

Policy in respect of enforcement of legal energy efficiency requirements in private rented sector dwellings (The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015)

1. In the first instance Broxtowe Borough Council (the Council) will advise landlords who rent properties with an EPC of F or G that they do not meet the minimum energy efficiency standard. The Council will offer advice how the standards can be met and request landlords to register an exemption if appropriate.

Landlords will be given an appropriate time to make the necessary changes but will be warned that if they continue to be in breach after the time given, an investigation will follow and formal enforcement action will be considered

Officers will take into account the circumstances of each individual case, and make reference to the Council's Enforcement Policy when deciding on any course of action. This may include the service of a Compliance Notice to seek further information.

2. The Council will check the National PRS Exemptions Register and if it believes a landlord has registered false or misleading information it will consider serving a financial and publication penalty.

3. If offences under these regulations are committed, the Council will, where appropriate and making reference to the Enforcement Policy, consider the service of a Penalty Notice. This policy provides guidance for officers on how to determine the appropriate penalty.

4. Under the provisions of regulation 39 of The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015, the Local Authority may publish some details of the landlord's breach on a publicly accessible part of the PRS Exemptions Register. The Council will place the full information allowed by the Regulations on the register at the appropriate time, for a period of 12 months.

Guidance for determining the level of a financial penalty.

The maximum level of penalty varies on the type of breach. Details are contained in Regulation 40.

Where the Local Authority decides to impose a financial penalty, they have the discretion to decide on the amount of the penalty, up to maximum limits set by the Regulations. The maximum penalties are 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.

(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.

Broxtowe Borough Council will use the following matrix as a guide to officers to determine the appropriate penalty.

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

Factors affecting culpability

High: Landlord has a previous history of non-compliance with housing related regulatory requirements and / or landlord has failed to comply with requests to comply with these regulations. Landlord has knowingly or recklessly providing incorrect information in relation to exemptions to these regulations.

Low: First offence under these regulations. No previous history of non-compliance with housing related regulatory requirements. Complex issues out of the landlord's control have led to non-compliance.

Factors affecting harm

High: Very low EPC score. Vulnerable tenants occupying property for an extended period of time since non-compliance.

Low: No vulnerable tenants. Higher EPC score close to minimum acceptable EPC score.

Tables to show penalty for each type of offence

a) Breach is less than 3 months: MAX = £2000

	Low culpability	High culpability
Low Harm	£500	£1000
High Harm	£1000	£2000

b) Breach is more than 3 months: MAX=£4000

	Low culpability	High culpability
Low Harm	£1000	£2000
High Harm	£2000	£4000

c) Providing false and misleading information: MAX=£1000

	Low culpability	High culpability
Low Harm	£250	£500
High Harm	£500	£1000

d) Failure to comply with a Compliance Notice: MAX=£2000

	Low culpability	High culpability
Low Harm	£500	£1000
High Harm	£1000	£2000

If two or more penalty notices comply, the combined maximum per property will be £5,000

Aggravating and Mitigating Factors

Officers may wish to adjust the penalty from that determined in the matrix if there are particular aggravating or mitigating factors.

Factors may come to light as part of the investigation for the offences or as part of mitigation put forward by a landlord, including at a review.

Officers will have regard to such factors and adjust the penalty accordingly. Any increase cannot result in a penalty greater than the maximum allowed.

Landlords will be advised of the reasons for any adjustment.

Any adjustment must be sanctioned by the appropriate Head of Service, or Director.

Appeals

Any appeal by a landlord which is received within the time specified in the Regulations will be considered by an officer at Head of Service level or above.

