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Public Health and Protection Services	Reference No. HP/02a Version No: 1a
Housing Standards	Date Reviewed: n/a Next Review Due February 2022 Originating Officer: Jane Smith/Paul Brookes
Policy on Rent Repayment Orders and Statement of Principles on Civil Penalties	Approved by: Cllr Deakin Cabinet Member for Safer Places

This document informs the Chelmsford City Council’s (The Council) Housing Standards Enforcement Policy
It includes the principles which inform the calculation of penalties for offences under the Housing Act and the Smoke and Carbon Monoxide Regulations and The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

Background:

It is the policy of Chelmsford City Council to make full use of all enforcement tools available including civil penalties and rent repayment orders.

A small number of rogue or criminal landlords knowingly rent out unsafe and substandard accommodation. The Government is determined to crack down on these landlords and disrupt their business model.

A number of pieces of Housing–related legislation extend the range of enforcement options available to a local authority for example:

1. The Housing & Planning Act 2016 introduced a range of measures to crack down on rogue landlords including:
 - Civil penalties of up to £30,000 as an alternative to prosecution for certain specified offences
 - Extension of rent repayment orders to cover illegal eviction, breach of a banning order and certain other specified offences
 - Database of rogue landlords and property agents who have been convicted of certain offences or received multiple civil penalties
 - Banning orders for the most serious and prolific offenders

When extended rent repayment orders were introduced through the Housing and Planning Act 2016, Ministers made clear that they expected this power to be used robustly as a way of clamping down on rogue landlords.

2. The Tenant Fees Act 2019

- A breach of this legislation will usually be a civil breach with a financial penalty of up to £5,000.
- However, if a further breach is committed within five years of the imposition of a financial penalty or conviction for a previous breach, this will be a criminal offence. Upon conviction, the penalty is an unlimited fine and a banning order offence under the Housing and Planning Act 2016.

Where an offence is committed, enforcement authorities may impose a financial penalty of up to £30,000 as an alternative to prosecution. In such a case, enforcement authorities will have discretion over whether to prosecute or impose a financial penalty. Where a financial penalty is imposed this does not amount to a criminal conviction.

A breach of the requirement to repay the holding deposit is a civil offence and will be subject to a financial penalty of up to £5,000.

This document outlines the matters that will be considered in issuing a civil (financial) penalty. It provides the framework for calculating the civil penalty and the procedure to ensure a consistent and fair approach.

Civil (Financial) Penalties: Deciding an appropriate sanction

Housing Act Offences

A civil penalty is available as an alternative to prosecution for the following specified housing 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 (section 72);
 - Section 72 (1) being in control or managing an HMO which is required to be licensed but is not so licensed;
 - Section 72 (2) being in control or managing an HMO which is licensed but knowingly permitting occupation over and above the number authorised by the licence;
 - Section 72 (3) being a licence holder who fails to comply with any condition of a licence
- Offences in relation to Part 3 of the Act (selective licensing 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).

When determining the appropriate sanction the Council will satisfy itself that if the case were to be prosecuted there would be a 'realistic prospect of a conviction'. This is currently

determined by consulting the Crown Prosecution Service “Code for Crown Prosecutors” which provides two tests: (i) the evidential test and (ii) the public interest test.

Chelmsford City Council currently consults this code when determining whether to seek a prosecution for offences committed and will continue to do so on a case by case basis in line with this procedure and its enforcement policy. Due regard will be given to any potential defences and the Council may decide to conduct an interview under caution in accordance with PACE codes of practice to assist in determining whether the issue of a Civil Penalty is appropriate or not.

A Civil Penalty should not be regarded as an easy or lesser option compared to prosecution.

The penalty will be proportionate, reflect the severity of the offence and be set high enough to help ensure that it has a real economic impact on the offender and demonstrate the consequences of not complying with their responsibilities.

In deciding whether to prosecute or to issue a civil penalty Chelmsford City Council will consider, amongst other things, the seriousness of an offence (for example, a breach of a Prohibition Order may only be suitable for prosecution) and the history of compliance of the individual (eg if they have been prosecuted for Housing Act or other offences)

The following factors, while not exhaustive, are examples of when Chelmsford City Council will consider the issue of a Civil Penalty:

- No evidence of previous non-compliance with appropriate legislation
- No previous convictions recorded
- Not in the public interest to prosecute
- Offence was committed as a result of a genuine mistake or misunderstanding (balanced against the seriousness of the offence)
- Prosecution is likely to have a serious adverse effect on an individual’s well-being (eg a landlord’s physical or mental health – bearing in mind the seriousness of the offence)

The civil penalty should act as a deterrent to non-compliance and the level at which the penalty is set will take account of the principle that it should cost less to comply with the legislation and standards than the cost of not complying.

Where both a letting agent and landlord can be prosecuted for an offence, including failing to obtain a licence for a licensable property, Chelmsford City Council will consider the imposition of a civil penalty on either or both parties as an alternative to prosecution. The amount of the civil penalty may differ depending on the individual circumstances of the case.

In considering imposing a civil penalty the Council will have regard to the statutory guidance: *Civil penalties under the Housing and Planning Act 2016 Guidance for Local Housing Authorities*.

The income from Civil Penalties will be used to cover the administration and legal costs and the expenses incurred in carrying out the Council's private rented sector enforcement

The levying of a civil penalty does not preclude the Council from applying for a rent repayment order where a relevant offence has been committed.

Principles for determining the civil penalty

Chelmsford City Council aims to set the level of a civil penalty at a high enough level to

- Punish the offender and deter repeat offending and
- Remove any financial benefit the offender may have obtained as a result of committing the offence.

The maximum penalty (of £30,000) will be considered where a serious offence has been committed and the Council decides that a significant financial penalty (or penalties if there have been several breaches) is the most appropriate and effective sanction in a particular case.

The amount of penalty will be assessed on a case by case basis within certain parameters based in the first instance on the severity of the offence(s) and then subject to variation within a band depending on the existence of aggravating or mitigating factors - with the constant that the financial penalty will never be lower than the cost of compliance

A matrix to assist in the determination of the fine is to be followed. The matrix sets the initial banding for a fine based on 2 key elements for assessing the severity of the offence: these being i) The culpability of the offender and ii) the level of harm – this includes the consideration of the *potential* as well as actual harm (that which was intended or might foreseeably have been caused).

Culpability

Factors that taken into account when determining culpability include where the offender –

- i. Has the **intention** to cause harm, the highest culpability where an offence is planned.
- ii. Is **reckless** as to whether harm is caused, i.e. the offender appreciates at least some harm would be caused but proceeds giving no thought to the consequences, even though the extent of the risk would be obvious to most people.
- iii. Has **knowledge** of the specific risks entailed by his actions even though he does not intend to cause the harm that results.
- iv. Is **negligent** in their actions. (The Council considers that Landlords are running a business and as such are expected to be aware of their legal obligations)

Table 1	Examples of Culpability
High (Deliberate Act)	Intentional breach by landlord or property agent or flagrant disregard for the law i.e. failure to comply with a correctly served improvement notice or prohibition order.
High (Reckless Act)	Actual foresight of, or willful blindness to, risk of offending but risks nevertheless taken by the landlord or property agent; for example, failure to comply with strict liability offence HMO Management Regulations, inadequate fire precautions
Medium (Negligent Act)	Failure of the landlord or property agent to take reasonable care to put in place and enforce proper systems for avoiding commission of the offence; for example, part compliance with a schedule of works, but failure to fully complete all schedule items within notice timescale.
Low (Low or no culpability)	Offence committed with little or no fault on the part of the landlord or property agent; for example, obstruction by tenant to allow contractor access, damage caused by tenants.

Harm

(The harm or potential harm caused to the tenant / community / public concern).

The greater the harm or the potential for harm can take into account the perception and vulnerability of the tenant

In considering the level of harm Chelmsford City Council Local Housing Authority will have regard to:

- i. The person: i.e. physical injury, damage to health, psychological distress
- ii. To the community; i.e. economic loss, harm to public health
- iii. Other types of harm; i.e. public concern/feeling over the impact of poor housing conditions on the neighbourhood

The nature of the harm will depend on the personal characteristics and circumstances of the victim, e.g. tenant.

Where no actual harm has resulted from the offence, the Local Housing Authority will consider the relative danger that persons have been exposed to as a result of the offender's conduct, the likelihood of harm occurring and the gravity of harm that could have resulted.

Factors that indicate a higher degree of harm include:

- ✓ Multiple victims
- ✓ Especially serious or psychological effect on the victim

- Victim is particularly vulnerable

Table 2	Examples of Harm Categories
High	Defect(s) giving rise to the offence poses a serious and substantial risk of harm to the occupants and/or visitors; for example, danger of electrocution, carbon monoxide poisoning or serious fire safety risk.
Medium	Defect(s) giving rise to the offence poses a serious risk of harm to the occupants and/or visitors; for example, falls between levels, excess cold, asbestos exposure.
Low	Defect(s) giving rise to the offence poses a risk of harm to the occupants and/or visitors; for example, localised damp and mould, entry by intruders.

Punishment of the offender

The penalty will be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending. However, The Council will set the penalty at a high enough level to help ensure that it has an economic impact on the offender, demonstrates the consequences of not complying with their responsibilities and is a deterrent to re-offending.

Deter the offender from repeating the offence

The ultimate goal is to prevent further offending and help ensure the landlord fully complies with all their legal responsibilities in future. The level of penalty will therefore be set at a high enough level to deter repeat offending.

Deterring others from committing similar offences

An important part of deterrence is the realisation that the Council is proactive in levying Civil Penalties where the need exists and that the level of Civil Penalty will be set high enough to punish the offender.

Remove any financial benefit the offender may have obtained as a result of committing the offence.

The offender should 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 managed. The level of the penalty will therefore reflect this.

Civil Penalty Matrix: determining the amount of Civil Penalty

The Civil Penalty Matrix that is to be adopted by Chelmsford City Council is set out below. It takes into account the elements provided in statutory Guidance and provides the basis for a transparent rationale for the setting of fines.

The Civil Penalty is set within a band according to the assessed severity of the offence. This is then moderated – either up or down according to aggravating and mitigating factors. However, in considering mitigating factors, the overriding consideration will remain, that the civil penalty should exceed the cost of compliance and remove any

Aggravating Factors

The penalty may be increased by £1,000 for each aggravating factor up to a maximum of the top of the band level..

In order to determine the final penalty the Council will consider any aggravating factors relevant to the case.

Below is a list which will be considered as part of the determination. This is not an exhaustive list and other factors may be considered depending on the circumstances of each case.

- ✓ Previous convictions having regard to the offence to which applies and time elapsed since the offence
- ✓ Record of non-compliance
- ✓ Level of profit from the offence
- ✓ Motivated by financial gain
- ✓ Obstruction of the investigation
- ✓ Deliberate concealment of the activity/evidence
- ✓ Number of items of non-compliance – greater the number the greater the potential aggravating factor
- ✓ Record of letting substandard accommodation
- ✓ Record of poor management/ inadequate management provision
- ✓ Lack of a tenancy agreement/rent paid in cash
- ✓ Already a member of an accreditation scheme or letting standard – so should know better
- ✓ Has responsibility for more than one property
- ✓ Large property portfolio
- ✓ Particularly vulnerable victim
- ✓ Multiple victims
- ✓ Especially serious physical or psychological effect on the victim (even if unintended).

Mitigating Factors

In order to determine the final penalty the Council will consider any mitigating factors relevant to the case and may be reduce the penalty £1,000 for each mitigating factor to a minimum of the bottom of the band level.

Below is a list which may be considered as part of the determination. This is not an exhaustive list and other factors may be considered depending on the circumstances of each case.

- ✓ Co-operation with the investigation
- ✓ Voluntary steps taken to address issues e.g. submits a licence application
- ✓ Willingness to undertake training

- ✓ Admissions in interview
- ✓ Evidence of health reasons preventing reasonable compliance – mental health, unforeseen health issues, emergency health concerns
- ✓ Record of compliance
- ✓ Vulnerable individual(s) where their vulnerability is linked to the commission of the offence.
- ✓ non-compliance with improvement notice due to lack of cooperation from tenant
- ✓ Genuine reasons for not licensing a property (inheriting a property)

When considering aggravating and mitigating factors the Civil Penalty imposed must remain proportionate to the offence. The civil penalty will take into account the cost of compliance and unless reasons are provided that would make this unreasonable, the penalty imposed will be set to as to negate financial gain from non-compliance.

Reference will be made to Magistrates Court Sentencing Council guidelines when considering relevant aggravating and mitigating factors.

An offender will be assumed to be able to pay a penalty up to the maximum amount unless they can demonstrate otherwise.

Civil Penalties – Multiple Offences

Where the Local Housing Authority are satisfied that more than one offence is being committed concurrently in respect of a single property, they may issue multiple Civil Penalty notices, (for example, where there are multiple breaches of the HMO Management Regulations).

However, where satisfied on the merits of the case and/or where the authority consider that issuing multiple penalties at the same time would result in an excessive cumulative penalty, nothing in this policy shall require the authority to do that. The authority may take action in respect of one or some of the offences and warn the offender that future action in respect of the remaining offences will be taken if they continue.

The Smoke and Carbon Monoxide Alarm (England) Regulations 2016

Regulation 8 of The Smoke and Carbon Monoxide Alarm (England) regulations allows for the issue of a penalty charge notice if a landlord in receipt of a Remedial Action Notice is in breach of that notice.

The maximum amount of the penalty charge issued in connection with these regulations is £5,000

Principles used in calculating a penalty notice under the Smoke and Carbon Monoxide Regulations

If it is determined that a penalty charge will be issued, a notice to this effect will be served on the landlord within 6 weeks of the Council being satisfied that a breach has occurred.

The amount of penalty will be calculated using the general principles set out in this document with the highest penalty being reserved for property and systems that have been subject to neglect, and level of potential harm that the lack of provision pose the greatest potential risk to the occupier(s). In calculating the penalty, The Council will take into account culpability and harm and aggravating & mitigating factors including

- The level of culpability of the relevant landlord
 - Knowledge (previous notices served / previous advice given (on this or other property))
 - The number of properties in a landlord's portfolio
- The level of potential harm increases with
 - The extent of the breach of duty / extent of the lack of provision
 - The number of occupiers
 - The number of occupants regarded as vulnerable (children / elderly / disabled / learning difficulty / mental health or other relevant health issues)
 - Whether the property is occupied by a single household or multiple households
 - The number of storeys that the property consists
 - If the accommodation is over commercial kitchen or other hazardous commercial property
 - The extent of the lack of provision (is it lacking on all or some floors/rooms)
 - The type of accommodation on storeys over ground floor (eg bathroom or bedrooms)
- The cost of compliance
- Any costs incurred by the Council in seeking compliance / undertaking works in default
- The history of compliance of the landlord
- Lack of co-operation of tenants

Maximum Levels

Chelmsford City Council takes the enforcement of housing conditions in the Private Rented Sector extremely seriously and will pursue enforcement action where it is considered to be necessary and appropriate.

There may be circumstances when the Council is dealing with offences that it considers will warrant a maximum penalty.

Confirming and recording of the decision

A record of each decision and the reasons for the financial penalty will be made together with how the amount of the penalty was reached and the reasons for imposing. Financial penalties up to £5,000 will be agreed by the Public Health and Protection Services Manager. Penalties over £5,000 will be agreed by the Public Health and Protection

Services Manager following consultation with the Head of Legal Services.

Where Chelmsford City Council takes action or proposes to take action under legislation where other agencies also have an enforcement responsibility (eg The Tenant Fees Act 2019), it will notify and liaise with as the relevant agencies concerned eg Essex County Council Trading Standards as the local weights and measures authority of our intention to do so and also if the enforcement action is not taken.

Chelmsford City Council will also notify/liaise with any lead enforcement authority (eg Bristol in the case of action under the Tenant Fees Act 2019) and as soon as is reasonably practicable when imposing or withdrawing a financial penalty or appeal outcome.

Rent repayment Orders

A rent repayment order is an order made by the First-tier Tribunal requiring a landlord to repay a specified amount of rent, capped at 12 months.

The Housing Act 2004 introduced rent repayment orders to cover situations where the landlord of a property had failed to obtain a licence for a property that was required to be licensed, specifically offences in relation to licensing HMOs

Rent Repayment Orders were extended under the Housing and Planning Act 2016 to cover a much wider range of offences:

- Offences in relation to failure to obtain a licence in respect of a House in Multiple Occupation under Housing Act 2004, section 72(1)
- Offences in relation to licensing of houses under Housing Act 2004 Part 3, section 95(1)
- *Rent repayment orders in respect of the following can only apply to the parts of a property that are rented out to a tenant and not common parts:*
 - Failure to comply with an Improvement Notice under section 30 of the Housing Act 2004;
 - Failure to comply with a Prohibition Order under section 32 of the Housing Act 2004;
- Breach of a banning order made under section 21 of the Housing and Planning Act 2016;
- Using violence to secure entry to a property under section 6 of the Criminal Law Act 1977; and
- Illegal eviction or harassment of the occupiers of a property under section 1 of the Protection from Eviction Act 1977.

A rent repayment order may be considered by the Council whenever the landlord has committed one of these offences, **whether or not s/he has been convicted**.

A rent repayment order can only be applied for against the landlord of a property. It cannot be sought against a managing agent or other person unless they are the landlord of the property, entitled to keep the rent.

Rent repayment orders will be applied for by the Council where appropriate to penalise landlords in connection with a range of offences including the management or letting of unlicensed properties, the illegal evictions or harassment of the occupiers of a property, the use of violence to secure entry and the breach of a banning order.

Rent repayment orders are imposed by the First-tier Tribunal and can be applied for by tenants or local housing authorities. An important objective of rent repayment orders is that by forcing the landlord to repay rent, they lose much, if not all, of the benefit that accrued to them by not complying with their responsibilities.

- If the tenant paid their rent themselves, then the rent must be repaid to the tenant. If rent was paid through Housing Benefit or through the housing element of Universal Credit, then the rent must be repaid to the local housing authority. If the rent was paid

partially by the tenant with the remainder paid through Housing Benefit/Universal Credit, then the rent should be repaid on an equivalent basis

- As the Council does not have access to Universal Credit data. It will work with affected tenants to source key information from benefit statements to determine the amount to be claimed. Council Officers will also request further information as needed from the Department for Work and Pensions, if available.

In exercising its functions in respect of rent repayment orders, the Council will have regard to the statutory guidance issued under section 41 of the Housing and Planning Act 2016: *Rent repayment orders under the Housing and Planning Act 2016 Guidance for Local Housing Authorities*. This includes the transitional arrangements relating to rent repayment orders in connection with offences under Housing Act 2004, section 72(1) and part 3 (section 95(1)) where offences started before 6th April 2017.

Although the Council will decide each case (including the offence and the rent repayment order) independently, it will always consider a rent repayment order when a landlord has been convicted of any of the relevant offences. The Council will also consider an application for a rent repayment order where the landlord has not been convicted of the offence if all or part of the rent would be repayable to the Council as the local housing authority and there would be a reasonable prospect of conviction. In all other circumstances, the Council will take into account the nature of the offence, the level and nature of intervention that the Council has had to undertake, the cooperation of the landlord and the perceived vulnerability of the tenant.

Rent repayment orders are a punishment and the intent of the Council is that they have a real economic impact on the offender and demonstrate the consequences of not complying with their responsibilities. It is the Council's aim that they also operate as a deterrent for both the offending landlord from committing further offences and to other landlords. Therefore, in considering the amount of rent to recover through in applying for a repayment order, the Council will take account of the following:

- Where a landlord has been convicted of the offence to which the rent repayment order relates, the Council will request the maximum amount of rent is repaid (the maximum being determined by any cap currently in place)
- Where a landlord has not been convicted of the offence to which the rent repayment order application relates, the main considerations will be:
 - The conduct of the landlord and tenant,
 - The financial circumstances of the landlord
 - Whether the landlord has previously been convicted of similar offences;
 - If a landlord has been convicted in respect of the same offence for which a rent repayment order is being made, the First-tier Tribunal must award the maximum amount of rent possible (capped at 12 months). They only have discretion on the amount where there has not been a prior conviction
 - In addition, the following will be taken into account:
 - Is the level of the penalty set at a high enough level such that it is likely to deter the offender from repeating the offence;

- Is the repayment order robust enough to dissuade other landlords from neglecting their responsibilities.
- The financial benefit the offender may have obtained as a result of committing the offence

Appendices:

1. Financial Penalty Determination
2. Summary of Process for imposing penalty charges
3. Legal reference - calculating Rent Repayment Order amount
4. Standards

Creation Date	Version No	Changes Made	Changes made by	Date of Change
1 st February, 2020	1	Approved by Cabinet Member for Safer Places, Cllr Deakin 16/02/2020	Draft status removed	18/2/2020
29 th May 2020	1a	Reference to The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 included	JS	Effective from 1 st June 2020
3/11/22	1a	Contents unchanged - information on calculating rent repayment order inserted as useful additional appendix 3 and subsequent appendix re-numbered	JS	3/11/22

Appendix 1: Financial Penalty Determination

Case Officer / Reviewing officer		Date:	
Case reference:			
Property Address			
Property type		Licensable HMO?	
Defendant's interest in the property:			
Defendant's address			
Others with interest in property			
Brief summary of case and offences			
Offence(s): (legislation)			
Date offence(s)		<i>Notice of intent must be served within 6 months of from date when LHA as sufficient evidence to which penalty relates</i>	
Recommendation for prosecution or civil penalty and reasoning			
Is the 'authority to prosecute report' evidential and public interest tests attached?	Yes / No		
Is the calculation of Civil Penalty attached?	Yes / No / N/A		
Outcome of Civil Penalty and review checks			

Civil penalty calculation					
Case Officer / Reviewing officer				Date:	
Case reference:					
Property Address					
Is this the Initial assessment for Notice of Intent? Or Review for Final Penalty notice?					
Level of Culpability					
Low	Medium			High	
Justification					
Level of harm					
Low	Medium			High /	
Justification					
Penalty bands (and mid points) : (the mid-point of the band is the starting point for the penalty.					
Band 1 = £0 to £5,000	Band 2 = £2,500 to £12,500	Band 3 = £7,500 to £17,500	Band 4 = £12,500 to £22,500	Band 5 = £17,500 to £27,500	Band 6 = £22,500 to £30,000
ASP: £2,500.	£7,500.	£12,500.	£17,500	£22,500	£26,250
Civil Penalty ASP (mid point of band)					£
Aggravating factors? Penalty may be increased by £1,000 per aggravating factor up to op of band					

Mitigating factors (Penalty may be decreased by £1,000 per aggravating factor up to bottom of band		
Revised penalty:		£
Part 2: asset check		
Income from -property in question		
Other relevant income and assets (eg other business interests)		
Part 3: removal of financial gain		
Estimated cost of compliance?		
Adjustment to penalty? Yes / No	Adjustment amount:	£
Total penalty fine (not exceeding £30,000) calculated as:	£	
Comments:		
Case officer		Date
Verifying officer		Date:
(penalties over £5,000 to be approved by Head of Legal Services)		Date / NA
PHPS signed		Date:

Appendix 2 ; Summary of Process for imposing penalty charges

Where it has been determined that a financial penalty may be appropriate to impose as an alternative to prosecution, the Council will apply the following process

A Notice of Intent shall be served on the person suspected of committing the offence, specifying:

- The amount proposed of any financial penalty
- The reasons for imposing the financial penalty
- Information about the right to make representation to the Council

The person to which the notice relates will be given 28 days to make written representation to the Council about the proposed penalty. The representation may be via any legible written format.

Following the 28 day period, the Council will consider any representation that has been received and decide:

- a. Whether to impose a financial penalty on the person and
- b. The value of any such penalty imposed

If the Council decides to impose a financial penalty, a final notice will be issued imposing that penalty. The final notice will specify:

- The amount proposed of any financial penalty
- The reasons for imposing the financial penalty
- Information about how to pay the penalty
- The period for the payment of the penalty
- Information about rights of appeal to the First Tier Tribunal
- The consequences of failure to comply with the notice.

If after any appeal has been determined or withdrawn, a person receiving the penalty does not pay the charge, the Council will recover the penalty by order from a County Court. Where appropriate, the Council will also seek to recover the costs incurred in taken this action from the person to which the penalty relates.

Financial Penalties are an alternative to criminal proceedings and therefore not criminal proceedings will be initiated for the same offence.

The Council may at any time withdraw a notice of intent or a final notice or reduce the amount specified in a notice of intent or final notice. The Council will inform the person who received the original notice in writing.

Database of Rogue Landlords

Where a person has received two financial penalties in any 12 month period, the Council will make an entry on the National database, having regard to any relevant guidance issued by the Secretary of State.

Appendix 3

Decision on calculating Rent Repayment order

(as determined in Upper Tribunal in *In Acheampong v Roman* [2022] UKUT 239 (LC),

Four elements of calculation:

In *Acheampong v Roman* [2022] UKUT 239 (LC), the Upper Tribunal reviewed various of its previous decisions and concluded that the correct approach to the assessment of how much to order by way of repayment is as follows.

(all four elements have to be considered)

- 1: ascertain the total rent paid during the relevant period;
- 2: deduct any element of the rent which is actually a payment for utilities or other matters which only benefit the tenant (e.g. gas, electricity, internet access);
- 3: assess the seriousness of the offence both in comparison to other types of offence in respect of which a rent repayment order can be made and in relation to the same type of offence;
- 4: assess what proportion of the rent reflects that seriousness; and, finally, make any adjustments necessary (whether upwards or downwards) to reflect any wider mitigating or aggravating factors.

Appendix 4: Standards

In implementing this policy the Council will have regard to current national guidelines and local circumstances.

Enforcement will be undertaken by appropriate and authorised officers in line with the Council's constitution and schemes of delegation.

Statutory rights of appeal exist where notices are served or charges levied. These are set out in the relevant legislation and rights and means of appeal will be included when a notice is served.

Openness and transparency

Officers will provide information in plain language relating to the legislation that officers are acting under and relevant procedures and processes

Professionalism

Officers will identify themselves by name and will show proof of identity; maintain the highest standards of professional integrity and carry out their duties with honesty and respect for all sections of the community.

Complaints about the service

Chelmsford City Council provides an effective and timely complaints procedure which is available on the Council's website. Any complaint however received, will be referred to and dealt with in line with this complaints procedure.

Desirable Outcome

The purpose of the Housing Enforcement Policy is to ensure the effective compliance with housing and public health legislation having regard, where appropriate, to risk, while at the same time assisting owner occupiers, landlords, managing agents and tenants to meet their obligations.

Links with Other Policies

This policy should be read in alongside the Council's Housing Standards Enforcement Policy

If anyone is dissatisfied with the service they receive from any part of the Council, including Housing Standards, the Council has a Complaints Policy which can be viewed on line at www.chelmsford.gov.uk.

Evaluation

This policy will be reviewed every 2 years and at the time of any significant change of circumstances, changes to legislation or local needs or priorities.

Where appropriate, the Council will consult with residents, owners, agents and other interested parties affected by our service, so it can draw up clear standards regarding the level of service, performance to be provided and the development of this policy. Any matters relating to this document should be made in writing for the attention of the Public Health and Protection Services Manager and sent to:

Chelmsford City Council,
Civic Centre, Duke Street
Chelmsford CM1 1JE

Or by email to safe.support@chelmsford.gov.uk for the attention of the Public Health and Protection Services Manager,