



Housing Standards Department

Locally Adopted Charges

Safer Communities (Housing Standards)
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Version	v1.19
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Issue Date	December 2024

Index

<u>Charge</u>	<u>Page</u>
Service of Enforcement Notices & Orders (Housing Act 2004)	3
Recovery of Costs for carrying out works	4
Houses in Multiple Occupation Licensing	5
Immigration Inspections	6
Cost to provide a printed copy of the "Public Register of Licensable HMOs"	7
Penalty Charge Notices, served for failing to comply with the requirements of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015	8
Civil Penalty as an alternative to prosecution under the Housing Act 2004 (Section 249A) introduced by (The Housing and Planning Act 2016)	9
Penalty Notices, served for failing to comply with the requirements of The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015	11
Monetary Penalties, served for failing to comply with the requirements of The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014	12
Financial Penalties, served for failing to comply with The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020	13

Charge - Service of Enforcement Notices & Orders (Housing Act 2004)

Where Officers of the Council deem it to be the most appropriate course of action, Enforcement Notices or Orders will be served in accordance with the provisions of the Housing Act 2004.

Under Section 49 of the Housing Act 2004 the Council is entitled to recover *reasonable* costs incurred when serving these notices/orders. The costs are to cover the Council's time in considering whether to serve the notice/order, preparing the notice/order and serving the notice/order.

The cost for the service of a formal notice or order is not defined within the legislation and it is for each local Authority to determine the costs.

East Lindsey District Council has determined that an amount of £375 will be recovered in such circumstances.

Please note that this sum is fixed and it is not within the discretion of individual Officers to vary this amount. Also under the provisions of the Housing Act 2004, there is no right of appeal against this demand, unless an appeal is made against the underlying notice or order. Please also be aware that under the provisions of the legislation, there is no right of appeal against the service of a Hazard Awareness Notice.

In all cases a 'Demand for Payment' will be served on the relevant person(s) or company. Once this demand becomes operative (21 days following date of service), an invoice will be issued by the Council's finance department. This invoice will detail the amount to be recovered and the method of payments acceptable to the Council. All invoices must be settled in full within the time period stated on the invoice.

In certain circumstances where the Council has made repeated attempts to obtain certificates from the owner/landlord, but these have not been forthcoming, the Council reserves the right to serve a Hazard Awareness Notice on the relevant person. This notice would advise the person of their obligations and would request that the relevant certificates are provided to the Council. Where such a notice is served, a charge as outlined above will be made.

Charge – Recovery of Costs for carrying out works

Where the Council is required to instruct contractors to carry out works, the Council will seek to recover the cost of doing so from the appropriate person(s)/company.

This work could include but it is not limited to:-

- Carrying out works to remedy hazards where an Improvement Notice has not been complied with.
- Carrying out works to ensure a property is secured against unauthorised entry
- Carrying out works in accordance with Emergency Notices
- Carrying out works to prevent damage by Pests
- Carrying out works to remedy drainage defects or where a Statutory Nuisance is found to exist.

In addition to any costs incurred by the Council in paying contractors to carry out this work, a sum will be levied in respect of administration costs incurred by the Council. This sum will include time spent arranging for quotes, arranging for the works to be completed, ensuring contractors are able to access the property, supervision of contractors where necessary and checking of completed works.

This administration charge will be levied at a cost of £31.30 per hour, or part thereof.

An appeal against this demand can only be made where an appeal is made against the underlying notice (Housing Act 2004 Notices), or to the relevant Court (all other Notices).

In all cases an invoice will be issued by the Councils finance department. This invoice will detail the amount to be recovered and the method of payments acceptable to the Council. All invoices must be settled in full within the time period stated on the invoice.

Charge – Houses in Multiple Occupation (HMO) Licensing

Under Part 2 of the Housing Act 2004 certain Houses in Multiple Occupation (HMOs) must be licensed by the Council, and each Council is required to have in place a scheme by which owners of such properties can obtain a licence.

The HMO licensing scheme within East Lindsey is operated by the Councils Housing Standards Department.

The Council is entitled to charge a licence fee and recover other costs incurred in operating this licensing scheme. The licence fee and associated costs are not specified within the legislation and it is for local Councils to determine the amount to be levied within their area.

The licence fees are to cover the Council's administrative duties for HMO licence applications, and associated costs, some of which are shown below:

- General administration of the scheme, ensuring notices and procedures are up to date and creation of a public register of licensed properties.
- Issuing, receipt of and checking Application Forms for a licence, together with accompanying certificates
- Carrying out a site inspection of the property to determine suitability for licensing
- Review of proposed licence holder to ensure that they satisfy the licensing criteria and are a 'fit and proper person' to hold a licence
- Determining the licensing conditions that are applicable for each property
- Preparation, issuing and checking of a Proposed Licence to all relevant parties
- Receipt and review of any representations made in accordance with the proposed licence.
- Preparation, issuing and checking of a HMO Licence to all relevant parties
- Follow up inspections to ensure that the conditions of the licence are being complied with.

The Council has determined that the following charges will be applied:-

New Licence	-	£690 for up to 5 units £65 for each additional unit
Renewal of existing licence	-	£500 for up to 5 units £65 for each additional unit

Each licence will be issued for a maximum of 3 years and no licence will be issued until the appropriate sum has been paid.

Charge – Immigration Inspection

In order to obtain an entry visa to the UK, in certain circumstances it is necessary for an inspection to be carried out, this is to determine if the property that is proposed to be used to house the new arrival(s) is suitable.

It has been found within the East Lindsey area that there is a lack of suitably qualified professionals to undertake these inspections. As such the Council has agreed to undertake an inspection where requested.

As this is not a statutory function of the Council it has been deemed appropriate to recover the costs of doing so from the person requesting the inspection.

East Lindsey District Council has determined that an amount of £120 will be charged for the inspection and associated administration.

No inspection will be carried out until the appropriate fee has been paid.

Please note that as this is not a statutory function, the Council reserve the right to carry out inspections at our convenience, or to decline to carry out inspections where the demands of the service dictate this. In all circumstances the statutory functions of the Council will take precedence. However, requests can be made via the Private Sector.

Penalty Charge Notice- Failure to comply with a Remedial Notice served under Section 5 of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015

The above regulations place a responsibility on landlords to ensure that rental properties are fitted with working smoke alarms on each storey of the property, and in certain circumstances to fit working carbon monoxide alarms.

Where the Council has reasonable grounds to believe that a landlord has failed to fulfil their duties under these regulations, the Council must serve on that landlord a Remedial Notice.

Should a landlord fail to comply with this notice, the Council must arrange for a suitable contractor to carry out the work, and in addition may require the landlord to pay a penalty charge of such amount as the authority may determine.

The amount of the penalty charge must not exceed £5000.

East Lindsey District Council has determined that where the Council is required to arrange for detection to be fitted, the following amounts will be charged.

Where a property requires 1 to 3 alarms - £ 310

Where a property requires 4 or more alarms - £ 328

The Council has decided that where a landlord fails to comply with a Remedial Notice the following penalty amounts will be charged in addition to the sums stated above:-

First occasion – £300

Second occasion - £1000

Third and any subsequent occasions - £3000

Civil Penalty as an alternative to prosecution under the Housing Act 2004 (Section 249A) introduced by (The Housing and Planning Act 2016)

Schedule 9 of the 2016 Act has introduced amendments to the 2004 Act that allow local housing authorities to impose financial penalties as an alternative to prosecution for the following relevant housing offences under the 2004 Act:

- Failure to comply with an Improvement Notice (Section 30)
- Offences in relation to licensing of Houses in Multiple Occupation (section 72)
- Offences in relation to licensing of houses under Part 3 of the Act (section 95)
- Offences of contravention of an overcrowding notice (section 139)
- Failure to comply with management regulations in respect of Houses in Multiple Occupation (section 234)

Where it is determined that a financial penalty is the most appropriate course of action, the Council will follow the procedure as laid down within Section 13A of the Housing Act 2004.

The amount of the financial penalty must not exceed £30,000

The financial penalty will meet, in a fair and proportionate way, the objectives of punishment, deterrence and the removal of gain derived through the commission of the offence. It will not be cheaper to offend than to take the appropriate precautions. The principle behind issuing financial penalties is that there is no financial gain to the alleged perpetrator of the relevant offences.

The amount of the financial penalty will be determined by having reference to the following factors:- Culpability, Removal of Financial Incentive, Offence and History, and Harm or Potential Harm to Occupant.

A table detailing these factors in more detail, together with the scoring applicable to each factor and the financial penalty assigned to each scoring band, can be found on the following page.

Review of the penalty

In each case the Council will review the final penalty and, if necessary in exceptional cases (such as where the landlords financial position deems it appropriate, or where the cost of the work is likely to exceed the amount of the financial penalty) adjust the initial amount to ensure that it fulfils the general principles set out above.

Factors	Score = 1	Score = 2	Score = 5	Score = 10	Score = 20
1. Culpability	Offence committed where there was little or no prior warning/ involvement from the Council.	Offence committed despite being notified of issues by Council, ie breach of management regulations.	Offender failed to comply with formal enforcement notice, ie Improvement Notice or conditions attached to a HMO licence.	Offender failed to apply for a renewal of their HMO licence.	Offender failed to licence HMO, thereby putting multiple occupants at risk.
Factors	Score = 1	Score = 2	Score = 3	Score = 4	Score = 5
2. Removal of Financial Incentive	Single property landlord. New landlord or with little experience.	Single property landlord. Has been landlord for some time (2 years or more).	Small portfolio landlord (2-3 letting units).	Medium portfolio landlord or small managing agent (4-5 letting units).	Large portfolio landlord or large managing agent (over 5 letting units).
Factors	Score = 1	Score = 5	Score = 10	Score = 15	Score = 30
3. Offence and History	Previously complied with informal enforcement action or no prior action taken against landlord.	Previously been served with formal enforcement notice(s).	Previously failed to comply with enforcement notice(s) or licence conditions by the specified date.	Previously been served with one Financial Penalty (within last 3 years).	Previously been served with 2 or more Financial Penalties, or has been subject to prosecution (within last 3 years).
Factors	Score = 1	Score = 5	Score = 10	Score = 15	Score = 20
4. Harm (or Potential Harm) to Occupant	Single Category 2 Hazard (or equivalent).	Multiple Category 2 Hazards (or equivalent).	Single Category 1 Hazard (or equivalent).	2 or 3 Category 1 Hazards (or equivalent)	4 or more Category 1 Hazards (or equivalent)

Score Range	Financial Penalty
4-10	£1000
11 - 15	£1500
16 - 20	£2000
21 - 25	£2500
26 - 30	£3000
31 - 35	£5000
36 - 40	£7500
41 - 45	£10000
46 - 75	£15000 - £30000
	Number of hazards (or equivalent) identified:- 2 or 3 Category 1 Hazards or Cat 2 Hazards only £15,000 4 or 5 Category 1 Hazards £20,000 6 or more Category 1 Hazard £30,000

Penalty Notice- Failure to comply with the requirements of The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

These regulations place a responsibility on landlords to ensure that rental properties that are let on a new tenancy after April 2018 have an Energy Efficiency rating of not less than Band E. Properties of band F & G should not be let until suitable remedial works have been undertaken. In addition from April 2020 it will be an offence to continue to let such a property, even where a tenancy is already in place.

Where the Council has reasonable grounds to believe that a landlord has failed to fulfil their duties under these regulations, the Council can take the following action.

Compliance Notice – this notice can be used in circumstances where the Council requires the landlord to provide specified documents in order to determine the current efficiency banding and tenancy.

Penalty Notice – where the Council is satisfied that an offence has been committed, a notice can be issued requiring the landlord to pay a financial penalty of such amount as decided by the Council, and to carry out such works as may be required in order to ensure the regulations are being complied with.

East Lindsey District Council has determined that the following amounts will be charged.

Where a landlord fails to comply with a Compliance Notice:-

First occasion – £ 500

Second occasion - £ 1000

Third and any subsequent occasions - £ 1500

Where a landlord has registered false or misleading information:-

First occasion – £ 500

Second occasion - £ 750

Third and any subsequent occasions - £ 1000

Where a landlord has let a property in contravention of these regulations:-

If the breach is for less than
3 months -

First occasion – £ 1000

Second occasion - £ 1500

Third and any subsequent occasions - £ 2000

(a 50% discount will be offered where a landlord completes any specified work by the required date)

If the breach is for 3 months
or more -

First occasion – £ 1500

Second occasion - £ 2500

Third and any subsequent occasions - £ 4000

(a 50% discount will be offered where a landlord completes any specified work by the required date)

Monetary Penalty- The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014

The above regulations place a responsibility on persons who engage in lettings agency work, or who engage in property management work to belong to a Redress Scheme as specified by the government.

The regulations impose on the Council a duty to enforce the Order, where *on the balance of probabilities*, the Council believes that a person who has undertaken such work, or is currently undertaking such work does not belong to an approved scheme.

This enforcement takes the form of issuing a Monetary Penalty. The amount of this penalty must not exceed £5000.

East Lindsey District Council has determined that where the Council is required to impose this penalty, the following amounts will be charged.

First occasion – £1000

Second occasion - £2500

Third and any subsequent occasions - £5000

Financial Penalty- Failure to comply with The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

The above regulations place a responsibility on landlords to ensure that Electrical Safety Standards within rented properties are met during any period that the property is occupied. This includes a requirement that the installation is inspected/tested by a suitably qualified person at intervals of no more than 5 years (or less if specified within the previous report), and to undertake such further investigative or remedial work as may be identified within that report.

Copies of the report must also be provided to new occupants before that tenant occupies the property, to existing tenants within 28 days of the inspection and test, and to the Council within a period of 7 days of receiving a request to do so.

Where the Council has reasonable grounds to believe that a landlord has failed to fulfil their duties under these regulations, the Council must serve on that landlord a Remedial Notice.

Should a landlord fail to comply with this notice, the Council may arrange for a suitable contractor to carry out the work, and in addition may require the landlord to pay a financial penalty of such amount as the authority may determine.

The amount of the penalty charge must not exceed £30,000.

East Lindsey District Council has determined that where a landlord fails to fulfil his obligations under these regulations, the following Financial Penalties will be levied.

Failure to comply with the requirements of Regulation 3 (except for offences stated specifically elsewhere within this document)	-	First occasion – £1000
	-	Second occasion - £2500
	-	Third occasion - £5000
Failure to carry out Urgent Remedial Action or Further Investigative Work within the specified period	-	First occasion – £3000
	-	Second occasion - £6000
	-	Third occasion - £10000
	-	Fourth and any subsequent occasions - £20000

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The charges within this document have been adopted by East Lindsey District Council and are correct at the time of printing.

Please note that ELDC reserves the right to amend, add or revoke these charges at any time.

This document will be updated periodically to reflect changes in Council policy. Please contact the Housing Standards team on 01507 601111 should you wish to check if an updated version of this document has been produced.