

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 – Civil Penalty Policy

Introduction

Section 38 of The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 enables the Council as the Enforcement Authority the power to issue a financial penalty if they are satisfied that there is or has been in the 18 months preceding the date of service of the penalty notice a breach of one of more of the following:

- Prohibition on letting sub-standard property (Regulation 23)
- Providing false or misleading information on the Private Rented Sector (PRS) Exemption Register (Regulation 36(2))
- Failure to comply with a compliance notice Regulation 37 (4)(a)

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 section 40 specifies the maximum financial penalty for each breach in relation to domestic private rented property.

Renting out a non-compliant property for less than 3 months	£2,000
Renting out a non-compliant property for 3 months or more	£4,000
Providing false or misleading information on the PRS Exemption Register	£1,000
Failure to comply with a compliance notice	£2,000

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 section 41 specifies the maximum financial penalty for each breach in relation to non-domestic private rented property.

Renting out a non-compliant property for less than 3 months	<p>Whichever is the greater of £5,000 and 10% of the rateable value of the Property</p> <p>The financial penalty must not exceed £50,000,</p>
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Renting out a non compliant property for 3 months or more	Whichever is the greater of £10,000 and 20% of the rateable value of the Property The financial penalty must not exceed £150,000
Providing false or misleading information on the PRS Exemption Register	£5,000
Failure to comply with a compliance notice	£2,000

The penalty amounts apply per property and per breach of the Regulations and the total of the financial penalties imposed must be no more than £5,000.

The Council is also entitled to impose a publication penalty on the offender in addition to the financial penalty imposed in all cases related to domestic properties.

The following matrix will be used as a guide to determine the appropriate penalty

	Low Culpability	High Culpability	Notes
Low Harm	25%	50%	% = Proportion of Maximum Penalty
High Harm	50%	100%	

Factors Affecting Culpability:

High: Landlord has a previous history of non-compliance with regulatory requirements and/or landlord has failed to comply with requests to comply with these regulations. Knowingly or recklessly providing incorrect information in relation to exemptions to these regulations.

Low: First Offence under these regulations, no previous history of noncompliance with housing related regulatory requirement. Complex issues partially out of control of the landlord have led to non-compliance.

Factors Affecting Harm

High: Very low EPC score. Vulnerable tenants occupying property for an extended period of time since non-compliance.



Low: No vulnerable tenants, higher EPC score close to minimum accepted EPC rating.

Aggravating and Mitigating Factors:

Facts may come to light as part of the investigation for the offences which may warrant adjustments to be made to the Financial Penalty and the imposition of the publication penalty, or not. Details of these factors will be included in the Penalty Notice. In addition, information may be provided in representations from a landlord as part of his request to review the Penalty Notice. Officers will have regard to these factors and adjust the penalty to increase (up to the Maximum of £5000) or to reduce the penalty as they feel appropriate. The landlord will be served a Notice after the review with an explanation of any adjustment made.

The Council does not have a prescribed list of what constitutes an aggravating or mitigating factor for these purposes, and it is not bound to deem any facts or circumstances as aggravating or mitigating. What constitutes aggravating or mitigating factors is different in every case and each case shall be given due consideration.

Penalty amounts will be proposed by authorised Officers and checked and confirmed by a line manager within Housing Standards.