

Cheltenham Borough Council

Cabinet – 16th September 2025

Civil Penalty Notice Policy under The Housing and Planning Act 2016 and the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

Accountable member:

Cabinet Member for Housing and Customer Services, Councillor Flo Clucas

Accountable officer:

Bernadette Reed, Public and Environmental Health Manager

Ward(s) affected:

All

Key Decision: No

Executive summary:

The power to impose a civil penalty as an alternative to prosecution for certain offences was introduced by Section 126 and Schedule 9 of the Housing and Planning Act 2016. We are revising our current policy which was agreed at cabinet on the 10 April 2018, so as to maintain the proportionate, consistent and transparent approach. A revised policy will further reduce any legal challenge by clearly defining all steps to decision making. It also covers additional regulations introduced since the last policy approval in 2018. Revision is also appropriate as we prepare for the extra duties and financial penalty provisions within the Renters Rights Bill due for Royal Assent later this year. As statutory guidance is introduced to support the new legislation this policy will need to evolve accordingly.

Recommendations: That Cabinet:

- 1. approves the Civil Penalty Notice (CPN) policy attached at Appendix 3 with immediate effect.**
 - 2. authorises the Head of Public Protection to take such actions and decisions as are necessary to facilitate the effective implementation and operation of the Authority's powers referred to in this report.**
 - 3. authorises the Head of Public Protection, in consultation with the Cabinet Member for Housing and Customer Services, to approve minor variations to the policy in line with any revised statutory guidance.**
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1. Implications

1.1 Financial, Property and Asset implications

None

Signed off by: Ela Jankowska – Finance Business Partner

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1.2 Legal implications

The proposed policy complies with the requirements under Housing Act 2004, the Housing and Planning Act 2016 and the associated statutory guidance. This will assist in ensuring that penalty decisions are consistent with a reduced likelihood of a successful challenge upon appeal. The policy will also assist this Authority in complying with the proposed duties under the Renters Rights Bill. As the Bill is still being amended by the House of Lords, the authorisation of the Head of Public Protection to approve minor variations will allow the Council to ensure that the policy complies both with any of these amendments and any subsequent statutory guidance.

Signed off by: Rachael Baldwin, One Legal, Rachael.baldwin@onelegal.org.uk

1.3 Environmental and climate change implications

There are no environmental and climate change implications associated with this report.

Signed off by: Maizy McCann, Climate Officer, Maizy.McCann@cheltenham.gov.uk

1.4 Corporate Plan Priorities

This report contributes to the following Corporate Plan Priorities:

- Quality homes, safe and strong communities

1.5 Equality, Diversity and Inclusion Implications

See Appendix 2

1.6 Performance management – monitoring and review

The Renters Rights Bill when enacted will impose a duty on Housing Authorities such as Cheltenham Borough Council, to report to the Secretary of State on the exercise of its functions under the landlord legislation. This will include a duty to report on the number of financial penalties issued, the reason for the issue, the value of the financial penalties, the number of financial penalties appealed, and the value of the penalties recovered. The reporting interval is yet to be determined.

2 Background

- 2.1 This Authority aims to support landlords who provide safe and well-maintained homes. We are keen to strike the right balance between regulation and stifling investment in the sector. We recognise there is a small number of landlords who knowingly rent out unsafe or substandard accommodation and we are determined to address this.
- 2.2 Civil penalties were introduced by the Housing and Planning Act 2016 under Section 126 and Schedule 9 of that Act. The powers enable us to impose civil penalties of up to £30,000 in respect of the following offences:
- a. Failure to Comply with an Improvement Notice under Section 30 of the Housing Act 2004.
 - b. Offences relating to licensing of Houses in Multiple Occupation (HMO) under Section 72 of the Housing Act 2004.
 - Section 72 (1) being in control or managing an HMO which is required to be licensed but is not so licensed.
 - Section 72 (2) being in control or managing an HMO which is licensed but knowingly permitting occupation over and above the number authorised by the licence.
 - Section 72 (3) being a licence holder who fails to comply with any condition of a licence.

- c. Offences in relation to licensing of houses under Part 3 of the Act (selective licensing).
 - Section 95 (1) being in control or managing a house which is required to be licensed but is not so licensed.
 - Section 95 (2) being a licence holder who fails to comply with any condition of a licence.
- d. Contravention of an overcrowding notice under Section 139 of the Housing Act 2004.
- e. Failure to comply with management regulations in respect of HMOs under Section 234 of the Housing Act 2004.

2.3 This revised policy will ensure we are legally compliant. It will:

- a. ensure we adhere to the principles of transparency by removing some of the current complexities of setting penalties
- b. ensure all landlords know what to expect when offences are committed
- c. aid consistency as this policy is applied in each relevant case.
- d. demonstrate proportionality as mitigating and extenuating circumstances are carefully considered.
- e. ensure that those managing and having control of rented properties in Cheltenham know how we will generally penalise relevant offences and give assurance that, generally, like cases will be penalised similarly, and different cases penalised differently.

2.4 It takes account of the statutory guidance [Civil Penalties under the Housing and Planning Act 2016](#) updated on the 6th April 2018. A revised policy will reduce the risk of legal challenge and reputational damage.

2.5 It ensures the penalty setting process has 4 stages:

- Assessing the seriousness of the offence to establish a starting level.
- Assessment of the number of residential properties controlled or managed by the landlord
- Consideration of aggravating and mitigating factors which may increase and/or decrease the penalty.
- Discounts to be applied.

2.6 The Renters Rights Bill when enacted will impose a general duty for every local Housing Authority to enforce the landlord legislation in its area. Enforcement in this context means either

- imposing a financial penalty or
- instituting proceedings against a person for an offence under the landlord

legislation.

2.7 This policy will ensure we are ready to issue robust and fair financial penalties under the new Act.

2.8 The current process for issuing a civil penalty is set out in Schedule 13A 12 of the Housing Act 2004 and Schedule 113 of the Housing and Planning Act 2016. The appeals process is set out in Schedule 13A, paragraph 10 of the Housing Act 2004 and Schedule 1, paragraph 10 of the Housing and Planning Act 2016.

3 Reasons for recommendations

3.1 To ensure a robust and demonstrable process of how the Authority determines the level of a financial penalty.

3.2 To support the increase in workload anticipated by the renters' rights reforms regarding issuing financial penalties.

4 Alternative options considered

4.1 None. This is a statutory duty.

5 Consultation and feedback

5.1 This policy has been developed thorough joint working with Justice for Tenants who have in turn worked with the Association of Chief Environmental Health Officers (ACEHO) taking into account statutory guidance, the Crown Code for Prosecutors, sentencing guidelines and 53 recent tribunal cases identified as impacting financial penalty procedural matters.

5.2 Officers are working collaboratively with our colleagues internally and externally with district and regional colleagues.

5.3 Officers will also be configuring a financial penalty generating tool to record and calculate final penalties taking into account all mitigating and aggravating factors related to harm and culpability.

5.4 The policy will be available on our website.

6 Key risks

6.1 Having a weak policy puts the authority at reputational and financial risk.

Report author:

Bernadette Reed, Public and Environmental Health Manager

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Appendices:

- i. Appendix 1: Risk Assessment
- ii. Appendix 2: Equality Impact Assessment – Screening
- iii. Appendix 3: Civil Penalties Policy under The Housing and Planning Act 2016 and the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

Background information:

https://democracy.cheltenham.gov.uk/documents/s25303/2018_04_10_CAB_civil_penalties_appendix_2.pdf

Appendix 1: Risk Assessment

Risk ref	Risk description	Risk owner	Impact score (1-5)	Likelihood score (1-5)	Initial raw risk score (1 - 25)	Risk response	Controls / Mitigating actions	Control / Action owner	Deadline for controls/ actions
1	Non-compliant civil penalty policy	Head of Public Protection	3	4	12	Reduce the risk	Approve and implement a robust policy	Public and Environmental Manager	End Sep 2025
2	Staff not competent to implement the policy	Public and Environmental Health Manager	4	2	8	Remove the Risk	Provide training on the policy and calculations of penalties	Public and Environmental Health Manager	End Set 2025
3	Reputational and/or financial risk through challenges to penalties through the appeals system	Public and Environmental Health Manager	4	4	16	Reduce the risk	Work in collaboration with others on policy	Public and Environmental Health Manager	End sep 2025

Appendix 2: Equality Impact Assessment (Screening)

1. Identify the policy, project, function or service change

a. Person responsible for this Equality Impact Assessment

Officer responsible:

Bernadette Reed

Service Area:

Public Protection

iv. Title: Civil Penalty Notice Policy under the The Housing and Planning Act 2016 and the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

Date of assessment:

31/07/2025

Signature:



b. Is this a policy, function, strategy, service change or project?

Policy

If other, please specify:

c. Name of the policy, function, strategy, service change or project

Civil Penalty Notice Policy under The Housing and Planning Act 2016 and the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

Is this new or existing?

**Already exists
and is being
reviewed**

Please specify reason for change or development of policy, function, strategy, service change or project

Update following recent upper tribunal and court of appeal decisions, update in anticipation of the Renters Rights Act 2025 and ensuing statutory guidance. Review of policy agreed at cabinet in April 2018.

d. What are the aims, objectives and intended outcomes and who is likely to benefit from it?

Aims:	This Authority wants to support good landlords who provide safe and well maintained homes. We are keen to strike the right balance between regulation and stifling investment in the sector. We recognise there is a small number of landlords who knowingly rent out unsafe or substandard accommodation and we are determined to address this. We have a statutory obligation to enforce the land lord law using either civil penalties or by initiating proceedings against those committing an offence. This policy will ensure the penalty decided is fair and proportionate and the process is transparent.
Objectives:	<p>(a) know how we will generally penalise relevant offences and</p> <p>(b) are assured that, generally, like cases will be penalised similarly, and different cases penalised differently.</p> <p>Compliance with current statutory guidance.</p>
Outcomes:	Transparency proportionality consistency in the issuing of civil penalties as an alternative to prosecution. To have a policy which is legally compliant and reduces the risk of challenge through appeals.
Benefits:	<p>Everyone will know</p> <p>(a) how we will generally penalise relevant offences and</p> <p>(b) are assured that, generally, like cases will be penalised similarly, and different cases penalised differently.</p> <p>Deterrent to others</p> <p>Mitigating and extenuating factors will be taken into account in a systematic and consistent manner.</p>

e. What are the expected impacts?

Are there any aspects, including how it is delivered or accessed, that could have an impact on the lives of people, including employees and customers.

No

Do you expect the impacts to be positive or negative?	No impact expected
Please provide an explanation for your answer:	
<p>We have a current CPN policy so this is a review. It will build on the existing policy by increased transparency and clear examples of how a penalty is decided. We will have a penalty generating tool to reduce the complexity and give an audit trail on how the penalty was calculated in accordance with the required process set out in recent court of appeal decisions.</p>	

If your answer to question e identified potential positive or negative impacts, or you are unsure about the impact, then you should carry out a Stage Two Equality Impact Assessment.

f. Identify next steps as appropriate	
Stage Two required	No
Owner of Stage Two assessment	
Completion date for Stage Two assessment	

Please move on to Stage 2 if required ([intranet link](#)).