

NOTICE OF MEETING

CABINET MEMBER SIGNING

**Thursday, 30th January, 2025, 2.00 pm - Alexandra House 10
Station Road N22 7TR (watch the live meeting [here](#))**

Councillor: Sarah Williams – Cabinet Member for Housing, Planning (Deputy Leader)

Quorum: 1

1. FILMING AT MEETINGS

Please note that this meeting may be filmed or recorded by the Council for live or subsequent broadcast via the Council's internet site or by anyone attending the meeting using any communication method. Although we ask members of the public recording, filming or reporting on the meeting not to include the public seating areas, members of the public attending the meeting should be aware that we cannot guarantee that they will not be filmed or recorded by others attending the meeting. Members of the public participating in the meeting (e.g. making deputations, asking questions, making oral protests) should be aware that they are likely to be filmed, recorded or reported on. By entering the meeting room and using the public seating area, you are consenting to being filmed and to the possible use of those images and sound recordings.

The Chair of the meeting has the discretion to terminate or suspend filming or recording, if in his or her opinion continuation of the filming, recording or reporting would disrupt or prejudice the proceedings, infringe the rights of any individual or may lead to the breach of a legal obligation by the Council.

2. APOLOGIES FOR ABSENCE

To receive any apologies for absence.

3. URGENT BUSINESS

The Chair will consider the admission of any late items of Urgent Business. (Late items of Urgent Business will be considered under the agenda item where they appear).

4. DECLARATIONS OF INTEREST

A member with a disclosable pecuniary interest or a prejudicial interest in a matter who attends a meeting of the authority at which the matter is considered:

- (i) must disclose the interest at the start of the meeting or when the interest becomes apparent, and
- (ii) may not participate in any discussion or vote on the matter and must withdraw from the meeting room.

A member who discloses at a meeting a disclosable pecuniary interest which is not registered in the Register of Members' Interests or the subject of a pending notification must notify the Monitoring Officer of the interest within 28 days of the disclosure.

Disclosable pecuniary interests, personal interests and prejudicial interests are defined at Paragraphs 5-7 and Appendix A of the Members' Code of Conduct

5. DEPUTATIONS / PETITIONS / QUESTIONS

6. VARIATION OF CONTRACT FOR WORKS AT LORDSHIP LANE DEPOT (PAGES 1 - 8)

7. CIVIL PENALTIES UNDER THE HOUSING AND PLANNING ACT 2016 AND THE ELECTRICAL SAFETY STANDARDS IN THE PRIVATE RENTED SECTOR (ENGLAND) REGULATIONS 2020 (PAGES 9 - 40)

8. APPROVAL TO ENTER INTO CALL-OFF CONTRACTS UNDER THE HOTELIER FRAMEWORK AGREEMENT FOR THE USE OF TEMPORARY ACCOMMODATION. (PAGES 41 - 48)

9. EXCLUSION OF THE PRESS AND PUBLIC

Item 10 will be subject to a motion to exclude the press and public be from the meeting as contains exempt information as defined in Section 100a of the Local Government Act 1972 (as amended by Section 12A of the Local Government Act 1985); paras 3 and 5, namely information relating to the financial or business affairs of any particular person (including the authority holding that information) and information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

10. EXEMPT VARIATION OF CONTRACT FOR WORKS AT LORDSHIP LANE DEPOT (PAGES 49 - 60)

To consider exempt information relating to this public item.

11. EXEMPT APPROVAL TO ENTER INTO CALL-OFF CONTRACTS UNDER THE HOTELIER FRAMEWORK AGREEMENT FOR THE USE OF TEMPORARY ACCOMMODATION. (PAGES 61 - 62)

To consider exempt information pertaining to item 8.

Ayshe Simsek, Democratic Services and Scrutiny Manager

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Fiona Alderman

Assistant Director of Legal & Governance (Monitoring Officer)

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Wednesday, 22 January 2025

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Report for: Cabinet Member Signing

Title: Variation of Contract for Works at Lordship Lane Depot

Report authorised by : Neil McMullen, Interim Head of ROBMS

Lead Officer: Kian Jafari, Corporate Estate Delivery Manager – Capital Projects and Property

Ward(s) affected: West Green

**Report for Key/
Non Key Decision:** Key decision

1. Describe the issue under consideration

- 1.1 This report is a request for approval for a variation of a contract for demolition and refurbishment works at Lordship Lane depot.

2. Cabinet Member Introduction

N/A

3. Recommendations

- 3.1 In accordance with Contract Standing Order 16.02, for the Cabinet Member for Housing and Planning to approve the variation of the Contract with Shawma Construction Limited for works at Lordship Lane depot, increasing the contract sum by £244,699.55 excluding VAT to £714,712.03

4. Reasons for the decision

4.1 To deliver improvements at Lordship Lane depot

- 4.1.1 In June 2024, the Assistant Director for Capital Projects and Property awarded a contract to undertake demolition and refurbishment works at Lordship Lane depot.
- 4.1.2 The project aims to upgrade the depot to make essential safety improvements, and to make much-needed improvements for the wellbeing of staff in the Housing Service. The project objectives were:
- To improve safety for operatives by improving segregation between pedestrians and vehicles.

- To renovate and improve office space, welfare and rest facilities used by the Housing Repairs staff.
 - To ease traffic congestion on site and enable improved transportation and traffic management plans within the depot area.
 - To enable the next IT project (Reconfiguration) and prevent abortive work/cost
 - To upgrade the depot further by providing adequate furniture and working station, storage, and signage.
- 4.1.3 During the course of the programme of works, unexpected additional costs became inevitable. Full details of these issues are given in section 6.5 of this report.
- 4.1.4 Agreeing this contract variation is essential for the successful delivery of the project. These variations were thoroughly reviewed, quantified and evaluated by an external Project Consultant and Project Manager. The variations were reviewed and endorsed at a meeting of the Corporate Landlord Change Control Board.

5. Alternative options considered

5.1 Do Nothing

- 5.1.1 Not agreeing to the variations is not recommended as the Council is committed to deliver and complete this project. In order to deliver this project, it is essential to carry out these variations. The remaining works to be delivered are reliant on the variations being carried out first. Also, in accordance with Building Regulations and H&S Act, the Council has legal obligation to carry out variation works.

5.2 Revising the scope to stay within budget

- 5.2.1 This would involve removing originally intended parts of the project, to focus budget where the variations are needed.

Revising the scope is not possible, as none of the works within the project are optional. They are all essential.

6. Background information

6.1 Site History

- 6.1.1 The Lordship Lane Depot is currently used as the main Depot as well as stores for HRS and Estate services.
- 6.1.2 HRS has a depot which is located on Lordship Lane, N17. The depot has been operational since the 1970s. At this time Haringey building services operated from three large main depots (Hornsey central, Ashley Road, Clyde Road Depot) and eight smaller satellite depots, of which Lordship Lane was one. Over the years, as the DLO reduced in size, the depots gradually closed, and repairs eventually centralised to Lordship Lane.
- 6.1.3 The current layout of the depot is not ideal for the activity for which it is used. Health and Safety Inspection and Audits raised concerns about the presence of

cabins on site, staff wellbeing and Health and Safety Strategy of the depot. It was decided to remove the unused cabins, improve the remaining buildings and to provide adequate office and welfare facility space for staff and engineers, and make improvements to the vehicle and pedestrian segregation.

- 6.1.4 The cabins contain asbestos and were beyond their efficient life. These cabins could not be used due to their condition which was beyond repair and useful life. These cabins are integrated modular units and cannot be taken away from the site. Additionally, the contractor had to perform demolition and dismantling exercise on site due to planning requirements.
- 6.1.5 The contractor has been required to cut and dismantle all modular units, and steel structure on site and then, remove them from the site appropriately and diligently.
- 6.1.6 The project proposal also included works to the remaining buildings, to bring them up to standard with improved welfare, storage, and access. This followed feedback from the site management that the toilets were in a poor state of repair, and the staff restroom had not been redecorated by Homes for Haringey for many years. There is no disabled toilet and shower facility on site.

6.2 Project Initiation

- 6.2.1 The Corporate Landlord pipeline 2023/24 was reported to and approved by Capital & Property Steering Group on 6th June 2023. Following this approval the project brief was determined and then, approved by Corporate Landlord Steering Group.
- 6.2.2 The works were competitively tendered via Open Tender procedure through the Haringey Procurement and Contract System (HPCS). Three suppliers returned a compliant tender.
- 6.2.3 Shawma Construction Limited were the winner of the tender process, and they confirmed capacity and availability to carry out the work in proposed timescale.
- 6.2.4 A professional work contract was awarded to Shawma Construction Limited for the value of £470,012.48 by the Assistant Director of Capital Projects and Property. The award included a small contingency.

6.3 Outline scope of works

- 6.3.1 The project aims to upgrade the depot to make essential safety improvements, and to make much-needed improvements for the wellbeing of staff in the Housing Service. The project objectives were:
 - To improve safety for operatives by improving segregation between pedestrians and vehicles.
 - To renovate and improve office space, welfare and rest facilities used by the Housing Repairs staff.
 - To ease traffic congestion on site and enable improved transportation and traffic management plans within the depot area.
 - To enable the next IT project (Reconfiguration) and prevent abortive work/cost

- To upgrade the depot further by providing adequate furniture and working station, storage, and signage.

6.4 Progress on site

- 6.4.1 Unexpected circumstances led to necessary changes to how the project is delivered. Given the site constraints, projects at Lordship Lane can be expected to vary from the original design, scope or specification at some point during the construction works.

6.5 Proposed variations

- **Inspection of pedestrian and vehicular segregation in council depots and other buildings.**

- 6.5.1 After the contractor was employed and the tender process was finished, separate visits to important Council depots were made by an internal Health & Safety Advisor and a report was released. The Council needed to take action on the recommendations made in the report. In light of this, the scope of the project increased to include the additional H&S works detailed in the report.

- **Temporary office and welfare facility for staff**

- 6.5.2 As the depot is a working site for HRS, the original plan was to phase the office renovations so that some employees could be moved to work from the Broadwater Farm (BWF) office and others could work from home. However, relocating employees to BWF became impractical due to changes in office availability at BWF. Consequently, the contractor was requested to provide a temporary office and welfare facility in order to ensure the service's business continuity. Additional work for UKPN and Thames Water to supply power and water respectively to the temporary office and welfare facilities were required.

- **Early General Election – June 2024**

- 6.5.3 In order for the depot to handle emergency tasks and get DDA access ready for polling stations, our contractor had to make the site safe and stand down during the call-off period caused by the early general election. Because of the additional strain this task placed on the Depot, it was not possible to continue to have the same level of access while demolition and renovation work was being done. The delay is a valid extension of time and the project team collaborated closely with the contractor to minimise the cost.

- **Unforeseen safety incident in the Depot area outside the project boundaries**

- 6.5.4 An engineer was injured in an unforeseen safety incident that happened in the depot area in July. New measures and site restrictions were implemented during the investigation period had an impact on the construction phasing plan and programme, although the incident was outside the red line boundaries of the project.

- **Unforeseeable Ground Conditions**

6.5.5 Although the project team carried out surveys to determine the ground condition in the area, the condition of the ground under the modular buildings was not known, due to the steel base of the building making a scan of the ground impossible. After the modular structures were demolished in August, the contractor discovered that the ground condition differed from that of the surrounding area. As a result, a change in design and construction approach was necessary to complete the substructure and lay the foundation for future construction.

- **Digital Services & Utility Company**

6.5.6 Additional work associated with digitalisation and preserving the site's connectivity both during and after construction were required, due to a lack of engagement from BT Openreach, which caused extreme delays.

6.5.7 The variations, and their causes, that are outlined above comprise the £244,700 uplift in the contract, from £470,012 to £714,712. These costs are made up as follows:

- Extension of Time £15,000
- Additional Groundwork £71,200
- Welfare Cabin construction £23,500
- Utility Companies' costs circa £15,000
- Safety work circa £120,000

7. Contribution to strategic outcomes

7.1 This project supports the Council objectives and the outcomes in the SAMPIP. It contributes towards the outcomes of the Strategic Assessment Management & Property Improvement Plan. Objective 2 is "to ensure that our property meets our service needs across Adults, Health and communities, Placemaking and Housing, Children's Services, Environment and Resident Experience & Culture, Strategy and Engagement."

8. Statutory Officers comments (Director of Finance (procurement), Head of Legal and Governance, Equalities)

8.1 Finance

8.1.1 This report seeks approval for an upward contract variation of the Contract with Shawma Construction Limited by £244,700, i.e. from £470,012.03 to £714,712.03. The cost associated with this proposal will be fully funded by the current capital programme budget, under capital scheme reference number 316 - Asset Management of Council Buildings.

8.2 Procurement

8.2.1 Strategic Procurement (SP) note that this report relates to the approval to vary the approved spend with Shawma Construction Limited.

8.2.2 This variation has come about due to unexpected events.

8.2.3 The cumulative cost is below the Works threshold of the Public Contracts Regulations (PCR 2015)

- 8.2.4 SP support the recommendation to approve the award in accordance with CSO. 10.02.1 (b) and 16.02.

8.3 Legal

- 8.3.1 The Assistant Director for Legal and Governance has been consulted in the preparation of this report.
- 8.3.2 Pursuant to the provisions of the Council's CSO 10.02.1(b), Cabinet may approve the variation of a contract where the value of the variation is £500,000 or more.
- 8.3.3 Pursuant to the provisions of CSO 16.02, the Leader may allocate a decision reserved for Cabinet to the Cabinet Member having the relevant portfolio responsibilities and as such the recommendation in paragraph 3.1 of the report to seek approval from the Cabinet Member for Housing and Planning for the variation of the contract is in line with the provisions of the Council's CSO provided that such a decision has been allocated to the Cabinet member by the Leader.
- 8.3.4 The total value of the contract in the report is below the threshold for works and as such the provisions of the Public Contracts Regulations is not applicable to the variation sought in the report.
- 8.3.5 The Assistant Director for Legal and Governance sees no legal reasons preventing the approval of the recommendation in the report.

8.4 Equality

- 8.4.1 The council has a Public Sector Equality Duty (PSED) under the Equality Act (2010) to have due regard to the need to:
- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
 - Advance equality of opportunity between people who share protected characteristics and people who do not
 - Foster good relations between people who share those characteristics and people who do not

The three parts of the duty apply to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/fait, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.

Although it is not enforced in legislation as a protected characteristic, Haringey Council treats socioeconomic status as a local protected characteristic.

- 8.4.2 The report is a request for approval for a variation of a contract for demolition and refurbishment works at Lordship Lane depot.
- a) Proposed work and approval will facilitate the implementation of the contractual responsibility and will significantly improve safe, free, and equal

access for people with protected characteristics particularly people with disability, and wheelchair users.

b) Proposed work will provide adequate welfare facility for staff and people, visitors, and staff with disability will be able to have a designated car park bay within the depot area.

- 8.4.3 As an organisation carrying out a public function on behalf of a public body, the Contractor, Shawma construction Limited was obliged and is committed as per tender document to have due regard for the need to achieve the three aims of the Public Sector Equality Duty as stated above. Appropriate contract management arrangements have been established and implemented to ensure that the delivery of the major works does not result in any preventable or disproportionate inequality.

9 Use of Appendices

Appendix 1 – Approved Delegated Authority Report - Exempt

10 Local Government (Access to Information) Act 1985

Report for: Cabinet Member for Housing and Planning(Deputy Leader)

Title: Civil Penalties in Private Sector Housing

Report

authorised by: Barry Francis

Lead Officer: Lynn Sellar – 07973244122 – lynn.sellar@haringey.gov.uk

Ward(s) affected: All

Report for Key/

Non-Key Decision: Key

1. Describe the issue under consideration.

- 1.1 This report seeks to gain authorisation to adopt changes to the section setting out the process of setting civil penalties imposed by Civil Penalty Notices (CPN) under the Housing and Planning Act 2016 in the existing Private Sector Housing Enforcement Policy.
- 1.2 A civil penalty is a financial penalty imposed by a local housing authority on an individual or organisation as an alternative to prosecution for certain offences.
- 1.3 The Private Sector Housing (PSH) Enforcement Policy was approved by Cabinet in 2019.
- 1.4 Following recent case law, it has become necessary to revise the guidance on CPN in relation to the use, justification and determination for setting fines levied under the above legislation.
- 1.5 These revisions are required to ensure penalties are set fairly within current case law.

2. Cabinet Member Introduction

N/A.

3. Recommendations

That Cabinet member for Housing and Planning:

- 3.1 Approve the revised document at Appendix 1 to this report.
- 3.2 Authorise the Director for Environment and Resident Experience, in consultation with the Cabinet Member for Housing and Planning to adopt any further similar amendments as may be required in the future.

4. Reasons for decision

- 4.1 The Council seeks transparency and consistency in the discharge of its functions under its regulatory framework. The PSH Enforcement Policy sets out how the local authority exercises its powers when undertaking its statutory duties.
- 4.2 The PSH Enforcement Policy, outlines the Council's procedures in the use and setting of the level of a civil penalty in each case as an alternative to prosecution proceedings.
- 4.3 Recent case law [Leicester v Morjaria] opens many local authorities to challenge as to use of Civil Penalty Notices.
- 4.4 Funding has been awarded to Justice for Tenants by the Mayor of London to assist Local Authorities to address such deficiencies.
- 4.5 LB Haringey applied for use of this grant fund in order for the current policy to be reviewed and amended, as necessary. This work has been completed and reflected in this report at appendix one.
- 4.6 The existing PSH Enforcement Policy must be amended to reflect these changes. Once incorporated these revisions will deliver a more robust process for the issuing of Civil Penalty Notices.
- 4.7 The main changes are to the 'Civil Penalty Matrix' and the minimum level of fine associated with each offence committed. The matrix is intended to provide an indicative 'starting level' for a fine under the various offence categories.
- 4.8 The maximum fine level for an offence has been re-determined as part of the policy review. The final level of a civil penalty will be adjusted in each case. Officers will consider any aggravating and mitigating factors that the Council deems significant; including, but not limited to, factors relating to the track record and culpability of the landlord and the actual or potential harm to the occupants.
- 4.9 The revised document provides greater transparency regarding these relevant considerations in relation to each of the offences in which a civil Penalty Notice can be issued.

5. Alternative options considered.

- 5.1 The alternative option was to leave the current policy on the use of Civil Penalty Notices as it was and not take account of the judge's decision in the case of *Leicester v Morjaria*.
- 5.2 Were it not to revise the policy, the Council would be likely to have CPN's appealed and challenged.
- 5.3 The result of this could be a failure to uphold Civil Penalty Notices and the associated fines.

6. Background information

- 6.1 A civil penalty is a financial penalty imposed by a local housing authority on an individual or organisation as an alternative to prosecution for certain offences under the following legislation.
 - Housing Act 2004
 - Breach of a Banning Order under the Housing and Planning Act 2016.
 - Breach of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.
- 6.2 The Council has the power to impose a civil penalty of up to a maximum of £30,000 for each separate offence. If multiple offenders have committed the same offence at the same property, a separate civil penalty can, and usually will, be imposed on each offender. In each case, the level of civil penalty imposed on each offender will be in line with this policy.
- 6.3 The Government has issued statutory guidance under Schedule 9 of the Housing & Planning Act 2016 entitled "Civil penalties under the Housing and Planning Act 2016. Guidance for Local Housing Authorities." The Council has regard to this guidance in the exercise of their functions in respect of civil penalties.
- 6.4 The statutory guidance states that 'The actual amount levied in any particular case should reflect the severity of the offence, as well as taking account of the landlord's previous record of offending.' The same paragraph sets out several factors that should be considered to ensure that the civil penalty is set at an appropriate level in each case.
- 6.5 It has become necessary following recent case law for the provision of imposing a civil penalty within our existing enforcement policy to be amended.
- 6.6 The objective of the amended CPN policy is to promote both transparency and consistency in the imposition of financial penalties under the legislation given in paragraph 6.1 above.
- 6.7 The Civil Penalty Notice amended guidance (Appendix one).

7. Contribution to the Corporate Delivery Plan 2022-2024 High level Strategic outcomes?

- 7.1 Improving Property Condition through the use of Property Licensing within the borough. CPN is a form of enforcement that can be used to penalise landlords who fail to undertake improvements or comply with licensing conditions.

8. Carbon and Climate Change

Not applicable.

9. Statutory Officers comments (Director of Finance (procurement), Head of Legal and Governance, Equalities)

9.1 Finance

- 9.1.1 Income received from a civil penalty can be retained by the local housing authority provided that it is used to further the local housing authority's statutory functions in relation to their enforcement activities covering the private rented sector, as specified within the 'Rent Repayment Orders and Financial Penalties (amounts recovered) (England) Regulations 2017'.

- 9.1.2 The revenue generated from the fines imposed through CPN is therefore an important income generator that can support further enforcement work.

- 9.1.3 It is therefore essential that any revisions to the existing policy are made that may prevent appeals and or penalties not being upheld by the First Tier Tribunal.

9.2 Procurement

- 9.2.1 Strategic Procurement note the contents of this report and confirm there are no procurement related matters preventing the Cabinet Member for Housing and Planning approving the recommendations stated in paragraph 3 above.

9.3 Assistant Director of Legal & Governance [Robin Levett – Interim Senior Lawyer]

- 9.3.1 The Assistant Director of Legal & Governance has been consulted in the drafting of this report and comments as follows.

- 9.3.2 In *Leicester City Council v Morjaria* the Deputy Chair of the Upper Tribunal (Lands Chamber) expressed the view that the two-dimensional grid - reflecting respectively harm caused by the offence and culpability of the offender - in common use by Councils risked conflating the harm caused with the seriousness of the offence, the third main factor identified in the Statutory Guidance referred to. He recommended that a starting point, or range, of penalties be adopted to reflect the seriousness of each housing offence

covered by the policy, and that the actual penalty be set by reference to other relevant factors within that range or around that starting point.

- 9.3.3 The new approach is set out at page 3 onwards of Appendix 1 and adopts the recommendation of beginning with a starting point for each offence; these, and the factors considered in increase or mitigation of the penalty to be imposed, are set out in page 4 and succeeding pages.
- 9.3.4 There is no legal reason why the Member should not adopt the recommendations set out in this report.

9.4 Equality

- 9.4.1 The council has a Public Sector Equality Duty (PSED) under the Equality Act (2010) to have due regard to the need to:
- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act.
 - Advance equality of opportunity between people who share protected characteristics and people who do not.
 - Foster good relations between people who share those characteristics and people who do not.
- 9.4.2 The three parts of the duty apply to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty. Although it is not enforced in legislation as a protected characteristic, Haringey Council treats socioeconomic status as a local protected characteristic.
- 9.4.3 The decision outlined in this report is to adopt changes to the existing Private Sector Housing Enforcement Policy to reflect case law rulings.
- 9.4.4 The main impact will be on landlords who are issued Civil Penalty Notices. It is not anticipated that this decision will have impacts on any groups with protected characteristics specifically because of these characteristics.

10. Use of Appendices

Appendix one –Civil Penalties under the Housing and Planning Act 2016 and The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

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

In this policy, the term 'landlord' should be read as including letting agents, managing agents, licensors, property owners, directors of corporate landlords and any other person involved in the letting or management of privately rented accommodation.

In this policy, the terms 'House of Multiple Occupation' or 'HMO' are defined by the Housing Act 2004.

Section 126 and Schedule 9 of the Housing and Planning Act 2016 provide local authorities with the power, through the insertion of section 249A Housing Act 2004, to impose a civil penalty as an alternative to prosecution in respect of the following offences under the Housing Act 2004:

- Failure to comply with an Improvement Notice [section 30]
- Offences in relation to licensing of Houses in Multiple Occupation (HMOs) under Part 2 [section 72]
- Offences in relation to the Selective Licensing of 'houses' under Part 3 [section 95]
- Failure to comply with an Overcrowding Notice [section 139]
- Failure to comply with a management regulation in respect of an HMO [section 234]

Regulation 11 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 provides local authorities with the power to impose a civil penalty in respect of breaches of Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.

In addition, section 23 of the Housing and Planning Act 2016 provides that a civil penalty may be imposed in respect of a breach of a Banning Order.

The Council has the power to impose a civil penalty of up to a maximum of £30,000 for each separate offence. If multiple offenders have committed the same offence at the same property, a separate civil penalty can, and usually will, be imposed on each offender. In each case, the level of civil penalty imposed on each offender will be in line with this policy.

This guidance outlines the Council's policy in setting the level of a civil penalty in each case where it has been determined to issue a civil penalty as an alternative to prosecution proceedings.

The Council considers the need for transparency and consistency in the discharge of its functions under the Housing Act 2004 to be of primary importance. The general objective of this policy is, therefore, to promote both transparency and consistency in the imposition of financial penalties under the 2004 Act so that, for example, those managing and having control of rented properties in the Council (a) know how the Council will generally penalise relevant offences and (b) are assured that, generally, like cases will be penalised similarly, and different cases penalised differently. The

further objectives of using financial penalties in particular as a means of enforcing the above offences are explained below.

Statutory Guidance

The Government has issued statutory guidance under Schedule 9 of the Housing & Planning Act 2016 entitled “Civil penalties under the Housing and Planning Act 2016. Guidance for Local Housing Authorities”. The Council has regard to this guidance in the exercise of their functions in respect of civil penalties.

Paragraph 3.5 of the statutory guidance states that ‘The actual amount levied in any particular case should reflect the severity of the offence, as well as taking account of the landlord’s previous record of offending’. The same paragraph sets out several factors that should be taken into account to ensure that the civil penalty is set at an appropriate level in each case:

- a. **Severity of the offence.** The more serious the offence, the higher the penalty should be.
- b. **Culpability and track record of the offender.** A higher penalty will be appropriate where the offender has a history of failing to comply with their obligations and/or their actions were deliberate and/or they knew, or ought to have known, that they were in breach of their legal responsibilities. Landlords are running a business and should be expected to be aware of their legal obligations.
- c. **The harm caused to the tenant.** This is a very important factor when determining the level of penalty. The greater the harm or the potential for harm (this may be as perceived by the tenant), the higher the amount should be when imposing a civil penalty.
- d. **Punishment of the offender.** A civil penalty should not be regarded as an easy or lesser option compared to prosecution. While the penalty should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending, it is important that it is set at a high enough level to help ensure that it has a real economic impact on the offender and demonstrate the consequences of not complying with their responsibilities.
- e. **Deter the offender from repeating the offence.** The ultimate goal is to prevent any further offending and help ensure that the landlord fully complies with all of their legal responsibilities in future. The level of the penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.
- f. **Deter others from committing similar offences.** While the fact that someone has received a civil penalty will not be in the public domain, it is possible that other landlords in the local area will become aware through informal channels when someone has received a civil penalty. An important part of deterrence is the realisation that (a) the local authority is proactive in levying civil penalties where the need to do so exists and (b) that the level of civil penalty will be set at a high enough level to both punish the offender and deter repeat offending.
- g. **Remove any financial benefit the offender may have obtained as a result of committing the offence.** The guiding principle here should be to ensure that the offender does not benefit as a result of committing an offence, i.e. it should not be cheaper to offend than to ensure a property is well maintained and properly managed.

The factors detailed in the statutory guidance and policy aims will be considered by the Council when deciding where, within the Civil Penalties matrix below, a particular offence and penalty fall.

Other Policy Aims

The Council is mindful that despite its best efforts, many landlords may operate unlawfully for a significant period of time without detection, and only a proportion of landlords committing relevant offences will be discovered. The Council is, therefore, mindful that when deciding to impose a Civil Penalty, it should create an environment where it is clear to the offender and others that operating unlawfully as a landlord will be financially disadvantageous when compared to operating lawfully.

The Council intends to create an environment where landlords engage with the Council's requests and demands fulsomely, openly and honestly. This helps create a level playing field which supports the aims of transparency and consistency. No landlord should be able to financially benefit from withholding information the Council deems relevant that is, or should be, in their control to disclose. It is expected that fulsome and complete supporting evidence is provided to support any Written Representations received in response to a Notice of Intent.

Civil Penalties Matrix

In determining the level of a civil penalty, officers will have regard to the matrix set out below, which is to be read in conjunction with the associated guidance. The matrix is intended to provide indicative 'starting level' under the various offence categories, with the final level of the civil penalty adjusted in each case, taking into account aggravating and mitigating factors the Council deems significant including, but not limited to, factors relating to the track record and culpability of the landlord and the actual or potential harm to the occupants.

In deciding what level of penalty to impose, officers will conduct the following four stage process. First, they will consider the seriousness of the relevant housing offence to identify a starting level of the penalty. Second, an assessment of the number of rental properties controlled or owned or managed by the landlord and/or their experience in the letting/management of property will be considered, which may have the effect of increasing or decreasing the penalty. Third, aggravating and mitigating factors that may relate to a number of factors including, but not limited to, culpability, track record and harm will be considered, which may have the effect of increasing or decreasing the penalty. Fourth, if any of the Discounts, as set out below, apply, the penalty will be decreased.

Once the seriousness of the relevant housing offence has been identified, the starting level of the penalty will be identified using the table below with the headings 'Seriousness of offence' and 'Starting level [£]'. Consideration of the number and type of rental properties controlled or owned or managed may adjust the penalty.

To reflect the seriousness of the offence(s) in question, the presence of one or more mitigating factors will rarely result in the penalty being decreased in excess of a total of £5000. In exceptional circumstances, officers may determine that the presence of one or more mitigating factors justify a decrease in the penalty in excess of £5000. The presence of numerous mitigating factors will not automatically be considered as exceptional circumstances.

The Council has not provided a list of mitigating factors in this policy because it acknowledges that there are myriad possible circumstances that might give rise to mitigation.

To ensure that any penalty imposed is proportionate to the offending behaviour the presence of one or more aggravating factors will rarely result in the penalty being increased in excess of a total of £5000. In exceptional circumstances, officers may determine that the presence of one or more aggravating factors justify a increase in the penalty in excess of £5000. The presence of numerous aggravating factors will not automatically be considered as exceptional circumstances.

The Council may, exceptionally, including for the reason given above, increase the penalty by greater than £5000 on account of aggravating factors or, again exceptionally, decrease it by greater than £5000 on account of mitigating factors. In order to meet the objectives of this policy, including the need for transparency and consistency in the use of such penalties, the Council will exercise its discretion to increase or decrease a penalty by greater than £5000 on account of aggravating or mitigating factors in exceptional circumstances only excluding any Discounts as set out below. The Council will consider on a case-by-case basis whether any such circumstances exist.

Seriousness of offence	Starting level [£]
Mild	2500
Moderate	7500
Serious	12500
Very Serious	17500
Severe	22500
Very Severe	27500

Offences where a civil penalty may be levied as an alternative to prosecution and relevant considerations as to the level of that penalty

Failure to comply with an Improvement Notice - Section 30 of the Housing Act 2004

Maximum Court fine following prosecution that can be levied for failure to comply with an Improvement Notice - Unlimited

An Improvement Notice served under Part 1 Housing Act 2004 specifies repairs/improvements that the recipient should carry out in order to address one or more identified Category 1 and/or Category 2 hazards in a property. Category 1 hazards are the most serious hazards, judged to have the highest risk of harm to the occupiers; the Council has a duty to take appropriate action where a dwelling is found to have one or more Category 1 hazards present.

In some cases, the service of an Improvement Notice will have followed an informal stage, where the landlord had been given the opportunity to carry out improvements without the need for formal action. In such cases, an identified failure to comply with an Improvement Notice will represent a continued failure on the part of the landlord to deal appropriately with one or more significant hazards affecting the occupier[s] of the relevant dwelling.

The Council would view the offence of failing to comply with the requirements of an Improvement Notice as a significant issue, exposing the tenant[s] of a dwelling to one or more significant hazards.

The seriousness of the offence is viewed by the Council as being a Severe matter, attracting a financial penalty with a starting level of £22500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £17500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £22500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £27500.

Aggravating features/factors specific to non-compliance with an Improvement Notice

- The nature and extent of hazards that are present. Multiple hazards and/or severe/extreme hazards that are considered to have a significant impact on the health and/or safety of the occupant[s] in the property or their guests would justify an increase in the level of the civil penalty

Generic aggravating features/factors

The Council will have regard to general factors in determining the final level of the civil penalty including, but not limited to:

- A previous history of non-compliance would justify an increased civil penalty. Non-exhaustive examples of previous non-compliance would include previous successful prosecutions [including recent convictions that were 'spent'], receipt of financial penalties, rent repayment orders, works in default of the landlord and breaches of regulations/obligations, irrespective of whether these breaches had been the subject of separate formal action.
- A failure to cooperate with a Council investigation. Non-exhaustive examples of failure to cooperate would include failing to comply with a s.16 Local Government (Miscellaneous Provisions) Act 1976 notice, failing to comply with a s.235 Housing Act 2004 notice, failing to provide a substantive response to a letter of alleged offence.
- Deliberate intent when committing the offence. Non-exhaustive examples of deliberate intent would include knowledge that the offence was occurring, committing the offence after relevant correspondence was sent by the Council.
- The number of residents placed at risk
- Offending over an extended period of time i.e. 6 months or longer
- Whether any vulnerable residents were in occupation at the time of the offence. Non-exhaustive examples of vulnerable residents include young adults and children, persons vulnerable by virtue of age, persons vulnerable by virtue of disability or sensory impairment, 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 who do not speak English as their first language, victims of trafficking or sexual exploitation, refugees, asylum seekers

Failure to License offences

Maximum Court fine following prosecution that can be levied for failure to license an HMO or Part 3 House – Unlimited

Failure to license a Mandatory 'HMO' – Section 72(1) of the Housing Act 2004

Under Part 2 Housing Act 2004, most higher risk HMOs occupied by 5 or more persons forming 2 or more households are required to hold a property licence issued by the local authority. HMO licensing was introduced to allow local authorities to regulate standards and conditions in high risk, multiply occupied residential premises. Through the property licence regime, local authorities ensure that the HMO has sufficient kitchens, baths/showers and WCs and place a limit on the number of persons permitted to occupy it and the licence holder is required to comply with a set of licence conditions.

The Council would view the offence of failing to license an HMO as a significant failing; Licensing was introduced by the Government in order to regulate management, conditions, standards and safety in the properties considered to represent the highest risk to tenants as regards such matters as fire safety and overcrowding.

This seriousness of the offence is viewed by the Council as being a Very Serious matter, attracting a financial penalty with a starting level of £17500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £17500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £22500.

Aggravating features/factors specific to failure to licence offences

- The condition of the unlicensed property. The nature and extent of any significant hazards that are present would justify an increase in the level of the civil penalty. Equally, an HMO that was found to be poorly managed and/or lacking amenities/fire safety precautions and/or overcrowded would also justify an increased civil penalty
- Any demonstrated evidence that the landlord/agent was familiar with the need to obtain a property licence e.g. the fact that they were a named licence holder or manager in respect of an already licensed premises

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Failure to license a property under the Council's Additional [HMO] Licensing Scheme – Section 72(1) of the Housing Act 2004

The Council has designated the whole of the borough as an additional licensing area. The scheme came into force on 17 June 2024 and expires on 16 June 2029. Under the scheme, most HMOs occupied by three or more persons forming two or more households sharing one or more basic amenities such as a WC or kitchen, but which fall outside the scope of mandatory HMO licensing, will be required to hold an additional licence in order to be legally let.

The Council would view the offence of failing to license an HMO under its additional licensing scheme as a significant failing. The Council has introduced additional HMO licensing, amongst other reasons, in order to regulate management, conditions, standards and safety in the properties considered to represent a higher risk to tenants as regards such matters as fire safety and overcrowding compared with properties occupied by a single-family household.

This seriousness of the offence is viewed by the Council as being a Serious matter, attracting a financial penalty with a starting level of £12500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £17500.

Aggravating features/factors specific to failure to licence offences

- The condition of the unlicensed property. The nature and extent of any significant hazards that are present would justify an increase in the level of the civil penalty. Equally, an HMO that was found to be poorly managed and/or lacking amenities/fire safety precautions and/or overcrowded would also justify an increased civil penalty
- Any demonstrated evidence that the landlord/agent was familiar with the need to obtain a property licence e.g. the fact that they were a named licence holder or manager in respect of an already licensed premises

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Failure to license a property under the Council's Selective Licensing Scheme – Section 95(1) of the Housing Act 2004

The Council has also exercised their powers under section 80 Housing Act 2004 and has designated 14 wards as a selective licensing area. Under this scheme, which came into force on 17 November 2022 and expires on 17 November 2027, most privately rented homes which are occupied by a single-family household or by no more than 2 unrelated persons, are required to have a property licence under this scheme to operate in the borough. Through the Selective Licensing scheme the Council intends to improve the professionalism of private landlords and drive-up property standards in the Private Rented Sector.

The Council would view the offence of failing to ensure that a rented home was licensed under its Selective Licensing Scheme as a significant issue, meaning that the tenants and wider community are not protected by the additional regulatory controls afforded by licensing.

This seriousness of the offence is viewed by the Council as being a Serious matter, attracting a financial penalty with a starting level of £12500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £17500.

Aggravating features/factors specific to non-licensing offences

- The condition of the unlicensed property. The nature and extent of any significant hazards that are present would justify an increase in the level of the civil penalty. Equally, a property that required a Selective Licence and was found to be poorly managed and/or lacking amenities/fire safety precautions and/or overcrowded would also justify an increased civil penalty
- Any demonstrated evidence that the landlord/agent was familiar with the need to obtain a property licence e.g. the fact that they were a named licence holder or manager in respect of an already licensed premises

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Failure to Comply with an Overcrowding Notice – Section 139 of the Housing Act 2004

Maximum Court fine following prosecution that can be levied for failure to comply with an Overcrowding Notice – Unlimited

Section 139 Housing Act 2004 allows the Council to serve an Overcrowding Notice in respect of an HMO that is not required to be licensed under Part 2 Housing Act 2004. The notice specifies, on a room-by-room basis, the maximum number of persons allowed to occupy each room as sleeping accommodation or that the room is not considered suitable for that purpose.

The Council would view the offence of failing to comply with the requirements of an Overcrowding Notice as a significant matter, exposing the tenant[s] of an HMO to unacceptably cramped living conditions.

The seriousness of the offence is viewed by the Council as being a Very Serious matter, attracting a financial penalty with a starting level of £17500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £17500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £22500.

Aggravating features/factors specific to non-compliance with an Overcrowding Notice

- The level of overcrowding present – breaches that related to over-occupation of multiple rooms or extreme over-occupation of an individual room would justify a higher civil penalty

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Failure to Comply with a Banning Order – Section 21 of the Housing And Planning Act 2016

Maximum Court fine that can be levied for failure to comply with a Banning Order following prosecution – Unlimited. In addition, the Court can also impose a prison sentence for up to 51 weeks.

The Housing and Planning Act 2016 includes provisions and processes for a person to be banned from being involved, for a specified period, in one or more of the following activities:

- Letting housing
- Engaging in letting agency work
- Engaging in property management work

Banning Orders are reserved for what are recognised as being the most serious housing-related offences. In the event that the Council was satisfied that the offence of breaching a Banning Order had occurred, this would normally be the subject of prosecution proceedings. Where it was determined that a civil penalty would be appropriate in respect of a breach of a Banning Order, this would normally be set at the maximum level of £30,000 to reflect the severity of the offence.

Failure to Comply with The Management of Houses in Multiple Occupation [England] Regulations 2006 and The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007

Maximum Court fine following prosecution that can be levied for failure to comply with each individual regulation - unlimited

The Management of Houses in Multiple Occupation (England) Regulations 2006 impose duties on the persons managing HMOs in respect of:

- Providing information to occupiers [Regulation 3]
- Taking safety measures, including fire safety measures [Regulation 4]

- Maintaining the water supply and drainage [Regulation 5]
- Supplying and maintaining gas and electricity, including having these services/appliances regularly inspected [Regulation 6]
- Maintaining common parts [Regulation 7]
- Maintaining living accommodation [Regulation 8]
- Providing sufficient waste disposal facilities [Regulation 9]

The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007 impose duties on the persons managing HMOs as defined by Section 257 Housing Act 2004 in respect of:

- Providing information to occupiers [regulation 4]
- Taking safety measures, including fire safety measures [regulation 5]
- Maintaining the water supply and drainage [regulation 6]
- Supplying and maintaining gas and electricity, including having these services/appliances regularly inspected [regulation 7]
- Maintaining common parts [regulation 8]
- Maintaining living accommodation [regulation 9]
- Providing sufficient waste disposal facilities [regulation 10]

It is important that the manager of an HMO complies with all regulations, but the Council recognises that a failure to comply with certain regulations is likely to have a much bigger impact on the safety and comfort of residents than others.

Failure to comply with the duty of manager to provide information to occupier

The Council would view the seriousness of the offence of failing to comply with the duty of the manager to provide information to occupier as a Mild matter, attracting a financial penalty with a starting level of £2500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £2000, attracting a civil penalty of £500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £2500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £2000, attracting a civil penalty of £4500.

Aggravating features/factors specific to Management Regulation breach offences

- The number and/or nature and/or extent of the management regulation breach(es) and/or the deficiencies within each regulation

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Duty of manager to take safety measures

The Council would view the seriousness of the offence of failing to comply with the duty of the manager to take safety measures as a Very Serious matter, attracting a financial penalty with a starting level of £17500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £17500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £22500.

Aggravating features/factors specific to Management Regulation breach offences

As set out under 'Failure to comply with the duty of manager to provide information to occupier' above

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Duty of manager to maintain water supply and drainage

The Council would view the seriousness of the offence of failing to comply with the duty of the manager to maintain the water supply and drainage as a Serious matter, attracting a financial penalty with a starting level of £12500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £17500.

Aggravating features/factors specific to Management Regulation breach offences

As set out under 'Failure to comply with the duty of manager to provide information to occupier' above

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Duty of manager to supply and maintain gas and electricity

The Council would view the seriousness of the offence of failing to comply with the duty of the manager to maintain the gas and electricity supply as a Serious matter, attracting a financial penalty with a starting level of £12500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £17500.

Aggravating features/factors specific to Management Regulation breach offences

As set out under 'Failure to comply with the duty of manager to provide information to occupier' above

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Duty of manager to maintain common parts, fixtures, fittings and appliances

The Council would view the seriousness of the offence of failing to comply with the duty of the manager to maintain the common parts, fixture, fittings and appliances as a Moderate matter, attracting a financial penalty with a starting level of £7500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £2500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £12500.

Aggravating features/factors specific to Management Regulation breach offences

As set out under 'Failure to comply with the duty of manager to provide information to occupier' above

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Duty of manager to maintain living accommodation

The Council would view the seriousness of the offence of failing to comply with the duty of the manager to maintain the living accommodation as a Moderate matter, attracting a financial penalty with a starting level of £7500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £2500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £12500.

Aggravating features/factors specific to Management Regulation breach offences

As set out under 'Failure to comply with the duty of manager to provide information to occupier' above

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Duty to provide waste disposal facilities

The Council would view the seriousness of the offence of failing to comply with the duty of the manager to provide waste disposal facilities as a Moderate matter, attracting a financial penalty with a starting level of £7500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing only one HMO dwelling and no more than one other dwelling that is not an HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £2500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £12500.

Aggravating features/factors specific to Management Regulation breach offences

As set out under 'Failure to comply with the duty of manager to provide information to occupier' above

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Breach of licence conditions – Section 72(3) Housing Act 2004

Maximum Court fine following prosecution that can be levied for failure to comply with a licence condition - unlimited

All granted HMO licences impose a set of conditions on the licence holder. These conditions impose a variety of obligations relating to the letting, management and condition of the rented property.

It is important that the manager of a licensed property complies with all imposed conditions, but the Council recognises that a failure to comply with certain licence conditions is likely to have a much bigger impact on the safety and comfort of residents than others.

Failure to comply with licence conditions related to:

- ***Signage or the provision of information for tenants***
- ***Provision of written terms of occupancy for tenants***
- ***Procedures regarding complaints***
- ***Procedures regarding vetting of incoming tenants***
- ***Compliance with deposit protection legislation***
- ***The recording and provision of information regarding rent payments***
- ***Procedures relating to rent collection and the receipt and transfer of rental monies***
- ***The provision of information regarding occupancy of the property***
- ***The provision of information regarding change of managers or licence holder details***
- ***The provision of information related to changes in the property***
- ***Requirements relating to the sale of the property***
- ***Attending training courses***
- ***Requirements to hold insurance***
- ***The provision of insurance documentation***
- ***The provision of references***

The Council would view the seriousness of the offence of failing to comply with licence conditions relating to the bullet points directly above as a Mild matter, attracting a financial penalty with a starting level of £2500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £2000, attracting a civil penalty of £500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £2500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £2000, attracting a civil penalty of £4500.

Aggravating features/factors specific to Licence Condition breach offences

- The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Failure to comply with licence conditions related to:

- ***Procedures and actions regarding Inspections***
- ***Procedures regarding Repair issues***
- ***Maintenance and use of common parts (including gardens, outbuildings and property exterior) and living areas***
- ***Safeguarding occupiers and minimising disruption during works***
- ***The provision of information regarding alterations and construction works***
- ***Procedures regarding emergency issues***
- ***Waste and waste receptacles, pests, minor repairs, alterations or decoration.***
- ***Giving written notice prior to entry***
- ***Allowing access for inspections***
- ***Minimising risk of water contamination***
- ***The compliance of furnishings or furniture with fire safety regulations***

The Council would view the seriousness of the offence of failing to comply with licence conditions relating to the bullet points directly above as a Moderate matter, attracting a financial penalty with a starting level of £7500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £2500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £12500.

Aggravating features/factors specific to Licence Condition breach offences

- The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Failure to comply with licence conditions related to:

- ***The provision of documentation regarding energy performance certificates, fire detection and prevention, emergency lighting, carbon monoxide detection, fire risk assessments, gas installations, electric installations and appliances***

- ***Notification of legal proceedings, contraventions and other relevant information that may affect a fit and proper person status***
- ***Procedures and actions regarding ASB***

The Council would view the seriousness of the offence of failing to comply with licence conditions relating to the bullet points directly above as a Serious matter, attracting a financial penalty with a starting level of £12500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £17500.

Aggravating features/factors specific to Licence Condition breach offences

- The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Failure to comply with licence conditions related to:

- ***Minimum floor areas***
- ***Occupancy rates***
- ***Occupancy of rooms, outbuildings or garages that are not to be used as sleeping accommodation***
- ***Limits on number of households allowed to occupy the property or part of the property***

The Council would view the seriousness of the offence of failing to comply with licence conditions relating to the bullet points directly above as a Very Serious matter, attracting a financial penalty with a starting level of £17500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £17500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the

portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £22500.

Aggravating features/factors specific to Licence Condition breach offences

- The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Failure to comply with licence conditions related to:

- ***The condition or existence of smoke alarms, carbon monoxide alarms, emergency lighting, gas installations, electric installations and appliances, fire detection or other fire safety features or requirements***
- ***The prevention including provision of safe means of escape***

The Council would view the seriousness of the offence of failing to comply with licence conditions relating to the bullet points directly above as a Severe matter, attracting a financial penalty with a starting level of £22500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £17500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £22500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £27500.

Aggravating features/factors specific to Licence Condition breach offences

- The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Breach of licence conditions – Section 95(2) Housing Act 2004

Maximum Court fine following prosecution that can be levied for failure to comply with a licence condition - unlimited

All granted property licences impose a set of conditions on the licence holder. These conditions impose a variety of obligations relating to the letting, management and condition of the rented property.

It is important that the manager of a licensed property complies with all imposed conditions, but the Council recognises that a failure to comply with certain licence conditions is likely to have a much bigger impact on the safety and comfort of residents than others.

Failure to comply with licence conditions related to:

- ***Signage or the provision of information for tenants***
- ***Provision of written terms of occupancy for tenants***
- ***Procedures regarding complaints***
- ***Procedures regarding vetting of incoming tenants***
- ***Compliance with deposit protection legislation***
- ***The recording and provision of information regarding rent payments***
- ***Procedures relating to rent collection***
- ***The provision of information regarding occupancy of the property***
- ***The provision of information regarding change of managers or licence holder details***
- ***The provision of information related to changes in the property***
- ***Requirements relating to the sale of the property***
- ***Attending training courses***
- ***Requirements to hold insurance***
- ***The provision of insurance documentation***

The Council would view the seriousness of the offence of failing to comply with licence conditions relating to the bullet points directly above as a Mild matter, attracting a financial penalty with a starting level of £2500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £2000, attracting a civil penalty of £500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £2500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £2000, attracting a civil penalty of £4500.

Aggravating features/factors specific to Licence Condition breach offences

- The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Failure to comply with licence conditions related to:

- ***Procedures and actions regarding Inspections***
- ***Procedures regarding Repair issues***
- ***Maintenance and use of common parts (including gardens, outbuildings and property exterior) and living areas***

- ***Safeguarding occupiers and minimising disruption during works***
- ***The provision of information regarding alterations and construction works,***
- ***Procedures regarding emergency issues***
- ***Waste and waste receptacles, pests, minor repairs, alterations or decoration.***
- ***Giving written notice prior to entry***
- ***Allowing access for inspections***
- ***Minimising risk of water contamination***

The Council would view the seriousness of the offence of failing to comply with licence conditions relating to the bullet points directly above as a Moderate matter, attracting a financial penalty with a starting level of £7500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £2500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £12500.

Aggravating features/factors specific to Licence Condition breach offences

- The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Failure to comply with licence conditions related to:

- ***The provision of documentation regarding energy performance certificates, fire detection and prevention, emergency lighting, carbon monoxide detection, fire risk assessments, gas installations, electric installations and appliances***
- ***Notification of legal proceedings, contraventions and other relevant information that may affect a fit and proper person status***
- ***Procedures and actions regarding ASB***
- ***Minimum floor areas***
- ***Occupancy rates***
- ***Occupancy of rooms that are not to be used as sleeping accommodation***
- ***Limits on number of households allowed to occupy the property or part of the property***

The Council would view the seriousness of the offence of failing to comply with licence conditions relating to the bullet points directly above as a Serious matter, attracting a financial penalty with a starting level of £12500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £17500.

Aggravating features/factors specific to Licence Condition breach offences

- The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Failure to comply with licence conditions related to:

- ***The condition or existence of smoke alarms, carbon monoxide alarms, emergency lighting, gas installations, electric installations and appliances, fire detection or other fire safety features or requirements***
- ***The prevention including provision of safe means of escape***

The Council would view the seriousness of the offence of failing to comply with licence conditions relating to the bullet points directly above as a Very Serious matter, attracting a financial penalty with a starting level of £17500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £17500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £22500.

Aggravating features/factors specific to Licence Condition breach offences

- The number and/or nature and/or extent of the licence condition regulation breach(es) and/or the deficiencies within each licence condition breach

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Failure to Comply with Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 impose duties on private landlords in relation to electrical installations. Regulation 3 is detailed below:

3. Duties of private landlords in relation to electrical installations

- (1) A private landlord who grants or intends to grant a specified tenancy must—
 - (a) ensure that the electrical safety standards are met during any period when the residential premises are occupied under a specified tenancy;
 - (b) ensure every electrical installation in the residential premises is inspected and tested at regular intervals by a qualified person; and
 - (c) ensure the first inspection and testing is carried out—
 - (i) before the tenancy commences in relation to a new specified tenancy; or
 - (ii) by 1st April 2021 in relation to an existing specified tenancy.
- (2) For the purposes of sub-paragraph (1)(b) "at regular intervals" means—
 - (a) at intervals of no more than 5 years; or
 - (b) where the most recent report under sub-paragraph (3)(a) requires such inspection and testing to be at intervals of less than 5 years, at the intervals specified in that report.
- (3) Following the inspection and testing required under sub-paragraphs (1)(b) and (c) a private landlord must—
 - (a) obtain a report from the person conducting that inspection and test, which gives the results of the inspection and test and the date of the next inspection and test;
 - (b) supply a copy of that report to each existing tenant of the residential premises within 28 days of the inspection and test;
 - (c) supply a copy of that report to the local housing authority within 7 days of receiving a request in writing for it from that authority;
 - (d) retain a copy of that report until the next inspection and test is due and supply a copy to the person carrying out the next inspection and test; and
 - (e) supply a copy of the most recent report to—
 - (i) any new tenant of the specified tenancy to which the report relates before that tenant occupies those premises; and
 - (ii) any prospective tenant within 28 days of receiving a request in writing for it from that prospective tenant.
- (4) Where a report under sub-paragraph (3)(a) indicates that a private landlord is or is potentially in breach of the duty under sub-paragraph (1)(a) and the report requires the private landlord to undertake further investigative or remedial work, the private landlord must ensure that further investigative or remedial work is carried out by a qualified person within—
 - (a) 28 days; or
 - (b) the period specified in the report if less than 28 days, starting with the date of the inspection and testing.
- (5) Where paragraph (4) applies, a private landlord must—

- (a) obtain written confirmation from a qualified person that the further investigative or remedial work has been carried out and that—
 - (i) the electrical safety standards are met; or
 - (ii) further investigative or remedial work is required;
- (b) supply that written confirmation, together with a copy of the report under sub-paragraph (3)(a) which required the further investigative or remedial work to each existing tenant of the residential premises within 28 days of completion of the further investigative or remedial work; and
- (c) supply that written confirmation, together with a copy of the report under sub-paragraph (3)(a) which required the further investigative or remedial work to the local housing authority within 28 days of completion of the further investigative or remedial work.

(6) Where further investigative work is carried out in accordance with paragraph (4) and the outcome of that further investigative work is that further investigative or remedial work is required, the private landlord must repeat the steps in paragraphs (4) and (5) in respect of that further investigative or remedial work.

(7) For the purposes of sub-paragraph (3)(e)(ii) a person is a prospective tenant in relation to residential premises if that person—

- (a) requests any information about the premises from the prospective landlord for the purpose of deciding whether to rent those premises;
- (b) makes a request to view the premises for the purpose of deciding whether to rent those premises; or
- (c) makes an offer, whether oral or written, to rent those premises.

It is important that a private landlord complies with all aspects of Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020, however, the Council recognises that a failure to comply with certain aspects of Regulation 3 is likely to have a much bigger impact on the safety and comfort of residents than others.

Failure to comply with Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 sections (3)(b), 3(d), 3(e)

The Council would view the seriousness of the offence of failing to comply with (3)(b), 3(d) or 3(e) of Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 as a Mild matter, attracting a financial penalty with a starting level of £2500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £2000, attracting a civil penalty of £500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £2500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £2000, attracting a civil penalty of £4500.

Aggravating features/factors specific to Electrical Safety Regulations breaches of duty

- The number and/or nature and/or extent of the Electrical Safety Regulation breach(es) within each sub-regulation
- Using an unqualified person lacking appropriate certification to carry out inspection, testing, investigative or remedial work

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Failure to comply with Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 sections (1)(a), (1)(b), (1)(c), (3)(a), (3)(c), (5)(b), (5)(c)

The Council would view the seriousness of the offence of failing to comply with (1)(a), (1)(b), (1)(c), (3)(a), (3)(c), (5)(b) or (5)(c) of Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 as a Serious matter, attracting a financial penalty with a starting level of £12500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £7500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £17500.

Aggravating features/factors specific to Electrical Safety Regulations breaches of duty

- The number and/or nature and/or extent of the Electrical Safety Regulation breach(es) within each sub-regulation
- Using an unqualified person lacking appropriate certification to carry out inspection, testing, investigative or remedial work

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Failure to comply with Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 sections (4), (5a), (6)

The Council would view the seriousness of the offence of failing to comply with (4), (5a) or (6) of Regulation 3 of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 as a Very Serious matter, attracting a financial penalty with a starting level of £17500.

Under the Council's policy the civil penalty for a landlord controlling/owning/managing one or two dwellings, including no more than one HMO, with no other relevant factors or aggravating features [see below], will reduce by £5000, attracting a civil penalty of £12500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a significant property portfolio, being three, four, or five dwellings, and/or two HMOs, with no other relevant factors or aggravating features [see below], will attract a civil penalty of £17500.

Under the Council's policy, the civil penalty for a landlord controlling/owning/managing a large property portfolio, being six or more dwellings, and/or three or more HMOs and/or has demonstrated experience in the letting/management of property (irrespective of the size of the portfolio), with no other relevant factors or aggravating factors [see below], will increase by £5000, attracting a civil penalty of £22500.

Aggravating features/factors specific to Electrical Safety Regulations breaches of duty

- The number and/or nature and/or extent of the Electrical Safety Regulation breach(es) within each sub-regulation
- Using an unqualified person lacking appropriate certification to carry out inspection, testing, investigative or remedial work

Generic aggravating features/factors

As set out under 'Failure to comply with an Improvement Notice' above

Process for imposing a civil penalty and the right to make representations

Before imposing a financial penalty on a person, the Council will give the person a Notice of Intent.

A person who is given a Notice of Intent may make written representations to the Council about the proposal to impose a financial penalty. Any representations must be made within a 28-day period, this period starting the day after the date on which the Notice of Intent was given. As the burden lies with the recipient of any such notice to explain why, exceptionally, the Council should, or should not, depart from the Civil Penalties Matrix and guidance above, the Council will expect the recipient of a Notice of Intent to explain and provide fulsome and cogent evidence to support the existence of any such circumstances when they make representations in response to the notice.

In the event of two or more persons receiving separate Notices of Intent for the same matter, it should be noted that acceptance/payment of a civil penalty by one person will not negate the Council's intention to impose a civil penalty on the second or further persons. Each person served with the Notice of Intent is considered individually liable to pay the civil penalty notified to them. It is therefore important that any recipient of a Notice of Intent takes the opportunity to make representations should they consider for any reason a civil penalty should not be individually imposed upon them.

After the end of the period for representations the Council will:

- (a) Decide whether to impose a financial penalty on the person, and
- (b) If it decides to impose a financial penalty, decide the amount of the penalty

In determining whether to impose a financial penalty, and the level of any penalty, the Council will consider any written representations received in the appropriate time period, and will also consider the totality principle.

Furthermore, an offender's compliance with the identified breach during the representation period would not, in itself, be reason for the Council to determine that the imposition of a financial penalty

was inappropriate. However, compliance at that stage may be relevant with respect to any mitigating factors that could decrease the amount of any imposed financial penalty.

If, following the receipt of written representations and/or the expiry of the time period to make written representations, the Council decides to impose a financial penalty on the person, it will give the person a Final Notice imposing that penalty.

The Final Notice will set out and summarise:

- a) The amount of the financial penalty,
- b) The reasons for imposing the penalty,
- c) Information about how to pay the penalty,
- d) The period for payment of the penalty,
- e) Information about rights of appeal, and
- f) The consequences of failure to comply with the notice

Discounts

The Council will automatically apply the following discounted rates to any imposed financial penalties in the following circumstances:

- A discount of 15% of the original calculated financial penalty will be deducted from the penalty imposed in the Final Notice should the penalty be paid within a specified time period (normally 28 days).

Illustrative example

The landlord of a Mandatory HMO property fails to obtain a licence. They only operate two HMO properties and there are no other relevant factors or aggravating features. The offence is regarded as a Very Serious matter. Upon receipt of the 'Notice of Intent' to impose a £17500 financial penalty. Written representations are made to the Council.

On account of the written representations received by the landlord, the council imposes a financial penalty of £16000. In the event the landlord pays within the specified period a 15% discount is given so that the landlord makes a discounted payment of £13600.

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Report for: Cabinet Member for Housing & Planning(Deputy Leader)

Title: Approval of Hotelier Framework Agreement Second Variation

Report authorised by: Beverley Tarka, Director of Adults, Health and Communities.

Lead Officer: Sara Sutton
Email sara.sutton@haringey.gov.uk

Ward(s) affected: N/A

Report for Key/ Non-Key Decision: Key decision

1. Describe the issue under consideration.

This report seeks approval from the Cabinet Member for a second variation of the existing contract values, for the current provision of the Hotelier Framework for Lime Tree Care Services Ltd to the Council, for the remaining contract term, to April 2025, subject to Cabinet Approval.

- 1.2 The Council has a statutory duty to provide interim accommodation to households where the Council has reason to believe they are homeless, eligible for assistance, and in priority need while the Council seeks to relieve their homelessness and complete our investigations. If the Council accepts that it owes a household a main housing duty, the Council has a duty to provide suitable temporary accommodation until the households receives an offer of social housing or a suitable tenancy in the private rented sector. In Haringey, over 2,600 households are currently living in temporary accommodation.
- 1.3 Haringey Council uses a range of types of accommodation to meet these duties, including use of our own hostel stock, general needs council homes on regeneration schemes and elsewhere and properties leased or licensed from private property owners or using nightly paid accommodation. However, the continued lack of supply and increasingly challenging housing market has meant that the Council, alongside many other London boroughs, has been unable to secure access to enough longer-term temporary accommodation and has been using hotel accommodation since 2023, costs of which are funded by the homelessness prevention grant.
- 1.4 To meet the increasing demand for accommodation, the Council entered into direct arrangements with hotels and on the 17th of October 2023, Cabinet formally approved for a Hotelier Framework contract to be established to award block contracts for hotel accommodation commissioned from the Hotelier Framework valued from £500,000 up to a maximum of £2 million.

- 1.5 Subsequently, the Hotelier Framework was established in accordance with the Public Contract Regulations and following providers were approved under this framework in July 2024: Limetree Care Services Ltd, Woodside Estates Limited, OYO Technology and Hospitality Ltd and Switch Management Ltd.
- 1.6 Call off contracts were subsequently entered into with Limetree Care Services Ltd and Woodside Estates Limited in accordance with CSO 7.01 b) (selecting a contractor from a framework) and in accordance with CSO 9.07 d) (award of contract above £500,000 by Cabinet) as delegated by Cabinet to the Director of Adults, Health and Communities (following consultation with the Lead Member), in the 17th October 2023 Cabinet report by the approval of a delegated authority report in 2nd October 2024 by the Director of Adults, Health and Communities in consultation with the Cabinet Member for Housing and Planning (which included the retrospective period from July 2024).
- 1.7 Current projections show that despite a range of mitigations in place to prevent demand and increase supply and move on options, the current contractual arrangements are insufficient to meet the Council's demand. Therefore, a new call off contract is required with Limetree Care Services Ltd under the Hotelier Framework to ensure the Council meets its statutory obligations until at least 2026/2027.
- 1.8 Whilst the authority to enter into call off contracts under the Hotelier Framework Agreement was delegated by Cabinet to the Director of Adults, Health and Communities (following consultation with the Lead Member) approval is being sought from the Lead Member due to the significant levels of continued expenditure that is forecast.
- 1.9 APPENDIX 1 PART B - Exempt Information

NOT FOR PUBLICATION by virtue of paragraphs 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

This part of the report is not for publication as it contains information classified as exempt under Schedule 12A of the Local Government Act 1972 under the category (3) information in relation to financial or the business affairs of any particular person (including the authority holding that information);

2. Cabinet Member Introduction

London's housing crisis is acute and worsening. We welcome the £233m announced in the government's first budget in October for homelessness and rough sleeping. It's just a first step of course though to undoing 14 years of austerity cuts.

The cost of housing has pushed more and more Londoners into homelessness. Local councils across London need to house a growing number of people – and the cost of that housing is growing even more rapidly than in recent years.

The cross-party London Councils group published a report recently recognising that homelessness in the capital is at record levels and describing the current situation is “utterly unsustainable”. It also shows that the cost of temporary accommodation across London jumped by a dramatic 68% in just one year (comparing 2022-23 to 2023-24).

London boroughs collectively spent £114m every month on average – or £4m daily – on temporary accommodation for homeless Londoners in the 2023-24 financial year. This is still increasing, and more than 183,000 Londoners are estimated to be homeless and living in temporary accommodation arranged by their local borough.

This is the highest-ever level of recorded homelessness in the capital – equivalent to at least one in 50 Londoners.

The shortage of suitable accommodation means boroughs are increasingly reliant on placing homeless families in B&Bs. Over the past two years there has been a 662% increase in families placed by London boroughs in B&Bs.

In Haringey, we have worked hard to keep our use of B&Bs to a minimum. We’ve put in place a number of actions and have managed keep our increase down to just 105% (based on data Nov 2023 to Nov 2024). However, due to an increase in demand and a market that is broken we are faced with the reality that we have to rely on the continued use of hotel accommodation to meet our statutory obligations.

3. Recommendations

That the Cabinet Member for Housing and Planning

- i) Approves the award of a block contract to Limetree Care Services Ltd up to a maximum value of £2 million under the call-off procedure within the Hotelier Framework Agreement. Whilst in accordance with CSO 7.01 b) (selecting a contractor from a framework) and in accordance with CSO 9.07 d) (award of contract of £500,000 and above by Cabinet) this decision was delegated by Cabinet to the Director of Adults, Health and Communities (following consultation with the Lead Member), on 17th October 2023.

4. Reasons for decision

- 4.1 It is a legal requirement to provide interim accommodation to households who approach us for homelessness assistance if the Council have reason to believe they are homeless, eligible for assistance and in priority need, and to provide temporary accommodation to households once the Council have accepted a housing duty.
- 4.2 The continued shortage of supply has meant that the Council is unable to source enough self-contained accommodation and has thus needed to continue using hotels to meet its statutory duties.

- 4.3 In the absence of available alternative temporary accommodation, the Council has no alternative but to house families in hotel accommodation resulting in the requirement for this Framework.

5. Alternative options considered.

- 5.1 Despite being one of the best performing Councils for homelessness prevention, last year alone we received more than 4,000 homelessness applications because of the housing crisis. Doing nothing is not an option as we would not be able to meet our statutory duties. We have a comprehensive plan and programme structure in place to help, to ensure that we rely less on hotel accommodation in the future including:
- A commitment to deliver 3,000 council rent homes by 2030.
 - Purchasing new homes to support the Growth of the Haringey Community Benefit Society.
 - Collaborating closely with private landlords to increase the availability of private sector lets to meet homelessness need and as temporary accommodation.
 - A focus on improving the turnaround time of voids through the appointment of a new contractor

6. Background information

- 6.1 The Council continues to experience an elevated level of homelessness demand. A report released recently titled London's Homelessness Emergency, highlights a 662% increase in families placed by London boroughs in B&Bs from April 2022 to April 2024. Although we continue to deliver top quartile performance on homelessness prevention, we are seeing an increase in demand in three primary areas – evictions from the private rented sector, approaches from refugee households and approaches from people fleeing domestic abuse. There has also been a significant reduction in the availability of affordable private sector lets, which has affected our ability to move families who are facing homelessness to alternative settled accommodation rather than into temporary accommodation.
- 6.2 The supply of temporary accommodation across London has also been falling as owners look to exit the sector or are able to get higher rents from private tenants than they can from offering their properties for use as temporary accommodation.
- 6.3 Many London Boroughs are using commercial hotels, such as Travelodge, to meet their immediate homelessness need. Along with many other boroughs, Haringey has needed to enter into arrangements with hotels to meet this pressure and this report seeks to provide information on the additional spend incurred in order to meet our statutory requirements and to provide information on the arrangements we have entered into to meet its statutory obligations to homeless households. The Council has a statutory duty to provide interim accommodation to households where the Council has reason to believe they are homeless, eligible for assistance, and in priority need while the Council seeks to relieve their homelessness and complete our investigations. If the Council accepts that it owes

a household a main housing duty, the Council has a duty to provide suitable temporary accommodation until the households receives an offer of social housing or a suitable tenancy in the private rented sector.

- 6.4 The table below sets out the number of households we have in temporary accommodation, the total number of new households and those households in bed and breakfast accommodation per month since the start of March 2024 until the end of October 2024:

HM0204 - Households in TA	Mar-24	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24	Oct-24
New into TA	69	53	83	51	53	42	48	66
No of households in TA (all households)	2652	2662	2682	2692	2661	2664	2669	2675
No of households in B&B	119	111	119	138	146	148	162	154

7. Contribution to the Corporate Delivery Plan 2022-2024 High level Strategic outcomes

- 7.1 This report supports the delivery of theme 5 of our Corporate Delivery Plan – Homes for the future, where our vision is of a borough where everyone has a safe, sustainable, stable and affordable home.

To address these issues and achieve our vision, we will pursue changes across the following outcome areas:

- An increase in the number and variety of high-quality and sustainable homes in the borough.
- An improvement in the quality of housing and resident services in the social rented sector.
- An improvement in the quality of the private rented sector.
- A decrease in homeless households and households presenting as homeless, including those who sleep rough.

8. Carbon and Climate Change

- 8.1. Officers will work with providers to understand how they can have a positive impact on carbon reduction.

9. Statutory Officers comments (Director of Finance, Procurement), Head of Legal and Governance, Equalities)

Finance

- 9.1. This cost of the existing contract with the current hoteliers, up to the end November 2024, and the cost of extending the contract up to the end of end 24/25 has been reflected in Housing demand's most recent end of year forecast.

Procurement

- 9.2. Strategic Procurement confirm that the Hotelier Framework was established in accordance with the Regulation 33 of the Public Contract Regulations 2015 with a commencement date of 1st July 2024.
- 9.3. Strategic Procurement confirms the framework allows for direct awards and the call off from the hotelier framework is in accordance with the terms stated in the framework and in accordance with CSO 7.01 b) (selecting a contractor from a framework).
- 9.4. Strategic Procurement confirms in October 2023, Cabinet delegated the award of block contracts under the hotelier framework to the Director of Adults, Health and Communities (following consultation with the Lead Member). Therefore, the Recommendations stated in Paragraph 3 above are in accordance with CSO 9.07 d) (award of contract above £500,000 by Cabinet) as per the delegation by Cabinet.

9.3 Legal

- 9.3.1 The Assistant Director for Legal and Governance has been consulted in the preparation of this report.
- 9.3.2 In accordance with the provisions of the Council's Contract Standing Order (CSO) 7.01.(b), the Council may procure a contract by selecting one or more contractors from a Framework established by a public sector body in accordance with the contract standing orders of that public sector body and Strategic Procurement has confirmed that the Framework from which the contracts in this report are to be procured was established by the Council in accordance with the Council's CSO.
- 9.3.3 Pursuant to CSO 9.07.1(d) Cabinet has authority to award a contract valued at £500,000 or more and on 17th October 2023, Cabinet delegated the award of the contracts under the hotelier Framework from which the contracts in this report are to be awarded to the Director of Adults, Health and Communities following consultation with the Lead Member
- 9.3.4 Further to paragraph 9.3.3 above Cabinet has power under the Local Government Act 2000 to delegate the discharge of any of its functions to an officer (S.9E (Discharge of Functions)) and as such the recommendation in paragraph 3.1 of the report is in line with law.
- 9.3.5 The Assistant Director for Legal and Governance sees no legal reasons preventing the approval of the recommendations in the report.

10 Equality

The council has a Public Sector Equality Duty (PSED) under the Equality Act (2010) to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act.
- Advance equality of opportunity between people who share protected characteristics and people who do not.
- Foster good relations between people who share those characteristics and people who do not.

The three parts of the duty apply to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.

Although it is not enforced in legislation as a protected characteristic, Haringey Council treats socioeconomic status as a local protected characteristic.

The decision in this report relates to the approval of the Hotelier Framework Agreement. This decision is not expected to have any positive or negative impacts on those with protected characteristics and as such will have a neutral impact on equalities in the borough.

As an organisation carrying out a public function on behalf of a public body, the contractors appointed will be obliged to have due regard for the need to achieve the three aims of the Public Sector Equality Duty as stated above.

11.0 Appendices

Appendix 1 - Exempt Part covering breakdown of numbers

12.0 Background papers

a) Cabinet report 17th October 2023

By virtue of paragraph(s) 3, 5 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is exempt

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