



**PRIVATE SECTOR HOUSING  
MINIMUM ENERGY EFFICIENCY STANDARD  
ENFORCEMENT POLICY**

## **1.0 Introduction**

- 1.1 The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (the Regulations) (as amended) were brought in to tackle the least energy efficient private rented properties in England and Wales.
- 1.2 The Regulations set out the minimum level of energy efficiency for private rented properties in England & Wales, known as the Domestic Minimum Energy Efficiency Standard (MEES).
- 1.3 Under MEES, since 1 April 2018, landlords of relevant domestic rented properties must not have granted a tenancy to new or existing tenants if the property has an energy performance certificate (EPC) rating of F or G.
- 1.4 Since 1 April 2020, landlords must not continue letting a relevant domestic property which is already let if that property has an EPC rating of F or G, unless a valid exemption is in place. The exemption must be registered before the property is let. If the property is already being let, the landlord must take immediate action to improve the EPC rating or register an exemption.
- 1.5 MEES applies to all domestic private rented properties that are:
  - let on either an assured tenancy (including assured shorthold tenancies), a regulated tenancy (defined in the Rent Act 1977) or a domestic agricultural tenancy (i.e. an assured agricultural tenancy under s.24 Housing Act 1988, a protected occupancy under s.3(6) of the Rent (Agriculture) Act 1976, a statutory tenancy under s.4(6) Rent (Agriculture) Act 1976);
  - legally required to have an Energy Performance Certificate (EPC)
- 1.6 MEES does not apply to social housing tenancies even if they are let on one of the tenancy types above.
- 1.7 Where a domestic private rented property is legally required to have an EPC and is let on a tenancy type described above, it will meet the minimum standard if, from either the 1 April 2018 or 1 April 2020, it has a valid EPC which shows that the energy efficiency rating for the property is E or above. In these cases, the landlord will not be required to take any action.
- 1.8 If MEES applies and the property has an EPC rating of F or G, it will be defined as sub-standard and non-compliant with the Regulations. The landlord must take steps to comply with the regulations by carrying out works to bring the rating up to at least an E rating or by registering an exemption on the PRS Exemptions Register.

## **2.0 Energy Performance Certificates**

- 2.1 Alongside tenancy type considerations, the Regulations only apply to those domestic properties which are legally required to have an EPC. This means properties required to have an EPC by any of the following:

- The Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007
  - The Building Regulations 2010
  - The Energy Performance of Buildings (England and Wales) Regulations 2012
- 2.2 Since 2008, an owner or landlord has, on sale, letting or construction of a property, been required to make an EPC available to the prospective buyer or tenant.
- 2.3 Where an EPC is legally required for a property, not having one is unlawful and could be subject to non-compliance penalties. Trading Standards are responsible for enforcing the Regulations that require an EPC to be made available. An owner or landlord may be fined if they fail to make an EPC available to any prospective buyer or tenant.
- 2.4 Since October 2015, where a landlord hasn't provided an assured shorthold tenant with an EPC, he or she won't be able to evict them using a section 21 notice, the so-called "no fault" eviction procedure.
- 2.5 Where a property already has a valid EPC, this EPC can be retrieved from the Domestic Energy Performance Certificate Register (unless the owner has opted out of the EPC register). When produced, an EPC will also be accompanied by a recommendations report setting out any energy efficiency measures which may be suitable for installation in the property.
- 2.6 Once an EPC is lodged on the EPC register (the EPC assessor is responsible for ensuring this happens) it is valid for a period of ten years. A new EPC is not required each time there is a change of tenancy (or even when the property is sold), provided the earlier certificate is no more than ten years old. An owner, landlord or tenant will be free to commission a further EPC within that ten-year period if they choose.
- 2.7 Once an EPC reaches the ten-year point and expires, there is no automatic requirement for a new one to be commissioned. A further EPC will only be required the next time a trigger point is reached, i.e. when the property is next sold, let to a new tenant, or modified.
- 2.8 There is also no requirement to produce a new EPC after carrying out energy efficiency improvement works to comply with the Regulations. However, for the purposes of the Regulations, it is recommended that landlords do commission a fresh, post installation EPC. A new EPC will reflect the improvements made, alongside any change to the energy efficiency rating of the property. A post installation EPC will, in all likelihood, be the easiest way for a landlord to demonstrate that they have complied with the Regulations.
- 2.9 EPCs relate to the property rather than to the owner or occupier and remain valid irrespective of the owner. Therefore, an EPC obtained by a previous owner of the property will remain valid after a property is sold on, so long as it is less than ten years old.

### **3.0 Multi-Let Buildings**

- 3.1 Buildings that contain multiple self-contained units let to different tenants may have multiple EPCs covering various parts of the building. There may also be a separate EPC relating to the envelope of the building as a whole.
- 3.2 For the purposes of MEES, the minimum EPC requirement is linked to the “property” being let which can be either a “whole building or part of a building”. In cases where the property being let is a discrete unit within a building (for example a room in a house share which is rented out on an individual basis), rather than the entire building, and where there is an EPC for the entire building, but also one for the discrete space being let, then the relevant EPC will be the one for the discrete space.
- 3.3 Where there is only an EPC for the entire building (and where an EPC for the discrete space is not legally required) then that whole-building EPC will be the relevant EPC. The landlord, then, should identify which EPC relates to the “property” that is subject to the relevant tenancy (or tenancies) and take action to improve the energy efficiency rating to the minimum standard, if necessary.
- 3.4 A landlord should seek independent legal advice if they are in any doubt about which EPC is required. As the relevant EPC will be the one related to the property being let, the landlord will only be required to install relevant measures which improve the energy performance of that property. In some cases, measures installed to improve the energy efficiency of a discrete space may also improve the energy efficiency of other spaces or units within a multi-let building. This is entirely acceptable.

### **4.0 Circumstances where an EPC may not be required**

- 4.1 Guidance issued by the Ministry of Housing, Communities and Local Government (MHCLG) notes that an EPC is not required where the landlord (or the seller, if relevant) can demonstrate that the building is any of the following:
  - a building that is officially protected as part of a designated environment or because of their special architectural or historic merit where compliance with certain minimum energy efficiency requirements would unacceptably alter their character or appearance
  - a building used as places of worship and for religious activities
  - a temporary building with a planned time of use of two years or less
  - Industrial sites, workshops, non-residential agricultural buildings with low energy demand and non-residential agricultural buildings which are in use by a sector covered by a national sectorial agreement on energy performance
  - stand-alone buildings with a total useful floor area of less than 50m<sup>2</sup> (i.e. buildings entirely detached from any other building)
  - HMO's (Houses in Multiple Occupation, for example these can be bedsits, hostels, shared houses etc) which have not been subject to a sale in the previous ten years, or which have not been let as a single rental in the past ten years

- 4.2 A building will also not need an EPC where the landlord can demonstrate that it is furnished holiday accommodation as defined by HMRC and the holidaymaker is not responsible for meeting the energy costs.
- 4.3 Under certain circumstances buildings may also be exempt from the requirement to obtain an EPC where it may be demonstrated that they are to be demolished. This is subject to a number of strict conditions as set out in regulation 8 of the Energy Performance of Buildings (England and Wales) Regulations 2012.
- 4.4 There are no other exceptions to the EPC obligations although there may be some transactions which do not qualify as a sale or a letting. If in doubt, legal advice should be sought.

## **5.0 Voluntary EPCs obtained for properties which are not legally required to have one**

- 5.1 In situations where an owner or occupier of a building which is not legally required to have an EPC has obtained one voluntarily (i.e. a voluntary EPC for a property which has not been sold, let or modified within the past ten years), the landlord will not be required to comply with the minimum standard Regulations (and no exemption will be necessary, as the minimum standard Regulations will not apply to that property).
- 5.2 A voluntary EPC may be registered on the official EPC database, but there is no requirement to do so. Where a voluntary EPC has been registered on the database it will supersede any earlier EPC that may have existed for the property, but official registration of a voluntary EPC will not, in itself, require the landlord to comply with the minimum standard.
- 5.3 However, if having acquired a voluntary EPC for a property they let, a landlord subsequently markets that property for let, that act will trigger the legal requirement for the property to have an EPC (and the EPC details will need to be displayed as part of the marketing material for that property). The landlord will be able to use the voluntarily obtained EPC to market the property (so long as the EPC is less than 10 years old), and the fact that the property is now legally required to have an EPC will mean that the property will now be covered by the MEES even though the EPC was initially obtained on a voluntary basis.

## **6.0 Subletting a domestic private rented property**

- 6.1 The responsibility for not letting a domestic property below EPC E applies to any person who lets, or proposes to let, a domestic private rented property.
- 6.2 If the original tenancy allows a tenant to sublet the property and that tenant proposes to enter into a sub-tenancy as a new landlord to a sub-tenant, then that original tenant/new landlord should not let the property until the minimum standard is reached, or until a valid exemption has been registered.

- 6.3 In the case of subletting, an original tenant/new landlord may (subject to the terms of their tenancy) need to obtain consent from their superior landlord before making improvements to meet the minimum standard.
- 6.4 From 1 April 2020, there is a continuing obligation on all domestic landlords to ensure the requirements of the Regulations are met (even where there has been no change or renewal of a tenancy), so the superior landlord should have already taken steps to improve a property to E before a post April 2020 subletting occurs.

## **7.0 Mixed use properties and tenancy types**

- 7.1 The MEES Regulations apply to rented properties that comprise of a mix of residential and commercial units e.g. a building with shops on the ground floor and residential flats above. The triggers for the application of the Regulations will depend on whether particular units are domestic or non-domestic.
- 7.2. Where such a property falls below an EPC rating of E, the landlord will need to examine the tenancy to determine whether the property is domestic or non-domestic for the purposes of the Regulations, and whether it is required to comply with the minimum standard, and if so, by which trigger date.
- 7.3 Where a mixed-use property is rented on an assured tenancy (including an assured shorthold tenancy) for the purposes of the Housing Act 1988, a regulated tenancy under the Rent Act 1977, or a domestic agricultural tenancy under the Energy Efficiency (Domestic Private Rented Property) Order 2015, then it is likely to be considered a domestic property and should be treated accordingly.
- 7.4 If a privately rented property is let under a tenancy but is not considered a “dwelling”, then it will be considered a non-domestic private rented property for the purposes of the Regulations and will need to comply with the minimum standards in accordance with the non-domestic trigger dates.
- 7.5 In all cases it will be for the landlord to check their tenancy arrangements to understand what type of tenancy is in place, and they should seek appropriate legal advice if there is any uncertainty as to whether a property falls within the domestic or non-domestic category.

## **8.0 Funding Improvements**

- 8.1 For the purposes of the Regulations, “relevant energy efficiency improvements” which a landlord may choose to install to enable a sub-standard property to reach EPC E (either a single measure, or a combination of measures as appropriate) are any energy efficiency improvements recommended for the property through any of the following:
- an energy efficiency recommendations report (including the recommendations report accompanying a valid EPC)
  - a report prepared by a surveyor

- a Green Deal Advice Report
- 8.2 A recommended energy efficiency measure will only be a “relevant energy efficiency improvement” for the purposes of the Regulations if:
- third-party funding is available to cover the full cost of purchasing and installing the improvement(s); or
  - where third-party funding is unavailable, the improvement(s) can be purchased and installed for £3,500 or less (inclusive of VAT) using the landlord’s own funding; or
  - the improvement(s) can be installed through a combination of landlord self-funding and third-party funding with a total cost of £3,500 or less (inclusive of VAT).
- 8.3 Landlords will not be required to spend more than £3,500 including VAT on energy efficiency improvements.
- 8.4 If a landlord cannot improve their property to an E rating for £3,500 or less, improvements up to that value should still be made then an 'all improvements made' exemption should be registered.
- 8.5 Landlords can find further advice via the Simple Energy Advice website [www.simpleenergyadvice.org.uk](http://www.simpleenergyadvice.org.uk)
- 8.6 There are 3 ways landlords can fund the improvements to their property:

#### **Option 1: Third party funding**

If a landlord secures third-party funding to cover the full cost of improving the property to EPC E:

- the cost cap does **not** apply
- the landlord should make use of all the funding secured to get the property to band E, or if possible higher.

Funding options can include:

- Energy Company Obligation (ECO)
- Local authority grants
- Green deal finance

#### **Option 2: Combination of third-party funding and self-funding**

If third-party funding is secured but it is:

- less than £3,500, and
- not enough to improve the property to EPC E

The landlord may need to top up with their own funds to the value of the cost cap.

Any energy efficiency investments made to the property since 1 October 2017 can be counted towards the cost cap. If the property can be improved to and E rating for less than £3,500, that is all that needs to be spent.

### **Option 3: Self-funding**

If a landlord is unable to secure any funding, they will need to use their own funds to improve the property. The landlord will never need to spend more than the cost cap of £3,500.

If the property can be improved to EPC E for less than £3,500, the obligation will be met.

If it would cost more than £3,500 to improve the property to E, the landlord should install all recommended measures that can be installed within that amount, then register an exemption.

If the landlord has made any energy efficiency improvements to the property since 1 October 2017, the cost of those improvements can be included within the £3,500 cost cap.

## **9.0 Selecting energy efficiency measures**

- 9.1 The EPC report will include a list of recommendations detailing measures which should improve the energy efficiency of the property. It will include both a short list of top actions that can be taken, and a more detailed list further down setting out all recommended measures. The recommendations will help the landlord choose which measure or combination of measures to install.
- 9.2 Landlords are free to install any energy efficiency measure(s), but if the chosen improvements do not appear in the list of 'recommended energy efficiency improvements' and they fail to improve the property to EPC E, the landlord will not be able to let the property or register an 'all relevant improvements made' exemption. The landlord will then need to make further attempts to improve the rating to a minimum of E, in order to let the property.

## **10.0 Exemptions**

- 10.1 There are various exemptions that apply to the prohibition on letting a property with an energy efficiency rating below E. If a property meets the criteria for any of the exemptions, the landlord will be able to let it once the exemption has been registered on the PRS Exemptions Register.
- 10.2 Any exemptions from the prohibition on letting sub-standard property which are claimed by a landlord may not pass over to a new owner or landlord upon sale or other transfer of that property. If a let property is sold or otherwise

transferred with an exemption in place, the exemption will cease to be effective and the new owner will need to either improve the property to the minimum standard at that point, or register an exemption themselves where one applies, if they intend to continue to let the property.

10.3 The exemptions are as follows:

10.4 **All relevant improvements made exemption**

This exemption is for properties that are either still rated below E after improvements have been made up to the cost of £3,500 or where there are no improvements that can be made. The exemption lasts for 5 years. On expiry, the landlord must try again to improve the EPC rating. If this is still not possible, a further exemption can be registered.

10.5 **High cost exemption**

This exemption is for properties that cannot be improved because the cost of installing even the cheapest recommended measure would exceed £3,500. This exemption lasts 5 years. On expiry, the landlord must try again to improve the EPC rating. If this is still not possible, a further exemption can be registered.

10.6 **Wall insulation exemption**

This exemption is for properties where the only relevant improvements are cavity wall insulation, external wall insulation or internal wall insulation for internal walls and there is written expert advice showing that these measures would negatively impact the fabric or structure of the property or the building of which it is part. The exemption lasts 5 years. On expiry, the landlord must try again to improve the EPC rating. If this is still not possible, a further exemption can be registered.

10.7 **Third-party consent exemption**

This exemption is for properties where consent is needed from another party for the works to be carried out and despite best efforts, consent cannot be obtained or is given subject to conditions that cannot be reasonably complied with. The exemption lasts for 5 years or where the lack of consent was due to the tenant refusing to let the works be carried out, until the current tenancy ends or is assigned to a new tenant. On expiry, the landlord must try again to improve the rating or register another exemption.

10.8 **Property devaluation exemption**

This is for properties where there is evidence to show that by making energy efficiency improvements, the property would be devalued by more than 5%. In order to register this exemption, a report will be required from an independent surveyor. The exemption lasts for 5 years. On expiry, the landlord should try

again to improve the rating. If this is not possible, another exemption should be registered.

### **10.9 Temporary exemption due to recently becoming a landlord**

If a person has recently become a landlord under certain circumstances, he/she can register a 6 month exemption from the date they became a landlord. On expiry of the exemption, the landlord must have either improved the EPC rating to at least E or registered another valid exemption (if one applies).

### **11.0 Enforcement and penalties**

11.1 The MEES Regulations will be enforced by the Council and there are a range of powers in place to check and ensure compliance.

11.2 If the Council believes a landlord has failed to fulfil their obligations under the Regulations, they may be served with a compliance notice. If a breach is confirmed, the landlord may be issued with a financial penalty.

11.3 The Council will check for different forms of non-compliance, including one or more of the following:

- from 1 April 2018, the landlord let their property in breach of the Regulations
- from 1 April 2020, the landlord continued to let the property in breach of the Regulations
- the landlord has registered false or misleading information on the PRS Exemptions Register

### **12.0 Compliance notices**

12.1 If the Council believes a landlord may be in breach of the Regulations, a compliance notice may be served requesting information to help decide whether a breach has occurred. The compliance notice can be served up to 12 months after a suspected breach occurred.

12.2 The ability to serve a compliance notice on a landlord up to 12 months after the suspected breach means that a person may be served with a notice after they have ceased to be the landlord of the property. Therefore, the Council recommends that landlords retain any records and documents that can demonstrate compliance with the Regulations, even after they are no longer the landlord.

12.3 Any notice served must be in writing and may be sent in hard copy or electronically.

- 12.4 Where a notice is served on a corporate body, it may be given to the company secretary if a suitable named individual cannot be identified.
- 12.5 Where a notice is served on a partnership, it may be addressed to any partner or to a person who has control or management of the partnership business.
- 12.6 A compliance notice may request information on:
- the EPC that was valid for the time when the property was let
  - the tenancy agreement used for letting the property
  - information on any energy efficiency improvements made
  - any Energy Advice Report in relation to the property
  - any other relevant document
- 12.7 The compliance notice may also require the landlord to register copies of the requested information on the PRS Exemptions Register.
- 12.8 The compliance notice will specify:
- the name and address of the person that a landlord must send the requested information to
  - the date by which the requested information must be supplied (the notice must give the landlord at least one calendar month to comply)
- 12.9 The landlord must comply with the compliance notice by sending the requested information to the Council and allow copies of any original documents to be taken. Failure to provide documents or information requested by a compliance notice, or failure to register information on the PRS Exemptions Register as required by a compliance notice, may result in a penalty notice being served.
- 12.10 The Council may withdraw or amend the compliance notice at any time in writing, for example where new information comes to light. The Council may also use the documents provided by the landlord or any other information it holds to decide whether the landlord is in breach of the Regulations.

### **13.0 Penalties**

- 13.1 If the Council confirms that a property is (or has been) let in breach of the Regulations, a financial penalty may be served up to 18 months after the breach. The Council may also publish details of the breach for at least 12 months.
- 13.2 The Council can decide on the level of the penalty, up to maximum limits set by the Regulations. The financial penalties are set out in Appendix 2.
- 13.3 The maximum penalty amounts apply per property and per breach of the Regulations. They are:

- a) up to £2,000 and/or publication penalty for renting out a non-compliant property for less than 3 months
- b) up to £4,000 and/or publication penalty for renting out a non-compliant property for 3 months or more
- c) up to £1,000 and/or publication for providing false or misleading information on the PRS Exemptions Register
- d) up to £2,000 and/or publication for failure to comply with a compliance notice

13.4 The Council cannot impose a financial penalty under both a) & b) in relation to the same breach but can either under a) or b) together with c) & d) in relation to the same breach.

13.5 Where penalties are imposed under more than one of a - d above, the maximum amount the Council can fine a landlord per property and per breach is £5,000 in total.

#### **14.0 Publication Penalty**

14.1 A publication penalty means that the Council will publish some details of the landlord's breach on a publicly accessible part of the PRS Exemptions Register. The Council can decide how long to leave the information on the Register, but it will be available for view by the public for at least 12 months.

14.2 The information that the Council may publish is:

- the landlord's name (except where the landlord is an individual)
- details of the breach
- the address of the property in relation to which the breach occurred; and
- the amount of any financial penalty imposed.

14.3 The Council may decide how much of this information to publish, however, the Council may not place this information on the PRS Exemptions Register while the penalty notice could be, or is being reviewed or while their decision to uphold the penalty notice could be or is being appealed.

#### **15.0 Circumstances in which a penalty notice may be served**

15.1 The Council may serve a penalty notice (relating to a financial penalty, a publication penalty or both) on the landlord where they are satisfied that the landlord is, or has been in the last 18 months:

- in breach of the prohibition on letting sub-standard property (which may include continuing to let the property after 1 April 2020)
- in breach of the requirement to comply with a compliance notice
- has uploaded false or misleading information to the Exemptions Register.

15.2 The fact that the Council may serve a penalty notice on a landlord up to 18 months after the suspected breach means that a person may be served with a penalty notice after they have ceased to be the landlord of a property.

## **16.0 What will be included in a penalty notice**

16.1 The penalty notice may include a financial penalty, a publication penalty or both. The penalty notice will:

- explain which of the provisions of the Regulations the Council believes the landlord has breached
- give details of the breach
- tell the landlord whether they must take any action to remedy the breach and, if so, the date within which this action must be taken (the date must be at least a month after the penalty notice is issued)
- explain whether a financial penalty is imposed and if so, how much and, where applicable, how it has been calculated
- explain whether a publication penalty has been imposed
- where a financial penalty is imposed, tell the landlord the date by which payment must be made, the name and address of the person to whom it must be paid and the method of payment (the date must be at least a month after the penalty notice is issued)
- explain the review and appeals processes, including the name and address of the person to whom a review request must be sent, and the date by which the request must be sent; and
- explain that if the landlord does not pay any financial penalty within the specified period, the Council may bring court proceedings to recover the money from the landlord

16.2 A further penalty notice may be issued if the action required in the penalty notice is not taken in the time specified.

16.3 When the Council issues a penalty notice which carries a right of appeal, they must tell the landlord about that right of appeal.

## **17.0 Circumstances in which a penalty notice may be reviewed or withdrawn**

17.1 The Council may decide to review its decision to serve a penalty notice, for example when new information comes to light.

17.2 A landlord also has the right to ask the Council to review its decision to serve a penalty notice. This request must be made in writing. The penalty notice must tell the landlord how long they have to make this request, and who it must be sent to. When the Council receives the request, it must consider

everything the landlord has said in the request and decide whether or not to withdraw the penalty notice.

17.3 The Council must withdraw the penalty notice if:

- it is satisfied that the landlord has not committed the breach set out in the penalty notice
- although it is still believe the landlord committed the breach, it is satisfied that the landlord took all reasonable steps and exercised all due diligence to avoid committing the breach; or
- it decides that because of the circumstances of the landlord's case, it was not appropriate for the penalty notice to be served

17.4 If the Council does not decide to withdraw the penalty notice, it might decide to waive or reduce the penalty, allow the landlord additional time to pay, or modify the publication penalty, and must explain the appeals process and how financial penalties can be recovered.

17.5 The Council must inform the landlord of their decision in writing and will do so at the earliest opportunity.

## **18.0 Recovery of financial penalties**

18.1 If a landlord does not pay a financial penalty imposed on them, the Council may take the landlord to court to recover the money.

18.2 The Council may not take the landlord to court to recover the money:

- a) during the period in which the landlord could ask the Council to review their decision to serve the penalty notice, or while they are reviewing their decision to serve the penalty notice; or
- b) during the period in which the landlord could appeal to the First-tier Tribunal, or while there is an ongoing appeal to the First-tier Tribunal, against the penalty notice

## **19.0 Appeals to the First-tier Tribunal (General Regulatory Chamber)**

19.1 The First-tier Tribunal (General Regulatory Chamber) is administered by Her Majesty's Courts and Tribunals Service and is the home for a range of rights of appeal.

19.2 Where a landlord asks the Council to review a decision to serve a penalty notice and on review the decision is upheld, the landlord may then appeal to the First-tier Tribunal against that decision if they think that:

- the penalty notice was based on an error of fact or an error of law

- the penalty notice does not comply with a requirement imposed by the Regulations; or
- it was inappropriate to serve a penalty notice on them in the particular circumstances.

19.3 If a landlord does appeal, the penalty notice will not have effect while the appeal is ongoing. A landlord may also wish to seek legal advice as part of considering or making an appeal if they have not already done so.

## Appendix 1

## MEEES Enforcement Process

Stage 1 Check to see if the regulations apply by following the guidance at: [Domestic private rented property: minimum energy efficiency standard - landlord guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/private-rented-sector-minimum-energy-efficiency-standard-exemptions/guidance-on-prs-exemptions-and-exemptions-register-evidence-requirements)

Stage 2 Check to see if an exemption has been registered: <https://www.gov.uk/government/publications/private-rented-sector-minimum-energy-efficiency-standard-exemptions/guidance-on-prs-exemptions-and-exemptions-register-evidence-requirements>

If the landlord may be in breach, move to Stage 3.

Stage 3 Serve a compliance notice

The compliance notice must be served within 12 months of the offence. The compliance notice may request the following:

- the EPC that was valid for the time when the property was let
- the tenancy agreement used for letting the property
- information on any energy efficiency improvements made
- any Energy Advice Report in relation to the property
- any other relevant document

The notice can also require the landlord to register copies of the requested information on the PRS Exemptions Register. The notice must specify:

- the name and address of the person that a landlord must send the requested information to
- the date by which the requested information must be supplied (the notice must give the landlord at least one calendar month to comply)

The notice must give the landlord at least 1 month to comply.

Stage 4 Serve a penalty notice

If it is confirmed that the landlord is in breach of one or more of the Regulations (or has been at any time within the last 18 months preceding the date on the penalty notice), a penalty notice may be served.

Where the landlord fails to take the action required by the penalty notice within the period specified, a further penalty notice can be issued.

**The penalty notice can include both a financial penalty and a publication penalty.**

## Stage 5      Publication Penalty

Publication Penalty means registering the penalty charge and landlord's details on the PRS Exemptions Register. The publication cannot be done until:

- the period requesting a review has expired;
- where a review has been requested, the Council has served notice of its decision; or
- where an appeal is made, until the appeal has been determined.

When registering the penalty charge on the PRS Exemptions Register, the following information may be included:

- the landlords name (except where the landlord is an individual)
- details of the breach
- the address of the property where the breach occurred
- the amount of any financial penalty imposed

## Appendix 2

## Financial Penalty Levels

	Offence	Financial Penalty	Publication Penalty
A	Renting out non-compliant property for less than 3 months	£500	Y
B	Renting out non-compliant property for 3 – 6 months	£1,000	Y
	Renting out non-compliant property for 6 months or more	£2,000	Y
C	Providing false or misleading information on the PRS Exemptions Register	£500	Y
D	Failure to comply with a compliance notice	£1,000	Y

A financial penalty cannot be imposed under A & B for the same breach. E.g. non-compliant property has been rented out for 6 months, breaching both A & B. Only one penalty can be applied. The decision will be, does the penalty get issued under A or B. If the landlord has also provided false or misleading information and failed to comply with a compliance notice, a financial penalty can be issued under either A or B plus under C & D.

Where financial penalties are imposed due to more than one breach on the same property, the maximum amount the Council can fine the landlord per property is £5,000.

If the total number of penalties per property amounts to more than £5,000, the overall all penalty should be reduced to £5,000 in discussion with the Homelessness & Private Sector Housing Manager.