

Committee:	Cabinet	Date: Tuesday, 14 April 2026
Title:	Civil Penalties under the Renter's Rights Act 2025 and other housing legislation	
Portfolio Holder:	Arthur Coote, Portfolio Holder for Housing	
Report Author:	Marcus Watts Environmental Health Manager (Protection) mwatts@uttlesford.gov.uk	Key decision: No

Summary

1. The Environmental (Protection) Service is responsible for enforcing housing legislation to ensure property standards are maintained.
2. The Housing & Planning Act 2016 first introduced a range of measures to enhance existing powers including the ability for the Council to issue Civil penalties of up to £30,000 as an alternative to prosecution, for certain specified offences. Existing provisions for issuing civil penalties are detailed within the Councils Private Sector Housing Enforcement Policy that was approved by Cabinet on 18th April 2024. Due to changes in legislation and statutory guidance there is a need to develop a standalone Policy on Civil Penalties.
3. This report seeks Cabinet approval to adopt a new Civil Penalties policy to ensure that the Council fulfils the requirements of the Renters' Rights Act 2025 and new associated statutory guidance. The policy is considered essential to ensure consistency in enforcement, reduce the likelihood of legal challenge and to demonstrate compliance with statutory guidance and best practice.

Recommendations

4. To end the existing approach to issuing Civil Penalties as prescribed within the Councils existing Private Sector Housing Enforcement Policy for newly identified offences, from 1st May 2026.
5. To adopt the new Civil Penalties Policy attached to this report, to take effect from 1st May 2026.
6. Delegate the executive function of the Council to make amendments to the Civil Penalties Policy to the Director of Environmental Services and the Environmental Health Manager (Protection) in consultation with the Executive Portfolio Holder responsible for Housing Services.

Financial Implications

7. It is the government's intention that enforcement of private sector housing legislation will be part funded from income received from the issuance of civil penalties. In accordance with statutory guidance, all civil penalty income must be ringfenced and used only for housing enforcement activities. Income that is not used for this purpose must be paid to central government.
8. The Director of Finance, Revenues and Benefits has been consulted on these financial implications of this report and confirms that adequate provisions can be made to facilitate the ring fencing of civil penalty receipts.

Background Papers

9. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.
 1. Civil penalties under the Renters' Rights Act 2025 and other housing legislation – Policy
 2. Statutory Guidance - Civil penalties under the Renters' Rights Act 2025 and other housing legislation
 3. Renters Rights Act 2025.

Impact

10.

Communication/Consultation	Consultation is not proposed as it is based on recently released statutory guidance. It will be promoted on the Councils website and landlord forum events.
Community Safety	The effective use of civil penalties will drive improvements and standards and are considered effective and proportionate by central government
Equalities	This policy is aligned with the Councils Public Sector Equality Duty and should not disadvantage any member of the community
Health and Safety	None
Human Rights/Legal Implications	The Policy is designed to ensure that the Council carries out its enforcement role lawfully and proportionately having regard, amongst other things, to human rights.
Sustainability	None
Ward-specific impacts	None

Workforce/Workplace	It is recognised that the provisions of the Renters Rights Act 2025 taken together with new statutory guidance will impact on the service. New burdens funding is anticipated as is funding from the proposed introduction of a landlord database. This funding, together with civil penalty receipts is intended to fund increases in staff workforce
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Situation

11. The Renters' Rights Act introduces a significantly expanded civil penalty framework and places new duties on the Council. Amongst the many provisions of the act there are multiple new compliance requirements, enhanced penalties for repeat or serious non-compliance, and clearer expectations that enforcement activity is fair, consistent and proportionate. To meet these requirements, the Council must ensure its relevant policies are fully aligned with the new legislative framework.
12. The Councils existing provision for issuing Civil Penalties are currently detailed within the Councils Private Sector Housing Enforcement Policy. This Policy was developed prior to the introduction of the Renters' Rights Act. As such they do not reflect the suite of new offences or amendments to penalty or evidential thresholds.
13. Historically, enforcement of private rented sector legislation has varied significantly between local housing authorities. Differences in local policy frameworks, penalty setting mechanisms and approaches to escalation have led to what is termed as a 'postcode lottery' for landlords, where similar breaches may result in markedly different enforcement outcomes depending on the authority involved. This inconsistency risks undermining confidence in the regulatory system, creates uncertainty for landlords operating across multiple areas and increases the likelihood of challenge to enforcement decisions.
14. In response to these concerns, the Environmental Health service has engaged with Justice for Tenants, a non-profit organisation who has received funding from central government to provide support for local authorities to assist with the delivery of consistent delivery of enforcement. The policy has also been developed in collaboration with local authorities and has the support of the Association of Chief Environmental Health Officers (ACEHO). It is expected to be adopted by the majority of English Local Authorities.
15. The Civil Penalty Policy, given in Appendix A is intended promote greater consistency, transparency and robustness in local authority enforcement. This ultimately reduces the risk of unfavourable outcomes to legal challenge and strengthens the Council's ability to meet its statutory duties under the Renters' Rights Act. Approval is therefore sought to adopt these proposed policies with

effect from 1 May 2026 aligning the Council's enforcement approach with the new legislative framework.

16. Alongside the Civil Penalty Policy, the Environmental Health service also proposes updates to the Councils Private Sector Housing Enforcement Policy and associated mandatory HMO licence conditions. These are subject of a separate Cabinet report.
17. It is proposed that the new policy will take effect from 1 May 2026 with transitional arrangements in place to ensure legal and procedural continuity. For a limited period of 6 months, both the existing provisions for Civil Penalty and Enforcement contained within the current Private Sector Housing Enforcement Policy will operate in tandem. The application on which policy will be used, will be determined by the date on which the offence was committed. Cases requiring formal action that occurred prior to 1 May 2026 will be managed within the scope of the Private Sector Housing Enforcement Policy, approved in 2024. Case after 1 May 2026 will be enforced using the Policy approved by cabinet on 14 April 2026.
18. This approach ensures fairness and legal certainty for ongoing cases, avoids retrospective application of policy and allows the Council to conclude enforcement activities initiated under the current framework. Once all legacy cases have resolved, the existing policies will be formally withdrawn, leaving a single updated policy framework in place.
19. The basic framework for issuing civil penalties will not change by the adoption of the policy. The approach to issuing civil penalties is outlined below
 - Notice of Intent issued: this advises the offender of our intent to issue a civil penalty, the reasons why and the proposed amount. Recipients are then invited to submit written representation to offer a 'reasonable excuse' as to why a civil penalty should not be issued and/or to provide mitigating circumstances to reduce the civil penalty.
 - Final Penalty issued: after taking into consideration the representation.
 - First -tier Tribunal: Following the issue of a Final Penalty recipients can appeal to the First-tier Tribunal to ask for it to be reviewed.
20. Experience has found that the current policy and in particular the scoring matrix used to determine the proposed financial penalty does not always provide sufficient flexibility in being able to adjust the proposed civil penalty adequately. This makes it open to challenge. The proposed policy takes into consideration significant first tier and upper tier tribunal decisions that have been critical of local authorities' policies and procedures. It also accounts for changes in legislation and statutory guidance.
21. In deciding on the level of penalty the Council must have regards to the following factors:

- **Severity of the offence**
 - **Culpability and track record of the offender**
 - **The harm caused**
 - **Punishment of the offender**
 - **Deter the offender from repeating the offence**
 - **Deter others from committing similar offences**
 - **Remove any financial benefit the offender may have obtained as a result of committing the offence**
22. The policy outlines the methodology for assessing and setting the level of civil penalty. To assist inspecting officers, apply the policy, it will be embedded within an online civil penalty tool. This will facilitate consistency and enables officers to input all details relating to the offence, provide details about the level of harm or potential harm, culpability of the offender, and any other mitigating factors. The portal will produce the Notice of Intent, Final Notices and associated covering letters. As well as ensuring a consistent approach, it is also expected to deliver efficiencies and greater transparency.
23. When applying civil penalties matrix, it is possible for interim calculations to indicate a penalty level that exceeds the statutory maximum. Under these circumstances the penalty will be adjusted down to be in line with the statutory maximum on service of the final notice.
24. The Power to impose a civil penalty as an alternative to prosecution for certain offences was originally introduced by section 126 and schedule 9 of the Housing and Planning Act 2016. This provision amended The Housing Act 2004 by inserting a new section 249A and Schedule 13A. Regulations made under The Housing and Planning Act 2016 specify that all of the income that a local authority receives from the imposition of civil penalties (and the recovery of Housing Benefit through Rent Repayment Orders) can be retained by the local authority to meet the costs and expenses (whether administrative or legal) incurred in, or associated with, carrying out any of its enforcement functions in relation to the private rented sector. Income that is not used for this purpose must be paid to central government.
25. Before a civil penalty is imposed the Council must be satisfied by credible, reliable and sufficient evidence to the appropriate standard of proof that the person has breached the relevant statutory requirement or committed the relevant offence. In the main, for the majority of breaches and offences a criminal standard of proof is required, that is, the breach or offence must be proved “beyond reasonable doubt”. This is because there is the alternative option to prosecute, either in the first instance, or where the breach continues or is an element of a repeat breach offence. In doing so, local housing authority must satisfy itself that if the case were to be prosecuted in the magistrates’ court, there would be a realistic prospect of conviction.
26. With the adoption of the Policy, Civil penalties can be issues for various breaches and offences. The term ‘**breach**’ is **non-criminal** failure to comply with a legal requirement/regulation. There is no option to prosecute and is

discharged with a civil penalty of up to £7000, other than Electrical Safety Standards in the Private Rented Sector and Social Rented Sector (England) Regulations 2020 (see Table 2) is a “breach” up to £40,000. Examples of a breach include not providing required tenancy documents, not following rent increase procedures, or failing to keep PRS database entries updated. There is a lower burden of proof for breaches, being the balance of probabilities. The term ‘offence’ is used to refer to non-compliance by landlords that is defined in law as criminal. A local authority may either prosecute or impose a civil penalty of up to £40,000. Offences require the higher burden of proof of beyond reasonable doubt. These offences may also lead to additional measures such as banning orders and rent repayment orders. Breaches and offences are given within the policy are summarised within table 1, 2 and 3.

Table 1 – Breaches subject to a lower civil penalty

Breaches are subject to a civil penalty with a statutory maximum of £7,000	
1.	Failure to give a written statement of terms and any other prescribed information under section 16D of the Housing Act 1988.
2.	Attempting to let a property for a fixed term under section 16E of the Housing Act 1988.
3.	Attempting to end a tenancy by service of a notice to quit under section 16E of the Housing Act 1988.
4.	Attempting to end a tenancy orally or requiring that it is ended orally under section 16E of the Housing Act 1988.
5.	Serving an eviction notice that attempts to end a tenancy outside the prescribed section 8 process under section 16E of the Housing Act 1988.
6.	Relying on a ground where the landlord does not reasonably believe that the landlord is/will be able to obtain possession under section 16E of the Housing Act 1988.
7.	Failing to provide a tenant with prior notice that a ground which requires it may be used under section 16E of the Housing Act 1988.
8.	Failure to give an existing tenant prescribed information about changes made by the Renters’ Rights Act 2025 in the prescribed form and timeframe under paragraph 7(2) of schedule 6 to the Renters’ Rights Act 2025.
9.	Discrimination relating to children in the lettings process under section 33 of the Renters’ Rights Act 2025.
10.	Discrimination relating to benefits in the lettings process under section 34 of the Renters’ Rights Act 2025.
11.	Failure to specify proposed rent within a written advertisement or offer under section 56 of the Renters’ Rights Act 2025.
12.	Inviting, encouraging or accepting any offer of rent greater than the stated rate under section 56 of the Renters’ Rights

	Act 2025.
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Table 2 – Breaches subject to a higher civil penalty

Breaches are subject to a civil penalty with a statutory maximum of £40,000	
	Breach of duty under Regulation 3, 3B, 3C, and 3D of The Electrical Safety Standards in the Private Rented Sector and Social Rented Sector (England) Regulations 2020.

Table 3 – Offences subject to a higher civil penalty.

Offences subject to a civil penalty with a statutory maximum of £40,000	
1.	Unlawful eviction and harassment of occupier under section 1 of the Protection from Eviction Act 1977.
2.	Continuation of conduct subject to a relevant penalty (under s.16I or s.16K Housing Act 1988) after the 28-day period (or, if appealed, after conclusion of the appeal) where the final notice has not been withdrawn under section 16J of the Housing Act 1988
3.	Conduct giving rise to liability under s.16I, where within the preceding five years the landlord has either (i) had a relevant penalty (under s.16I or s.16K Housing Act 1988) imposed for different conduct and the final notice has not been withdrawn, or (ii) been convicted under s.16J for different conduct under section 16(J) of the Housing Act 1988.
4.	Relying on a ground knowing the landlord would not be able to obtain possession or being reckless as to whether they would under section 16J of the Housing Act 1988.
5.	Breach of restrictions relating to reletting (s16(E)(2) Housing Act 1988) or remarketing (s16(E)(3) Housing Act 1988) a property within restricted period after using Grounds 1 or 1A of Schedule 2 Housing Act 1988 under section 16J of the Housing Act 1988.
6.	Breach of a banning order under section 21 of the Housing and Planning Act 2016.
7.	Failure to comply with an Improvement Notice under section 30 of the Housing Act 2004.
8.	Contravention of an overcrowding notice under section 139 of the Housing Act 2004.
9.	Failure to obtain a selective licence under section 95 of the

	Housing Act 2004.
10.	Failure to obtain an HMO licence under section 72 of the Housing Act 2004.
11.	Knowingly permitting over-occupation of an HMO under section 72 of the Housing Act 2004.
12.	Failure to comply with management regulations in respect of HMOs under section 234 of the Housing Act 2004
13.	Failure to comply with HMO licence conditions under section 72 of the Housing Act 2004.
14.	Failure to comply with selective licence conditions under section 95 of the Housing Act 2004.

27. It is the government's intention that the civil penalty charge is intended to crack down on rogue landlords who flout the law and knowingly rent out unsafe and substandard accommodation. The penalties are therefore designed to disrupt a business model of those who profit from non-compliance. It is considered that the use of the civil penalties as an enforcement tool will have a positive impact upon tenants as it will deter landlords from committing serious housing offences.
28. From time to time there the Policy will need to be amended to take into account changes reflecting on case law or updates to the statutory guidance. It is recommended that delegated authority is given to delegate the executive function of the Council to make amendments to the Civil Penalties Policy to the Executive Portfolio Holder responsible for Environmental Health Services. Such delegated responsibilities will allow decisions to amend the policy to be taken expediently.

Risk Analysis

1.

Risk	Likelihood	Impact	Mitigating actions
There is a high risk of legal challenge by way of appeal should the Council not adopt the policy	Medium- and is likely to depend on the value of the penalty being issued	Greater involvement from legal services will be required. There will also be some reputational risks	It is recommended that to protect the Council, that the policy be adopted.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

