



BABERGH & MID SUFFOLK DISTRICT COUNCILS

PRIVATE SECTOR HOUSING

APPENDIX 4: Policy in relation to Energy Efficiency Regulations in Private Rented Property

Introduction

This policy document sets out how Babergh and Mid Suffolk Councils will deliver interventions under The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 in relation to financial and publication penalties.

The regulations are designed to tackle the least energy-efficient properties in England and Wales; currently those rated F or G on their Energy Performance Certificate (EPC). The Regulations establish a minimum standard for domestic privately rented property.

Housing Standards officers are authorised to check for different forms of non-compliance with the Regulations including:

- whether the property is sub-standard and has been let in the previous 12 months, in breach of Regulation 23, without a valid exemption being registered.
- where the landlord has registered any false or misleading information on the government's "National PRS Exemptions Register", or has failed to comply with a compliance notice.

The Department for Business Energy and Industrial Strategy have produced guidance published in 2017 and updated in May 2020; Guidance for landlords and Local Authorities on the minimum level of energy efficiency required to let domestic property under the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015.

Enforcement

The Council will use available data and resources to establish 'sub-standard' properties as described by the regulations (currently EPC level F & G).

In the first instance the Council will inform Landlords who rent 'sub-standard' properties that they do not meet the minimum energy efficiency standard. The Council will offer advice on how the standards can be met, funding available and advise on registering an exemption if appropriate.

Landlords will be given an appropriate time to make the necessary changes. However if they fail to make sufficient progress enforcement action will be considered.

In circumstances where a landlord has a history of not complying with housing related regulatory requirements the council will consider whether an informal approach is appropriate and if not will take immediate formal action.

Enforcement Action

The Council has discretion to serve Compliance Notices to request information from a landlord that will help them to decide whether there has been a breach. The council will serve Penalty Notices where a landlord fails to comply with the Compliance Notice.

The Council will check the National PRS Exemptions Register and if it believes a landlord has registered false or misleading information it will consider serving Penalty Notices.

If offences under the regulations are committed the council will serve a Penalty Notice to the values set out in Table 1.

Under regulation 39 the Local Authority may publish some details of the landlord's breach on a publicly accessible part of the PRS Exemptions Register. The council will place the information on the register at the appropriate time, for a minimum of 12 months.

The Landlord has the right to ask for a Penalty Notice to be reviewed under Regulation 42. Any request for review must be submitted to the Council within 21 days of the Penalty Notice being served. The penalties below may be subject to reduction based on representations received particularly mitigating circumstances.

Table 1-Table of offences under Energy Efficiency Regulations

Offence	Penalty starting points	
Renting out non-compliant property	<3 months in breach	£2,000 and Publication penalty
	>3 months in breach	£4,000 and Publication penalty
Providing false or misleading information on Exemption register	£1000 and Publication penalty	
Failing to comply with compliance notice	£2000 and publication penalty	

Note 1. These penalties are applied to each property where there is a breach to a maximum of £5000 per property

Note 2. Publication penalty – some of the details of the financial penalties are published on the publicly accessible part of the PRS Exemptions Register

Recovery of financial penalty

If a landlord does not pay a financial penalty imposed on them, the enforcement authority will take the landlord to court to recover the money. It will not do this during the period for review stipulated on the notice, while reviewing their decision, or during the period in which the landlord could appeal to the First-tier Tribunal or while there is an ongoing tribunal appeal.

Changes to Legislation/guidance

The energy efficiency/climate emergency movement is designed to change incrementally and therefore changes to legislation/guidance are inevitable. Individuals will be expected to identify their responsibilities and respond appropriately to the latest legislation/guidance. It follows therefore that revisions/updates to this Policy will be necessary as and when appropriate.

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