



# Directorate of Housing and Communities Trading Standards Service Financial Penalty Enforcement Policy

Tenant Fees Act 2019/Consumer Rights Act 2015/Housing and Planning Act 2016 Financial Penalty Enforcement under the Tenant Fees Act 2019, the Consumer Rights Act 2015, the Housing and Planning Act 2016 and the Renters' Rights Act 2025

# 1. Legal Reference

## Tenant Fees Act 2019 amended by the Renters' Rights Act 2025 on the 1 May 2026

### Overview

This updated policy is for the use of the City of Newcastle upon Tyne City Council (the "City Council") on how the City Council will implement and enforce the Tenant Fees Act 2019 as amended by the [Renters' Rights Act 2025](#). It will apply on or after 1 May 2026.

It will help determine what fees tenants and lodgers can be asked to pay and what fees they cannot be asked for.

The words 'must' or 'shall' are used to cover a statutory requirement. Where the words 'may' or 'should' are used, a course of action is advised, but it is not mandatory.

There is existing guidance for [tenants](#).

There is updated guidance for [landlords and letting agents](#).

The Tenant Fees Act 2019 should be considered alongside other legislation which includes:

- [Renters' Rights Act 2025](#)
- [Housing Act 2004](#)
- [Client Money Protection Schemes for Property Agents Regulations 2018 S.I. 2018/751](#)
- [Client Money Protection Schemes for Property Agents Regulations 2019](#)
- [Enterprise and Regulatory Reform Act 2013](#)
- [Consumer Rights Act 2015](#)
- [Housing and Planning Act 2016](#)

The act amends:

- Consumer Rights Act 2015, [section 83](#) and [87](#)
- [Enterprise and Regulatory Reform Act 2013 section 85](#)
- [Redress Schemes for Letting Agency Work and Property Management work order 2014 article 7](#)
- [Housing and Planning Act 2016 Order 2014 and changes to section 135](#)

## **2. Consumer Rights Act 2015, Chapter 3 of part 3**

Chapter 3 of Part 3 of the Consumer Rights Act 2015 requires agents in England and Wales to prominently display information in their office and online about their fees. Agents in England must display information regarding their membership of redress schemes and client money protection schemes.

The new amendments are:

- Where a letting agent has advertised on third party websites, for example, Rightmove, Zoopla or Facebook, they must publish their fees on the website or ensure that there is a link to the agent's website with a list of their fees.
- to allow a local weights and measures authority to impose more than one financial penalty for a continuing breach where the fees have not been published
- to require letting agents to give the name of their client money protection scheme (not just whether they are a member of such a scheme).

### **2.1. Amendment to Client Money Protection Schemes: section 135 of the Housing and Planning Act 2016**

The Act amends section 135 of the Housing and Planning Act 2016 which allows funds from financial penalties to be used by local authorities.

There is separate guidance on [client money protection](#).

### **2.2. Relevant person**

A 'relevant person' is a tenant or a person acting on behalf of a tenant, or a guarantor. A relevant person does not include:

- a local housing authority defined in the Housing Act 1985, section 1
- The Greater London Authority
- a person acting on behalf of a local authority defined in the Housing Act 1985, section 1
- a person acting on behalf of The Greater London Authority

Local housing authorities, or organisations acting on their behalf are excluded from the definition of relevant person if they are guaranteeing rent on behalf of a tenant.

### **2.3. Letting agent work**

A person is a letting agent if they carry out activity in the course of a business in response to instructions received from a landlord looking to let or from a tenant looking to find somewhere to rent. However, if a person carries out this work as part of their employment contract, they will not be a letting agent for enforcement purposes.

A person who is instructed by a landlord or tenant to carry out legal work is not a letting agent when acting in that capacity.

### **3. Tenant Fees Act 2019.**

The act applies to assured tenancies (but not social housing assured tenancies), student accommodation, tenants in Houses of Multiple Occupation (HMO) and licences to occupy housing such as lodgers.

A licence to occupy is when a person gives permission to someone to live in their property. It does not give the licensee a legal interest in or control of the housing and includes licenses issued to lodgers.

The act applies to housing associations and local authorities, when they are letting a property privately.

The act does not apply to:

- long leases, as defined in [chapter 1 of part 1 of the Leasehold Reform, Housing and Urban Development Act 1993](#)
- shared ownership leases as defined by [section 7\(7\) of the Leasehold Reform, Housing and Urban Development Act 1993](#)
- short term holiday lets
- excluded licences

#### **3.1. Prohibited payments**

Landlords or letting agents will not be able to require tenants or any person acting on behalf of a tenant or a guarantor to make specific payments when:

- arranging the grant of or assigning a tenancy
- granting a tenancy
- continuing a tenancy
- changing or varying a tenancy
- ending a tenancy
- a tenant has breached a tenancy agreement
- giving a reference for a former tenant

Tenants (or anyone acting for a tenant) or a guarantor must also not be required to:

- take out a loan
- pay for insurance
- enter a contract for a service

This covers any fee or charge related to a tenancy except for those permitted in schedule 1 of the Act.

A prohibited payment is defined in section 3 and schedule 1 of the Tenant Fees Act 2019. If a landlord asks a letting agent to work for them and to let out a property, the

landlord may be asked for a fee. If a tenant wants to rent out the same property from the landlord and is charged a fee by the agent, then that is a prohibited payment. The prohibited payment is the one charged to the tenant.

In cases where an agent finds a property on behalf of a tenant but does not work for the landlord in relation to that property, the agent can then charge the tenant fees.

The approach to implementing this policy has been to ban all fees except those expressly permitted in Schedule 1 of the act.

If a landlord or agent asks for a prohibited payment, the City Council as an enforcement authority can investigate these persons and issue a civil penalty if they are found to have broken the rules.

### **3.2. Payments that landlords can require**

Landlords can require and take the following payments:

- rent if the tenant and landlord have signed the tenancy agreement
- a fee for late payment of rent
- a fee to replace a lost key or security device
- a fee to change the tenancy when requested by the tenant capped at £50 or reasonable costs if the amount is above £50
- when a tenant asks to end the tenancy
- to cover utilities and landline
- a refundable tenancy deposit
- a refundable holding deposit to reserve a property capped at one week's rent

### **3.3. Payment of rent, utilities and changes to tenancies**

The payment of rent is a permitted payment. There are rules on when a landlord or a letting agent can ask a tenant to pay rent at different stages of agreeing the tenancy.

On and from the 1 May 2026, landlords and agents will not be able to ask a tenant to pay rent in advance in relation to an assured tenancy. For more information, refer to the guidance [on when rent can be paid in advance](#).

When a person has been convicted, the penalty is an unlimited fine and a banning order offence under [section 14 of the Housing and Planning Act 2016](#). For guidance on the current process refer to the [banning orders guidance](#).

### **3.4. Deposits**

#### **Holding deposit to reserve a property**

A landlord or agent can ask a tenant to pay a holding deposit whilst they undertake reference checks. The maximum holding deposit must not be more than one week's rent. If a landlord or agent requires any amount above one week's rent, it will be a prohibited payment.

### **4. Enforcement**

It is the duty of the City Council to enforce in its area:

- prohibitions for landlords, section 1
- prohibitions for letting agents, section 2
- requirements for holding deposits, schedule 2

The Lead Enforcement Authority has the power to enforce the relevant letting agency legislation.

As an enforcement authority, the City Council must be satisfied beyond reasonable doubt that a person has breached section 1 or 2 or schedule 2 of the act to impose a financial penalty or start criminal proceedings. This standard of proof is needed for a second or subsequent breach, within 5 years of a previous penalty or conviction. Where a person commits a repeat breach, they will have committed a criminal offence. This decision stands unless challenged on appeal.

#### **4.1. The Lead Enforcement Authority**

In section 24, subsection (2) of the act, the Lead Enforcement Authority is the Secretary of State, or a person the Secretary of State has agreed to be the Lead Enforcement Authority.

Bristol City Council is currently appointed as the Lead Enforcement Authority, operating as the [National Trading Standards Lettings Agency Team](#).

#### **4.2. Relevant legislation:**

Tenant Fees Act 2019

- [Consumer Rights Act 2015, chapter 3 of part 3 as it applies to dwelling houses in England](#)
- Enterprise and Regulatory Reform Act 2013, an order under section [83\(1\)](#) or [84\(1\)](#)
- Housing and Planning Act 2016 under section [133](#), [134](#) or [135](#)

#### **4.3. Tenant Fees Act 2019 Sanctions**

##### **4.3.1. Penalties**

As an enforcement authority the City Council can issue a civil penalty of up to £5,000 if you find a landlord or agent liable for:

- requesting a prohibited payment
- unlawfully keeping the holding deposit

#### **4.3.2. Repeat breaches when charging prohibited payments**

A further breach is when the breach happens again within 5 years of a previous financial penalty or conviction for a previous breach. This repeat breach will be a criminal offence.

When a person has been convicted, the penalty is an unlimited fine and a banning order offence under [section 14 of the Housing and Planning Act 2016](#). For guidance on the current process refer to the [banning orders guidance](#).

The City Council may impose a financial penalty of up to £30,000 as an alternative to prosecution. In these cases, the City Council has a discretion over whether to prosecute or impose a financial penalty. A financial penalty is not a criminal conviction.

#### **4.3.3. Repeat breaches when unlawfully keeping the holding deposit**

Where a landlord unlawfully keeps the holding deposit within 5 years of a previous financial penalty it is a civil breach. This would incur another financial penalty of up to £5,000. It is not a banning order offence.

#### **4.3.4. Multiple breaches**

An agent or landlord can be fined for multiple breaches at once if they have not previously been fined. The financial penalty for each of these breaches is limited to £5,000 each.

Each request for a prohibited payment is a breach. For example, an agent or landlord charges:

- prohibited fees to different tenants with different tenancy agreements
- one tenant multiple prohibited fees for different services at different times
- one tenant a total amount for fees made up of separate prohibited fees. For example, a multiple breach would be requesting £200 for arranging the tenancy and doing a reference check

The City Council will be able to keep the money raised through financial penalties. This money is for future housing enforcement for privately rented properties.

#### **4.3.5. Repeat Breaches: decide on whether to prosecute or impose a financial penalty**

The officers of the City Council will be fair, independent and objective when deciding whether to prosecute or impose a financial penalty. Officers of the City Council will not let personal views about ethnic or national origin, gender, disability, age, religion or belief, political view or sexual orientation influence their decision. Officers will not be influenced by improper or undue pressure from any source. Officers will always act in the interest of justice and not solely for obtaining a conviction.

The City Council will apply the principles of the European Convention on Human Rights under the [Human Rights Act 1998](#), at each stage of a case.

In the cases of repeat breaches, the City Council will decide whether to prosecute the landlord or agent in the magistrates' court or to impose a financial penalty of up to £30,000.

Individuals convicted of an offence under the act are liable to an unlimited fine set by the courts.

Where a financial penalty is imposed as an alternative to prosecution this would not be a criminal conviction. The City Council will not impose a financial penalty and prosecute for the same offence.

When a breach is particularly serious or where the landlord or agent has committed similar breaches in the past, it may be appropriate to prosecute. This does not mean financial penalties should not be used in cases where serious breaches have been committed. The officers of the City Council may decide that a significant financial penalty, rather than prosecution, is the best approach.

When deciding whether to prosecute a landlord or agent the officers of the City Council will consider if:

- there is reliable evidence that the offence has been committed and there is a realistic prospect of conviction
- it is in the public interest

Guidance on [The Code for Crown](#) prosecutors.

The following factors may be considered when deciding whether to prosecute:

- history of non-compliance
- severity of the breach
- deliberately hiding activity or evidence
- knowingly or recklessly supplying false or misleading evidence
- intent of the landlord or agent, individually, or as a business
- attitude of the landlord or agent
- deterrent effect of a prosecution
- the amount of financial gain from the breach

You must record every decision and the reasons for your decision.

#### **4.3.6. Offences by officers of the corporation**

Section 13 of the Tenant Fees Act 2019 states that an officer of a corporation can also be prosecuted if the offence committed by the corporation was done with their consent or connivance or due to their neglect.

They will be liable to punishment for the offence as well as the corporation. This is the case where the corporation is managed by its members. You will have to prove that the offence was committed with the approval or willing of the officer or member, or it is down to that person's negligence.

## **5. Determining the level of the financial penalty**

In accordance with the provisions of the Tenant Fees Act 2019 the level of financial penalties for matters enforced by the City Council will be determined by the officers of the City Council's Trading Standards Service.

Each of those factors will be considered as a part of the officers of the City Council's Trading Standards Service's decision-making process and they are:

- a. The history of compliance/non-compliance
- b. The severity of the breach
- c. Deliberate concealment of the activity and/or evidence
- d. Knowingly or recklessly supplying false or misleading evidence
- e. The intent of the landlord/agent, individual and/or corporate body
- f. The attitude of the landlord/agent
- g. The deterrent effect of a prosecution on the landlord/agent and others
- h. The extent of financial gain as a result of the breach

Although the City Council's Trading Standards Service has therefore a wide discretion in determining the appropriate level of financial penalty in any case, regard has been given to the statutory guidance when making this policy.

Officers of the City Council are expected to consider each breach on a case-by-case basis and for the maximum amount to be reserved for the worst offenders.

The actual amount for each case should be fair and proportionate. It should reflect how serious the breach is as well as the landlord or agent's previous record.

The officers of the City Council will consider the following factors to ensure that the financial penalty is set at the right level.

### **5.1. Severity of the breach**

The more serious the breach, the higher the penalty should be. A higher penalty will be appropriate when the landlord has:

- a history of not complying with the law
- deliberately broken the law
- known, or ought to have known, that they were breaking the law

## **5.2. Harm caused to the tenant**

The officers of the City Council should consider the amount of harm that the landlord or agent has caused the tenant. The greater the harm, the greater the financial penalty should be.

## **5.3. Punishment of the landlord or agent**

A financial penalty imposed by the City Council will be proportionate to the severity of the breach and previous behaviour of the offender. The penalty should be set at a high enough level to ensure that it has a financial impact on the landlord or agent. It should reinforce the consequences of not meeting their legal obligations.

The penalty will deter the landlord or agent from breaking the law again and it should deter others from keeping a deposit or taking fees unlawfully.

## **5.4. Aggravating and mitigating factors**

When setting the financial penalty, the officers of the City Council will consider whether there are aggravating or mitigating factors.

For example, aggravating factors include:

- previous convictions or record of breaking the law
- landlords or agents looking to make money
- obstructing the investigation
- deliberately hiding evidence
- deliberately hiding breaches of the law
- when the tenant is vulnerable

Mitigating factors could include the landlord or agent:

- co-operating with the investigation
- quickly repaying the illegal charges to the tenant
- not having previous breaches
- is vulnerable which is linked to the breach
- is of good character and has had exemplary conduct
- admits their guilt
- gives evidence that health reasons had impacted on their ability to correct the breaches such as poor mental health and unforeseen or emergency health issues

## **5.5. Fairness and proportionality**

The financial penalty should be fair and proportionate, but it should also be a deterrent and remove financial gain.

When issuing a financial penalty for more than one breach, or where the landlord or agent has already been issued with a penalty, the officers of the City Council will consider whether the total financial penalties are fair and proportionate.

## **5.6. Issue a financial penalty**

Before imposing a financial penalty, the City Council will give the landlord or agent notice of their intention. This is called a 'notice of intent'. This notice must be given within six months, starting on the first day where the City Council have evidence that the person has illegally taken fees or kept a holding deposit.

If the breach carries on, the notice must be given while the breach is continuing or within six months of the last day on which the breach occurred.

The notice of intent must include:

- the date on which the notice is given
- the amount of the proposed penalty
- the reasons for proposing to impose the penalty
- information about the right to make representations to appeal the decision

A person who is given a notice of intent has 28 days to make representations. After 28 days, the City Council must decide on whether to impose a financial penalty and if so, the amount of the penalty.

If the City Council takes the decision to impose a financial penalty, the City Council will provide the person with a final notice. This notice states that they must pay the penalty within 28 days. The notice could also require the landlord to repay the amount that was collected or kept illegally within 7 to 14 days.

The final notice must include specific information, including:

- the date on which the final notice is served
- the amount of the penalty
- the reasons for the penalty
- how and when to pay
- the rights of appeal
- the consequences of failing to comply with the notice

A notice of intent or final notice can be withdrawn at any time. The City Council can also reduce the amount specified in the notice. A notice can be changed and repayment of a prohibited payment or holding deposit can be removed from the notice. The person who has received the notice must be told in writing of any withdrawal, reduction or changes to the notice.

Where a financial penalty is imposed, the City Council can keep the money from penalties and use this for enforcement related to privately rented properties. If there is any excess, it must be paid to the Secretary of State.

### **5.7. Appeals**

Landlords or agents have the right to appeal against:

- a financial penalty
- repaying a prohibited payment or holding deposit
- a criminal offence

### **5.8. The right to appeal a financial penalty**

A landlord or agent has the right to appeal a financial penalty through the First-tier Tribunal. The deadline for an appeal is 28 days from the day after the final notice was served.

A landlord or agent may appeal against the decision to impose a penalty or the amount of the penalty.

An appeal re-hears the decision taken by the City Council and may take into account evidence that the enforcement authority has not seen.

If a landlord or agent makes an appeal, the notice or part of the notice that is being appealed is suspended pending the outcome.

On appeal, the First-tier Tribunal may confirm, vary or quash the final notice. The notice cannot be varied to go over the maximum penalty of £30,000.

In the First-tier Tribunal, under rule 14 of the Tribunal Procedure, someone who is not legally qualified can represent a person during proceedings.

### **5.9. The right to appeal the repayment of a prohibited payment**

Landlords and agents have the right to appeal to the First-tier Tribunal if they do not agree to repaying a prohibited fee, holding deposit or amount paid by a relevant person under a prohibited contract. A prohibited contract is when a term of the tenancy agreement is no longer valid when it asks for a prohibited fee.

The deadline for an appeal is within 7 to 14 days from the day after the final notice was served. The length of time in which a landlord or agent has to make an appeal will depend on the time they have been given to repay the prohibited fee.

For example, if a landlord has been given seven days to repay a prohibited fee, they will have seven days to appeal this decision.

An appeal re-hears the City Council's decision and may take into account evidence that the enforcement authority has not seen.

If a landlord or agent makes an appeal, the final notice is suspended in relation to the part of the notice which is the subject of the appeal until the appeal

is determined or withdrawn. On appeal, the First-tier Tribunal may confirm, vary or quash the final notice.

#### **5.10. The right to appeal a criminal offence**

A landlord or agent can appeal a criminal offence. [Guidance on how they can appeal a sentence or conviction](#) is available on the Ministry of Justice website.

### **6. Statutory Guidance.**

The Ministry of Housing, Communities & Local Government (“MHCLG”) has published the following document:

<https://www.gov.uk/government/publications/tenant-fees-act-amended-by-the-renters-rights-act-2025/tenant-fees-act-2019-statutory-guidance-for-enforcement-authorities>

This is statutory guidance to which enforcement authorities must have regard to in relation to enforcing the Tenant Fees Act 2019. This statutory guidance recommends certain factors that an enforcement authority should take into account when deciding on the level of financial penalties under the Tenant Fees Act 2019 and further recommends that enforcement authorities develop and document their own Policy on determining the appropriate level of financial penalty in a particular case.

## **APPENDIX 1 The processes that the Trading Standards Service will use**

In order to determine the level of financial penalty under the Tenant Fees Act 2019, Consumer Rights Act 2015 and the Housing and Planning Act 2016. All stages are subject to statutory time limits.

### **STEP ONE – Determining the offence category**

The City Council will determine the breach category using only the culpability and category of harm factors below. Where an offence does not fall squarely into a category, individual factors may require a degree of weighting to make an overall assessment.

The City Council may also apply a discretionary factor in order to reflect consistency across England and may consider decisions in other UK jurisdictions where they contain some relevant and persuasive content.

#### **Culpability**

**Very high:** Where the Landlord or Agent intentionally breached, or flagrantly disregarded, the law or has/had a high public profile which may include any significant role in a trade or business representative organisation and knew their actions were unlawful  
**High:** Actual foresight of, or wilful blindness to, risk of a breach but risk nevertheless taken

**Medium:** Breach committed through act or omission which a person exercising reasonable care would not commit

**Low:** Breach committed with little fault, for example, because:

- Significant efforts were made to address the risk although they were inadequate on the relevant occasion
- There was no warning/circumstance indicating a risk
- Failings were minor and occurred as an isolated incident

#### **Harm**

The following factors relate to both actual harm and risk of harm. Dealing with a risk of harm involves consideration of both the likelihood of harm occurring and the extent of it if it does.

#### **Category 1 – High Likelihood of Harm –**

- Serious adverse effect(s) on individual(s) and/or having a widespread impact due to the nature and/or scale of the Landlord's or Agent's business
- High risk of an adverse effect on individual(s) – including where persons are vulnerable. A wide definition of vulnerability will be used. See Appendix 2 for a non-exhaustive list.

#### **Category 2 – Medium Likelihood of Harm**

- Adverse effect on individual(s) (not amounting to Category 1)

- Medium risk of an adverse effect on individual(s) or low risk of serious adverse effect.
- Tenants and/or legitimate landlords or agents substantially undermined by the conduct.
- The City Council's work as a regulator is inhibited
- Tenant or prospective tenant misled

### **Category 3- Low Likelihood of Harm**

- Low risk of an adverse effect on actual or prospective tenants.
- Public misled but little or no risk of actual adverse effect on individual(s)
- We will define harm widely and victims may suffer financial loss, damage to health or psychological distress (especially vulnerable cases). There are gradations of harm within all of these categories. The nature of harm will depend on personal characteristics and circumstances of the victim and the assessment of harm will be an effective and important way of taking into consideration the impact of a particular crime on the victim. In some cases, no actual harm may have resulted, and enforcement authority will be concerned with assessing the relative dangerousness of the offender's conduct; it will consider the likelihood of harm occurring and the gravity of the harm that could have resulted.

### **To the community**

Some offences cause harm to the community at large (instead of or as well as to an individual victim) and may include economic loss, harm to public health, or interference with the administration of justice.

### **STEP TWO - Starting point and category range**

Having determined the category that the breach falls into, the officers of the City Council will refer to the following starting points to reach an appropriate level of civil penalty within the category range. Officers of the City Council will then consider further adjustment within the category range for aggravating and mitigating features.

### **Obtaining financial information**

The statutory guidance advises that local authorities should use their powers under Schedule 5 to the CRA 2015 to, as far as possible, make an assessment of a Landlord's or Agent's assets and any income (not just rental or fee income) they receive when determining an appropriate penalty.

The City Council will use such lawful means as are at its disposal to identify where assets might be found. In setting a financial penalty, the City Council may conclude that the Landlord or Agent is able to pay any financial penalty imposed unless the City Council has obtained, or the Landlord or Agent has supplied, any financial information to the contrary.

The subject of a Final Notice, or a Notice of Intent where the subject does not challenge it, will be expected to disclose to the City Council such data

relevant to his/her financial position to facilitate an assessment of what that person can reasonably afford to pay.

Where the City Council is not satisfied that it has been given sufficient reliable information, the City Council will be entitled to draw reasonable inferences as to the person's means from evidence it has received, or obtained through its own enquiries, and from all the circumstances of the case which may include the inference that the person can pay any financial penalty. Starting points and ranges

The tables in Appendices below give the starting points, minimum and maximum financial penalties for each harm category and level of culpability for each type of breach:

- Appendix 4 First breach in respect of a Prohibited Payment or failure to comply with CRA requirement
- Appendix 5 Second & subsequent breach in respect of a Prohibited Payment
- Appendix 6 Breach in respect of publication of fees
- Appendix 7 Breach in respect of Membership of a redress scheme
- Appendix 8 Breach in respect of failure to obtain membership of a Client Money Protection Scheme
- Appendix 9 Breach in respect of issues relating to certificates of evidence of Membership of a Client Money Protection Scheme
- Appendix 10 Breach in respect of transparency issues relating to Membership of a Client Money Protection Scheme

## **Context**

Below is a list of some, but not all factual elements that provide the context of the breach and factors relating to the Landlord or Agent. The City Council will identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the starting point. In particular, relevant recent conviction (Appendix 3) are likely to result in a substantial upward adjustment.

In some cases, having considered these factors, it may be appropriate to move outside the identified category range which will not exceed the statutory maximum permitted in any case.

## **Factors increasing seriousness**

### **Aggravating factors:**

- Previous breaches of the legislation
- Previous convictions, having regard to:
  - the nature of the offence to which the conviction relates and its relevance to the current breach; and,
  - the time that has elapsed since the conviction:

### **Other aggravating factors may include:**

- Motivated by financial gain
- Deliberate concealment of illegal nature of activity

- Established evidence of wider/community impact
- Obstruction of the investigation
- Record of poor compliance
- Refusal of advice or training or to become a member of an Accreditation scheme

### **Factors reducing seriousness or reflecting personal mitigation**

- No previous or no relevant/recent breaches
- No previous convictions or no relevant/recent convictions
- Steps voluntarily taken to remedy problem
- High level of co-operation with the investigation, beyond that which will always be expected
- Good record of relationship with tenants
- Self-reporting, co-operation and acceptance of responsibility
- Good character and/or exemplary conduct
- Mental disorder or learning disability, where linked to the commission of the breach
- Serious medical conditions requiring urgent, intensive or long-term treatment and supported by medical evidence

### **STEP THREE - General principles to consider in setting a penalty**

The City Council will finalise the appropriate level of penalty so that it reflects the seriousness of the offence and the City Council must take into account the financial circumstances of the Landlord or Agent if representations are made by the Landlord or Agent following the issue of a Notice of Intent. The level of financial penalty will reflect the extent to which the conduct fell below the required standard.

The financial penalty should meet, in a fair and proportionate way, the objectives of punishment, deterrence and the removal of gain derived through the commission of the breach; it should not be cheaper to breach than to take the appropriate precautions and a fundamental principle involved is that there should be no financial gain to the perpetrator from the commission of the breaches.

If issuing a financial penalty for more than one breach, or where the offender has already been issued with a financial penalty, The City Council will consider whether the total penalties are just and proportionate to the offending behaviour and will have regard to the factors in STEP EIGHT below.

### **STEP FOUR- Issue Notice of Intent**

The City Council will issue a Notice of Intent within 6 months of the enforcement authority having sufficient evidence that the Landlord or Agent has breached the TFA 2019. If the breach is ongoing the 6-month deadline continues until the breach ceases. A Notice of Intent can be served spontaneously. While there are slight variations in the Statutory requirements according to which breach is being addressed a Notice of Intent will typically contain the date of the exercise by the Landlord or Agent of the Appeal process.

## **STEP FIVE – Consideration of representations and review of financial penalty where appropriate**

The City Council should review the penalty and, if necessary, adjust the initial amount reached at STEP FOUR, and represented in the Notice of Intent, to ensure that it fulfils the general principles set out below. Any quantifiable economic benefit(s) derived from the breach, including through avoided costs or operating savings, should normally be added to the total financial penalty arrived at in STEP TWO.

Where this is not readily available, the City Council may draw on information available from enforcing authorities and others about the general costs of operating within the law. Whether the penalty will have the effect of putting the offender out of business will be relevant but in some serious cases this might be an acceptable outcome.

## **STEP SIX – Reductions**

The City Council will consider any factors which indicate that a reduction in the penalty is appropriate and in so doing will have regard to the following factors relating to the wider impacts of the financial penalty on innocent third parties, such as (but not limited to):

- The impact of the financial penalty on the Landlord or Agent's ability to comply with the law or make restitution where appropriate
- The impact of the financial penalty on employment of staff, service users, customers, and the local economy. The following factors will be considered in setting the level of reduction.

When deciding on any reduction in a financial penalty, consideration will be given to:

- The stage in the investigation or thereafter when the offender accepted liability
  - The circumstances in which they admitted liability
  - The degree of co-operation with the investigation
- The maximum level of reduction in a penalty for an admission of liability will be one-third. In some circumstances there will be a reduced or no level of discount. This may occur for example where the evidence of the breach is overwhelming or there is a pattern of breaching conduct. Any reduction should not result in a penalty which is less than the amount of gain from the commission of the breach itself.

## **STEP SEVEN - Additional actions**

In all cases the City Council must consider whether to take additional action. These may include further enforcement action itself or reference to other organisations where appropriate.

## **STEP EIGHT – Totality of breaching conduct**

Where the offender is issued with more than one financial penalty, the officers of the City Council Trading Standards Service should consider the following guidance from

the definitive guideline on Offences Taken into Consideration and Totality which appears to the City Council to be an appropriate reference and guide.

As the total financial penalty is inevitably cumulative the City Council should determine the financial penalty for each individual breach based on the seriousness of the breach and taking into account the circumstances of the case including the financial circumstances of the Landlord or Agent so far as they are known, or appear, to the City Council's Trading Standards Service.

The City Council should add up the financial penalties for each offence and consider if they are just and proportionate. If the aggregate total is not just and proportionate the City Council will consider how to reach a just and proportionate total financial penalty.

There are a number of ways in which this can be achieved. For example: Where a Landlord or Agent is to be penalised for two or more breaches or where there are multiple breaches of a repetitive kind, especially when committed against the same person, it will often be appropriate to impose for the most serious breach a financial penalty which reflects the totality of the conduct where this can be achieved within the maximum penalty for that breach. No separate penalty should be imposed for the other breaches.

Where a Landlord or Agent is to be penalised for two or more breaches that arose out of different incidents, it will often be appropriate to impose separate financial penalties for each breach. The City Council should add up the financial penalties for each breach and consider if they are just and proportionate. If the aggregate amount is not just and proportionate the City Council will consider whether all of the financial penalties can be proportionately reduced. Separate financial penalties should then be imposed. Where separate financial penalties are passed, the City Council's Trading Standards Service must take care to ensure that there is no double-counting.

**STEP NINE** – Recording the decision The officer making a decision about a financial penalty will record their decision giving reasons for coming to the amount of financial penalty that will be imposed.

## **APPENDIX 2 – Non exhaustive list of vulnerable people**

- Young adults and children
- Persons vulnerable by virtue of age Persons vulnerable by virtue of disability or sensory impairment
- People on a low income
- Persons with a Drug or alcohol addiction
- Victims of domestic abuse
- Children in care or otherwise vulnerable by virtue of age
- People with complex health conditions
- People exploited where English is not their first language.
- Victims of Trafficking or sexual exploitation
- Refugees Asylum seekers
- People at risk of harassment or eviction
- People at risk of homelessness.

### **APPENDIX 3 – Non exhaustive list of relevant offences /breaches Housing law or landlord and tenant related Offences under:**

- The Public Health Acts of 1936 and 1961
- The Building Act 1984
- The Environmental Protection Act 1990
- The Town and Country Planning Act 1990
- The Prevention of Damage by Pests Act 1949
- The Protection from Eviction Act 1977
- The Local Government (Miscellaneous Provisions) Acts of 1982 and 1976
- The Housing Grants, Construction and Regeneration Act 1996
- The Local Government and Housing Act 1989
- The Housing Act 2004
- Renters' Reform Act 2025

Offences involving fraud Offences in which the victim has been deprived of money, property, or other benefit by misrepresentation/deception on the part of the offender including:

- Theft
- Burglary
- Fraud
- Benefit fraud (particularly where tenants are in receipt of Housing Benefit)
- Conspiracy to defraud
- Obtaining money or property by deception
- People trafficking

Being struck off as a company director

Offences involving violence A conviction for the offence of:

- Murder
- Manslaughter
- Arson
- Malicious wounding or grievous bodily harm
- Grievous bodily harm with intent
- Actual bodily harm
- Grievous bodily harm
- Robbery
- Criminal damage where the intent was to intimidate or was racially aggravated
- Common assault
- Common assault which is racially aggravated
- Assault occasioning actual bodily harm
- Possession of an offensive weapon

- Possession of a firearm Offences involving drugs - Consideration should be given to the nature of the offence and what bearing it could have on the Landlord or Agents business activities.
- The nature, quantity, purity, and class of drugs should be taken into account. In addition, where an offence of possession with intent to supply is involved regard should be had to the role and importance of, the subject in the supply chain Offences involving sexual offences
- An offence contained in schedule 3 of the Sexual Offences Act 2003.
- Unlawful discrimination - Unlawful discrimination can include findings of an Industrial Tribunal on unlawful employment practice such as discrimination under the Disability Discrimination Act. Consideration should be given to the nature of the unlawful discrimination and what bearing it could have on the management of a licensable property.
- Other offences - Modern Slavery/ Human Trafficking Offences involving the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control of another person, for the purpose of exploitation is likely to attach a lower level of culpability.

## APPENDIX 4 – Financial Penalty in the case of a first breach in respect of Prohibited Payments and contraventions of s 83 Consumer Rights Act 2015.

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply the Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £5000.

	<b>Starting Point (£)</b>	<b>Range Min (£)</b>	<b>Range Max (£)</b>
<b>Low Culpability</b>			
Harm Category 3	1250	250	2250
Harm Category 2	1500	500	2500
Harm Category 1	1750	750	2750
<b>Medium Culpability</b>			
Harm Category 3	2000	1000	3000
Harm Category 2	2250	1250	3250
Harm Category 1	2500	1500	3500
<b>High Culpability</b>			
Harm Category 3	2750	1750	3750
Harm Category 2	3000	2000	4000
Harm Category 1	3250	2250	4250
<b>Very High Culpability</b>			
Harm Category 3	3500	2500	4500
Harm Category 2	3750	2750	4750
Harm Category 1	4000	3000	5000

## **APPENDIX 5 – Financial Penalty in the case of a second or subsequent breach in respect of Prohibited Payments within 5 years of a previous breach.**

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply the Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £30,000.

	<b>Starting Point (£)</b>	<b>Range Min (£)</b>	<b>Range Max (£)</b>
<b>Low Culpability</b>			
Harm Category 3	3500	2000	8000
Harm Category 2	6500	4000	10000
Harm Category 1	8500	4500	15000
<b>Medium Culpability</b>			
Harm Category 3	6500	4750	17000
Harm Category 2	10500	5000	20000
Harm Category 1	12500	5500	22000
<b>High Culpability</b>			
Harm Category 3	10500	5500	20000
Harm Category 2	15000	6250	24000
Harm Category 1	18000	7000	26000
<b>Very High Culpability</b>			
Harm Category 3	15000	7000	24000
Harm Category 2	17500	7250	28000
Harm Category 1	20000	7500	30000

## APPENDIX 6 – Financial Penalty in the case of a breach in respect of Publication of Fees

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply the Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £5000.

	<b>Starting Point (£)</b>	<b>Range Min (£)</b>	<b>Range Max (£)</b>
<b>Low Culpability</b>			
Harm Category 3	1250	250	2250
Harm Category 2	1500	500	2500
Harm Category 1	1750	750	2750
<b>Medium Culpability</b>			
Harm Category 3	2000	1000	3000
Harm Category 2	2250	1250	3250
Harm Category 1	2500	1500	3500
<b>High Culpability</b>			
Harm Category 3	2750	1750	3750
Harm Category 2	3000	2000	4000
Harm Category 1	3250	2250	4250
<b>Very High Culpability</b>			
Harm Category 3	3500	2500	4500
Harm Category 2	3750	2750	4750
Harm Category 1	4000	3000	5000

## APPENDIX 7 – Financial Penalty in the case of a breach in respect of Membership of a Redress Scheme

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply the City Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £5000.

	<b>Starting Point (£)</b>	<b>Range Min (£)</b>	<b>Range Max (£)</b>
<b>Low Culpability</b>			
Harm Category 3	1250	250	2250
Harm Category 2	1500	500	2500
Harm Category 1	1750	750	2750
<b>Medium Culpability</b>			
Harm Category 3	2000	1000	3000
Harm Category 2	2250	1250	3250
Harm Category 1	2500	1500	3500
<b>High Culpability</b>			
Harm Category 3	2750	1750	3750
Harm Category 2	3000	2000	4000
Harm Category 1	3250	2250	4250
<b>Very High Culpability</b>			
Harm Category 3	3500	2500	4500
Harm Category 2	3750	2750	4750
Harm Category 1	4000	3000	5000

## APPENDIX 8 — Financial Penalty in the case of a breach in respect of a failure to obtain membership of a Client Money Protection Scheme

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply the City Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £30000.

	<b>Starting Point (£)</b>	<b>Range Min (£)</b>	<b>Range Max (£)</b>
<b>Low Culpability</b>			
Harm Category 3	3500	2000	8000
Harm Category 2	6500	4000	10000
Harm Category 1	8500	4500	15000
<b>Medium Culpability</b>			
Harm Category 3	6500	4750	17000
Harm Category 2	10500	5000	20000
Harm Category 1	12500	5500	22000
<b>High Culpability</b>			
Harm Category 3	10500	5500	20000
Harm Category 2	15000	6250	24000
Harm Category 1	18000	7000	26000
<b>Very High Culpability</b>			
Harm Category 3	15000	7000	24000
Harm Category 2	17500	7250	28000
Harm Category 1	20000	7500	30000

## **APPENDIX 9 – Financial Penalty in the case of a breach in respect of issues relating to certificates of evidence of Membership of a Client Money Protection Scheme.**

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply the City Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £5000.

	<b>Starting Point (£)</b>	<b>Range Min (£)</b>	<b>Range Max (£)</b>
<b>Low Culpability</b>			
Harm Category 3	1250	250	2250
Harm Category 2	1500	500	2500
Harm Category 1	1750	750	2750
<b>Medium Culpability</b>			
Harm Category 3	2000	1000	3000
Harm Category 2	2250	1250	3250
Harm Category 1	2500	1500	3500
<b>High Culpability</b>			
Harm Category 3	2750	1750	3750
Harm Category 2	3000	2000	4000
Harm Category 1	3250	2250	4250
<b>Very High Culpability</b>			
Harm Category 3	3500	2500	4500
Harm Category 2	3750	2750	4750
Harm Category 1	4000	3000	5000

## APPENDIX 10 – Financial Penalty in the case of a breach in respect of transparency issues relating to Membership of a Client Money Protection Scheme

The table below gives the starting points, minimum and maximum financial penalties for each harm category and level of culpability. Where exceptional circumstances apply the City Council may reduce the minimum penalties further but may not increase them above the maximum permitted of £5000.

	<b>Starting Point (£)</b>	<b>Range Min (£)</b>	<b>Range Max (£)</b>
<b>Low Culpability</b>			
Harm Category 3	1250	250	2250
Harm Category 2	1500	500	2500
Harm Category 1	1750	750	2750
<b>Medium Culpability</b>			
Harm Category 3	2000	1000	3000
Harm Category 2	2250	1250	3250
Harm Category 1	2500	1500	3500
<b>High Culpability</b>			
Harm Category 3	2750	1750	3750
Harm Category 2	3000	2000	4000
Harm Category 1	3250	2250	4250
<b>Very High Culpability</b>			
Harm Category 3	3500	2500	4500
Harm Category 2	3750	2750	4750
Harm Category 1	4000	3000	5000