



# **Cambridge City Minimum Energy Efficiency Standards**

## **Enforcement & Fee Policy**

September 2022

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## 1.0 Introduction

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (“the Regulations”) are designed to tackle the least energy-efficient properties in England and Wales, those rated F or G on their Energy Performance Certificate (EPC).

The Regulations establish a minimum standard for domestic privately rented properties, applicable to all relevant tenancies (assured, regulated or domestic agricultural) as of 1st April 2020.

F and G rated properties are the most energy inefficient housing. They impose unnecessary energy costs on tenants and the wider community and can lead to poor health outcomes with resulting resource pressure on health services. These properties also contribute to unavoidable greenhouse gas emissions.

The regulations are designed to ensure tenants have thermally efficient homes, thus reducing fuel poverty and improving health outcomes.

The private rented sector (PRS) has a disproportionate share of the UK’s least energy-efficient properties and fuel poor households with over a third of all fuel poor households living in the PRS.<sup>1</sup>

The regulations prohibit the letting of sub-standard properties. Since April 2018 landlords have not been able to grant tenancies to new or existing tenants if their property has an EPC rating of F or G.

From 1st April 2020, landlords must not continue to let a relevant property which has an EPC rating of F or G unless that property has a valid exemption registered on the government’s PRS Exemptions Register.

Where a property is sub-standard, landlords must make energy efficiency improvements which raise the EPC rating to a minimum E.

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/882957/Domestic\\_Private\\_Rented\\_Property\\_Minimum\\_Standard\\_-\\_Landlord\\_Guidance\\_2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/882957/Domestic_Private_Rented_Property_Minimum_Standard_-_Landlord_Guidance_2020.pdf)

## 2.0 Government Guidance

The department for Business, Energy, and Industrial Strategy (BEIS) originally produced guidance on these regulations in 2017 and were most recently updated in May 2020:

<https://www.gov.uk/guidance/domestic-private-rented-property-minimum-energy-efficiency-standard-landlord-guidance>

Regard has been had to this guidance when preparing this policy and associated financial penalty fee matrix.

## 3.0 Scope of the Policy & Enforcement

Local Authorities are responsible for enforcing against non-compliance with the Minimum Energy Efficiency Standards; in accordance with regulations 34 and 35 of the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015.

The purpose of this policy is to set out how the authority will enforce these regulations.

In the first instance, in line with the [Corporate Enforcement Policy](#), the Council will engage informally with landlords who rent properties with F and G EPC ratings to advise them of the regulations and that their rented properties do not meet the Minimum Energy Efficiency Standards and therefore should not be rented out. However, the Council will offer advice on how the standards can be met and how to register an exemption, on the national PRS Exemptions Register if appropriate. Details of relevant exemptions are contained within **Appendix 1** of this Policy.

Landlords will be given an appropriate amount of time to make the necessary changes following which formal enforcement action may be taken if they fail to do so.

The Council may issue a compliance notice under regulation 37 of the regulations where it believes that a landlord may be letting a sub-standard property. A Compliance Notice requires information from that landlord to help to inform the council's decision of whether that landlord has in fact breached the regulations.

Where the Council is satisfied that a landlord is in breach of the regulations it may then serve a Penalty Notice on them imposing a financial penalty.

The Council may also publish details of the breach(s) on the PRS Exemptions Register, also known as a Publication Penalty.

Consideration to issue a penalty notice and/or a publication penalty should be given if an authorised officer determines that satisfactory action has not been taken and there is a breach of the MEES regulations in respect of:

- Regulation 23 – A sub-standard domestic privately rented property has been let.
- Regulation 37(4)(a) – Failure to comply with a compliance notice.
- Where the landlord has registered false or misleading information on the PRS Exemptions Register.

Further details regarding circumstances for which the issue of penalty notices will be considered are contained within **Appendix 2** of this policy.

A penalty notice may include a financial penalty, a publication penalty or both.

A minimum period of one month will be given for compliance with the notice.

Where a financial penalty is imposed, the relevant person on whom the notice is issued will be advised of the following within the notice - 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).

Publication penalty means publication on the PRS Exemptions Register for a period of at least 12 months. As stated in the regulations the following information can be included:

- where the relevant person is not an individual, their name,
- details of the breach of the Regulations in respect of which the penalty notice has been issued,
- the address of the property in relation to which the breach has occurred, and
- the amount of any financial penalty imposed.

The relevant person on whom the notice is issued may ask for the Penalty Notice to be reviewed by the Council in the first instance. On review the council may:

(a) waive a penalty,

(b) allow additional time to pay any financial penalty,

(c) substitute a lower financial penalty where one has already been imposed, or

(d) modify the application of a publication penalty.

If the penalty is upheld on review the landlord may appeal to the First-tier Tribunal (Property Chamber) on specific grounds as detailed in regulation 43, 'Appeals'.

#### **4.0 Calculating the financial penalty**

When determining a financial penalty, the council will use a fee matrix as a guide to determine appropriate and proportionate penalty (amounts as a percentage of the maximum). This fee matrix is contained within Appendix 3 of this policy.

#### **5.0 Recovery of financial penalties**

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

In proceedings for the recovery of a financial penalty, a certificate signed by or on behalf of the person with responsibility for the financial affairs of the Council, stating that payment of the financial penalty was not received by a given date will be used as evidence of the landlord's non-compliance with the penalty notice.

## Appendix One – Exemptions

### ‘high cost’

and have download 3 quotations demonstrating this, this exemption should only be used where there are no improvements which can be made for £3,500 or less. Further information can be found through the guidance.

### “7 Year Payback”

if a landlord can show that the cost of purchasing and installing a recommended improvement or improvements does not meet a simple 7-year payback test. Further information can be found through the guidance.

‘All Improvements Made’ The requirement to meet the minimum level of energy efficiency (EPC E) does not apply where a landlord has made all the ‘relevant energy efficiency improvements’ that can be made

### ‘Wall Insulation’ Exemption

The Regulations acknowledge that certain wall insulation systems may not be suitable in certain situations, even where they have been recommended for a property, and where they meet the funding requirements (funding requirements are different for domestic and non-domestic properties – please see the relevant guidance documents for more information).

### ‘Consent’ Exemption

Depending on circumstances, certain energy efficiency improvements may legally require third party consent before they can be installed in a property. Such improvements may include (but are not limited to) external wall insulation or solar panels which can require local authority planning consent, consent from mortgage lenders, or other third parties. Consent from a superior landlord may be required where the landlord is them self a tenant. Consent may also be required from the current tenant of the property or other tenants depending on the provisions of the tenancy or tenancies.

### ‘Devaluation’ Exemption

An exemption from meeting the minimum standard will apply where the landlord has obtained a report from an independent surveyor who is on the Royal Institution of Chartered Surveyors (RICS) register of valuers advising that the installation of specific energy efficiency measures would reduce the market value of the property, or the building it forms part of, by more than five per cent.

### 'New Landlord' Exemption

The Regulations acknowledge that there are some, limited circumstances where a person may have become a landlord suddenly and as such it would be inappropriate or unreasonable for them to be required to comply with the Regulations immediately. If a person becomes a landlord in any of the circumstances set out below, a temporary exemption from the prohibition on letting a sub-standard property, or on continuing to let a sub-standard property, will apply. The exemption will last for 6 months from the date they become the landlord.

## Appendix 2 – Penalties

### Financial penalties (Regulation 40)

Where the Local Authority decides to impose a financial penalty, they have the discretion to decide on the amount of the penalty, up to maximum limits set by the Regulations. The maximum penalties to reflect differing breaches of the regulations are as follows:

(a) Where the landlord has let a sub-standard property in breach of the regulations for a period of less than 3 months, the Local Authority may impose a financial penalty of up to £2,000 and may impose the publication penalty.

(b) Where the landlord has let a sub-standard property in breach of the regulations for 3 months or more, the Local Authority may impose a financial penalty of up to £4,000 and may impose the publication penalty.

(c) Where the landlord has registered false or misleading information on the PRS Exemptions Register, the Local Authority may impose a financial penalty of up to £1,000 and may impose the publication penalty.

(d) Where the landlord has failed to comply with compliance notice, the Local Authority may impose a financial penalty of up to £2,000 and may impose the publication penalty.

## Appendix 3 – Cambridge City Financial Penalty Fee Matrix

Where the Council decides to impose a financial penalty, they have discretion to decide the amount of penalty up to maximum limits set by the regulations, detailed as follows:

a) Where a landlord has let a sub-standard property in breach of the regulations for a period of less than 3 months, the Local Authority may impose a financial penalty of up to £2,000 and may impose a publication penalty.



b) Where a landlord has let a sub-standard property in breach of the regulations for a period of more than 3 months, the Local Authority may impose a financial penalty of up to £4,000 and may impose a publication penalty.

c) Where a landlord has registered false or misleading information on the PRS Exemptions Register, the Local Authority may impose a financial penalty of up to £1,000 and may impose a publication penalty.

d) Where the landlord has failed to comply with a Compliance Notice, the Local Authority may impose a financial penalty of up to £2,000 and may impose a publication penalty.

Publication penalty means publication on the private rented sector, (PRS), Exemptions Register for a period of at least 12 months in line with the information that can be included as detailed on page 5 of this policy as well as within the regulations.

When determining a financial penalty, the council will use the following fee matrix as a guide to determine appropriate and proportionate penalty (amounts as a percentage of the maximum fine levels):

	<b>Low Culpability</b>	<b>High Culpability</b>
<b>Low Harm</b>	25%	50%
<b>High Harm</b>	50%	100%

The following factors that can affect culpability will be considered:

<b>High</b>	<ul style="list-style-type: none"> <li>a) Landlord has a previous history of non-compliance of these regulations.</li> <li>b) Landlord has knowingly or recklessly provided incorrect information in relation to these regulations.</li> </ul>
<b>Low</b>	<ul style="list-style-type: none"> <li>a) It is a first offence by the landlord under these regulations.</li> <li>b) Issues partially out of the control of the landlord has led to non-compliance.</li> </ul>

The following factors that can affect harm will be considered:

<b>High</b>	<ul style="list-style-type: none"> <li>a) EPC rating of G for the property.</li> <li>b) Vulnerable tenants occupying the property*</li> </ul>
<b>Low</b>	<ul style="list-style-type: none"> <li>a) EPC rating of F for the property.</li> </ul>

	b) No vulnerable tenants occupying the property
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\*Pregnant, over 70, health conditions exacerbated by the cold, children under 5, low-income household.

The tables below show the financial penalty amounts for each type of offence:

a) Breach of less than 3 months (Max penalty £2,000)

	Low Culpability	High Culpability
Low Harm	£ 500	£1,000
High Harm	£1,000	£2,000

b) Breach of more than 3 months (Max penalty £4,000)

	Low Culpability	High Culpability
Low Harm	£1,000	£2,000
High Harm	£2,000	£4,000

c) Providing false or misleading information (Max penalty £1,000)

	Low Culpability	High Culpability
Low Harm	£250	£ 500
High Harm	£500	£1,000

d) Failure to comply with a Compliance Notice (Max penalty £2,000)

	Low Culpability	High Culpability
Low Harm	£ 500	£1,000
High Harm	£1,000	£2,000

**Please Note** - If two or more penalty notices apply the combined maximum per property, per breach is £5,000.

The Council will consider any representations made by the landlord in a request to review the financial penalty applied. Officers will have regard to these factors and may adjust the penalty to increase up to the maximum of £5,000 or to reduce the penalty as appropriate.