

Nottingham City Council Enforcement Policy in relation to:

- **The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015**
- **The Energy Performance of Buildings (England and Wales) Regulations 2012**

Version Control					
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2.0	17/10/2025	Delegated Decision No. 5330	18/10/2025	Across whole document	Added provisions for MEES enforcement of non-domestic properties and for enforcement under The Energy Performance of Buildings (England and Wales) Regulations 2012. Minor changes to sections on MEES enforcement of domestic properties for improved clarity.

This Policy and Guidance was approved by Delegated Decision Reference Number 5330, which can be viewed on the Council's website via the following web link:

<https://committee.nottinghamcity.gov.uk/ieDecisionDetails.aspx?ID=8715>

The version control of this document is owned by the Safer Housing Operational Management team.

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Part 1. The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

1. Introduction

1.1. [The Energy Efficiency \(Private Rented Property\) \(England and Wales\) Regulations 2015 \('the Regulations'\)](#) came into force on 1st April 2018 and introduced measures to improve the energy efficiency of certain private rented property in England and Wales. Part 3 of the Regulations prescribe a minimum level of energy efficiency to all private rented properties, both domestic and non-domestic, where the minimum standard on Energy Performance Certificates (EPCs) is a rating of band E. The Regulations make provision for the enforcement of Part 3 by local authorities in relation to domestic private rented properties and local weights and measures authorities in relation to non-domestic private rented properties.

1.2. An EPC measures both energy efficiency and environmental impact through carbon emissions. A low EPC rating does not only have an impact on the occupier in terms of heating ability and running costs, but combined with a low environmental impact score it indicates high levels of carbon emission.

1.3. The legislation is designed to tackle the least energy-efficient properties in England and Wales and to restrict the letting of properties with band ratings of F and G. The energy efficiency of a domestic property has a direct impact on its condition and the ability of the occupant to afford to heat it effectively, which can exacerbate the occupant's health conditions and it also has an impact on the environment through carbon emissions. With regards non-domestic properties, the minimum standards required will drive improvements in the performance of existing stock through energy efficiency upgrades, which are essential to tackle energy used and reduce emissions across the non-domestic stock.

1.4. Where an enforcement authority considers that a landlord may be in breach of a requirement of Part 3 of the Regulations, it may serve a compliance notice requiring the landlord to provide evidence to the enforcement authority. Where an enforcement authority is satisfied that a landlord is in breach, it may issue a notice imposing a financial penalty, and a publication penalty (which consists of publishing the details of the breach on the register). The landlord may request a review of the penalty notice to the enforcement authority and where a penalty notice is confirmed on review, may appeal against the imposition of the penalty notice to the First-tier Tribunal.

1.5. Nottingham City Council ('the Council') understands the importance the role of enforcing these Regulations will have on improving the living conditions for many of its citizens and the energy efficiency of the non-domestic stock in the city. This is confirmed by its commitment to its fuel poverty strategy outlined within its [Fuel Poverty Action Plan 2018-2025](#) and is further enforced within its Quality Homes for All statement, with the key objective being to eradicate fuel poverty. It also has ambitions to be the first carbon neutral city in the country as contained within its Nottingham City Council Plan 2019-2023.

1.6. In enforcing these Regulations, the Council acknowledges the vital role they will play in its overall plans of eradicating fuel poverty, providing quality housing for its citizens, reducing emissions across the non-domestic stock, and in the city becoming carbon neutral.

1.7. The Council expects landlords to comply with the legislation and to proactively assess their properties to ensure they are currently compliant with the Regulations and to implement improvements where compliance is currently not achieved. Where landlords are failing in their responsibilities and duties, the Council will engage with them to ensure the Regulations are adhered to and where engagement is not forthcoming, will look to take enforcement action.

1.8. This document provides a guide as to what landlords and other partners can expect when dealing with the Council's Safer Housing, MEES enforcement, and Trading Standards teams.

2. Enforcement guidance

2.1. When considering taking enforcement action under the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015, Nottingham City Council shall have regard to its own enforcement policy, available [here](#).

2.2. The Council's enforcement policy has been developed in line with the principles of the Regulators Code, published by the Department for Business Innovation and Skills, 2014, available [here](#).

2.3. The overall aim of enforcement action is to ensure compliance, protect health and improve property standards by:

- a) changing the behaviour of landlords that do not comply with the law and seeking legal recourse of those who disregard or flout the law;
- b) eliminating any financial gain or benefits from non-compliance; and
- c) providing transparent and consistent regulation within the private market.

2.4. The Council will endeavour to provide general information, advice, and guidance to make it easier for landlords to understand and meet their regulatory obligations. Such information will be provided via the Council's website and via other means of communication.

2.5. In choosing which enforcement action to take, the Council will be guided by the appropriate Regulations for enforcing the minimum standards, but will aim to work within the parameters set out within its own enforcement Policy to ensure legal compliance, encourage positive behaviour, and resolve the problem which is a cause of potential harm to citizens and deter future non-compliance. Furthermore, the enforcement action chosen will be proportionate to the nature of the non-compliance and harm caused.

2.6. Decisions about whether enforcement action will be taken and the type of action to be taken, will be made by the appropriate officers of the Council and such decisions will not be influenced by third parties outside the Council.

2.7. Authorised officers, employed by the council to enforce the legislation, are competent and experienced. All decisions will have regard to this policy and the individual circumstances of each case.

3. Relevant guidance and legislation

3.1. The Council has referred to the following legislation and guidance when producing this enforcement policy for the minimum standard:

- a) The Department for Energy Security and Net Zero and the Department for Business, Energy and Industrial Strategy has produced [guidance in respect of both domestic and non-domestic private rented property for landlords and enforcement authorities](#), published in 2017, 2019 and updated in 2023
- b) Energy Act 2011 ([legislation.gov.uk](#))
- c) The Energy Performance of Buildings (England and Wales) Regulations 2012 ([legislation.gov.uk](#))
- d) The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 ([legislation.gov.uk](#)), as amended

4. How will the Council carry out investigations?

4.1. In accordance with Regulation 34 of the Regulations, Local Authorities are the enforcement authority in relation to domestic private rented property and the local weights and measures authority are the enforcement authority for non-domestic private rented properties. Officers of the Safer Housing, MEES, and Trading Standards teams are authorised to enforce these Regulations.

4.2. Officers will identify and target all sub-standard properties by an initial desktop exercise and by using an intelligence-led information gathering approach to identify non-compliant properties and landlords.

4.3. Where appropriate, landlords will be consulted on the works required to achieve compliance with the Regulations. A reasonable timescale will be given to the landlord to gain quotations for relevant improvement works, undertake a new EPC assessment, or register an exemption on the Private Rented Sector exemptions register. If this information is provided within the stipulated timescale and a reasonable timescale for completion of the relevant improvements is supplied, the Council will monitor compliance and no further enforcement will be necessary. However, where this is not achieved, the Council will look to serve a compliance notice in order to ensure compliance with the Regulations. A realistic timescale will be provided and these timescales will be contained within the notice. Failure to comply with this notice and/or failure to produce a valid EPC with a rating of Band A - E will result in a financial penalty and the further requirement to undertake relevant improvements, with the option of making the financial penalty subject of a publication order.

5. Enforcement of Part 3 of the Regulations

5.1. The purpose of this section is to describe how officers of the Council will enforce the Regulations.

5.2. The minimum standard will apply to any domestic and non-domestic private rented property as defined by section 42 of the Energy Act 2011 (“the Act”) which is legally required to have an EPC.

5.3. Where a statutory exemption under Part 4 of the Regulations applies, the landlord must register the exemption on the PRS Exemptions Register (Regulation 36 of the 2015 Regulations).

5.4. Regulations 23 and 27 of the Regulations prohibit the letting of sub-standard domestic and non-domestic properties. Where a property is found to be let with an EPC rating of F or G, where no valid exemption has been registered, the Council will send the landlord an initial warning advising them that they are breaching the regulations and the action required.

5.5. If in response to Council's warning letter, the landlord notifies the Council that they have already improved the energy efficiency of the rented property, but has not had an updated EPC, they will be given the opportunity to provide a new EPC to the Council within 14 days of the request. If an updated EPC with a rating of E or above is provided within 14 days, no further action will be taken.

5.6. If no response is received from the landlord to this first letter after 28 days and checks confirm that a sub-standard property is still being let, a second warning letter will be sent. This will give the landlord a further 14 days to comply with the Regulations.

5.7. If no response is received from the landlord to this second warning letter and checks confirm a sub-standard property is still being let, the Council will consider further enforcement by means of serving a compliance notice to request specific information from the landlord.

5.8. In accordance with regulation 37 of the Regulations, the Council may serve a compliance notice on the landlord, where the property appears to the Council to be, or to have been at any time within the 12 months preceding the date of the service of the compliance notice, in breach of regulation 23 and/or regulation 27, to request information as the Council considers necessary to enable it to monitor compliance with the Regulations.

5.9. The Council may serve a penalty notice under regulation 38 of the Regulations on a landlord in any case where it is satisfied that the landlord is, or has been at any time in the 18 months preceding the date of the penalty notice, in breach of one or more of the following-

- a) Regulation 23,
- b) Regulation 27,
- c) Regulation 37(4)(a)

Imposing a financial penalty, a publication penalty or both.

5.10. A publication penalty means publication on the PRS Exemptions Register of such of the following information in relation to a penalty notice as the enforcement authority decides—

- a) where the landlord is not an individual, landlords name,
- b) details of the breach of these Regulations in respect of which the penalty notice has been issued,
- c) the address of the property in relation to which the breach has occurred, and
- d) the amount of any financial penalty imposed.

5.11. The information in regulation 39 (1) must be published for a minimum period of 12 months and may be published for such longer period as the enforcement authority may decide. A publication penalty does not take effect until—

- a) the period specified for requesting a review under regulation 38(2)(h)(ii) has expired or, where a review has been requested, the enforcement authority has not served notice of its decision under regulation 42(2)(c), and
- b) the period specified for any appeal against the penalty notice has expired or, where an appeal is made, until the appeal has been determined. (Regulation 39)

6. Breaches in relation to domestic private rented properties - level of financial penalties (Regulation 40)

6.1. The maximum level of penalty for breaching regulations 23, 36(2) and 37(4)(a) is specified in regulation 40.

6.2. Where the Council decide to impose a financial penalty, they will use the financial penalty matrix tables detailed at paragraph 13.

6.3. The maximum penalties are as follows:

- a) Where the landlord has let a sub-standard property in breach of Regulation 23 for a period of less than 3 months, the Local Authority may impose a financial penalty of up to £2,000 and/or may impose the publication penalty (Regulation 40 (2)).
- b) Where the landlord has let a sub-standard property in breach of Regulation 23 for 3 months or more, the Local Authority may impose a financial penalty of up to £4,000 and/or may impose the publication penalty (Regulation 40 (3)).
- c) Where the landlord has registered false or misleading information under regulation 36(2) on the PRS Exemptions Register, the Local Authority may impose a financial penalty of up to £1,000 and/or may impose the publication penalty (Regulation 40 (4)).
- d) Where the landlord has failed to comply with a compliance notice in breach of regulation 37(4)(a), the Local Authority may impose a financial penalty of up to £2,000 and/or may impose the publication penalty (Regulation 40 (5)).

6.4. The maximum financial penalty that can imposed on a landlord for multiple breaches of the Regulations is capped at £5,000 per property (Regulation 40 (6)).

7. Breaches in relation to non-domestic private rented properties – level of financial penalties (Regulation 41)

7.1. The maximum level of penalty for breaching regulations 27, 36(2) and 37(4)(a) is specified in regulation 41.

7.2. Where the Council decide to impose a financial penalty, they will use the financial penalty matrix tables detailed at paragraph 13.

7.3. The maximum penalties are as follows:

- a) Where the landlord has let a sub-standard property in breach of Regulation 27 for a period of less than 3 months, the Local Authority may impose a financial penalty of up to £5,000 or 10% of the rateable value of the property (whichever is greater but up to £50,000) and may impose the publication penalty (Regulation 41(2))
- b) Where the landlord has let a sub-standard property in breach of Regulation 27 for 3 months or more, the Local Authority may impose a financial penalty of up to £10,000 or 20% of the rateable value of the property (whichever is greater but up to £150,000) and may impose the publication penalty (Regulation 41(3))
- c) Where the landlord has registered false or misleading information under regulation 36(2) on the PRS Exemptions Register, the Local Authority may impose a financial penalty of up to £5,000 and may impose the publication penalty (Regulation 41(4))
- d) Where the landlord has failed to comply with a compliance notice in breach of regulation 37(4)(a), the Local Authority may impose a financial penalty of up to £5,000 and may impose the publication penalty (Regulation 41(4))

8. Imposing a financial penalty or a publication penalty

8.1. The Council will consider imposing a financial penalty where it is satisfied that the landlord is, or has been at any time in the 18 months preceding the date of the penalty notice, in breach of one or more of the following-

- a) Regulation 23 – letting a sub-standard domestic private rented property,
- b) Regulation 27 - letting a sub-standard non-domestic private rented property,
- c) Regulation 37(4)(a) – failure to comply with compliance notice

8.2. Regulation 38(2) of the Regulations provides that a penalty notice must—

- a) specify the provision of these Regulations which the enforcement authority believes the landlord has breached,
- b) give such particulars as the enforcement authority considers necessary to identify the matters constituting the breach,
- c) specify—
 - i. any action the enforcement authority requires the landlord to take to remedy the breach,
 - ii. the period within which such action must be taken,
- d) specify—
 - i. the amount of any financial penalty imposed and, where applicable, how it has been calculated,
 - ii. whether the publication penalty has been imposed,
- e) require the landlord to pay any financial penalty within a period specified in the notice,
- f) specify the name and address of the person to whom any financial penalty must be paid and the method by which payment may be made,
- g) state the effect of regulations 42 to 45, and
- h) specify—
 - i. the name and address of the person to whom a notice requesting a review in accordance with regulation 42 may be sent (and to whom any representations relating to the review must be addressed), and
 - ii. the period within which such a notice may be sent.

Each of the periods specified under paragraph (2)(c) and (e) must not be less than one month, beginning on the day on which the penalty notice is served.

8.3. The Council will offer advice to landlords to prevent a continuing breach of the regulations or advise landlords to register an exemption if appropriate.

8.4. Landlords will be warned that if improvement works are not undertaken and if they continue to breach the Regulations by continuing to let a substandard property, an additional penalty notice can be served for the continuing breach.

8.5. The Council will check the National PRS Exemptions Register, and if it finds that the landlord has registered false or misleading information, it will consider imposing a financial and publication penalty under regulations 40(4) or 41(4).

9. Reviews, waiving and modification of penalties (Regulation 42)

9.1. A Landlord who has been served with a penalty notice, may ask for the Council to review its decision to serve the penalty notice. Any request must be in writing and submitted to the Council within one month, beginning on the day on which the penalty notice is served. Any requests for review after the prescribed time will be considered at the Council's discretion.

9.2. All Reviews will be considered by an appropriate senior officer.

9.3. On a review, the Council must –

- a) consider any representations made by the landlord and all other circumstances of the case,
- b) confirm or withdraw the penalty notice (a notice confirming the penalty notice must state the effect of regulations 43 to 45), and
- c) serve notice of its decision to the landlord.

9.4. On a review under regulation 42(5) the Council may—

- a) waive a penalty,
- b) allow the 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.

10. Appeals to the Tribunal (Regulations 43 - 45)

10.1. Regulation 43 provides that, if, after a review, a penalty notice is confirmed by the Council, the Landlord may appeal to the First Tier Tribunal on the grounds that –

- a) the issue of the penalty notice was based on an error of fact,
- b) the issue of the penalty notice was based on an error of law,
- c) the penalty notice does not comply with a requirement imposed by the Regulations,
or
- d) in the circumstances of the case, it was inappropriate for the penalty notice to be served on the Landlord.

10.2. The Tribunal has the power to confirm, vary (reduce or increase the fine) or quash the penalty notice issued Regulation 44.

10.3. Where an appeal has been made, this suspends the financial penalty until the appeal is determined or withdrawn.

11. Recovery of financial penalty

11.1. Payment of the penalty will be within one month, beginning with the day on which the penalty notice or notice of review decision is served, unless the notice has been appealed.

11.2. The amount of an unpaid financial penalty will be recovered as a debt owed to the Council, unless the notice has been withdrawn or quashed. This means that the Council will commence proceedings to recover any unpaid penalties.

11.3. A certificate signed by the Chief Finance Officer for the Authority, including the outstanding amount due, will be accepted by the courts as conclusive proof of any outstanding payment due to the Council.

11.4. Any income the Council receives from the financial penalties imposed in breach of The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 will be retained by the council. The Council will use any income received from financial penalties on further MEES enforcement functions within the private rented sector.

12. Exclusions and exemptions in accordance with the 2015 Regulations

12.1. A landlord can apply for an exemption in certain circumstances; these exemptions can be found at <https://www.gov.uk/government/publications/private-rented-sector-minimum-energy-efficiency-standard-exemptions/guidance-on-prs-exemptions-and-exemptions-register-evidence-requirements>

13. Financial penalty matrix tables

13.1. The Council will use the following matrix as a guide for officers to determine the appropriate financial penalty;

<i>Table 1: Percentage to be applied to maximum penalty</i>			
	Low culpability	Medium culpability	High culpability
Low harm	20%	40%	60%
Medium harm	40%	60%	80%
High harm	60%	80%	100%

13.2. For domestic properties only, tables to show penalty for each type of offence with the above percentages applied:

<i>Table 2.1: Breach is less than 3 months: MAX £2,000</i>			
	Low culpability	Medium Culpability	High Culpability
Low Harm	£400	£800	£1200
Medium Harm	£800	£1200	£1600
High Harm	£1200	£1600	£2000

<i>Table 2.2: Breach is more than 3 months: MAX £4,000</i>			
	Low Culpability	Medium Culpability	High Culpability
Low Harm	£800	£1600	£2,400
Medium Harm	£1600	£2400	£3200
High Harm	£2,400	£3200	£4,000

<i>Table 3: Providing False or Misleading information; MAX £1,000</i>			
	Low Culpability	Medium Culpability	High Culpability
Low Harm	£200	£400	£600
Medium Harm	£400	£600	£800
High Harm	£600	£800	£1000

<i>Table 4: Failing to comply with a compliance notice; MAX £2000</i>			
	Low Culpability	Medium Culpability	High Culpability
Low Harm	£400	£800	£1200
Medium Harm	£800	£1200	£1600
High Harm	£1200	£1600	£2000

13.3. For domestic properties, the maximum financial penalty amount that can be applied is capped at £5,000 per property, per breach (Regulation 40 (6)). However, this penalty can be repeated if the property remains sub-standard and is re-let on a new tenancy.

13.4. For non-domestic properties only, tables to show penalty for each type of offence with the above percentages applied:

Table 5.1: Breach is less than 3 months: MAX £5,000 or 10% of the rateable value of the property (which is the greater), up to £50,000

	Low culpability	Medium Culpability	High Culpability
Low Harm	20% of max	40% of max	60% of max
Medium Harm	40% of max	60% of max	80% of max
High Harm	60% of max	80% of max	100% of max

Table 5.2: Breach is more than 3 months: MAX £10,000 or 20% of the rateable value of the property (which is the greater), up to £150,000

	Low Culpability	Medium Culpability	High Culpability
Low Harm	20% of max	40% of max	60% of max
Medium Harm	40% of max	60% of max	80% of max
High Harm	60% of max	80% of max	100% of max

Table 6: Providing False or Misleading information or failing to comply with a compliance notice; MAX £5,000

	Low Culpability	Medium Culpability	High Culpability
Low Harm	£1,000	£2,000	£3,000
Medium Harm	£2,000	£3,000	£4,000
High Harm	£3,000	£4,000	£5,000

14. Culpability and harm determination

The penalty amount/band is determined by assessing the landlord's culpability for the offence and the seriousness of harm to the tenants and/or visitors to the property. Below is a list of factors that may be considered when assessing culpability and harm. The list of factors is not an exhaustive list.

14.1. Factors affecting culpability:

- a) High:
 - i. Deliberate act or omission.
 - ii. Landlord has a previous and significant history of non-compliance with housing-related regulatory requirements.
 - iii. Landlord has previously failed to comply with requests to comply with these regulations in ignoring both MEES 1 and MEES 2 letters.
 - iv. Landlord is a portfolio landlord and/or has other sub-standard properties in breach of these Regulations.
 - v. Landlord has knowingly or recklessly provided incorrect, false, or misleading information in relation to the exemptions to these regulations.
- b) Medium:
 - i. Negligent act or omission.
 - ii. Landlord has a previous, but minimal history of non-compliance with housing-related regulatory requirements.
 - iii. Landlord may have engaged with Authority at either MEES 1 or MEES 2 letter stage, or may have ignored all correspondence, but landlord has failed to take steps to ensure compliance in respect of these regulations.
 - iv. Landlord has some other properties, which are currently compliant with the Regulations.
 - v. Landlord has been negligent, remiss, or neglectful in providing inaccurate information in relation to the exemptions to these regulations.
- c) Low:
 - i. Unintentional act or omission.
 - ii. It is the landlord's first offence under these regulations.
 - iii. Landlord is an 'accidental landlord'.
 - iv. Landlord has no previous history of non-compliance with housing-related regulatory requirements.
 - v. Complex, personal or tenant-related issues, partially out of control of the landlord, have led to non-compliance.
 - vi. Landlord has no other properties.
 - vii. Landlord has unintentionally or mistakenly provided inaccurate or incorrect information in relation to the exemptions to these regulations.

14.2. Factors affecting Harm:

- a) High:
 - i. Very Low EPC score, i.e., 'G' rated SAP score.
 - ii. Vulnerable tenants occupying or using the property who are elderly (above 65), children (under 5), pregnant women and who have a pre-existing medical condition or illness (such as a respiratory condition).
- b) Medium
 - i. Low EPC score, i.e., low 'F' rated SAP score
 - ii. Vulnerable tenants occupying or using property who are elderly (above 65), children (under 5), pregnant women, or who have a pre-existing medical condition or illness (such as a respiratory condition).
- c) Low:
 - i. Higher EPC score close to minimum accepted EPC standard, i.e., high 'F' rated SAP score.
 - ii. No vulnerable tenants occupying or using the property, with no pre-existing medical condition or illness.

15. Non-compliance with the Regulations: financial penalty examples for domestic properties

15.1. Example 1

A landlord has let a sub-standard property in breach of the Regulations for 9 months. The landlord has no other properties within the private rented sector and has no previous record of non-compliance with the Local Authority. The landlord has ignored the MEES letters sent to their home address and has failed to engage with the Local Authority, other than to comply with the compliance notice. However, the property remains sub-standard and no known relevant improvements are planned.

The current EPC has assessed the property as being a 'G' at 16 SAP points. The current tenants are a co-habiting couple in their thirties, with the female partner being five months pregnant. They have no pre-existing medical conditions.

There are no reported disagreements with landlord, rent is fully up-to-date, and the tenancy agreement confirms the landlord's home address.

Using matrix table 2.2 above (page 17), the following determination will be applied for this offence:

The maximum penalty that can be applied is £4,000.

Culpability is assessed as being medium. Whilst the landlord has no previous history of non-compliance, they have been negligent in allowing the property to remain occupied for a prolonged period in breach of the Regulations.

Harm is assessed as being high. The tenants have been exposed to sub-standard conditions within a high, 'G' rated property for a prolonged period of time whilst the female partner has been pregnant for a large extent of this time.

Table 2.2: Breach is more than 3 months: MAX £4,000

	Low Culpability	Medium Culpability	High Culpability
Low Harm	£800	£1600	£2,400
Medium Harm	£1600	£2400	£3200
High Harm	£2,400	£3200	£4,000

The penalty that will be applied is £3,200.

15.2. Example 2

A landlord registered an exemption for their 'G' rated, sub-standard property on the PRS Exemptions Register in September 2020. The landlord is a portfolio landlord with several other properties owned and let by them in the private rented sector, all of which are currently compliant with the Regulations. Several of their properties are licensed under various Local Authority schemes. This particular property is older than the remainder of their other housing stock and has a current EPC rating of 20, 'G', with a couple of older-style electric storage heaters present. The landlord has registered a 'high cost' exemption, stating no works can be done for under the maximum of £3,500. The EPC lists five recommendations for relevant improvements, two of which could be completed for £800 and £2,000 respectively. The landlord has no previous history of non-compliance of note. The Local Authority served a compliance notice requesting specific information, which was complied with.

The current tenant is an elderly gentleman in his eighties who has some minor medical conditions and is infirm; he struggles to walk and climb stairs etc.

There are no reported disagreements with the landlord. Rent is fully up-to-date and the tenancy agreement confirms the landlord's home address.

Using matrix tables 2.2 and 3 above (page 17), the following determination will be applied for this offence:

The maximum penalty that can be applied is £4,000 for letting a sub-standard property for over 3 months and £1,000 for registering false or misleading information

Culpability is assessed as being high. Whilst the landlord has no previous history of non-compliance, as a portfolio landlord with several licensable properties to their name, they have deliberately registered false or misleading information to avoid spending a minimum of £2,800 and in doing so have let a sub-standard property in breach of the Regulations for over 3 months.

Harm is assessed as being high. The tenant is elderly and infirm with some other medical conditions, albeit minor, who has been exposed to sub-standard conditions within a high, 'G' rated property for over a year.

Table 2.2: Breach is more than 3 months: MAX £4,000

	Low Culpability	Medium Culpability	High Culpability
Low Harm	£800	£1600	£2,400
Medium Harm	£1600	£2400	£3200
High Harm	£2,400	£3200	£4,000

Table 3: Providing False or Misleading information; MAX £1,000

	Low Culpability	Medium Culpability	High Culpability
Low Harm	£200	£400	£600
Medium Harm	£400	£600	£800
High Harm	£600	£800	£1000

The total penalty that will be applied is £5,000.

15.3. Example 3

A landlord has let a sub-standard property in breach of the Regulations for 2 months. The landlord has no other properties within the private rented sector and has no previous record of non-compliance with the Local Authority. The landlord is new to the private rented sector and inherited the property from his late father, who died 2 months ago. The landlord has ignored the MEES letters sent to their home address and has failed to engage with the Local Authority. A compliance notice served on them has not been complied with and the property remains sub-standard, and no known relevant improvements are planned.

The current EPC has assessed the property as being an 'F' at 36 SAP points. The current tenants have resided at the property for 4 years. They are a family of four with 2 adults in their forties and 2 teenage children. There are no known pre-existing medical conditions.

There are no reported disagreements with landlord, however, the tenants have been attempting to speak with the landlord over concerns as to whether their tenancy is safe and if rent may increase, but the landlord has failed to return their calls and emails. Rent is fully up-to-date, but the tenancy agreement is outdated in failing to reflect the new owner's details.

Using matrix tables 2.1 and 4 above (page 17), the following determination will be applied for this offence:

The maximum penalty that can be applied is £2,000 for letting a sub-standard property for less than 3 months and £2,000 for failure to comply with a compliance notice.

Culpability is assessed as being low. This is likely an unintentional act by a new and accidental landlord who will be suffering from grief in dealing with the death of a parent and may be unaware of their responsibilities and legislative requirements.

Harm is assessed as being low. The tenants have been exposed to sub-standard conditions for 4 years, but for only 2 months under the new landlord within a property close to the minimum standard.

Table 2.1: Breach is less than 3 months: MAX £2,000

	Low culpability	Medium Culpability	High Culpability
Low Harm	£400	£800	£1200
Medium Harm	£800	£1200	£1600
High Harm	£1200	£1600	£2000

Table 4: Failing to comply with a compliance notice; MAX £2000

	Low culpability	Medium Culpability	High Culpability
Low Harm	£400	£800	£1200
Medium Harm	£800	£1200	£1600
High Harm	£1200	£1600	£2000

The total penalty that will be applied is £800.

16. Non-compliance with the Regulations: financial penalty examples for non-domestic properties

16.1. Example 1

A landlord has let a sub-standard property in breach of the Regulations for 9 months. The landlord has no other properties within the private rented sector and has no previous record of non-compliance with the Local Authority. The landlord has ignored the MEES letters sent to their home address and has failed to engage with the Local Authority, other than to comply with the compliance notice. However, the property remains sub-standard and no known relevant improvements are planned.

The current EPC has assessed the property as being a 'G'.

There are no reported disagreements with landlord, the rent is fully up-to-date, and the tenancy agreement confirms the landlord's home address.

The property has a rateable value of £100,000.

Using matrix table 5.2 above (page 18), the following determination will be applied for this offence:

The maximum penalty that can be applied is £10,000 or 20% of the rateable value of the property (whichever is greater), up to £150,000. In this case, 20% of the rateable value is £20,000. Therefore, the maximum penalty that can be applied is £20,000.

Culpability is assessed as being medium. Whilst the landlord has no previous history of non-compliance, they have been negligent in allowing the property to remain occupied for a prolonged period in breach of the Regulations.

Harm is assessed as being medium. The property has been rated a high 'G' rating, but the occupants' business hasn't been negatively impacted by high energy costs and staff haven't experienced negative health impacts due to a cold working environment.

Table 5.2: Breach is more than 3 months: MAX £10,000 or 20% of the rateable value of the property (which is the greater), up to £150,000

	Low Culpability	Medium Culpability	High Culpability
Low Harm	20% of max	40% of max	60% of max
Medium Harm	40% of max	60% of max	80% of max
High Harm	60% of max	80% of max	100% of max

The penalty that will be applied is 60% of max (£20,000), which is equal to £12,000.

16.2. Example 2

A landlord has registered an exemption for their 'G' rated, sub-standard property on the PRS Exemptions Register in September 2020. The landlord is a portfolio landlord with several other properties owned and let by them in the private rented sector, all of which are currently compliant with the Regulations. This particular property is older than the remainder of their other stock and has a current EPC rating of 178, 'G', with a couple of older-style electric storage heaters present. The landlord has registered a 'high cost' exemption, stating no works can be done for under the maximum of £3,500. The EPC lists five recommendations for relevant improvements, two of which "may pay for themselves within 3 years". Quotes for this work total below £3,500. The landlord has no previous history of non-compliance of note. The Local Authority served a compliance notice requesting specific information, which was complied with.

The current tenant is an independent business which has recently made a member of staff redundant, in part due to high energy costs.

There are no reported disagreements with the landlord. Rent is fully up-to-date and the tenancy agreement confirms the landlord's home address.

The property has a rateable value of £50,000.

Using matrix tables 5.2 and 6 above (page 18), the following determination will be applied for this offence:

The maximum penalty that can be applied for letting a sub-standard property for over 3 months is £10,000 or 20% of the rateable value of the property (whichever is greater), up to £150,000. In this case, 20% of the rateable value is £10,000. Therefore, the maximum penalty that can be applied is £10,000.

The maximum penalty that can be applied for registering false or misleading information is £5,000

Culpability is assessed as being high. Whilst the landlord has no previous history of non-compliance, as a portfolio landlord with several properties to their name, they have deliberately registered false or misleading information to avoid spending money on improvement works and in doing so have let a sub-standard property in breach of the Regulations for over 3 months.

Harm is assessed as being high. The business has suffered financial detriment due to occupying a high, 'G' rated property for over a year.

Table 5.2: Breach is more than 3 months: MAX £10,000 or 20% of the rateable value of the property (which is the greater), up to £150,000

	Low Culpability	Medium Culpability	High Culpability
Low Harm	20% of max	40% of max	60% of max
Medium Harm	40% of max	60% of max	80% of max
High Harm	60% of max	80% of max	100% of max

Table 6: Providing False or Misleading information or failing to comply with a compliance notice; MAX £5,000

	Low Culpability	Medium Culpability	High Culpability
Low Harm	£1,000	£2,000	£3,000
Medium Harm	£2,000	£3,000	£4,000
High Harm	£3,000	£4,000	£5,000

The penalty that will be applied is 100% of max (£10,000), plus £5,000 which is equal to £15,000.

16.3. Example 3

A landlord has let a sub-standard property in breach of the Regulations for 2 months. The landlord has no other properties within the private rented sector and has no previous record of non-compliance with the Local Authority. The landlord is new to the private rented sector and inherited the property from his late father, who died 2 months ago. The landlord has ignored the MEES letters sent to their home address and has failed to engage with the Local Authority. A compliance notice served on them has not been complied with and the property remains sub-standard, and no known relevant improvements are planned.

The current EPC has assessed the property as being an 'F'. The current tenant has occupied the property for 4 years. The occupant is a large, growing business.

There are no reported disagreements with landlord. However, the business has been attempting to speak with the landlord over concerns as to whether their tenancy is secure and if rent may increase. The landlord has failed to return their calls and emails. Rent is fully up-to-date, but the tenancy agreement is outdated in failing to reflect the new owner's details.

The property has a rateable value of £150,000.

Using matrix tables 5.1 and 6 above (page 18), the following determination will be applied for this offence:

The maximum penalty that can be applied for letting a sub-standard property for less than 3 months is £5,000 or 10% of the rateable value of the property (which is the greater), up to £50,000. In this case, 10% of the rateable value is £15,000. Therefore, the maximum penalty that can be applied is £15,000.

The maximum penalty that can be applied for failing to comply with a compliance notice is £5,000

Culpability is assessed as being low. This is likely an unintentional act by a new and accidental landlord who will be suffering from grief in dealing with the death of a parent and may be unaware of their responsibilities and legislative requirements.

Harm is assessed as being low. The business is doing well and has rented the property from the new landlord for just 2 months. The property is close to the minimum standard.

Table 5.1: Breach is less than 3 months: MAX £5,000 or 10% of the rateable value of the property (which is the greater), up to £50,000

	Low culpability	Medium Culpability	High Culpability
Low Harm	20% of max	40% of max	60% of max
Medium Harm	40% of max	60% of max	80% of max
High Harm	60% of max	80% of max	100% of max

Table 6: Providing False or Misleading information or failing to comply with a compliance notice; MAX £5,000

	Low Culpability	Medium Culpability	High Culpability
Low Harm	£1,000	£2,000	£3,000
Medium Harm	£2,000	£3,000	£4,000
High Harm	£3,000	£4,000	£5,000

The penalty that will be applied is 20% of max (£15,000), which is equal to £3,000, plus £1,000. Therefore, the total penalty will be £4,000.

Part 2. The Energy Performance of Buildings (England and Wales) Regulations 2012

17. Enforcement of The Energy Performance of Buildings (England and Wales) Regulations 2012

17.1. The Energy Performance of Buildings (England and Wales) Regulations 2012 requires sellers and prospective landlords to make available, free of charge, a valid EPC to any prospective tenant at the earliest opportunity, and no later than when the seller or prospective landlord makes available information in writing to the prospective buyer or tenant where requested, or where the prospective buyer or tenant views the building (whichever is earlier).

17.2. In addition, the Regulations require that the seller or prospective landlord ensures that a valid EPC has been given free of charge to the ultimate buyer or tenant.

17.3. The Regulations also require that the seller or prospective landlord must secure that an EPC is commissioned for a building, where that building is to be sold or rented out and no valid EPC is available for that building.

17.4. Where a building or building unit offered for sale or rent has a valid EPC, the asset rating of the building expressed in the EPC must be stated in any advertisement of the sale or rental in commercial media.

17.5. Under Regulation 35, the Council has the power to require the production of documents, including the EPC, within 6 months after the last day on which the person concerned was subject to a duty in relation to the building. Documents must be provided within seven days.

17.6. A penalty charge may be issued for failure to comply with requirements under the Regulations. When considering taking enforcement action, the Council shall have regard to its own enforcement policy, available [here](#). Where the building is a dwelling, the penalty charge specified in the notice shall be £200 in relation to a breach of a duty under regulation 6(2), 6(5), 7(2), 7(3), 7(4), 7(5), 7A(2), or 7A(3). Where the building is not a dwelling, the penalty charge specified in the notice shall, in most cases, be 12.5% of the rateable value of the property, with a minimum penalty of £500 and a maximum penalty of £5000.

17.7. The other penalty amounts under the Regulations are:

- a) in relation to a breach of a duty under regulation 14(3)(a), £1000;
- b) in relation to a breach of a duty under regulation 10(2) or 14(3)(b), £500;
- c) in relation to a breach of a duty under regulation 18(1), 20(1), 20(2) or 21, £300; and
- d) in relation to a breach of a duty under regulation 11(2) or 35(5), £200.

17.8. If a penalty charge notice is issued, the recipient of the notice may request a review of the Council's decision to issue the notice. If the recipient of the notice is not satisfied with the outcome of the review, they may within 28 days (beginning with the day after that on which the notice under regulation 39(1)(c) is given), appeal to the county court (Regulation 40).

17.9. Every person with an interest in, or in occupation of, the building must co-operate in relation to enabling the responsible person to comply with the Regulations.

17.10. A person who obstructs an officer of an enforcement authority acting in pursuance of regulation 35, or a person who purports to act as such an officer, is guilty of an offence. A person guilty of an offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale.