

REDDITCH BOROUGH COUNCIL

Appendix 1

Energy Efficiency (Private Rented Properties) (England & Wales) Regulations 2015

Financial Penalty Matrix

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

Notes

If two or more Penalty Notices apply, the combined maximum per property per breach will be £5,000.

Officers may wish to adjust the penalty from that determined in the matrix if there are particular aggravating or mitigating factors. These may come to light during the investigation and will need to be included in the Penalty Notice.

Also, factors may be provided in representations from a landlord in his request to review after the Penalty Notice has been served. Officers will have regard to these factors and may adjust the penalty to increase or reduce as they feel appropriate.

Landlords will be provided with a minimum of one month and normally 6 weeks to request a review, presenting any information they wish considered as part of that review. The landlord will be served a notice after the review with an explanation of any adjustment made.

Any representations received will be considered in a case review by the manager of the investigating officer and subject to legal advice prior to determination of whether to confirm, vary, withdraw the financial penalty or allow more time for payment to be made.

The proceeds of any financial penalty received under these regulations will be applied to the costs of the enforcement functions in relation to the private rented sector.

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If a local authority confirms that a property is (or has been) let in breach of the Regulations, they may serve a financial penalty up to 18 months after the breach and/or publish details of the breach for at least 12 months.

Factors affecting the culpability

Low - Landlords first offence under these regulations

No previous history of non-compliance with housing related regulatory requirements

Non-compliance due to complex issues partially out of the landlord's control

High - Landlord has a previous history of non-compliance with housing related regulatory requirements and/or landlord has failed to comply with repeated requests to comply.

Landlord has knowingly or recklessly provided incorrect information in relation to exemptions to these regulations

Factors affecting harm

High - A very low EPC rating

Vulnerable tenants occupying the property for an extended period of time since non-compliance

Low - No vulnerable tenants

Higher EPC score, close to the minimum EPC rating (E)

Tables below show the penalty matrix for each type of offence

| a) Breach is less than 3 months: Maximum fine £2,000 | | | |
|--|-----------------|------------------|-----------------------------------|
| | Low culpability | High culpability | Notes |
| Low harm | £500 | £1000 | % = Proportion of maximum penalty |
| High harm | £1000 | £2000 | |

| b) Breach is more than 3 months: Maximum fine £4,000 | | | |
|--|-----------------|------------------|-----------------------------------|
| | Low culpability | High culpability | Notes |
| Low harm | £1000 | £2000 | % = Proportion of maximum penalty |
| High harm | £2000 | £4000 | |

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| c) Providing false or misleading information: Maximum fine £1,000 | | | |
|---|-----------------|------------------|-----------------------------------|
| | Low culpability | High culpability | Notes |
| Low harm | £250 | £500 | % = Proportion of maximum penalty |
| High harm | £500 | £1000 | |

| d) Failing to comply with a Compliance Notice: Maximum fine £2,000 | | | |
|--|-----------------|------------------|-----------------------------------|
| | Low culpability | High culpability | Notes |
| Low harm | £500 | £1000 | % = Proportion of maximum penalty |
| High harm | £1000 | £2000 | |

Principles the council will take into account when applying a civil penalty:

- 1. Harm to the tenant.** The greater the harm or potential harm to the tenant, the higher the penalty should be.
- 2. Offender's history of failing to comply with their obligations.**
Landlords are expected to be aware of their legal obligations and responsibilities. This could be when actions are seen as deliberate or they should have known they were in breach of their legal duties.
- 3. Punishment of the offender.** The civil penalty route should not be seen as an easy option compared to prosecution. Whilst the penalty should follow the matrix, it is important that it is set at a high enough level to help ensure that it has a real economic impact on the offender and has demonstrated that there are consequences for not complying with their responsibilities.
- 4. Prevent further offences.** The level of the penalty should be set high enough, so it is likely to deter the offender from repeating the same offence again, or any other offence.
- 5. Deter others from committing similar offences.** Although it is not made known to the public when someone is served a civil penalty, it is possible landlords may find out as in their local area landlords become aware through informal channels. By setting a high enough penalty it should both punish the offender and deter other landlords from doing the same.
- 6. Remove financial benefit.** The offender may have obtained a financial benefit as a result of committing the offence, so it is crucial to ensure they have not benefited as a result of the offence. It should not be cheaper to offend than to ensure a property is well maintained and

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properly managed.

Culpability - Responsibility for a fault or wrong. Being culpable, is a measure of the degree to which a person, can be held morally or legally responsible for action and inaction.

Harm - The damage to something which is caused by a particular course of action.