

Minimum Energy Efficiency Standard and Energy Performance Certificate Financial Penalty Policy

The Authority will not impose a financial penalty under both (A) and (B) above in relation to the same breach of the Regulations. But it may impose a financial penalty under either (A) or (B), together with financial penalties under (C) and (D), in relation to the same breach. Where penalties are imposed under more than one of these paragraphs, the total amount of the financial penalty may not be more than £5,000.

Calculation of penalty:

The penalty will be calculated taking into account whether it is a first or subsequent offence. This is in relation to the occurrence of an offence for a specific property.

Any offence in relation to a property will be considered a first offence unless:

- a) A penalty notice has already been issued in respect of that property, and
- b) The individual committing the offence is the individual who was served the penalty notice.

It will, in respect of the penalty for renting out a property, take into account whether the EPC indicates an F or G rating. The letting of a G rated property, as indicated by the registered EPC, will carry a higher penalty. The following are indicative penalties but the Council will consider any other factors that it feels are relevant.

Renting out a non-compliant property (in breach less than 3 months), up to max £2000	
1st Offence	
EPC Rating F	£1,250
EPC Rating G	£1,500
Subsequent Offence(s)	
EPC Rating F	£1,750
EPC Rating G	£2,000
Renting out a non-compliant property (in breach for 3 months or more), up to max £4000	
1st Offence	
EPC Rating F	£2,500
EPC Rating G	£3,000
Subsequent Offence(s)	
EPC Rating F	£3,500
EPC Rating G	£4,000
Providing false, or misleading, information, Up to max £1000	
1st Offence	£750
Subsequent Offence(s)	£1,000

The penalty will be raised against the individual who lets the domestic private rented property to the tenant, where there are multiple individuals who have let the property, the penalty will be apportioned between them taking into account an assessment of culpability.

This will be determined on a case by case basis in relation to the evidence.

Publication Penalty

The Authority will publish some details of the landlord's breach on a publicly accessible part of the PRS Exemptions Register. The information will be available for at least 12 months up to a time decided by the Authority.

The information that may be published is:

- a) the landlord's name (except where the landlord is an individual);
- b) details of the breach;
- c) the address of the property in relation to which the breach occurred; and
- d) the amount of any financial penalty imposed

The Authority will not publish the information until after the end of the appeal period, or in the event the notice is appealed after the appeal has been decided.

Penalty Notice:

The Authority may serve a penalty notice (relating to a financial penalty, a publication penalty or both) on the landlord where they are satisfied that the landlord is, or has been in the last 18 months:

- a) in breach of the prohibition on letting sub-standard property (which may include continuing to let the property after 1 April 2020) or
- b) in breach of the requirement to comply with a compliance notice or
- c) has uploaded false or misleading information to the Exemptions Register.

The Authority may serve a penalty notice on a landlord up to 18 months after the suspected breach. A person may be served with a penalty notice after they have ceased to be the landlord of a property.

The penalty notice may include a financial penalty, a publication penalty or both. The penalty notice will:

- a) explain which of the provisions of the Regulations the enforcement authority believes the landlord has breached;
- b) give details of the breach;
- c) tell the landlord whether they must take any action to remedy the breach and, if so, the date within which this action must be taken (the date must be at least a month after the penalty notice is issued);
- d) explain whether a financial penalty is imposed and if so, how much and, where applicable, how it has been calculated;
- e) explain whether a publication penalty has been imposed
- f) where a financial penalty is imposed, tell the landlord the date by which payment must be made, the name and address of the person to whom it must be paid and the method of payment (the date must be at least a month after the penalty notice is issued)

- g) explain the review and appeals processes, including the name and address of the person to whom a review request must be sent, and the date by which the request must be sent and
- h) explain that if the landlord does not pay any financial penalty within the specified period, the enforcement authority may bring court proceedings to recover the money from the landlord.

A further penalty notice may be issued if the action required in the penalty notice is not taken in the time specified.

When the Authority issues a penalty notice which carries a right of appeal, it will inform the landlord about that right of appeal. Typical wording might be:

“You have a right of appeal against this decision to the General Regulatory Chamber (GRC) of the First Tier Tribunal. If you wish to appeal you should do so within 28 days of the date of this letter by writing to (Leicester address). You can obtain an appeal form from that address or from the tribunal website at (website address).”

Review of Penalty Notice

The Council may review its decision to serve a penalty notice. Where a request is made to the Council in writing, and within the timescale indicated on the penalty notice it will consider everything the landlord has said in the request and decide whether or not to withdraw the penalty notice.

The Council may decide to:

- a) waive or reduce the penalty,
- b) allow the landlord additional time to pay, or
- c) Modify the publication penalty

The Council will withdraw the penalty notice if:

- a) they are satisfied that the landlord has not committed the breach set out in the penalty notice;
- b) although they still believe the landlord committed the breach, they are satisfied that the landlord took all reasonable steps, and exercised all due diligence to avoid committing the breach; or
- c) they decide that because of the circumstances of the landlord’s case, it was not appropriate for the penalty notice to be served.

The Authority will inform the landlord of their decision in writing at the earliest opportunity.

Recovery of financial penalty

If a landlord does not pay a financial penalty imposed on them, the enforcement authority may take the landlord to court to recover the money. It will not do this during the period for review stipulated on the notice, while reviewing their decision, or during the period in which the landlord could appeal to the First-tier Tribunal or while there is an ongoing tribunal appeal.

Appeals to the First-tier Tribunal (General Regulatory Chamber)

Where a landlord asks the enforcement authority to review a decision to serve a penalty notice and, on review, they decide to uphold the penalty notice, the landlord may then appeal to the First-tier Tribunal against that decision if they think that:

- a) the penalty notice was based on an error of fact or an error of law
- b) the penalty notice does not comply with a requirement imposed by the Regulations or
- c) it was inappropriate to serve a penalty notice on them in the particular circumstances. If a landlord does appeal, the penalty notice will not have effect while the appeal is ongoing.

The First-tier Tribunal may decide to quash, confirm or modify the penalty notice. If the penalty notice is quashed, the enforcement authority must reimburse the landlord for any financial penalty already paid under the notice.