



Housing Conditions and Supply Team

The Housing and Planning Act 2016

(How Tamworth Borough Council will approach, adopt and use the enhanced measures the above Act which extend and amend certain powers and activities in relation to the Housing Act 2004)

July 2017

POLICY

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Revision History

Revision Date	Version Control	Summary of changes
	1	This is a new policy drafted in line with the provisions of The Housing and Planning Act 2016

Document Review Plans

This document is subject to a scheduled annual review. Updates shall be made in accordance with business requirements and changes and will be with agreement with the document owner.

Distribution

The document will be available on the Intranet and the website

Contents

1	Introduction	5
2	Financial (civil) Penalties	6
3	Our Approach	8
4	Rent Repayment Orders	10
5	Obtaining and using tenancy deposit information	13
6	Amendments to the HMO Licensing Criteria	15
7	Electrical safety	15
8	Banning orders	16
9	The database of rogue landlords and property agents	20
10	Policy Revision	22
11	Complaints	22
12	Further information	22
13	Appendix 1	23

1. Introduction

This policy sets out the approach that Tamworth Borough Council will take in the adoption and operation of the new measures introduced by the Housing and Planning Act 2016, amending and extending the provisions of the Housing Act 2004.

The Housing Conditions and supply team are responsible for increasing both the quality and quantity of residential accommodation in Tamworth.

The number of households in the private rental sector in England is increasing and now stands at 4.3 million. In Tamworth there are some 3,087 privately rented dwellings (BRE 2017).

Although officially, in line with council tax records, there are officially only just over 100 HMOs it is thought through experience and intelligence that there are many more.

The relevant Private Sector Housing Officers undertake proactive property assessment and respond to complaints of deficiencies in housing conditions and standards.

The assessments are completed in accordance with part 1 of the Housing Act 2004.

The assessment process is a risk based process referred to as the Housing Health and Safety rating System (HHSRS). The Authority is obligated to act if the outcome score of the process is 1000 or above (category 1 hazard) or a high scoring category 2 hazard (scoring up to 1000). Lower scoring hazards can be actioned under the discretion of the authority with robust justification

The team also undertake the Licencing of Houses in Multiple Occupation (HMOs) under provisions of the Housing Act 2004.

The current and proposed legislative changes contained within the Housing Act 2016 are intended to assist Local Authorities in tackling 'rogue landlords' in their Borough.

- Introduction of financial (civil) penalties of up to £30,000 as an alternative to prosecution for certain specified offences (in force 6th April 2017).
- Extension of existing rent repayment order powers to cover a range of offences by landlords in the private rented sector, such as illegal eviction, breach of a banning order and others (in force 6th April 2017).
- Introduction of powers to require the sharing of certain data held by the three main Tenancy Deposit Protection (TDP) schemes to Assist LA's in identifying privately rented accommodation in their district (in force 6th April 2017).
- A database of rogue landlords and property agents who have been convicted of certain offences or received multiple financial penalties (scheduled to come into force 1st Oct 2017).
- Banning orders for the most serious and prolific offenders (scheduled to come into force 1st Oct 2017).

There are also proposals to extend the current regime around HMO (House in Multiple Occupation) licencing. The proposals will mean that any HMO property occupied by 5 or more persons (in separate households) will need a licence. Part 5 of the Housing and Planning Act 2016 gives the secretary of state power to regulate around requiring landlords to ensure Electrical safety throughout the tenancy and it is likely that Local Authorities will enforce on this (Oct 2017).

2. Financial (civil) Penalties

The power to impose a civil financial penalty came into force from 6th April 2017 as an alternative to prosecution for these offences was introduced by section 126 and Schedule 9 of the Housing and Planning Act 2016 (amending the Housing Act 2004).

A Local Authority **cannot** issue a civil penalty and prosecute for the same offence - it must decide in which way it wishes to deal with the offence.

Local Authorities are expected to develop and document their policy on these penalties:

- When to prosecute and when to issue a financial penalty (both cannot be imposed for the same offence).
- Determining the appropriate level of financial penalty in a particular case (there is no minimum level of penalty and the maximum is £30,000).

When civil penalties were introduced through the Housing and Planning Act 2016, Ministers made very clear that they expected this power to be used robustly as a way of clamping down on rogue landlords.

In the House of Commons, Marcus Jones MP (Parliamentary Under Secretary of State at the Department for Communities and Local Government) stated:

“[it is necessary to] clamp down on rogue landlords, so the civil penalty [has been increased] up to a maximum of £30,000. “

“It is important to raise the level of civil penalty to £30,000, because a smaller fine may not be significant enough for landlords who flout the law to think seriously about their behaviour and provide good quality, private sector rented accommodation for their tenants.”

Whilst the initial impact of these changes will not be significant in Tamworth it could increase for example when the current HMO licencing regime is extended.

Money raised through these penalties can be kept by the Local Authority and used in further work to improve condition in the private housing sector.

The list of offences that that may be dealt with by way of a financial penalty are as follows:

- Failure to comply with improvement notice (Housing Act 2004 Section 30) **(does not apply to Prohibition orders)**
- Licensing of HMOs under Housing Act 2004 Part 2 (Housing Act 2004 Section 72)
- Licensing of houses under Housing Act 2004 Part 3, (Housing Act 2004 Section 95)

- Failure to comply with overcrowding notice, (Housing Act 2004 Section 139(7))
- Management regulations in respect of HMOs. (Housing Act 2004 Section 234)

2.1 What burden of proof is required?

The same criminal standard of proof is required for a civil penalty as for prosecution. This means that before taking formal action, a local housing authority should satisfy itself that if the case were to be prosecuted in the magistrates' court, there would be a realistic prospect of conviction.

In order to actually achieve a conviction in the magistrates' court, the local housing authority would need to be able to demonstrate beyond reasonable doubt that the offence has been committed. Similarly, where a civil penalty is imposed and an appeal is subsequently made to the First-tier Tribunal, the local housing authority would need to be able to demonstrate beyond reasonable doubt that the offence had been committed.

The legislation allows a maximum financial penalty of £30,000 to be imposed per offence. In determining whether to impose a financial penalty the Council will have regard to any relevant local enforcement policy and any relevant governmental guidance. In particular the factors set out in 3.5 of the Government Guidance on Civil penalties under the Housing and Planning Act 2016 which has been incorporated into the charging table adjustments set out in Appendix 1.

The rationale in relation to the financial penalty is in accordance with Magistrates Court procedures for imposing fine levels taking into account culpability and income from their housing related activities. Tamworth Borough Council enforcement policies were reviewed over the Spring/ Summer 2017 and the disrepair and HMO policies details the enforcement approach in relation to the Housing Health and Safety Rating System and licensing standards issued in HMOs.

3. Our Approach

Tamworth Borough Council will adopt and use this new power to issue civil penalties as an alternative to prosecution.

Although there is no statutory need to consult around the adoption of these changes they will be 'advertised' on our webpages, disseminated via the landlord forum and a press release.

In line with the statutory guidance to Local Authorities we need to produce a written policy advising when we will prosecute to and when we will issue a civil penalty.

The Guidance suggests that we must decide on a case-by-case basis in line with our policy what the correct action to take is. It further advises that prosecution may be the most appropriate option where the offence is 'particularly' serious or where the offender has committed similar offences in the past. This does not mean that we cannot use the civil penalty in cases where the offence is serious as a significant financial penalty may be the most appropriate and effective sanction in some cases.

Our approach will normally be to issue a civil penalty unless the 'offender' has already received at least 3 civil penalties over the preceding 18 months, as this would suggest that the civil penalty option is not working.

Prosecution will be considered as the first option for the most serious offences. An example of this could be where a landlord fails to comply with fire safety issues or deliberately puts the health, safety and welfare of more individuals at risk by not complying with HMO Management Regulations around fire safety.

As with prosecution currently both the evidential the 'public interest' test will also have to be met before a penalty can be issued.

When deciding what level of penalty to use the government guidance asks us to consider issues such as the severity of the offence, culpability and track record of the offender.

Work has been undertaken through the Staffordshire Housing Technical Group, in line with government guidance, to produce a financial penalty matrix detailing the

penalty limits and added premiums. **All Local Authorities in Staffordshire, including Tamworth Borough Council** will apply these levels of penalties in the relevant circumstances. This should help ensure equality in enforcement across the County and result in fewer challenges from the 1st Tier Tribunal Service.

See Appendix 1

The process of issuing a civil penalty is set out in Schedule 13A of the Housing Act 2004 must involve the issuing of a 'Notice of Intent' 28 days before the final Penalty is issued.

The 'case ' for issuing the civil penalty and the preparation of the notice of intent and final Notice will be prepared by the Senior Private Sector Housing Officer in discussion with the Housing Conditions Manager The final Notice will be signed and 'issued' by the Corporate Director of Communities, Partnerships and Housing.

If in the period of time between intent and final notice the Corporate Director may choose to withdraw a Notice or reduce the amount specified in a Notice (e.g. where it is felt that the 'offender' makes a valid representation in the 28 days between the intent and final notice) this decision will be relayed in writing.

If the penalty remains unpaid Tamworth Borough Council will refer the case to the County Court for an order of that court, We will, if it becomes necessary use county court bailiffs to enforce the order and recover the debt.

4. Rent Repayment Orders

The Housing Act 2004 introduced rent repayment orders to cover situations where the landlord of a property had failed to obtain a licence for a property that was required to be licensed, specifically offences in relation to licensing of Houses in Multiple Occupation (section 72(1)) and offences in relation to licensing of houses under Part 3 of the Act (section 95(1)). Rent repayment orders have now been extended through the Housing and Planning Act 2016 to cover a much wider range

of offences which are described below. Rent Repayment Orders are made by the 1st Tier Tribunal Service.

Rent repayment orders are being extended to cover the following situations:

- Failure to comply with an Improvement Notice under section 30 of the Housing Act 2004;
- Failure to comply with a Prohibition Order under section 32 of the Housing Act 2004;
- Breach of a banning order made under section 21 of the Housing and Planning Act 2016;3
- Using violence to secure entry to a property under section 6 of the Criminal Law Act 1977;
- Illegal eviction or harassment of the occupiers of a property under section 1 of the Protection from Eviction Act 1977.

Either the tenant or the local housing authority can apply for the order.

If a Local Authority becomes aware that a person who is a landlord has been convicted of any of the offences, and those offences have been committed in their area it **must consider** applying for a rent repayment order.

A rent repayment order can be applied for when the landlord has committed an offence, whether or not a landlord has been convicted of one of the offences listed above. Where an application for a rent repayment order is made and the landlord has not been convicted of the offence for which the rent repayment order application is being made, the First-tier Tribunal will need to be satisfied beyond reasonable doubt that the landlord has committed the offence.

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

Where a landlord **has not** been convicted of the offence to which the rent repayment order application relates, the following factors should be taken into account when considering how much rent a local housing authority should seek to recover:

- **Punishment of the offender** - Rent repayment orders should have a real economic impact on the offender and demonstrate the consequences of not complying with their responsibilities. Factors that a local housing authority may wish to consider include the conduct of the landlord and tenant, the financial circumstances of the landlord and whether the landlord has previously been convicted of similar offences;
- **Deter the offender from repeating the offence** - The level of the penalty should be set at a high enough level such that it is likely to deter the offender from repeating the offence;
- **Dissuade others from committing similar offences** - Rent repayment orders are imposed by the First-tier Tribunal and so the fact someone has received a rent repayment order will be in the public domain. Robust and proportionate use of rent repayment orders is likely to help ensure others comply with their responsibilities.
- **Remove any financial benefit the offender may have obtained as a result of committing the offence** - This is an important element of rent repayment orders: the landlord is forced to repay rent, and thereby loses much, if not all, of the benefit that accrued to them by not complying with their responsibilities.

A Local Authority can impose a civil penalty or prosecute for the offence and apply for a rent repayment order for certain offences. Both sanctions are available for the following offences under the Housing Act 2004:

- Failure to comply with an Improvement Notice (section 30);
- Offences in relation to licensing of Houses of Multiple Occupation (section 72(1));
- Offences in relation to licensing of houses under part 3 of the Act (Section 95(1)).

If a Local Housing Authority becomes aware that a person who is a landlord has been convicted of any of the offences listed, and the offence was committed in their area, it must consider applying for a rent repayment order.

The First-tier Tribunal must order that the maximum amount of rent (up to 12 months) is repaid where the landlord has been convicted of the offence to which the rent repayment order applies. This is regardless of whether or not the local housing authority or tenant has applied for a lesser amount. Where the landlord has not been convicted, the First-tier Tribunal will determine the amount to be repaid in accordance with section 44 (tenants) or section 45 (local housing authorities) of the Housing and Planning Act 2016.

Where a landlord has been convicted of any of the offences listed and the rent repayment order, or part of it, is being made in favour of the local housing authority (because rent was paid through Housing Benefit/Universal Credit), the First-tier Tribunal must require the landlord to repay all of the rent paid to the landlord by the local housing authority up to a maximum of 12 months, provided the conditions in section 46 of the Housing and Planning Act 2016 are met.

4.1 Our approach

Tamworth Borough Council will normally apply to the First-tier Tribunal in all appropriate cases, the 'case' will be prepared by the Senior Private Sector Housing Officer and the application will be signed off by the Corporate Director.

5. Obtaining and using tenancy deposit information

Landlords must put their tenant's deposit in a government – backed tenancy deposit scheme if they let their property on an Assured Shorthold Tenancy that started after the 6th April 2017.

There are three TDP Schemes:

- Deposit Protection Services (DPS)
- Tenancy Deposit Scheme

- My Deposits

From the 6th April 2017 these schemes are required to provide the specific information they hold on tenancies in England to any Local Authority who requests the information. Only information which relates to properties in the authority's area will be provided.

Once the data has been received the Local Authority must only use it whilst exercising their powers under Parts 1-4 of the Housing Act 2004 this includes the investigation of whether or not an offence has been committed.

The information provided will exclude the landlord's name but this can be found via other records such as council tax and benefit records.

Once the information has been accessed or downloaded by the Local Housing Authority, it is the Local Housing Authority's responsibility to use the information in accordance with the Housing Act 2004 and the principles of the Data Protection Act 1998 (But it can be shared with other parties assisting with Housing Act 2004 functions).

5.1 Our approach

Local Authorities can choose to use this provision.

Tamworth Borough Council will make full use of this new provision where it will be useful and add to our 'tools' to act effectively under the Housing Act 2004.

The government has produced strict guidance and even template letters for use.

Requests for information must be in writing- letter-headed paper signed by a Senior Officer in the private sector housing team and then scanned across to all the schemes separately as necessary.

Response will be from the scheme via a secure web-portal link (usually within 5 days).

6. Amendments to the HMO Licensing Criteria

The existing regime of mandatory HMO licensing has been reviewed by the Government and the numbers of HMOs requiring a mandatory licence has increased. The changes being brought in (Oct. 17) and will:

- Remove the storey rule so all properties (regardless of how many floors) with 5 or more people from 2 or more households will now require a licence.
- Extends the mandatory licensing to flats above and below business premises (regardless of storeys).
- Set a minimum room size of 6,5msq (single room). This is already in line with our local standards.

We will undertake the licensing of these extended categories in the same way that we deal with existing licensable HMOs. We will use our current standards and where necessary will enforce against those landlords who do not comply.

We will publicise these changes via our webpages, landlord forum, other internal teams e.g. Benefits and a press release.

7. Electrical safety

Provision has been made under part 5 of the Housing and Planning Act 2016 for the secretary of state to enact secondary legislation around electrical safety in rented accommodation. This legislation will strengthen the existing obligations under the Landlord and tenant act 1985.

The Electrical Safety Standards that the Secretary of State may impose are in relation to:

- The installation in the premises or the supply of electricity; or
- Electrical fixtures, fittings or appliances provided by the landlord.

The landlord's obligations are expected to include duties to ensure that a suitably qualified electrician has checked that the standards have been met, that they obtain a certificate confirming this with a copy provided to the tenant or any other relevant person. It will be for the Secretary of State to decide how often these checks should be carried out and who will be suitably qualified to do so.

The enforcement of the pending secondary legislation is likely to be carried out by the Local Authority. Landlords in breach will be subject to a financial (civil) penalty, the Local Authority will have the power to enter the premises with the tenant's consent and remedy any failure to comply with electrical safety standards.

These changes are likely to be in force by October 2017.

7.1 Our approach

We will adopt and use these powers in line with government guidance issued and our enforcement policy approach.

8. Banning orders

The Housing and Planning Act 2016 introduced the power for the First Tier Tribunal to serve a banning order for landlords and agents who have been convicted of serious offences, and/ or repeat offenders. Subject to further detailed regulation Banning orders should be in force from October 2017.

8.1 Proposed banning order offences (relevant housing offences)

An offender has been convicted of a 'relevant housing offence', (regardless of whether that was in the Crown Court or Magistrates Court). For the majority of landlords or property agents convicted of a banning order offence, it is very likely that the offence will be in relation to the condition and/or management of the properties that they are renting out. Therefore, it is very important to ensure that a banning order is a potential sanction following conviction for a relevant housing offence.

Initially, it was proposed that someone would have to be found guilty of at least two relevant housing offences, but the Act was amended during its passage through Parliament. As a result, conviction of a single 'relevant housing offence' would be sufficient for someone to be put on the database and, **if the Local Authority considered it appropriate and obtained a banning order, banned from being involved in letting out or managing property.**

A 'relevant housing offence' could include a conviction for any of the following offences:

- Illegally evicting or harassing a residential occupier in contravention of the Protection from Eviction Act 1977 or the Criminal Law Act 1977 or;
- Any of the following offences under the Housing Act 2004:
- Offences in relation to licensing of Houses in Multiple Occupation (HMOs) (section 72);
- Offences in relation to licensing of houses under Part 3 of the Act (section 95);
- Allowing a HMO that is not subject to licensing to become overcrowded (section 139);
- Failure to comply with management regulations in respect of HMOs (section 234).

Other 'relevant housing offences' may include the following:

- An offence under section 36 of the Gas Safety (Installation and Use) Regulations 1998;
- Failure to comply with a Prohibition or Emergency Prohibition Order under sections 20, 21 and 43 of the Housing Act 2004;
- An offence under section 32 of the Regulatory Reform (Fire Safety) Order 2005 provided it relates to a property that is being rented out or managed by a landlord or property agent.

8.2 Proposed banning order offences (Immigration offences)

- Letting to someone disqualified from renting because of their immigration status, resulting in an offence under Part 3 of the Immigration Act 2014.

8.3 Proposed banning order offences (serious criminal offences)

- Any offence, whether committed by an individual or a body corporate, for which they have been sentenced in the Crown Court (regardless of whether they were originally convicted in the Crown Court or Magistrates Court) involving:
 - Fraud under the Fraud Act 2006;
 - The production, possession or supply of all classes of illegal drugs (including poisons) and/or managing premises where drug dealing and/or production takes place; or
 - Any offence under Schedule 15 of the Criminal Justice Act 2003 (specified violent and sexual offences).

8.4 The offence must have been committed

- At any residential premises in England, or in the local area of those premises;
or
- In relation to such residential premises.
- In either case, the offender, or a person associated with him, must have owned or been involved in the management of the residential premises concerned at the time the offence was committed;

In addition, neither the offender nor the associated person must occupy the residential premises as their main residence and the offence must relate to the occupier of the residential premises.

8.5 Proposed banning order offences (other criminal offences)

- Any offence, whether committed by an individual or a body corporate, for which the offender has been sentenced in the Crown Court (regardless of whether they were originally convicted in the Crown Court or Magistrates Court). The offence must have been committed against, or in conjunction

with, any person who was residing at the property owned by the offender, other than a person associated with the offender.

Examples of the types of offences include:

- Theft or criminal damage committed by the property agent (including a body corporate);
- A landlord colluding with the occupier to commit a criminal offence, for example, tax evasion or the supply of illegal drugs.

It will be for Local Authorities to decide whether they should apply for a banning order against a landlord or property agent convicted of such offences. However, these are serious criminal offences for which an offender may well receive a lengthy custodial sentence upon conviction. Therefore, it is likely that Local Authorities will want to consider seeking a banning order against a landlord or property agent convicted of any of those offences.

In addition, where a landlord is subject to a banning order, their property may be made the subject of a management order by the Local Authority, thereby allowing the Local Authority to rent out the property. Where that happens, the Local Authority will receive all of the rental income from the property and can reuse it for housing related purposes. The owner of the property would still be liable for any mortgage or other repayments that may be due on the property.

8.6 Our approach

The process for obtaining a banning order is described in the Act and will be the subject of further guidance.

We will work towards enhancing our links with other agencies and statutory services to ensure we are made aware of other possible relevant convictions/sentencing, and that we are able to enter the details onto the 'Rogue landlord database. * see next section of this document *

If a person or body corporate is convicted of an offence which meets the definition of a banning order offence, the local housing authority **may** serve them with a notice stating that the authority intends to apply to the First-tier Tribunal for a banning order to be made against them. In deciding whether to apply for a banning order, the Local Authority may require a person to provide certain specified information (e.g. information about the properties that a person rents out) within a reasonable period of time. It is an offence to fail to provide such information or to provide false or misleading information. The Local Authority will need to serve any notice of its intention to apply for a banning order within 6 months of the date on which the person was convicted of a banning order offence. The Notice must explain why the banning order is being sought, state the length of the proposed ban and invite the person to make representations within a period of at least 28 days.

We will use the power to apply for banning orders. The 'case' will be prepared by the Senior Private Sector Housing Officer. The Intent and Final decision to go ahead and apply for the order will be made by the Corporate Director of Communities, Partnerships and Housing.

9. The database of rogue landlords and property agents

Section 28 of the Housing and Planning Act also provides for a national database of rogue landlords and property agents to be set up and maintained by Local Authorities, this provision should be in force by October 2017.

Further regulation will set out the finer details.

The database should help Local Authorities keep track of 'rogues' and target enforcement action. Only DCLG (HMRC?) and Local Authorities will be able to access the database. (In London there is a similar localised database which the public can access).

9.1 When will someone be included?

Details of any landlord or property agent convicted of a banning order offence **OR** who has received 2 or more civil penalties as an alternative to prosecution for a banning order offence (within a 12 month period).

(There is also some discussion in government circles as to whether or not agents who continue to charge fees to tenants after the ban becomes live will be included).

Details included on the database could include:

- Their address and contact details
- Period for which entry is made
- Details of all properties owned, let or managed
- Details of banning orders
- Details of financial penalties
- For body corporate, information about its officers

9.2 Our approach

In line with the regulation we will complete entries onto the Database. The Senior Private Sector Housing Officer will be responsible for completion of the database and will inform the Corporate director when an entry has been made.

(It is likely that the database will resemble the current LogasNet systems operated by DCLG).

Where someone has been convicted of a banning order offence and has subsequently had a banning order made against them, the Local Authority that sought the order **must** include the person's details on the database. Discretion is currently given as to making entries in other circumstances but Tamworth Council will take every available opportunity to make an entry onto the database.

10. Policy Revision

The Policy will be reviewed regularly and will take account of any changes to Legislation, Guidance and Procedure. Minor changes to policy delivery may be required from time to time, and will be undertaken with the agreement of the Corporate Director of Communities, Partnerships and Housing.

11. Complaints

Tamworth Borough Council has an established corporate complaints procedure for dealing with complaints. Information on how to make a complaint is outlined in a complaints leaflet that is available at all Tamworth Borough Council Offices and on the website. (The 'tell us system')

12. Further information

If you would like further information about this policy, please contact Tamworth Borough Councils Housing Conditions and Supply Team

In writing

Marmion House, Lichfield Street, Tamworth, Staffordshire, B79 7BZ

By telephone

01827 709 486/ 286

By email

housingconditions@tamworth.gov.uk

Appendix 1

Charging table for determining value of Financial Penalties

Failure to comply with an Improvement Notice (Section 30)		£
1st offence	(note 1)	5000
2nd subsequent offence by same person/company	(note 2)	15000
Subsequent offences by same person/company	(note 7)	25000
Premiums (use all that apply)		
Acts or omissions demonstrating high culpability	(note 8)	+2500
Large housing portfolio (10+ units of accommodation)	(note 3)	+2500
Multiple Category 1 or high Category 2 Hazards	(note 4)	+2500
Vulnerable occupant and/or significant harm occurred as result of housing conditions	(note 5)	+2500
Perpetrator demonstrates Income to be less than £440/week	(note 6)	-50%

Offences in relation to licensing of HMOs under Part 2 of the Act (Section 72)		£
Failure to obtain property Licence (section 72(1))	(note 1)	10000
2nd subsequent offence by same person/company	(note 2)	30000
Perpetrator demonstrates Income to be less than £440/week	(note 6)	-50%
Breach of Licence conditions (Section 72(2) and (3)) - Per licence breach		
		5000
Perpetrator demonstrates Income to be less than £440/week	(note 6)	-50%

Offences in relation to licensing of HMOs under Part 3 of the Act (Section 95)		£
Failure to Licence (section 95(1))	(note 1)	10000
2nd subsequent offence by same person/company	(note 2)	30000
Perpetrator demonstrates Income to be less than £440/week	(note 6)	-50%
Breach of Licence conditions (Section 95(2)) - Per licence breach		
		5000
Perpetrator demonstrates Income to be less than £440/week	(note 6)	-50%

Offences of contravention of an overcrowding notice (section 139)		£
1st relevant offences	(note 1)	5000
2nd subsequent offence by same person/company	(note 2)	15000
Premiums (use all that apply)		
Acts or omissions demonstrating high culpability	(note 8)	+2500
Vulnerable occupant and/or significant harm occurred as result of overcrowding	(note 3)	+2500
Perpetrator demonstrates Income to be less than £440/week	(note 6)	-50%

Failure to comply with management regulations in respect of HMOs	£

(Section 234)		
<i>1st relevant offences</i>	<i>(note 1)</i>	<i>1000/offence</i>
<i>Second subsequent offences by same person/company for the same offence</i>		<i>3000/offence</i>
Premiums (use all that apply)		
<i>Acts or omissions demonstrating high culpability</i>	<i>(note 8)</i>	<i>+2500</i>
<i>Large housing portfolio (10+ units of accommodation)</i>	<i>(note 3)</i>	<i>+2500</i>
<i>Vulnerable occupant and/or significant harm occurred as result of housing conditions</i>	<i>(note 5)</i>	<i>+2500</i>
<i>Perpetrator demonstrates Income to be less than £440/week</i>	<i>(note 6)</i>	<i>-50%</i>

NOTES

Note 1 – Offences that may be dealt with by way of imposing a financial penalty

The starting point for a financial penalty is based on the number of previous convictions or imposition of a financial penalty for the same type of offence in the previous four years. After the starting point has been determined, relevant Premiums are added to the starting amount to determine the full financial penalty to be imposed. No single financial penalty may be over £30,000. Where the addition of all relevant premiums would put the penalty above the maximum, it shall be capped at £30,000.

Note 2 - 2nd subsequent offence by same person/company

The Council will take into account any such convictions or financial penalties irrespective of the locality to which the offence relates.

Note 3 - Large housing portfolio (10+ units of accommodation)

The premium is applied where the perpetrator has control or manages of 10 or more units of accommodation.

For the purposes of this premium, the definition of a person having control and person managing are as defined by Housing Act 2004 Section 263.

Note 4 - Multiple Category 1 or high Category 2 Hazards

This premium will apply where the failure to comply with the Improvement Notice relates to three or more Category 1 or high scoring Category 2 hazards associated with different building deficiencies. For the avoidance of doubt this means that where two hazards are present but relate to the same property defect, they are counted as one hazard for purposes of this calculation.

For the purpose of this premium, a high scoring category 2 hazard is defined as one scored following the Housing Health and Safety Rating System as “D” or “E”.

Note 5 - Vulnerable occupant and/or significant harm occurred as result of housing conditions

This premium will be applied once if either the property is occupied by a vulnerable person or if significant harm has occurred as a result of the housing conditions.

For purposes of this premium a vulnerable person is defined as someone who forms part of a vulnerable group under Housing Health and Safety Rating System relating to hazards present in the property or an occupant or group of occupants considered by the Council to be at particular risk of harm that the perpetrator ought to have had regard.

For purposes of this premium, significant harm is defined as physical or mental illness or injury that corresponds to one of the four classes of harm under the Housing Health and Safety Rating System Operating Guidance.

At the time of drafting this document can be found at www.gov.uk and a summary table is below.

Hazard	Vulnerable age group (age of occupant)
Damp and mould growth	14 and under
Excess Cold	65 or over
Excess Heat	65 or over
Carbon Monoxide	65 or over
Lead	under 3 years
Personal Hygiene, Sanitation and Drainage	under 5 years
Falls associated with baths etc.	60 or over
Falling on level surfaces etc.	60 or over
Falling on stairs etc.	60 or over
falling between levels	under 5 years
Electrical hazards	under 5 years
Fire	60 or over
Flames, hot surfaces etc.	under 5 years
Collision and entrapment	under 5 years
Collision and entrapment - low headroom	16 or over
Position and operability of amenities etc.	60 or over

Note 6 - Perpetrator demonstrates Income to be less than £440/week

This premium will be applied after all other relevant premiums have been included and if applicable will reduce the overall financial penalty by 50%.

To be applicable, the person served by the Notice of Intent must provide sufficient documented evidence of income.

The figure of £440/week is to be calculated after omission of income tax and national insurance.

The Council reserves the right to request further information to support any financial claim, and where this is incomplete or not sufficiently evidenced may determine that the premium should not be applied.

Note 7 - Previous history of non-compliance with these provisions

This premium is applied where there has been a conviction or imposition of a financial penalty for the same type of offence in the previous four years.

The Council will take into account any such convictions or financial penalties irrespective of the locality to which the offence relates.

Note 8 – Acts or omissions demonstrating high culpability

This premium will be applied where, the person to which the financial penalty applies, acted in a reckless or deliberate manner in not complying with the statutory notice or previous relevant formal advice.