



Compliance and Enforcement Policy

Annex 5: Minimum Energy Efficiency

1. Introduction

- 1.1** This annex supplements the Shared Regulatory Services (SRS) Compliance and Enforcement Policy in establishing a consistent approach to enforcement of the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015, and it must be read in conjunction with that overarching policy. Where there is any conflict in interpretation between this annex and the overarching Compliance and Enforcement Policy, the latter will take precedence.
- 1.2** The purpose of the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 is to tackle and improve the least energy efficient domestic and non-domestic privately rented properties. The regulations prohibit:
- the letting out of such a property where the minimum level of energy efficiency (set out in the Energy Performance Certificate for the property) is less than an E rating (i.e. an F or a G rated property)
 - The registering of any false or misleading information of the Government's [National PRS Exemptions Register](#)
 - Failure to comply with a Compliance Notice issued under the regulations
- 1.3** SRS will identify rental properties that do not meet the minimum levels of energy efficiency, and for which no bona fide exemption has been registered. Assistance will be provided to landlords / letting agents in order for those properties to be brought into compliance. Landlords will be expected to demonstrate that they have a compliant EPC certificate (A-E rating), or alternatively set out a plan to achieve the required energy efficiency level.
- 1.4** Should the advisory stage not result in compliance, the regulations provide for specific enforcement options as set out in 2 below.

2. Enforcement Options

2.1 Compliance Notice

- 2.1.1** Where it appears that in the previous 12 months a landlord has let out a substandard property, then under regulation 37, a Compliance Notice can be served to request

Annex 5 - Compliance and enforcement policy	Date of issue 03/02/2025	Ref: SRS/MC/POL/008	OM CS	V.1
---	-----------------------------	---------------------	-------	-----

information from the landlord to determine whether a breach of the regulations has occurred. In the event that either

- the landlord fails to comply with a Compliance Notice or
- provides information under the Compliance Notice that demonstrates non-compliance under the regulations,

then a Penalty Notice can be served (for which see 2.2 below).

2.2 Penalty Notice

2.2.1 A Penalty Notice can be served when the enforcement authority is satisfied that in the previous 18 months, a landlord has been in breach of the Energy Efficiency Private Rented Property (England and Wales) Regulations 2015 in respect of:

- Regulation 23 – letting out a substandard (F/ G rated) domestic property, and/or
- Regulation 37(4)(a) – failure to comply with a Compliance Notice

In each case, the level of the financial penalty associated with the Penalty Notice is calculated on the basis of the seriousness of factors affecting culpability and factors affecting harm / risk. The methodology for this is set out in Section 3 below.

2.3 Publication Penalty

2.3.1 The Enforcement Authority can decide to publish details of non-compliance for a property on the PRS Exemptions Register, with such details remaining in place for a period of at least 12 months. Note that the Publication Penalty is not a financial penalty.

3. Methodology for Determining the Level of a Financial Penalty

3.1 The overarching SRS Compliance and Enforcement Policy at section 9.3 considers the use of civil sanctions, including fixed and variable monetary penalty notices. The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 specify the maximum financial penalties that can be imposed in respect of minimum energy efficiency enforcement as follows:

- (a) *Where the landlord has let a sub-standard property in breach of the Regulations for a period of less than 3 months, the Local Authority may impose a financial penalty of up to £2,000 and may impose the publication penalty.*

Annex 5 - Compliance and enforcement policy	Date of issue 03/02/2025	Ref: SRS/MC/POL/008	OM CS	V.1
---	-----------------------------	---------------------	-------	-----

- (b) *Where the landlord has let a sub-standard property in breach of the regulations for 3 months or more, the Local Authority may impose a financial penalty of up to £4,000 and may impose the publication penalty.*
- (c) *Where the landlord has registered false or misleading information on the PRS Exemptions Register, the Local Authority may impose a financial penalty of up to £1,000 and may impose the publication penalty.*
- (d) *Where the landlord has failed to comply with compliance notice, the Local Authority may impose a financial penalty of up to £2,000 and may impose the publication penalty.*

3.2 SRS will take a staged approach to determining the appropriate financial penalty, as follows:

Stage 1 – Three factors are considered, the culpability of the offender, the potential for tenant harm and the severity of risk. Collectively these factors identify the seriousness of the offence. The seriousness is then categorised, which will be used to determine the amount of penalty.

Stage 2 – This stage determines the offender’s history of legal compliance

Stage 3 (Penalty review) - SRS will check the penalty is proportionate to the overall means of the offender and if there are multiple offences the Council will take the totality principle into account.

3.3 SRS will first consider factors affecting culpability and harm to choose a starting point from the tables in 3.4 below for the financial penalty under consideration.

3.4 Stages 1 and 2

3.4.1 Factors affecting Culpability:

High: Landlord has failed to comply with requests to observe the Regulations. Knowingly or recklessly providing incorrect information in relation to exemptions to these Regulations.

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.

3.4.2 Factors affecting Harm / Risk:

Annex 5 - Compliance and enforcement policy	Date of issue 03/02/2025	Ref: SRS/MC/POL/008	OM CS	V.1
---	-----------------------------	---------------------	-------	-----

High: Low EPC rating e.g. G or close to a G rating, vulnerable tenants occupying property and/or, extended period of time since non-compliance.

Low: EPC score close to minimum acceptable EPC rating (E), No vulnerable tenants and/or short period of non-compliance.

	Low culpability	High culpability	Notes
Low harm	25%	50%	% = Proportion of maximum penalty
High harm	50%	100%	

3.4.3 The following tables show the starting points for penalty for each type of breach:

a) *Not meeting minimum standard for less than 3 months: MAX £2,000*

	Low Culpability	High Culpability
Low Harm	£500	£1000
High Harm	£1000	£2000

b) *Not meeting minimum standard for more than 3 months: MAX £4,000*

	Low Culpability	High Culpability
Low Harm	£1,000	£2,000
High Harm	£2,000	£4,000

c) *Providing False and Misleading Information, Exemptions Register MAX £1,000*

	Low Culpability	High Culpability
Low Harm	£250	£500
High Harm	£500	£1000

d) *Failing to comply with a Compliance Notice; MAX £2,000*

	Low Culpability	High Culpability
Low Harm	£500	£1000
High Harm	£1000	£2000

3.5 Stage 2 – Further consideration of Aggravating and Mitigating Factors

3.5.1 Officers may consider it appropriate to adjust the penalty from that determined in the table either up or down depending on particular aggravating or mitigating factors. This may include a landlord's previous history of non-compliance or good compliance with housing related regulatory requirements.

Annex 5 - Compliance and enforcement policy	Date of issue 03/02/2025	Ref: SRS/MC/POL/008	OM CS	V.1
---	-----------------------------	---------------------	-------	-----

3.5.2 If factors come to light as part of the investigation that require any adjustments to the financial penalty, these factors will be included in the Financial Penalty. In addition, factors may be provided in representations from a landlord in his request to review after the Penalty Notice has been served.

3.6 Stage 3 – Review of the Penalty

3.6.1 Reductions

The Council will consider any factors which indicate a reduction in the penalty may be appropriate and will have regard to the wider implications of the financial penalty on innocent third parties; for example, the impact of the offender’s ability to comply with the law or to make restitution to the victims/tenants.

3.6.2 Totality Principle

In addition to the maximum penalties listed in Regulation 40, SRS will, when issuing a financial penalty for more than one offence (e.g. penalties for more than one property), or where an offender has also been issued with another financial penalty, consider if the total penalties are just and appropriate to the offending behaviour and make adjustments accordingly.

The overriding principle is that the overall penalty must be just and proportionate.

3.7 Stage 3 – Review, Waiving or Modification of Penalty

3.7.1 The Landlord may within the specified period under regulation 38(2)(h)(ii), serve notice on the enforcement authority requesting a review of its decision to serve a penalty notice.

3.7.2 Where the Landlord gives notice in accordance with 3.7.1 above, or where SRS decides to review its decision to serve a penalty notice in any other case, SRS must:

- a) Consider any representations made by the landlord and all other circumstances of the case,
- b) Confirm or withdraw the penalty notice and
- c) Serve notice of the decision on the landlord

3.7.3 Following the review, if SRS:

- a) ceases to be satisfied that the landlord committed the breach specified in the penalty notice,

Annex 5 - Compliance and enforcement policy	Date of issue 03/02/2025	Ref: SRS/MC/POL/008	OM CS	V.1
---	-----------------------------	---------------------	-------	-----

- b) is satisfied that the landlord took all reasonable steps and exercised all due diligence to avoid committing the breach specified in the penalty notice, or
- c) decides that in the circumstances of the case it was not appropriate for a penalty notice to be served on the landlord.

A further notice will be served on the landlord withdrawing the penalty notice.

3.7.5 On a review under clause 3.7.2 above, SRS may

- a) waive a penalty,
- b) allow landlord additional time to pay any financial penalty,
- c) substitute a lower financial penalty where one has already been imposed, or
- d) modify the application of a publication penalty.

Annex 5 - Compliance and enforcement policy	Date of issue 03/02/2025	Ref: SRS/MC/POL/008	OM CS	V.1
---	-----------------------------	---------------------	-------	-----