not permitted to share sleeping rooms.

15.2.5 Room sizes when sharing amenities (includes shared houses and bedsits)

13. Minimum bedroom sizes:
    - 1 person without separate communal space: 10.22 m^2
    - 1 person with separate communal space: 6.51 m^2
    - 2 persons without separate communal space: 15 m^2
    - 2 persons with separate communal room: 11 m^2

Table 2: Room sizes (in m^2) when sharing amenities dependant on occupancy

	Kitchen	Kitchen/Dining	Dining/Living
1 – 3 persons	5	10	8.5
4 - 6 persons	8	11.5	11
7 – 9 persons	9	15	21.5
10 – 12 persons	13.5	19.5	21.5

14. Guide to the above table
    - If any bedroom size falls below the minimum sizes above i.e. 10.22 m^2 for 1 person or 15 m^2 for 2 people, then a communal space must be provided.
    - A communal space is separate from the kitchen and would include a living room, dining room or a combined kitchen/dining room
    - The minimum sizes for these rooms are shown above dependent on the number of occupiers
    - A room smaller than 6.51 m^2 will not be considered suitable to be used as a bedroom

15. Example – a five person HMO, with all or some bedrooms below 10.22 m^2, will require as a minimum either:
    - an 8 m^2 kitchen and a separate 11 m^2 living or dining room OR an 11.5 m^2 combined kitchen/dining room

15.3 Amenity Standards

15.3.1 Facilities for Storage, Preparation and Cooking of Food

16. There must be adequate and sufficient facilities for the storage, preparation and cooking of food, and the disposal of waste water for the number of persons in occupation. In addition:
    - Adequate means of ventilation and artificial lighting must be provided
    - Mechanical ventilation to outside must be provided for shared kitchens
    - Kitchen should not be more than one floor distance from any user, unless additional living/dining space is provided
    - Adequate work surfaces to allow the safe preparation of food
    - Adequate refrigerated, frozen and dry storage to allow food to be stored safely. Recommended provision is for; one cupboard and one shelf in the refrigerated and frozen appliance, per occupant.
    - Kitchen to have at least 6 suitably located electrical sockets. Additional sockets will berequired dependent on the number of appliances and people sharing.

Table 3: Requirements when facilities are shared

Appliance/Equipment	Minimum Requirements
Sinks	— 1 per 5 occupiers — Appropriate splash back — Provide constant hot and cold water — Suitable draining area
Cookers	— 1 Oven and a grill per 5 occupiers — 4 ring hob per 5 occupiers — 1 Microwave per 5 occupiers

17. When over five occupants, variations will be considered including the use of dishwashers and microwaves.

Table 4: Requirements when facilities are for exclusive use

Appliance/Equipment	Minimum Requirements
Sinks	— Provide constant hot and cold water — Suitable draining area — Tiled splash back
Cookers option 1	— 4 ring hob — Oven and separate grill
Cookers option 2	— 2 ring hob — Oven and grill combined — Microwave
Ventilation	— Mechanical ventilation to the outside air or openable window

15.3.2 Personal Washing

18. General requirements:
    - All toilets and bathrooms must be suitably located in relation to the living accommodation in the HMO i.e. amenities shared by two or more households must be accessible from a common area, toilets should not open into kitchens and should not be more than one floor distance away from any user.
    - Mechanical extract ventilation is essential for shared facilities.
    - Adequate heating in the bathroom must be provided.
    - Every WC must be provided with a wash-hand basin with constant supplies of hot and cold water and trapped waste outlet. The WHB should be sited within the WC compartment.

19. Self contained flats:
    - 1 water closet, wash hand basin and bath or shower per flat

Table 5: Bedsits, Shared Houses, Hostels and Halls of Residence

Number of occupants	Required washing facilities
1–4 persons	1 full bathroom (comprising bath/shower, WC and WHB)
5 persons	1 full bathroom AND 1 separate WC with WHB (WC can be contained within a second bathroom)
6–10 persons	2 full bathrooms AND 1 separate WCs with WHBs
11–15 persons	3 full bathrooms AND 1 separate WCs with WHBs
16–19 persons	4 full bathrooms AND 2 separate WCs with WHBs

15.4 Certification

15.4.1 Gas Safety

20. As a landlord, you are responsible for the safety of your tenants. The Gas Safety (Installation and Use) Regulations 1998[89] specifically deal with the duties of landlords to ensure that gas appliances, fittings and flues provided for tenants' use are safe.

21. As a landlord, you have a duty to ensure:
    - Gas fittings (appliances, pipework) and flues are maintained in a safe condition;
    - All installation, maintenance and safety checks are carried out by a Gas Safe registered Installer;
    - An annual safety check is carried out on each gas appliance/flue by a Gas Safe registered Installer. Checks need to have taken place within one year of the start of the tenancy/lease date, unless the appliances have been installed for less than 12 months, in which case they should be checked within 12 months of their installation date;
    - A record of each safety check is kept for two years;
    - A copy of the current safety check record is issued to each existing tenant within 28 days of the check being completed, or to any new tenant before they move in (in certain cases the record can be displayed).

15.4.2 Electrical Safety

22. The electrical installation to the property should be installed and maintained in accordance with a recognised standard, such as the current edition of the IEE (Institute of Electrical Engineers) Wiring Regulations and a satisfactory Electrical Installation Condition Report (EICR) report must be obtained. The installation should be retested and certified, as described every five years, or following any alterations or extensions to the system.

23. All work to the electrical installation should be carried out and certified by a NICEIC (National Inspection Council for Electrical Installation Contracting) member or approved body or competent person.

24. All electrical appliances provided by the landlord will require a Portable Appliance Test (PAT) certificate.

15.4.3 Location of meters

25. All gas and electrical meters (and boilers) must in a communal area or a room that is accessible at all times. In properties above or below commercial premises, the HMO must have a separate supply for gas and electric. A shared supply and meters are not acceptable.

[89] The Gas Safety (Installation and Use) Regulations 1998 (SI 1998/2451) Available here (accessed 26 February 2024)

15.4.4 Furniture Safety

26. All furniture provided with the accommodation must comply with the Furniture and Furnishings (Fire) (Safety) Regulations 1988[90] (as amended). You are required to sign a declaration on the application form to the effect that the above condition is met.

15.4.5 Fire Safety

27. A certificate confirming the correct installation and operation of the fire alarm system must be submitted with the application. Certificates should conform to the relevant British Standard (BS5839).

28. Where emergency lighting is fitted, a certificate will be required to show this has been installed and tested in accordance with current British Standards.

29. It is also a requirement to have a detailed fire risk assessment completed by a suitably competent person. This must also be submitted with the application.

15.4.6 Fire Safety Guidance

30. For detailed guidance about the required safety measures in HMOs please refer to the LACORS national fire safety guidance "Housing - Fire Safety Guidance on Fire Safety Provisions for Certain Types of existing housing[91]". This can be downloaded free of charge.

15.5 Further information

31. For any further information regarding HMOs or related guidance, please refer to our website: Housing | Westmorland and Furness Council

[90] The Furniture and Furnishings (Fire) (Safety) Regulations 1988 (SI 1998/1324) Available here (accessed 26 February 2024)
[91] LACORS, 2008. Housing Fire Safety - Guidance on fire safety provisions for certain types of existing housing Available here (accessed February 2024)

16 Appendix B: Housing and Planning Act Financial Penalty Calculation

16.1 Statement of principles

1. Section 249A of the Housing Act 2004[92] (as amended by the Housing and Planning Act 2016[93]) states that the amount of a financial penalty imposed for a relevant offence is to be determined by the LHA, up to a maximum of £30,000.

2. Page 13 of the statutory guidance 'Civil Penalties under the Housing and Planning Act 2016: Guidance for local housing authorities'[94] makes it clear that councils should develop and document their own policy on determining the appropriate level of financial penalty in a particular case.

3. In developing the council's policy regarding financial penalty calculation, we have had regard to the statutory guidance[95], alongside the principles in section 2 of this document. We will ensure that our calculation for financial penalties is consistent with the level of risk by applying the factors contained within the guidance.

4. The culpability of the offender in relation to the offence and the actual or potential seriousness of harm to the occupier as a result of the offence are very important considerations. These are major factors in gauging the level of fine to be imposed.

5. The seriousness of the offence is another important factor to consider, as determined by recent case law. The seriousness of offence is not considered as a separate step, but is an underlying consideration throughout the steps of the assessment. For example, when considering harm, the more harm that is caused, the higher the level of penalty, as those offences that cause great harm are considered more serious. Aggravating and mitigating factors are also centred around those factors which are considered to increase or decrease what the council considers the seriousness of an offence to be.
6. Breach of a banning order is recognised as the most serious of housing-related offences, and therefore a maximum level of £30,000, without the calculation being applied, is set for this offence to reflect the severity of such a breach.

7. For all other offences, an assessment has been developed to determine the starting point for the penalty relating to the offence. This involves six steps:
   - Step 1 – Use Table 4 to determine the seriousness of harm incurred
   - Step 2 – Use Table 5 to determine the level of culpability
   - Step 3 – Use Table 6 to determine the starting amount for the offence based on the culpability and harm
   - Step 4 – Use Table 7 to consider potential aggravating and mitigating factors and adjust the penalty amount accordingly
   - Step 5 – Consider the totality principle
   - Step 6 – Make a final determination.

[92] The Housing Act 2004, c.34. Available here (accessed 18 January 2024)
[93] Housing and Planning Act 2016, c.22. Available here (accessed 25 January 2024)
[94] Ministry of Housing, Communities and Local Government (2016). Civil Penalties under the Housing and Planning Act 2016: Guidance for local housing authorities. Available here (accessed 12 January 2024)
[95] See reference 123.

8. A record of each decision will be made by an officer when determining the level of a financial penalty. This record will include the reasons for issuing a financial penalty, the level of penalty and the factors considered when setting the level of the penalty.

16.2 Determining seriousness of harm

9. Harm is defined as the damage to occupants that may be caused by a particular course of action/inaction. Tenants who live in a house where non-compliance with legislation has occurred are likely to have been exposed to risk via poor housing conditions and/or poor management practice, both of which can be harmful to health, safety and wellbeing.

10. When considering the seriousness of harm incurred by the offence, both the actual harm and the potential likelihood of harm will be considered. The examples in Table 5 are not exhaustive; other factors may be taken into account.

Table 4: Seriousness of harm

Seriousness of harm	Indicators
Major	Major harm could constitute one or more of the following: — Major effect on individual(s) or widespread impact on large number of households (e.g. hazards in communal areas of large HMOs) — Where the landlord has deliberately avoided works or regulations or committed the offence to gain additional income, giving them a serious market advantage over rivals — Harm to a vulnerable individual — Major risk of an adverse effect on an individual, or serious level of overcrowding. — Potential for life threatening results (e.g. category 1 hazards with high chance of class I harm outcomes, or major failures to comply with HMO management regulations)
Serious	A serious level of harm could constitute one or more of the following: — Adverse effect on an individual(s) – but no risk of major or extreme level of harm — Medium risk of harm to an individual — The council's work as a regulator to address risks to health is inhibited — Consumer/tenant is misled. — Potential for severe harm (e.g. category 1/2 hazards with high chance of class II and III harm outcomes, or major failures to comply with HMO licensing conditions)
Minor	A low level of harm could constitute one or more of the following: — Low risk of harm or potential harm — Little risk of an adverse effect on individual(s). — Harm/potential harm would not be serious — Low potential for extreme, severe or serious harm (e.g. category 2 hazards with highest chance of class IV harm outcomes, or failures to licence a property with no adverse housing conditions)

16.2.1 Considering vulnerability when determining seriousness of harm

11. The harm caused and vulnerability of the individual occupier(s) are important factors in determining the level of penalty. The Housing Act 2004 defines a vulnerable individual(s) as one who is at risk of greater harm, and therefore the penalty should be greater when vulnerability is an issue.

12. The list below indicates groups of people considered to comprise vulnerable individuals. The list is not exhaustive; other factors may affect vulnerability when considering the level of any penalty.
    - The HHSRS vulnerable groups: e.g., over 60's, under 16's, and those with lifetime exposure to radon
    - Pregnant people
    - Those in receipt of domiciliary care
    - Those with health needs – mental health, drug dependency, alcohol dependency, terminally ill, etc.
    - Those requiring assistance in conducting their own affairs
    - Those having payments made to them or to an accepted representative in pursuance of arrangements under the health and social legislation
    - Those in receipt of a service provided specifically for persons who have particular needs because of age
    - Those having any form of disability or having a prescribed physical or mental problem
    - Those who have difficulty in understanding, speaking or reading English
    - An individual in a difficult situation such as bereavement or threat of deportation, etc.

16.3 Determining the level of culpability

13. The culpability can be defined as the landlord's level of responsibility for their action/inaction. Being culpable is a measure of the degree to which a person can be held morally or legally responsible for action/inaction.

14. The level of culpability of a landlord will depend upon several factors. To impose a financial penalty, the council will determine whether the culpability level for the offence is high, medium or low. The examples in Table 4 are not exhaustive; other factors may be taken into account when considering the level of culpability.

Table 5: Level of culpability

Level of culpability	Indicators
High	Intentional or reckless breach or willful disregard of the law, as manifested in one or more of the following: — They have a history of non-compliance — Despite a number of opportunities to comply, they have failed to do so — They have been obstructive during the investigation — Failure to comply results in significant risk to individuals — They are a member of a recognised landlord association or accreditation scheme — They are a public figure who should have been aware of their actions — They are an experience landlord with portfolio of properties and failing to comply with their obligations — Serious and/or systematic failure to comply with their legal duties.
Medium	A landlord commits an offence through an act or omission that a person exercising reasonable care would not. Instances can include one or more of the following: — It is a first offence – with no high-level culpability criteria being met — Failure is not a significant risk to individuals

	— The landlord had systems in place to manage risk or comply with their legal duties, but these were not sufficient or adhered to or implemented.
Low	This category is applicable where there is only a small degree of fault on the landlords part, for example. Instances can include one or more of the following: — No or minimal warning of circumstances/risk — Minor breaches — Isolated occurrence — A significant effort has been made, but it was insufficient in achieving compliance — Landlord of only one property and/or accidental landlord.

16.4 Financial penalty matrix

15. Table 6 shows the initial level of fine for each level of culpability and harm, including the minimum level[96] of fine which will be imposed for each classification.

Table 6: Starting amount for financial penalty

	Minimum fine level	Low harm	Medium harm	High harm
Low culpability	£2,000	£2,500	£5,000	£7,500
Medium culpability	£4,000	£5,000	£10,000	£15,000
High culpability	£6,000	£7,500	£15,000	£25,000

16.5 Aggravating and mitigating factors

16. Aggravating factors can be defined as those issues which make an offence more serious, for example, showing that the offence was deliberate, intentional, targeted, or is a sustained pattern of behaviour. Mitigating factors can be defined as those issues which make an offence less serious or reflect personal mitigation, for example, showing that the offence was accidental, and there is willingness to change.

17. In order to determine the final penalty, the council will consider both aggravating and mitigating factors in each case. We may adjust the initial level of the penalty based on these factors.

18. Table 7 shows a list of aggravating and mitigating factors that will be considered. The list is not exhaustive and other factors may be considered, depending on the circumstances of each case.

Table 7: Aggravating and mitigating factors

Aggravating factors could include one or more of these issues	— Number of elements of non-compliance: the greater the number, the greater the potential aggravating factor — Any previous convictions that relate to the current offence and time elapsed since such a conviction — Motivated by financial gain — Obstruction of the investigation — Deliberate concealment of the activity/evidence — A record of letting substandard accommodation — A record of poor management/inadequate management provision

[96] Minimum fine levels are the lowest level a fine will be taken to by application of reductions due to the presence of mitigating factors.

	— Lack of a tenancy agreement/rent paid in cash
Mitigating factors could include one or more of these issues	— Cooperation with the investigation, e.g. attends the PACE interview — Voluntary steps taken to address issues, e.g. submits a licence application — Acceptance of responsibility, e.g. acknowledges wrong-doing — Willingness to undertake training — Willingness to join recognised landlord accreditation scheme — Health reasons preventing reasonable compliance – mental health, unforeseen health issues, emergency health concerns — No previous convictions — Vulnerable individual(s) where their vulnerability is linked to the commission of the offence — Good character and/or exemplary conduct

19. For each aggravating or mitigating factor that applies to each specific case, the level of fine may be adjusted by 5% of the initial fine, potentially increased to the maximum £30k or reducing it to the minimum fine for each determined level of culpability and harm, as shown in Table 6.

20. The only exception to this principle will be for the first aggravating factor 'number of items of non-compliance'. There will be a 5% increase for the first 5 items of non-compliance, and 10% increase if there are more than 5 items of non-compliance.

16.6 Totality principle and final calculation

21. If issuing a financial penalty for more than one offence, or where the offender has already been issued with a financial penalty, consideration will be given to whether the total penalties are just and proportionate to the offending behaviour.

22. Where the offender is issued with more than one financial penalty, the council will consider 'Offences Taken Into Consideration and Totality: Definitive guideline'[97], namely:
    - The total financial penalty is inevitably cumulative
    - The council will determine the financial penalty for each individual offence based on the seriousness of the offence and considering the circumstances of the case including the financial circumstances of the offender as far as they are known, or appear, to us
    - The council should add up the financial penalties for each offence and consider if they are just and proportionate.

23. If the aggregate total is not just and proportionate, the council will consider how to reach a just and proportionate financial penalty. There are several ways in which this can be achieved. For example:

    - Where an offender is to be penalised for two or more offences that arose out of the same incident or where there are multiple offences of a repetitive kind, especially when committed against the same person, it will often be appropriate to impose a financial penalty for the most serious offence. This should reflect the totality of the

[97] Sentencing Council, 2012. Offences Taken Into Consideration and Totality: Definitive Guideline. Available here (accessed 20 February 2024)

offending where this can be achieved within the maximum penalty for that offence. No separate penalty should be imposed for the other offences.

- Where an offender is to be penalised for two or more offences that arose out of different incidents, it will often be appropriate to impose a separate penalty for each of the offences. The council will add up the financial penalties for each offence and consider if they are just and proportionate. If the aggregate amount is not just and proportionate, we will consider whether the penalties can be proportionately reduced. Separate financial penalties should then be issued.

24. Where separate financial penalties are considered, the council will be especially thorough, to ensure that there is no double-counting.

16.7 Final determination of the level of penalty

25. The final determination of any financial penalty must be the general principle that the penalty should be fair and proportionate but, in all instances, should act as a deterrent and remove any financial gain from the offence.

26. A further guiding principle of financial penalties is that they should remove any financial benefit that the landlord may have obtained from committing the offence. This means that the amount of the financial penalty imposed must never be less than what it would have cost the landlord to comply with the legislation in the first place.

27. In addition to ensuring that the fine acts a deterrent, the council will take into account matters that may be deemed to have contributed to a financial gain. These could include the following:
    - Cost of the works required to comply with the legislation
    - Any licence fees avoided
    - Rent for the full period of the non-compliance – reviewed in conjunction with any rent repayment order
    - Any other factors resulting in a financial benefit – potential cost of rehousing any tenants by the council
    - The council's cost incurred in their investigation.

28. If the level of gain is less than the calculated penalty, the penalty will be the level of gain plus £2k or 10%, whichever is the greater, to the maximum of £30k.

29. When determining whether a penalty is fair and proportionate, the following issues need to be considered:
    - Impact of the financial penalty on the offender's ability to comply with the law
    - Impact of the penalty on any third party (e.g. employment of staff, customers, etc.)
    - Impact on the offender –it must be proportionate to their means.

30. It must be remembered that if a property owner claims they are unable to pay and demonstrates that their income is small, then consideration can always be given to the fact that the property or properties they own can be sold or refinanced.

31. An owner has the right to make representations and/or appeal regarding the level of penalty, including their ability to pay. As part of the process, there will be a need to

undertake an investigation into a landlord's ability to pay any fine, during whichthe following need to be considered:

- Companies House records if a limited company
- Size of portfolio – sell a property to finance the penalty
- Refinance – ability to raise money against their asset base
- Rental income of their portfolio (not just the property to which the offence relates)
- Personal income, including their own home.

17 Appendix C: Electrical Safety Financial Penalty Calculation

17.1 Statement of principles

1. Section 11 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020[98] states that the amount of a financial penalty imposed for a relevant offence is to be determined by the LHA, up to a maximum of £30,000.

2. Section 5 of the statutory guidance 'Guide for Local Authorities: Electrical safety standards in the private rented sector'[99] makes it clear that councils should develop and document their own policy on determining the appropriate level of financial penalty in a particular case. It also suggests that councils should have regard to the policy they developed when issuing financial penalties under the Housing and Planning Act 2016 and the relevant guidance 'Civil penalties under the Housing and Planning Act 2016: Guidance for Local Housing Authorities'[100].

3. In developing the council's policy regarding financial penalty calculation, we have had regard to and the statutory guidance[101], alongside the principles in section 2 of this document. We will ensure that our calculation for financial penalties is consistent with the level of risk by applying a similar approach.

4. The culpability of the offender in relation to the offence and the actual or potential seriousness of harm to the occupier as a result of the offence are very important considerations. These are major factors in gauging the level of fine to be imposed.

5. The rationale behind this is that to apply the general concept of seriousness to the offence, the council calculates the level of culpability and harm. We have determined that the consideration of both the culpability and harm relates to the seriousness of the offence.

6. An assessment has been developed to determine the starting point for the penalty relating to the offence. This involves three steps:
   - Step 1 – Use Table 8 to determine the level of culpability
   - Step 2 – Use Table 9 to determine the level of harm (The level of potential harm is determined by the classifications on the electrical report.)
   - Step 3 – Use Table 10 to determine the starting amount for the offence, based on the culpability and harm.

7. An officer will keep a record of each decision. This record will detail the decisions made at each step and will include the reasons for issuing a financial penalty, the level of penalty and the factors considered when setting the level of the penalty.

[98] The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 (SI 2020/312) Available here (accessed 30 January 2024)
[99] DLUHC (2020) Guide for Local Authorities: Electrical safety standards in the private rented sector. Available here (accessed 15 January 2024)
[100] Ministry of Housing, Communities and Local Government (2016). Civil penalties under the Housing and Planning Act 2016: Guidance for local housing authorities. Available here (accessed 12 January 2024)
[101] See reference 129.

17.2 Determining the level of culpability

8. The culpability can be defined as the landlord's level of responsibility for their action/inaction. Being culpable is a measure of the degree to which a person can be held morally or legally responsible for action/inaction.

9. The level of culpability of a landlord will depend upon several factors. To impose a financial penalty, the council will determine whether the culpability level for the offence is high, medium or low. The examples in Table 8 are not exhaustive; other factors may be taken into account when considering the level of culpability.

Table 8: Level of culpability

Level of culpability	Indicators
High	Indicators in terms of breaches of this legislation: — They have made no attempt to comply with a remedial notice — There was no attempt to conduct electrical installation inspections, or there was wilful deception in ensuring the inspector was appropriately qualified — Report was not supplied to the council when requested — Further investigative work required was not carried out — Remedial works undertaken by the council were obstructed — There is a history of non-compliance with these regulations. Other indicators: — There is history of non-compliance in housing — They have been obstructive as part of the investigation — They are a member of a recognised landlord association or accreditation scheme and/or are an experience landlord with a portfolio of properties
Medium	Indicators in terms of breaches of this legislation: — There was an attempt to comply with the remedial notice — Electrical installation inspections have been carried out, but out of time and/or record-keeping was poor — Report was late in being supplied to the council when requested — Further investigative work required was carried out but late and/or not fully and/or written confirmation was not obtained — Remedial works undertaken by the council were not supported — There is no history of non-compliance with these regulations, but there is proven awareness of the requirements. Other indicators: — There is history with the landlord, but they have complied with the councils requests — The landlord had systems in place to manage risk or comply with their legal duties, but these were not sufficient or adhered to or implemented.
Low	Indicators in terms of breaches of this legislation: — The remedial notice was partially complied with and/or there were reasons that the remedial notice could not be complied with — Electrical installation inspections have been carried out, but record-keeping was poor — Report was supplied to the council when requested, but the tenants had not had a copy — Further investigative work required was carried out — The landlord was unaware of requirements. Other indicators: — There is no history with the landlord — A significant effort has been made, but it was insufficient in achieving compliance — Landlord of only one property and/or accidental landlord.

17.3 Determining the level of harm

10. Harm is defined as the damage to occupants that may be caused by a particular course of action/inaction. Tenants who live in a house where non-compliance with this legislation has occurred are likely to have been exposed to risk where the electrical installation has faults and/or there is poor management practice in terms of testing.

11. When considering the level of harm, both the actual harm and the potential likelihood of harm will be considered. The examples in Table 9 are not exhaustive; other factors may be taken into account.

Table 9: Level of harm

Level of harm	Indicators
High	A high level of harm could constitute one or more of the following: — Urgent remedial action had to be carried out — Failure to comply with remedial notice and one or more C1 present (case officer may need to arrange for EICR to be carried out to establish this) — No evidence of any previous EICR testing.
Medium	A medium level of harm could constitute one or more of the following: — Failure to comply with remedial notice, no C1s present but one or more C2 present (e.g. cracked socket, cracked pendant light, small crack to light switch, case officer may need to arrange for EICR to be carried out to establish this) — Evidence of any previous EICR testing; however, most recent report now expired.
Low	A low level of harm could constitute one or more of the following: — No evidence of defects/disrepair/alteration — EICR carried out after required date; no C1s or C2s found — Remedial notice complied with out of time.

17.4 Financial penalty matrix

12. Table 10 shows the level of fine for each level of culpability and harm. The level of the financial penalty will be calculated with reference to the table below.

Table 10: Amount for financial penalty

	Low harm	Medium harm	High harm
Low culpability	£2,500	£5,000	£7,500
Medium culpability	£5,000	£10,000	£15,000
High culpability	£7,500	£15,000	£25,000

18 Appendix D: Smoke and CO Alarm Financial Penalty Calculation

18.1 Statement of principles

1. Section 8 of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015[102] states that the amount of a financial penalty imposed for a relevant offence is to be determined by the council, up to a maximum of £5,000.

2. Section 4 of the non-statutory guidance 'Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022: Guidance for local authorities'[103] makes it clear that councils should develop and document their own policy on determining the appropriate level of financial penalty in a particular case.

3. In developing the council's policy regarding financial penalty calculation, we have had regard to the above, alongside the principles in section 2 of this document.

4. The council has considered that Regulation 8 of the Regulations specifies that the amount of the penalty charge will not exceed £5,000, and regulations also state 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 has also considered that 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 us under Regulation 7 to take remedial action ourselves. The breach by the landlord therefore directly results in costs being incurred by the council. The only mechanism for cost recovery under the Regulations is to impose a financial penalty.

6. 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.

7. The council considers that the government would not have allowed penalty charges to be set at the level set out in Regulation 8 (£5,000) if it did not expect penalty charges to be imposed at this level.

8. Furthermore, to comply with Regulation 4, in the vast majority of cases, the number of alarms that are required to be installed will not incur considerable cost. There will be fewer mitigating or aggravating factors for breaches of Regulation 4 from case to case. On this basis, we gauge that it is reasonable to set most penalty notices at the same level.

9. The council considers it follows from the points above that the starting point for the level of the penalty notice will be the maximum. However, the penalty charge will be reduced for the first offence. A reduced charge will also be made if payment occurs within 14 days. However, we gauge 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.

[102] The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (SI 2015/1693). Available here (Accessed 24 January 2024)
[103] DLUHC (2022) Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022: Guidance for local authorities. Available here (Accessed 24 January 2024)

10. The charge may also be reduced in other exceptional circumstances that come to light following written representation requesting a review.

11. The council will ensure that our calculation for financial penalties is consistent by applying this approach in all cases. A record of each decision will be made by an officer. This record will include the reasons for issuing a financial penalty, the level of penalty and the factors considered when setting the level of the penalty.

18.2 Financial penalty matrix

12. The level of the financial penalty will be determined with reference to Table 11 below.

Table 11: Penalty amounts

	First offence	Second/subsequent offence
Breach of Regulation 4	£2,500	£5,000
Reduced penalty for payment within 14 days	£1,250	£3,500

19 Appendix E: Minimum Energy Efficiency Standards Financial Penalty Calculation

19.1 Statement of principles

1. Section 40 of the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015[104] ('the Regulations') states the maximum amounts applicable to each offence for which a financial penalty can be imposed, alongside stating that the total of the financial penalties imposed, should not be more than £5,000.

2. Page 80 of the non-statutory guidance 'The Domestic Private Rented Property Minimum Standard'[105] makes it clear that councils should develop and document their own policy on determining the appropriate level of financial penalty in a particular case.

3. In developing the council's policy regarding financial penalty calculation, we have had regard to the above, alongside the principles in section 2 of this document.

4. The culpability of the offender in relation to the offence and the actual or potential seriousness of harm to the occupier as a result of the offence are very important considerations. These are major factors in gauging the level of fine to be imposed.

5. The rationale behind this is that to apply the general concept of seriousness to the offence, the council calculates the level of culpability and harm. We have determined that the consideration of both the culpability and harm relates to the seriousness of the offence.

6. For all offences, an assessment has been developed to determine the starting point for the penalty relating to the offence. This involves four steps:
   - Step 1 – Use Table 12 to determine the level of culpability
   - Step 2 – Use Table 13 to determine the level of harm
   - Step 3 – Use Tables 14–18 to determine the amount for the offence(s) based on the culpability and harm
   - Step 4 – Consider the totality principle.

7. A record of each decision will be made by an officer. This record will include the reasons for issuing a financial penalty, the level of penalty and the factors considered when setting the level of the penalty.

19.2 Determining the level of culpability

8. The culpability can be defined as the landlord's level of responsibility for their action/inaction. Being culpable is a measure of the degree to which a person can be held morally or legally responsible for action/inaction.

[104] The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (SI 2015/962). Available here (accessed 25 January 2024)
[105] BEIS (2020). The Domestic Private Rented Property Minimum Standard. Available here (accessed 15 January 2024)

9. The level of culpability of a landlord will depend upon several factors. To impose a financial penalty, the council will determine whether the culpability level for the offence is high or low. The examples in Table 12 are not exhaustive; other factors may be taken into account when considering the level of culpability.

Table 12: Level of culpability

Level of culpability	Indicators
High	Indicators in terms of breaches of this legislation: — The landlord has proven knowledge of the Regulations (i.e. has engaged with private sector housing team, employs a reputable management agency) — The landlord is an accredited/large portfolio landlord — The landlord has failed to demonstrate any willingness to comply with these regulations — The landlord has previous history of non-compliance with these regulations (formal or extensive) — The landlord has a previous history of non-compliance with housing-related regulatory requirements (formal or extensive) — The landlord has knowingly or recklessly provided incorrect information in relation to exemptions or investigation under these regulations — The landlord wilfully sought to obstruct further investigation through non-compliance — Where an EPC A–E was registered and determined to be inaccurate and this has been successfully appealed with the accrediting body, this will be taken into account in determining the landlord's culpability. Other indicators: — There is history of non-compliance in housing — They have been obstructive as part of the investigation — They are a member of a recognised landlord association or accreditation scheme and/or are an experience landlord failing to comply with their obligations, with a portfolio of properties.
Low	Indicators in terms of breaches of this legislation: — The landlord had no knowledge of the Regulations (was unaware of requirements, contact has not been established, lives out of area) — The landlord is not known to be in control of three or more properties or is not a property letting agent — The landlord has demonstrated full willingness to comply with these regulations and/or has complied by the time of financial penalty service — The landlord has no previous history of non-compliance with these regulations — The landlord has no previous history of non-compliance with housing-related regulatory requirements — Non-compliance due to complex issues fully out of the landlord's control such as a property managed by an agent who misinformed or misled landlord — All information provided by the landlord in relation to investigation under these regulations has been correct — The landlord has assisted the investigation under these regulations. Other indicators: — No history with the landlord — A significant effort has been made, but it was insufficient in achieving compliance — Landlord of only one property and/or accidental landlord

19.3 Determining the level of harm

10. Harm is defined as the damage to occupants that may be caused by a particular course of action/inaction. Tenants who live in a house with poor energy efficiency are more likely to be in fuel poverty and are more likely to have high energy bills and be exposed to unhealthy indoor temperatures, which is considered harmful.

11. When considering the level of harm, both the actual harm and the potential likelihood of harm will be considered. To impose a financial penalty, the council will determine whether the culpability level for the offence is high or low. The examples in Table 13 are not exhaustive; other factors may be taken into account.

Table 13: Level of harm

Level of harm	Indicators
High	A high level of harm could constitute one or more of the following: — There are vulnerable individuals present and/or the tenants are fuel-poor — The tenants have been exposed for an extended period — No or few improvements have been made since initial contact with the landlord — The RdSAP[106] score on the EPC is 20 or less (band G).
Low	A low level of harm could constitute one or more of the following: — The tenants are not vulnerable or fuel-poor — All, or most improvement works, were carried out to the property prior to consideration of the financial penalty — The sub-standard property has been rented for less than 3 months — The RdSAP score on the EPC is more than 21 (band F).

19.4 Financial penalty matrices

12. The Regulations state the maximum financial penalties for each offence are as follows:
    - Letting out substandard domestic property can be:
        a. either: R40(2) – a penalty notice imposing a financial penalty not exceeding £2,000 can be served where a landlord has been in breach of Regulation 23 (letting of substandard property) for less than 3 months; or
        b. (3) – a penalty notice imposing a financial penalty not exceeding £4,000 can be served where a landlord has been in breach of Regulation 23 (letting of substandard property) for 3 months or more.
    - Registering false or misleading information:
      40(4) – A penalty notice imposing a financial penalty not exceeding £1,000 can be served where a landlord has breached Regulation 36(2) by registering false or misleading information on the PRS exemptions register.
    - Failing to comply with a compliance notice:
      40(5) – A penalty notice imposing a financial penalty not exceeding £2,000 can be served where a landlord has breached Regulation 37(4)(a) by failing to comply with a compliance notice.

13. The level of the financial penalty will be calculated with reference to the tables below.

[106] RdSAP means 'reduced data standard assessment procedure'. It is the approved methodology for evaluating the energy performance of existing homes. The assessment produces a score of 1 to 100, with the numerical score equating to a band.

Table 14: The proportion that is applied to the maximum penalty

	Low harm	High harm
Low culpability	20%	60%
High culpability	60%	**100%**

14. When the proportions in Table 14 are applied to each offence, the penalty amounts are as shown in tables 15–18.

Table 15: Letting out substandard property for less than 3 months (maximum penalty £2,000)

	Low harm	High harm
Low culpability	£400	£1,200
High culpability	£1,200	**£2,000**

Table 16: Letting out substandard property for less than 3 months (maximum penalty £4,000)

	Low harm	High harm
Low culpability	£800	£2,400
High culpability	£2,400	**£4,000**

Table 17: Registering false or misleading information (maximum penalty £1,000)

	Low harm	High harm
Low culpability	£200	£600
High culpability	£600	**£1,000**

Table 18: Failing to comply with a compliance notice (maximum penalty £2,000)

	Low harm	High harm
Low culpability	£400	£1,200
High culpability	£1,200	**£2,000**

19.5 Totality principle and final calculation

15. Due to the differing nature of the offences, multiple financial penalties can be imposed on one property when there is a breach of more than one regulation.

16. If issuing financial penalties for more than one breach, or where the offender has already been issued with a financial penalty, the council will consider whether the total penalties are proportionate to the offence(s).

17. Where there are multiple offences under the categories above, if the combined total financial penalty is over £5,000, the financial penalty imposed will be reduced to £5,000, in line with regulations.

19.6 Publication penalty

18. A publication penalty will be applied in all cases.

19.7 Policy on repeat/continuing offences

19. Regulation 38 (4) allows the council to issue a further penalty notice where a landlord fails to take the action required by a penalty notice within the period specified therein.

20. The council reserves the right to proactively review properties served with a financial penalty on an annual basis, or when we are made aware of a change of tenancy (whichever is sooner).

20 Appendix F: Redress Scheme Monetary Penalty Calculation

20.1 Statement of principles

1. Section 8 of the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014[107] states that the amount of a monetary penalty imposed for a relevant offence is to be determined by the council, up to a maximum of £5,000.

2. Whist we have the discretion to decide on the amount of the penalty, the guidance for local authorities[108] is clear that the expectation is that a £5,000 fine should be considered the norm and that a lesser fine should be charged only if the council is satisfied that there are extenuating circumstances.

3. Where the council is satisfied, on the balance of probability that someone is engaged in letting or management work and is required to be a member of a redress scheme but has not joined one, we will impose a monetary penalty. The decision of the council is that the monetary penalty level be set at £5,000.

4. We may, in exceptional circumstances, where we consider that it is necessary and appropriate, reduce the level of a fine.

[107] The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014 (SI 2014/2359). Available here (accessed 25 January 2024)

[108] CLG, 2014. ANNEX C Guidance for Local Authorities on the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014. Available here (accessed 25 January 2024)

21 Appendix G: Legislation

21.1 Legislation relevant to housing

1. Officers in the housing team are authorised for the following pieces of legislation:

- Anti-Social Behaviour, Crime and Policing Act 2014[109]
- Building Act 1984[110]
- Criminal Law Act 1997[111]
- Criminal Procedure and Investigations Act 1996[112]
- Energy Act 2011[113] and 2013[114]
- Environmental Protection Act 1990[115]
- Equality Act 2010[116]
- Home Energy Conservation Act 1995[117]
- Housing Act 1985[118] and 1996[119]
- Housing Grants, Construction and Regeneration Act 1996[120]
- Local Government and Housing Act 1989[121]
- Local Government (Miscellaneous Provisions) Act 1976[122] and 1982[123]
- Noise Act 1996[124]
- Police and Criminal Evidence Act 1984[125]
- Prevention of Damage by Pests Act 1949[126]
- Public Health Act 1936[127] and 1961[128]
- Regulation of Investigatory Powers Act 2000[129]
- Regulatory Reform (Housing Assistance) (England and Wales) Order 2002[130]
- The Gas Safety (Installation and Use) Regulations 1998[131]
- Town and Country Planning Act 1990[132]

[109] Anti-Social Behaviour, Crime and Policing Act 2014 c.12. Available here (accessed 26 February 2024)
[110] Building Act 1984 c.55. Available here (accessed 30 January 2024)
[111] Criminal Law Act 1997 c.45. Available here (accessed 26 February 2024)
[112] Criminal Procedure and Investigations Act 1996 c.25. Available here (accessed 26 February 2024)
[113] Energy Act 2011 c.16. Available here (accessed 26 February 2024)
[114] Energy Act 2013 c.32. Available here (accessed 26 February 2024)
[115] Environmental Protection Act 1990 c.43. Available here (accessed 30 January 2024)
[116] Equality Act 2010 c.15. Available here (accessed 26 February 2024)
[117] Home Energy Conservation Act 1995 c.10. Available here (accessed 26 February 2024)
[118] Housing Act 1985 c.68. Available here (accessed 26 February 2024)
[119] Housing Act 1996 c.52. Available here (accessed 26 February 2024)
[120] Housing Grants, Construction and Regeneration Act 1996 c.53. Available here (accessed 26 February 2024)
[121] Local Government and Housing Act 1989 c.42. Available here (accessed 26 February 2024)
[122] Local Government (Miscellaneous Provisions) Act 1976 c.57. Available here (accessed 30 January 2024)
[123] Local Government (Miscellaneous Provisions) Act 1982 c.30. Available here (accessed 30 January 2024)
[124] Noise Act 1996 c.37. Available here (accessed 26 February 2024)
[125] Police and Criminal Evidence Act 1984 c.60. Available here (accessed 26 February 2024)
[126] Prevention of Damage by Pests Act 1949 c.55. Available here (accessed 30 January 2024)
[127] Public Health Act 1936 c.49. Available here (accessed 30 January 2024)
[128] Public Health Act 1961 c.64. Available here (accessed 30 January 2024)
[129] Regulation of Investigatory Powers Act 2000 c.23. Available here (accessed 26 February 2024)
[130] Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (SI 2002/1860). Available here (accessed 26 February 2024)
[131] The Gas Safety (Installation and Use) Regulations 1998 (SI 1998/2451). Available here (accessed 26 February 2024)
[132] Town and Country Planning Act 1990 c.8. Available here (accessed 30 January 2024)