



North Warwickshire  
Borough Council

# Financial Penalty Enforcement Policy & Guidance

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# Section 1

## Introduction & Overview

### 1.1 Introduction

This financial policy has been written to ensure compliance with Regulations made that are enforced by the Council in respect of property redress schemes, fire safety precautions and energy efficiency measures where a financial penalty can be issued to landlords. The Council's approach ensures that the financial penalty should be proportionate and reflect the severity of the breach, and should be set high enough to help ensure that it has a real economic impact on the landlord and demonstrate the consequences of not complying with their responsibilities. The landlord's track record will be taken into account in each case.

This document is intended to work in accordance with the North Warwickshire Borough Council Private Sector Housing Enforcement Policy.

In this document, the term "landlord" will be used to refer to the "owner", "person having control" or "person managing" as defined under the Housing Act 2004 ("the 2004 Act"). The term "the Council" will be used to refer to North Warwickshire Borough Council in its capacity as a Local Housing Authority.

### 1.2 What is a financial penalty?

A financial penalty is a monetary sanction of up to £5,000 which can be imposed on a landlord for specific offences made under the regulations appertaining to section 45 of the Energy Act 2011, section 150 of the Energy Act 2013 and section 85 of the Enterprise and Regulatory Reform Act 2013. The amount of penalty is determined by the Council in each case; section 2 sets out how the Council will determine the appropriate level of financial penalty. The Council considers that the recipients of financial penalty notices will be those persons who are involved in the owning or managing of private rented properties.

A financial penalty must not be confused with a civil penalty that can be imposed under the Housing and Planning Act 2016. A financial penalty in terms of this policy can only be imposed following the service of a penalty notice under the regulations listed in section 1.3.

### 1.3 What offences can financial penalties be imposed for?

A financial penalty can be made for any of the following offences under the legislation above and the regulations as follows:

### **The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014**

- Failure to register with a redress scheme under article 3 (requirement to belong to a redress scheme: lettings agency work) or article 5 (requirement to belong to a redress scheme: property management work)
- The amount of the monetary penalty must not exceed £5,000

### **The Smoke and Carbon Monoxide Alarm (England) Regulations 2015**

- Failure to provide a working smoke alarm on each storey of a residential premises let under the terms of a tenancy.
- Failure to provide a working carbon monoxide alarm in any room of a residential premises let under the terms of a tenancy that contains a solid fuel burning combustion appliance.

### **The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015**

- A landlord, on or after 1st April 2018, grants a new tenancy or lets the property on such a tenancy as a result of an extension or renewal of an existing tenancy without undertaking such works as required to increase a 'F' or 'G' rated property in accordance with the EPC for the property.
- A landlord, on or after 1st April 2020, continues to let the property that is rated 'F' or 'G' in accordance with the EPC for the property.

#### **1.4 What is the legal basis for imposing a financial penalty?**

Where the Council is satisfied that the regulations have not been complied with and an offence has been identified.

#### **1.5 What is the burden of proof for a financial penalty?**

Where the Council is satisfied on the balance of probabilities that a person has failed to comply with the requirements of the above regulations a financial penalty can be imposed upto a maximum of £5,000.

In determining whether there is sufficient evidence to serve a penalty notice, the council will have regard to the North Warwickshire Private Sector Housing Enforcement Policy and the Crown Prosecution Service Code for Crown Prosecutors, published by the Director of Public Prosecutions.

#### **1.6 What must be done before a Financial Penalty can be considered?**

The Council must be satisfied that there is sufficient evidence of an offence under the regulations listed in section 1.3. The following questions should be considered:

- Does the Council have sufficient evidence to prove on the balance of probabilities that the offence was committed by the landlord in question?

- Has the officer assessed the penalty appropriately using the calculation provided in section 5.
- Has a notice of intent been issued under the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014?
- Has the evidence been reviewed by the appropriate senior officer at the Council?

### **1.7 When will the Council consider Financial Penalties an enforcement option?**

The Council will consider financial penalties for all landlords that are in breach of one or more of the regulations listed in section 1.3. Enforcement action will be considered on a case-by-case basis in line with the North Warwickshire Private Sector Housing Enforcement Policy, the North Warwickshire Financial Penalty Policy and MHCLG guidance.

## **Section 2**

### **The Redress Schemes for Letting Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014**

#### **2.1 The legal framework**

The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014 makes it a legal requirement for all lettings agents and property managers in England to join a Government approved redress scheme.

The Council is the enforcing authority for this Order within the Borough. The Council can impose a fine of up to £5,000 where it 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.

#### **2.2 Notice of Intent**

The procedure for issuing a fine will be to serve a Notice of Intent within 6 months of the date on which the Council has gathered sufficient evidence and is satisfied that a person has failed to comply with the Order. The Notice of Intent will give written notice of their intention to impose a penalty and will set out:

- the reasons for the penalty;
- the amount of the penalty;
- that there is a 28 day period to make written representations or objections, starting from the day after the date on which the notice of intent was sent.

The amount of the penalty will be assessed using the criteria for determining the amount of a financial penalty outlined in Section 5.

The Council may at any time withdraw the notice of intent or reduce the amount specified in the notice at any time by giving notice in writing.

#### **2.3 Monetary Penalty**

After the end of the period for making representations and objections, the Council will decide whether to impose a monetary penalty, with or without modifications. If the decision is to impose a financial penalty the Council will serve on that person a final notice imposing that penalty. The final notice will include the following:

- the reasons for imposing the monetary penalty;
- information about the amount to be paid;

- information about how payment may be paid;
- information about the period in which the payment must be made, which must not be less than 28 days;
- information about rights of appeal; and
- information about the consequences of failing to comply with the notice.

The Council may at any time withdraw a final notice or reduce the amount specified in the notice at any time by giving notice in writing.

#### **2.4 Appeals against a monetary penalty**

A landlord served with a notice imposing a monetary penalty may appeal to the First-Tier Tribunal against the notice. For further information regarding appeals and reviews refer to section 6 of this policy.



## Section 3

### The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

This statement sets out the principles that NWBC will apply in exercising its powers to require a relevant landlord to pay a financial penalty.

#### 3.1 Purpose of this Statement of Principles

The Council is required under these Regulations to prepare and publish a statement of principles and it must follow this guide when deciding on the amount of a penalty charge.

The Council may revise its statement principles at any time, but where it does so, it must publish a revised statement.

When deciding on the amount for the penalty charge, the Council will have regard to the statement of principles published at the time when the breach in question occurred.

#### 3.2 The legal framework

The powers come from the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (the Regulations), being a Statutory Instrument (2015 No 1693) which came into force on 1 October 2015.

The Regulations place a duty on landlords, which include freeholders or leaseholders who have created a tenancy, lease, licence, sub-lease or sub-licence. The Regulations exclude registered providers of social housing.

The duty requires that landlords ensure that:

- a smoke alarm is installed on each storey of premises where there is living accommodation
- a carbon monoxide alarm is installed in any room of premises used as living accommodation, which contained a solid fuel burning appliance.

AND for tenancies starting from 1 October 2015

- checks are made by the landlord or someone acting on his behalf that the alarm(s) is/are in proper working order on the day the tenancy starts.

### **3.3 Remedial Notices**

Where the Council believe that a landlord is in breach of one or more of the above duties, the Council will serve a remedial notice on the landlord under Regulation 5.

A remedial notice will specify the following:

- the premises to which the notice relates;
- the duty or duties that the Council considers the landlord is failing or has failed to comply with;
- the remedial action the Council considers should be taken;
- require the landlord to take that action within 28 days beginning with the day on which the notice is served;
- explain that the landlord is entitled to make written representations against the notice within 28 days beginning with the day on which the notice is served;
- the person to whom, and the address (including if appropriate any email address) at which, any representations may be sent; and
- explain the effect of regulations 6, 7 and 8, including the maximum penalty charge which the Council may impose.

A landlord will not be considered to be in breach of their duty to comply with the remedial notice, if they can demonstrate they have taken all reasonable steps to comply. This can be done by making written representations to the Council within 28 days of when the remedial notice is served.

Where the Council is satisfied that a landlord has not complied with a specification described in the remedial notice in the required timescale and consent is given by the occupier, the Council will arrange for remedial works to be undertaken in default of the landlord. This work in default will be undertaken within 28 days of the Council being satisfied of the breach. In these circumstances, battery operated alarms will be installed as a quick and immediate response.

A failure to comply with the requirements of a remedial notice within the specified timescale, the Council to require a landlord to pay a penalty charge not exceeding £5,000 under Regulation 8. The criteria for determining the amount of a financial penalty can be found in Section 5.

### **3.4 Penalty Notices**

A penalty charge notice will state the following:

- the reasons for imposing the penalty charge;
- the premises to which the penalty charge relates;
- the number and type of prescribed alarms (if any) which an authorised person has installed at the premises;
- the amount of the penalty charge;

- that the landlord is required, within a period specified in the notice—
  - to pay the penalty charge, or
  - to give written notice to the Council that the landlord wishes the authority to review the penalty charge notice;
- how payment of the penalty charge must be made; and
- the person to whom, and the address (including if appropriate any email address) at which, a notice requesting a review may be sent and to which any representations relating to the review may be addressed

### **3.5 Appeals against a Penalty Notice**

A landlord served with a penalty notice imposing a monetary penalty may appeal to the First-Tier Tribunal against the notice. For further information regarding appeals and reviews refer to section 6 of this policy.

## **Section 4**

### **The Energy Efficiency (Private Rented Property (England and Wales) Regulations 2015**

#### **4.1 The Minimum Energy Efficiency Standard (MEES)**

The Energy Efficiency (Private Rented Property) Regulations 2015 and Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2019 known as MEES require a domestic private rented property to have a minimum Energy Performance Certificate (EPC) rating of 'E'. 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). The main principles of the regulations are:

- From the 1<sup>st</sup> April 2018 landlords are prohibited from granting new tenancies for a property with an EPC rating of below E, nor can they renew or extend any existing tenancies.
- From 1<sup>st</sup> April 2020 the legislation further restricts landlords letting out below E-rated properties to all existing tenancies.

In addition to the EPC rating requirements, the legislation also enables a tenant to request their landlord's consent for energy efficiency improvements to be made to the property and placed a duty on the landlord to not unreasonably refuse such works. This enables a tenant to serve a 'tenants request' on the landlord and if the landlord fails in their duty the tenant may apply to the First Tier Tribunal for its consent for the improvements to be made.

#### **4.2 Enforcement of the MEES Regulations**

Local Authorities are required to enforce compliance of the MEES regulations. NWBC can access the national EPC register when dealing with any housing complaint to ensure that an EPC is in place. Non-compliant landlords can be issued with a financial penalty of up to £5,000, for offences including failure to comply with a Compliance Notice requiring information, failure to register a property on the PRS Exemption Register, or registering false information.

#### **4.3 Compliance Notices**

Where the Council believe that a landlord is in breach of one or more of the above duties, the Council may serve a compliance notice on a landlord who appears to be,

or to have been at any time within the 12 months preceding the date of service of the compliance notice of a sub-standard property. A compliance notice will contain the following information:

- the name and address of the person to whom the documents or other information required must be provided, and
- the date by which they must be provided which must be no less than one month from the date on which the compliance notice is served.

A compliance notice may in particular request the landlord to produce for inspection originals, or copies, of the following:

- the energy performance certificate for the property which was valid at the time the property was let,
- any other energy performance certificate for the property in landlords possession,
- any current tenancy agreement under which the property is let,
- any qualifying assessment in relation to the property,
- any other document which the enforcement authority considers necessary to enable it to carry out its functions under this Part, and
- may request the landlord to register copies of any of them on the PRS Exemptions Register

Where the Council is satisfied that a compliance notice has been complied with the notice will be revoked. Where the Council is satisfied that a landlord has not complied with a compliance notice a penalty notice will be served.

#### **4.4 Failure to comply with a Compliance Notice**

A failure to comply with the requirements of a the regulations where has property has been let in breach of the regulations, a compliance notice has not been complied with, or a failure to register an exemption of giving false or misleading information the Council will serve a penalty notice with a charge not exceeding £5,000. The criteria for determining the amount of a financial penalty can be found in Section 5.

#### **4.5 Penalty Notices**

Where the Council decides to impose a penalty charge on the landlord the penalty notice will contain the following:

- specify the provision of these Regulations which the Council believes the landlord has breached,
- give such particulars as the enforcement authority considers necessary to identify the matters constituting the breach,
- specify any action the Council requires the landlord to take to remedy the breach,

- specify the period within which such action must be taken,
- specify the amount of any financial penalty imposed and, where applicable, how it has been calculated,
- specify whether the publication penalty has been imposed,
- require the landlord to pay any financial penalty within a period specified in the notice,
- specify the name and address of the person to whom any financial penalty must be paid and the method by which payment may be made,
- state the effect of regulations 42 to 45, and
- specify the name and address of the person to whom a notice requesting a review in accordance with regulation 42 may be sent (and to whom any representations relating to the review must be addressed), and
- the period within which such a notice may be sent.

#### **4.6 Publication Penalty**

A Publication Penalty may also be imposed on its own, or in addition to a financial penalty under Regulation 38.

This publication penalty is defined in Regulation 39, as being publication on the PRS Exemptions Register and the information that can be published on the register is as follows:

1. Where the landlord is not an individual - the landlord's name
2. Details of the breach for which a penalty notice has been issued
3. The address of the property to which the breach occurred
4. The amount of the financial penalty notice imposed.

This information must be published for a minimum period of 12 months and may be longer should the Council decide.

Publication will not take effect until the expiry or any review period or determination of an appeal whichever is the case.

#### **4.7 Appeals against a Penalty Notice**

A landlord served with a Penalty Notice may appeal to the First-Tier Tribunal against the notice. For further information regarding appeals and reviews refer to section 6 of this policy.

# Section 5

## Determining the Financial Penalty Amount

### 5.1 Overview

The council has the power to impose a financial penalty of up to £5,000 under all three regulations; this section sets out how the council will determine the appropriate level of financial penalty in each particular case. The actual amount levied in each case should reflect the severity of the offence and take into account the landlord's track record and harm caused to the occupants where the offence took place.

The financial penalty will be made up of two distinct components. The first is the penalty calculation in respect of the landlord's culpability. Aggravating factors such as if the landlord is a portfolio landlord and the length of time they have been operating as a landlord will be considered. The second considers the seriousness of the harm caused to the health and safety of the occupants where the offence took place. These two components are added together to determine the final penalty amount that will be imposed on the landlord.

### 5.2 Determining the penalty band

#### Stage 1

This stage considers the landlord's culpability for the offence and the seriousness of harm risked to the tenants or visitors to the property.

A higher penalty will appropriate where the landlord has a history of failing to comply with their obligations and/or their actions were deliberate. Landlords are running a business and are expected to be aware of their legal obligations. There are two steps to this process as set out below.

#### 5.3 Step 1: Culpability

Table 1 sets out the two levels of culpability that will be considered: each level has accompanying examples of the behaviours that could constitute that particular level. The behaviour of the landlord should be compared to this table to determine the appropriate level of culpability. This exercise will be repeated for each offence that is being considered as the landlord's culpability may vary between offences.

**Table 1 - Levels of Culpability**

High	<ul style="list-style-type: none"><li>• Deliberate breach of or flagrant disregard for the law</li><li>• Offender fell far short of their legal duties; for example, by:<ul style="list-style-type: none"><li>- failing to put in place measures that are recognised legal requirements or regulations;</li><li>- ignoring warnings raised by the local council, tenants or others;</li><li>- failing to make appropriate changes after being made aware of risks, breaches or offences;</li><li>- allowing risks, breaches or offences to continue over a long period of time.</li><li>- The offender is a large, portfolio landlord renting property as their main business</li></ul></li><li>• Serious and/or systemic failure by the person or organisation to comply with legal duties.</li></ul>
Low	<ul style="list-style-type: none"><li>• Offender did not fall far short of their legal duties; for example, because:<ul style="list-style-type: none"><li>- significant efforts were made to address the risk, breaches or offences, although they were inadequate on this occasion;</li><li>- they have offered a reasonable defence for why they were unaware of the risk, breach or offence.</li><li>- The landlord is a small landlord</li></ul></li><li>• Failings were minor and occurred as an isolated incident</li></ul>

#### **5.4 Assessing a landlord's culpability**

When assessing culpability, consider all of the evidence gathered as part of the investigation into the offence and identify any aggravating or mitigating factors which may be relevant to the assessment of culpability.

Aggravating factors could include:

- Previous convictions for similar offence/s, having regard to the time elapsed since the conviction
- Motivated by financial gain
- Obstruction of the investigation
- Deliberate concealment of the activity/evidence
- Number of items of non-compliance – greater the number the greater the potential aggravating factor
- Record of letting substandard accommodation i.e. record of having to take enforcement action previously whether complied with or not
- Record of poor management/ inadequate management provision
- Lack of a tenancy agreement/rent paid in cash
- Evidence of threatening behaviour/harassment of the tenant.

Further guidance regarding when it is appropriate to consider past enforcement action taken against the landlord and mitigating factors could include:



- Cooperation with the Council's investigation
- Voluntary steps taken to address issues e.g. submits a prompt licence application
- Willingness to undertake training
- Level of tenant culpability
- Willingness to join recognised landlord accreditation scheme
- Evidence of health reasons preventing reasonable compliance – mental health, unforeseen health issues, emergency health concerns
- Vulnerable individual(s) (owners not tenants) where there vulnerability is linked to the commission of the offence
- Good character i.e. no previous convictions and/or exemplary conduct

**Low** - first breach under these regulations, no previous history of non-compliance of with housing related regulatory requirements. Complex issues partially out of control of the landlord have led to non-compliance.

**High** - landlord has failed to comply with requests to comply with these regulations. Previous history of non-compliance with housing related legislation. Knowingly or recklessly providing incorrect information in relation to exemptions to these regulations. Experienced, professional landlords operating a portfolio of rented properties.

Using these factors, consider each category of culpability in the table 1 and identify the one that the landlord's behaviour falls within to assess culpability

### **5.5 Step 2: Seriousness of Harm Risked**

Table 2 separates the seriousness of harm risked into two levels and each one has an accompanying description to illustrate what would constitute that level of harm risked.

The harm risked by the offence should be compared to the table to determine the appropriate level. This exercise will be repeated for each offence that is being considered as the seriousness of harm risked can vary between offences.

When using the table to determine the appropriate level, consideration should be given to the worst possible harm outcomes that could reasonably occur as a result of the landlord committing the offence. This means that even if some harm has already come to tenants or visitors to the property, consideration should still be given to whether there was the potential for even greater harm to have occurred.

**Table 2 - Seriousness of Harm Risked**

High	The seriousness of harm risked would meet the guidance for Class I and Class II harm outcomes in the Housing Health and Safety Rating System <sup>1</sup> .
Low	The seriousness of harm risked would meet the guidance for Class III and Class IV harm outcomes in the 'Housing Health and Safety Rating System' <sup>3</sup> .

Further information about the classes of harm under the Housing Health and Safety Rating System can be found in appendix I.

When assessing the risk of harm and determining the appropriate level, consideration should be given to the worst possible harm outcomes that could reasonably occur as a result of the landlord committing the offence. This means that even if some harm has already come to tenants or visitors to the property, consideration should still be given to whether there was the potential for even greater harm to have occurred. Consideration can be given to size and layout of house without smoke alarms or carbon monoxide detector, fuel poverty as a result of an inefficient house and the physical harm to occupants of living without heating/insulation etc.

**Low** – single storey premises without smoke alarm, EPC score close to minimum acceptable EPC rating (E), no vulnerable tenants and / or short period of non-compliance.

**High** – 2/3 storey premises with no direct external escape route and no alternative escape from windows, low EPC rating, for example 'G' or low 'F' rating, vulnerable tenants occupying property, extended period since non-compliance and lack of appropriate cooperation from landlord to resolve the situation and make improvements to remove risk to occupants.

### 5.5 Stage 3: Assessment of penalty

	Low culpability	High culpability
Low harm	25%	50%
High harm	50%	100%

<sup>1</sup> Office of the Deputy Prime Minister: London (2006), *Housing Health and Safety Rating System Operating Guidance*, page 47

**5.6 Stage 4: Financial Penalties to be applied following the assessment above in relation to each regulation involved:**

The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014:

	Low culpability	High culpability
Low harm	£1250	£2500
High harm	£2500	£5000

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015:

	Low culpability	High culpability
Low harm	£1250	£2500
High harm	£2500	£5000

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015:

1. Where the landlord has let a sub-standard property for less than 3 months (maximum of £2,000)

	Low culpability	High culpability
Low harm	£500	£1000
High harm	£1000	£2000

2. Where the landlord has let a sub-standard property for more than 3 months (maximum of £4000)

	Low culpability	High culpability
Low harm	£1000	£2000
High harm	£2000	£4000

3. Providing false or misleading information (maximum of £1,000)

	Low culpability	High culpability
Low harm	£250	£500
High harm	£500	£1000

4. Failing to comply with a compliance notice (maximum of £2,000)

	Low culpability	High culpability
Low harm	£500	£1000
High harm	£1000	£2000

*The maximum amount that the Council can impose for a financial penalty under these regulations is £5,000.*

### 5.7 Early Repayment Reduction

1. A 25% reduction in the penalty will be applied across all the regulations where the amount is received within 14 days. This only applies where it is the first offence committed under the Regulations by the company/individual.
2. The maximum penalty amounts apply **per property**, and **per breach** of the Regulations.

## Section 6

### Reviews, modifications and appeals

#### 6.1 Representations

Any landlord who is in receipt of a notice of intent under the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014 or a penalty notice under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 or the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 has the right to make representations against that notice within 28 days of the date on which the notice was given to request a review of the notice to the Council. Representations can be against any part of the proposed course of action. All representations from landlords will be considered by an appropriate senior colleague such as the Private Sector Housing Manager.

Any representation against a penalty notice must be in writing and provide sufficient evidence from the landlord explaining the reason for the challenge and provide supporting documentation as necessary. A representation can be made in respect of any matter relating the intent or penalty notice.

Written responses will be provided to all representations made by the recipients of a notice of intent or penalty notice. The council will carefully review any written representations received during the 28-day period before taking any further action. There is no statutory timeframe for the review process, but the council will seek to make a decision as to its proposed course of action as soon as possible.

The council will take one of the following courses of action:

- Withdraw the intent or penalty notice;
- Impose a financial penalty of an amount lower than that proposed in the notice of intent or penalty notice;
- Impose the financial penalty proposed in the Notice of Intent or penalty notice;
- Propose to impose a financial penalty of an amount higher than that specified in the Notice of Intent or penalty notice.

#### 6.2 Appeals to the First-Tier Tribunal

If a financial penalty notice is imposed on a landlord, that landlord can appeal to the First-tier Tribunal of the General Regulatory Chamber (GRC) against the decision to impose a penalty or the amount of the penalty. The Tribunal has the power to confirm, vary (increase or reduce) or quash the penalty notice. Where an appeal has been made, this suspends the financial penalty notice until the appeal is determined or withdrawn. The appeal can be made in writing to The General Regulatory Chamber, HM Courts and Tribunals Service, P.O. Box 9300, Leicester, LE1 8DJ.

You can obtain an appeal form from that address or from the tribunal website at [http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court\\_forms\\_id=2799](http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=2799).

### **6.3 Payment of a Financial Penalty**

A financial penalty must be paid within 28 days, beginning with the day after that on which the final notice was given (“the 28 day payment period”), unless that notice is suspended due to an appeal. Details of how to pay the penalty will be provided on the penalty notice.

### **6.4 Recovering an unpaid Financial Penalty**

It is the policy of the council to consider the collection of unpaid financial penalties and to pursue unpaid penalties in all cases through the county courts as if payable under a court order.

A certificate, signed by the Chief Finance Officer for the council and stating that the amount due has not been received by the date of the certificate, will be accepted by the courts as conclusive evidence of the payment due.

Where the civil penalty was appealed and the council has a tribunal decision, confirming or varying the penalty, the decision will be automatically registered on the Register of Judgments, Orders and Fines, once accepted by the county court. Inclusion on this Register may make it more difficult for the Landlord to get financial credit.

### **6.5 Income from Financial Penalties**

Any income from Financial Penalties is retained by the Council. The Council must spend any income from Financial Penalties on its enforcement functions in relation to the private rented sector. Further details can be found in Statutory Instrument 367 (2017).

# Appendices

## Appendix I – Classes of Harm (HHSRS)

The following is an extract from the Housing Health and Safety Rating System Operating Guidance (page 47 - 48), published by the Office of the Deputy Prime Minister (2006).

### *“Examples for the Four HHSRS Classes of Harm*

- C1 *The Classes of Harm used for the HHSRS are based on the top four Classes of Harm as identified in A Risk Assessment Procedure for Health and Safety in Buildings (2000) BRE. While this work identified seven Classes of Harm, only the top four are used for the purposes of the HHSRS as these are harms of sufficient severity that they will either prove fatal or require medical attention and, therefore, are likely to be recorded in hospital admissions or GP records.*
- C2 *Work on developing and refining the Statistical Evidence supporting the Rating System involved classifying a more comprehensive list of harm outcomes.*
- C3 *The examples given below are intended for guidance only. It should be noted that some of the harm outcomes may appear in more than one Class depending on the severity of the condition. For example, respiratory disease will be in Class II or III depending on the severity and duration.*

#### **Class I**

*This Class covers the most extreme harm outcomes including: Death from any cause; Lung cancer; Mesothelioma and other malignant lung tumours; Permanent paralysis below the neck; Regular severe pneumonia; Permanent loss of consciousness; 80% burn injuries.*

#### **Class II**

*This Class covers severe harm outcomes, including: Cardio-respiratory disease; Asthma; Non-malignant respiratory diseases; Lead poisoning; Anaphylactic shock; Cryptosporidiosis; Legionnaires disease; Myocardial infarction; Mild stroke; Chronic confusion; Regular severe fever; Loss of a hand or foot; Serious fractures; Serious burns; Loss of consciousness for days.*

#### **Class III**

*This Class covers serious harm outcomes, including: Eye disorders; Rhinitis; Hypertension; Sleep disturbance; Neuro-psychological impairment; Sick building syndrome; Regular and persistent dermatitis, including contact dermatitis; Allergy; Gastro-enteritis; Diarrhoea; Vomiting; Chronic severe stress; Mild heart attack; Malignant but treatable skin cancer; Loss of a finger; Fractured skull and severe concussion; Serious puncture wounds to head or body; Severe burns to hands; Serious strain or sprain injuries; Regular and severe migraine.*

#### **Class IV**

*This Class includes moderate harm outcomes which are still significant enough to warrant medical attention. Examples are: 1 Pleural plaques; Occasional severe discomfort; Benign tumours; Occasional mild pneumonia; Broken finger; Slight concussion; Moderate cuts to face or body; Severe bruising to body; Regular serious coughs or colds.”*