



Oversight and Governance

Chief Executive's Department

Plymouth City Council

Ballard House

Plymouth PL1 3BJ

T 01752 305155

www.plymouth.gov.uk/democracy

Published 13/01/21

Delegated Decisions

Delegated Executive/Officer Decisions

Delegated Executive and Officer decisions are published every Wednesday and are available at the following link - <https://tinyurl.com/ms6umor>

Cabinet decisions subject to call-in are published at the following link - <http://tinyurl.com/yddrql6>

Notice of call-in for non-urgent decisions must be given to the Democratic Support Unit by 4.30 pm on Wednesday 20 2021. Please note – urgent decisions and non-key Council Officer decisions cannot be called in. Copies of the decisions together with background reports are available for viewing as follows:

- on the Council's Intranet Site at <https://modgov/mgDelegatedDecisions.aspx>
- on the Council's website at <https://tinyurl.com/jhnax4e>

The decisions detailed below may be implemented on Thursday 21 2021 if they are not called-in.

Delegated Decisions

- 1. The Leader - Councillor Evans OBE**
 - 1.a Corporate Office Rationalisation (Windsor House) **(Pages 1 - 26)**
- 2. Council Officer Decision - Brendan Arnold (Service Director for Finance)**
 - 2.a City Business Park Computer Complex Building Demolition Contract Award **(Pages 27 - 46)**
- 3. Councillor Penberthy Cabinet Member for Housing and Co-operative Development**
 - 3.a Approval of Electrical Safety Standards Policy 2020 **(Pages 47 - 98)**

EXECUTIVE DECISION

made by a Cabinet Member




REPORT OF ACTION TAKEN UNDER DELEGATED AUTHORITY BY AN INDIVIDUAL CABINET MEMBER

Executive Decision Reference Number – L27 20/21

Decision				
1	Title of decision: Corporate Office Rationalisation (Windsor House)			
2	Decision maker (Cabinet member name and portfolio title): Councillor Tudor Evans, Leader of the Council			
3	Report author and contact details: Nathan Sanders, Programme Manager. Nathan.sanders@plymouth.gov.uk ; tel. 01752 307780			
4	Decision to be taken: To allocate an additional £384,000 to the Council's Capital Programme, funded by service borrowing, to fund the vacation of Windsor House and associated relocation of office staff.			
5	<p>Reasons for decision: The Council will no longer need all three of its main corporate office buildings (Ballard House, Windsor House and Midland House) due to a reduction in demand, primarily as a result of increased flexible and home working.</p> <p>Detailed information gathered on future accommodation requirements shows that one building could be vacated and released from the corporate estate. Windsor House has been identified as the most suitable building for vacation and disposal, due to its high running costs, maintenance backlog and significant cost implications in reducing its carbon footprint. The vacation of Windsor House will enable a Surplus Property Declaration to be made and a subsequent decision on its release from the corporate estate.</p>			
6	<p>Alternative options considered and rejected:</p> <ol style="list-style-type: none"> 1. Retain Windsor House as a corporate office building. Rejected due to being financially unviable in the medium and longer term. 2. Vacate Council staff from Windsor House, with partners remaining in the building. Rejected due to being financially unviable and hindering future co-location of Council staff and health partners. 			
7	Financial implications: The vacation of Windsor House will be funded by service borrowing, which will be repaid by savings realised from reduced running costs.			
8	<p>Is the decision a Key Decision? (please contact Democratic Support for further advice)</p>	Yes	No	<p>Per the Constitution, a key decision is one which:</p> <p>in the case of capital projects and contract awards, results in a new commitment to spend and/or save in excess of £3million in total</p>
			X	

			X	in the case of revenue projects when the decision involves entering into new commitments and/or making new savings in excess of £1 million
			X	is significant in terms of its effect on communities living or working in an area comprising two or more wards in the area of the local authority.
	If yes, date of publication of the notice in the Forward Plan of Key Decisions			
9	Please specify how this decision is linked to the Council's corporate plan/Plymouth Plan and/or the policy framework and/or the revenue/capital budget:		The vacation and ultimately the release of Windsor House directly supports the Council's Accommodation Framework 2020-23 to achieve rationalisation of the corporate estate.	
10	Please specify any direct environmental implications of the decision (carbon impact)		The vacation and ultimately the release of Windsor House from the corporate estate will result in carbon savings. Whilst the carbon savings from a direct reduction in the building's energy use can be quantified, it is more difficult to quantify net savings due to the displacement of staff elsewhere, with variable impact in carbon emissions.	
Urgent decisions				
11	Is the decision urgent and to be implemented immediately in the interests of the Council or the public?		Yes	(If yes, please contact Democratic Support (democraticsupport@plymouth.gov.uk) for advice)
			No	X
12a	Reason for urgency:			
12b	Scrutiny Chair Signature:		Date	
	Scrutiny Committee name:			
	Print Name:			
Consultation				
13a	Are any other Cabinet members' portfolios affected by the decision?		Yes	X
			No	(If no go to section 14)
13b	Which other Cabinet member's portfolio is affected by the decision?		Councillor Mark Lowry, Cabinet Member for Finance Councillor Peter Smith, Deputy Leader	

13c	Date Cabinet member consulted	11/12/20						
14	Has any Cabinet member declared a conflict of interest in relation to the decision?	Yes		If yes, please discuss with the Monitoring Officer				
		No	X					
15	Which Corporate Management Team member has been consulted?	Name	Andy Ralphs					
		Job title	Strategic Director of Customer & Corporate Services					
		Date consulted	11/12/2020					
Sign-off								
16	Sign off codes from the relevant departments consulted:	Democratic Support (mandatory)	DS74 20/21					
		Finance (mandatory)	PL.20.21.179					
		Legal (mandatory)	lt/35404/2/091220					
		Human Resources (if applicable)	KB2020101220					
		Corporate property (if applicable)	S0022RB 20201209					
		Procurement (if applicable)	n/a					
Appendices								
17	Ref.	Title of appendix						
	A	Briefing report						
	B	Equalities Impact Assessment						
	C	Accommodation Framework 2020-23						
Confidential/exempt information								
18a	Do you need to include any confidential/exempt information?	Yes	X	If yes, prepare a second, confidential ('Part II') briefing report and indicate why it is not for publication by virtue of Part 1 of Schedule 12A of the Local Government Act 1972 by ticking the relevant box in 18b below. (Keep as much information as possible in the briefing report that will be in the public domain)				
		No						
		Exemption Paragraph Number						
		1	2	3	4	5	6	7

18b	Confidential/exempt briefing report title: Capital Investment Business Case – Corporate Office Rationalisation			X						
Background Papers										
19	Please list all unpublished, background papers relevant to the decision in the table below. Background papers are <u>unpublished</u> works, relied on to a material extent in preparing the report, which disclose facts or matters on which the report or an important part of the work is based. If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part 1 of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.									
Title of background paper(s)				Exemption Paragraph Number						
				1	2	3	4	5	6	7
Cabinet Member Signature										
20	I agree the decision and confirm that it is not contrary to the Council's policy and budget framework, Corporate Plan or Budget. In taking this decision I have given due regard to the Council's duty to promote equality of opportunity, eliminate unlawful discrimination and promote good relations between people who share protected characteristics under the Equalities Act and those who do not. For further details please see the EIA attached.									
Signature				Date of decision	5 January 2021					
Print Name	Councillor Tudor Evans OBE (Leader)									

Corporate Office Rationalisation (Windsor House) Executive Decision Briefing Report

Executive Summary

The Council will no longer need all three of its main corporate office buildings (Ballard House, Windsor House and Midland House) due to a reduction in demand, primarily as a result of increased flexible and home working.

Detailed information gathered on future accommodation requirements shows that one building could be vacated and released from the corporate estate. Windsor House has been identified as the most suitable building for vacation and disposal.

This Executive Decision seeks authorisation to allocate a budget to the Council's Capital Programme to enable the vacation Windsor House, which is an essential first step towards future disposal of the building - which will be the subject of a subsequent business case. The target date for the building to be vacated of all office staff is October 2021. This will enable a Surplus Property Declaration (SPD) to be made, allowing the process to release the building from the corporate estate to commence.

The vacation of Windsor House will cost an estimated £451,000. Taking into account an existing pre-approved Accommodation capital budget, £384,000 will need to be added to the Capital Programme. This will be funded by service borrowing at a cost of £19,213 per year from 2022/23.

Taking into account the expenditure and expected cost savings, a net benefit of c.£40,000 per annum will be realised on vacation of office staff.

Current situation

Over recent years, the Council's Accommodation Strategy has sought to identify future options for its corporate estate, particularly with a view to cutting costs associated with running and maintaining a significant number of buildings across the city and reducing the Council's carbon footprint.

The effect of the Covid-19 pandemic and associated lockdown of the population has led to a dramatic shift in working patterns for the majority of office-based staff, with as many as 83% of all Council staff currently working from home full-time. Whilst the shift towards home working has been necessary during the pandemic, it does however provide evidence that the Council has adapted well to new ways of working and that productivity is being maintained.

This evidence, coupled with increased pressure on the Council's budget, has led to increased impetus to rationalise the estate, on the basis that the three main office buildings (Ballard House, Midland House and Windsor House) will not all be required in the future and that by disposing of one or more of these buildings, costs savings and carbon reduction can be achieved.

The recommendations of this Executive Decision support the Council's draft New Ways of Working Policy, the Accommodation Framework 2020-23 and the IT Strategy.

Proposal

Windsor House has been identified as the most suitable of the Council's three main offices to release from the corporate estate. This is due to comparatively high running costs, a backlog of maintenance and significant challenges in reducing the building's carbon footprint.

In order to make a thorough assessment of future desk requirements, all service leads at Windsor House, Ballard House and Midland House have been contacted so that an accurate picture can be gained of expected future working patterns.

This assessment shows that a proposed future desk allocation representing an overall ratio of approximately 4.5 desks per 10 (PCC) staff is achievable. This demonstrates the reduced demand for office desks as a result of increased home and flexible working. The actual ratio before the pandemic was found to be in the region of 9:10.

Sufficient capacity will exist at Ballard House and Midland House to accommodate all staff from Windsor House - including partners should they wish to be relocated at Ballard House. Indicative new locations for teams have been considered and will be subject to further work and liaison with service leads as the project progresses.

The preferred option is therefore to proceed with the vacation of all office staff from Windsor House.

It should be noted that the proposed reallocation of office space is based on a post-social distancing (safe systems of work) scenario, when previous occupancy levels can be achieved once more.

EQUALITY IMPACT ASSESSMENT

Corporate Office Rationalisation



STAGE 1: WHAT IS BEING ASSESSED AND BY WHOM?

What is being assessed - including a brief description of aims and objectives?	Corporate Office Rationalisation – the reduction of the Council’s corporate office estate by vacating one of its three main office buildings and the relocation of City Council and partner organisation staff requiring office space elsewhere within the corporate estate
Author	Nathan Sanders
Department and service	Transformation
Date of assessment	22/9/20

STAGE 2: EVIDENCE AND IMPACT

Protected characteristics (Equality Act)	Evidence and information (eg data and feedback)	Any adverse impact See guidance on how to make judgement	Actions	Timescale and who is responsible
Age	The project will affect Plymouth City Council staff and partner organisation staff of working age i.e. between 16-67	None		
Disability	The City Council’s HR policies are compliant with the Equalities Act in terms of ensuring that its corporate office buildings are accessible and that reasonable	None	Project Manager to ensure that all alternative future office locations for staff are compliant in terms of accessibility	Project Manager – Oct 2021

	adjustments can be made for individual requirements			
Faith/religion or belief	The change of office location for some staff will not have any impact on faith/religion or belief	None		
Gender - including marriage, pregnancy and maternity	The change of office location for some staff will not have any impact on gender	None		
Gender reassignment	The change of office location for some staff will not have any impact on gender reassignment	None		
Race	The change of office location for some staff will not have any impact on race	None		
Sexual orientation - including civil partnership	The change of office location for some staff will not have any impact on sexual orientation	None		

STAGE 3: ARE THERE ANY IMPLICATIONS FOR THE FOLLOWING? IF SO, PLEASE RECORD ACTIONS TO BE TAKEN

Local priorities	Implications	Timescale and who is responsible
Reduce the gap in average hourly pay between men and women by 2020.	None	
Increase the number of hate crime incidents reported and maintain good satisfaction rates in dealing with racist, disablist, homophobic, transphobic and faith, religion and belief incidents by 2020.	None	
Good relations between different communities (community cohesion)	None	

Human rights Please refer to guidance	None	
---	------	--

STAGE 4: PUBLICATION

Responsible Officer: Andy Ralphs, Strategic Director of Customer & Corporate Services _____ Date _____

Strategic Director, Service Director or Head of Service

This page is intentionally left blank

ACCOMMODATION FRAMEWORK 2020 - 2023



The Way We Work Programme

CONTEXT

The Council has wide base of infrastructure and accommodation assets representing an important class within our capital programme. The different uses and pressures on the different types of building in our estate have meant that a one size fits all approach is inappropriate and that continues to be the case today. This document outlines the framework for our corporate office estate and should be seen as distinct from how we manage other buildings and infrastructure. However, there are some principles that connect the management of all our assets. This framework sits in the context of both the Corporate Plan and the Local Strategic Plan, complying with the values, objectives and policies contained in both.

In addition this framework builds on the principles and outcomes contained in the previous versions of our Accommodation Strategy, with the main changes summarised as follows:

- The framework responds to the 2030 net zero carbon target
- Building on the significant increase in digital update during the lockdown, the framework supports new ways of working including flexible working arrangements and increased use of digital technology
- Ballard House is now part of the corporate estate
- Rather than retain and refurbish Windsor House, it is now proposed that the building should be considered for release from the corporate estate

For completeness the following areas of the wider corporate estate are listed below and are guided by the same framework as the corporate office accommodation framework but out of scope of the rest of this document:

- Commercial estate
- Depots (operational buildings)
- Libraries
- Schools
- Civic buildings (Council House, Guildhall)
- Ancillary buildings e.g. WCs and changing rooms

Management of the operational estate is co-ordinated through asset management plans, which cover the running, maintenance and repair of the Council's buildings.

OUR VISION

To **rationalise** our need for accommodation, **modernise** our estate and **grow** our shared and income generating assets.

KEY DRIVERS

- Continue to work flexibly, where the staff involved and the requirements of their role can be safely and productively performed

- Ensure ease of access to the Council's services by the public
- Reduce accommodation costs in order to support the balancing of our budget
- Achieve carbon neutrality by 2030 in order to support the Climate Action Plan

OUR PRINCIPLES

- Individual staff needs and the requirements of each role will be used to define worker types so that we know how many desks are required in our reduced accommodation estate.
- Create clusters, grouping staff with functional and directorate linkages, whilst enabling new ways of working to suit service and customer needs.
- Use location to make services efficient and convenient for customers, clients and partners.
- Creating modern customer and working environments to facilitate high productivity and wellbeing.
- Retain and develop carbon efficient office locations; exit and redevelop those buildings that cannot cost effectively achieve carbon neutrality.
- Use buildings as efficiently as possible whilst reducing square metres used, to underpin new flexible working arrangements. Working environments should include flexible and collaborative space.
- Creating flexibility in our accommodation to support culture change, partnership working and commercial income generation.
- To realise and maximise revenue benefits through releasing at least one corporate building from PCC staff use.

OUR PRIORITIES

Agree corporate standards for service delivery in a flexible working and digital environment

All staff and roles to be categorised into worker types i.e. home, office, flexible and front line worker

Ballard House	Windsor House	Midland House	Wider corporate estate
<ul style="list-style-type: none"> ▪ Use asset more efficiently ▪ Future occupant mix of PCC and partner organisations ▪ Income generation exploited with partner and commercial tenants 	<ul style="list-style-type: none"> ▪ Develop business case to release asset from PCC occupation ▪ Identify most appropriate method of disposing of asset, either through re-use, re-purposing or as a cleared redevelopment site 	<ul style="list-style-type: none"> ▪ Undertake options appraisal to identify whether building is best released from PCC occupation or retained for further consolidation of services ▪ Refurbish and re-purpose asset if retained ▪ If building is to be released from the corporate estate, identify most 	<ul style="list-style-type: none"> ▪ Identify and progress further opportunities for rationalising the wider corporate estate, to include disposal or income generation through leasing out properties ▪ Relocate corporate records to single purpose-designed site

		appropriate method of disposing of asset	
--	--	--	--

OUR OUTCOMES

▪ Creating sustainable income streams	▪ Enriching the customer experience
▪ Reducing our cost base	▪ Improving environmental sustainability
▪ Delivering multi-agency co-operation	▪ Enhancing staff health and wellbeing

This page is intentionally left blank

The following relates to exempt or confidential matters (Para(s) 3 of Part 1, Schedule 12A of the Local Govt Act 1972). Any breach of confidentiality could prejudice the Council/person/body concerned & might amount to a breach of the councillors /employees codes of conduct.

Document is Restricted

This page is intentionally left blank

EXECUTIVE DECISION

made by a Council Officer



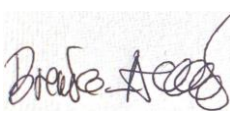
REPORT OF ACTION TAKEN UNDER DELEGATED AUTHORITY BY AN INDIVIDUAL COUNCIL OFFICER

Executive Decision Reference Number – COD11 20/21

Decision	
1	<p>Title of decision: City Business Park, Computer Complex building demolition contract award</p>
2	<p>Decision maker (Council Officer name and job title): Brendan Arnold, Service Director for Finance</p>
3	<p>Report author and contact details: Phil Lord Tel: 01752 305620 Email:phil.lord@plymouth.gov.uk</p>
4a	<p>Decision to be taken: To award the Contract for Computer Complex Demolition to the successful tenderer, following a competitive procurement activity. The Executive Decision gives delegated authority to the Strategic Director of Finance to award the Contract. Details of the successful tenderer are set out in the Contract Award Report</p>
4b	<p>Reference number of original executive decision or date of original committee meeting where delegation was made: L40 19/20</p>
5	<p>Reasons for decision: The project undertook a procurement exercise. The Council received 2 tender returns and following a tender analysis is now in a position to award the contract. See Contract Award Report.</p>
6	<p>Alternative options considered and rejected: Other options were as follows: Option 1: Do Nothing By doing nothing the risk from asbestos exposure is retained, if not increased due to the deteriorating condition of the building. Furthermore an ongoing loss of rental income and security costs to secure the empty building. Option 2: Encapsulate and maintain asbestos containing materials £433,656 Asbestos can be encapsulated at a cost of circa £433,656 however significant maintenance liabilities will be retained using up a large amount of staff resources.</p>

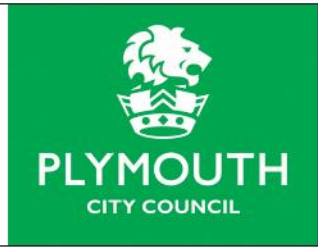
	Option 3: Removal and reinstatement £660,606 other maintenance liabilities			
	Computer Complex has a series of maintenance issues that would not be addressed by removal and reinstatement. E.G Replacement heating, fire and intruder systems.			
7	Financial implications: £336,000 funded by service borrowing			
8	Is the decision a Key Decision? (please contact Democratic Support for further advice)	Yes	No	Per the Constitution, a key decision is one which:
			√	in the case of capital projects and contract awards, results in a new commitment to spend and/or save in excess of £3million in total
			√	in the case of revenue projects when the decision involves entering into new commitments and/or making new savings in excess of £1million
		√	is significant in terms of its effect on communities living or working in an area comprising two or more wards in the area of the local authority.	
8b	If yes, date of publication of the notice in the Forward Plan of Key Decisions			
9	Please specify how this decision is linked to the Council's corporate plan/Plymouth Plan and/or the policy framework and/or the revenue/capital budget:	<p>Growing Plymouth Leaving opportunity for future development of the land into a new asset that can accommodate start-up businesses. Increasing economic development in the area.</p> <p>Caring Plymouth Removing asbestos exposure hazard in a key business park to staff and business which occupy the space.</p>		
10	Please specify any direct environmental implications of the decision (carbon impact)	Removal of asbestos will cause use of fossil fuels however ultimate an inefficient building will be demolished which gives the opportunity to repurpose the site and ensure compliance with carbon reduction commitment.		
Urgent decisions				
11	Is the decision urgent and to be	Yes		(If yes, please contact Democratic

	implemented immediately in the interests of the Council or the public?			Support for advice)
		No	x	(If no, go to section 13a)
12a	Reason for urgency:			
12b	Scrutiny Chair signature:		Date	
	Scrutiny Committee name:			
	Print Name:			
Consultation				
13a	Are any other Cabinet members' portfolios affected by the decision?	Yes	√	
		No		(If no go to section 14)
13b	Which other Cabinet member's portfolio is affected by the decision?	Cllr Mark Lowry		
13c	Date Cabinet member consulted	September 2019		
14	Has any Cabinet member declared a conflict of interest in relation to the decision?	Yes		If yes, please discuss with the Monitoring Officer
		No	√	
15	Which Corporate Management Team member has been consulted?	Name	Brendan Arnold	
		Job title	Service director for Finance	
		Date consulted	24th December 2020	
Sign-off				
16	Sign off codes from the relevant departments consulted:	Democratic Support (mandatory)	DS81 20/21	
		Finance (mandatory)	djn.20.21.186	
		Legal (mandatory)	MS/16.12.20	
		Human Resources (if applicable)	KB24122020	
		Corporate property (if applicable)	S0099RB202012 14	
		Procurement (if applicable)	SN/PS/569/ED/12 20	
Appendices				
17	Ref.	Title of appendix		

	A	City Business Park contract award report						
	B	EIA						
Confidential/exempt information								
18a	Do you need to include any confidential/exempt information?	Yes		If yes, prepare a second, confidential ('Part II') briefing report and indicate why it is not for publication by virtue of Part I of Schedule 12A of the Local Government Act 1972 by ticking the relevant box in 18b below.				
		No	√					
		Exemption Paragraph Number						
		1	2	3	4	5	6	7
18b	Confidential/exempt briefing report title:							
Background Papers								
19	Please list all unpublished, background papers relevant to the decision in the table below. Background papers are <u>unpublished</u> works, relied on to a material extent in preparing the report, which disclose facts or matters on which the report or an important part of the work is based. If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part I of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.							
Title of background paper(s)		Exemption Paragraph Number						
		1	2	3	4	5	6	7
City Business Park Demolition business case				√				
Council Officer Signature								
20	I agree the decision and confirm that it is not contrary to the Council's policy and budget framework, Corporate Plan or Budget. In taking this decision I have given due regard to the Council's duty to promote equality of opportunity, eliminate unlawful discrimination and promote good relations between people who share protected characteristics under the Equalities Act and those who do not. For further details please see the EIA attached.							
Signature					Date of decision		11/01/2021	
Print Name		Brendan Arnold - Service Director for Finance						

**PROCUREMENT GATEWAY 3 -
CONTRACT AWARD REPORT PART I**

Computer Complex Demolition - 20140



1. INTRODUCTION

2. BACKGROUND

3. PROCUREMENT PROCESS

4. TENDER EVALUATION CRITERIA

5. SUMMARY OF EVALUATION

6. FINANCIAL IMPLICATIONS

7. RECOMMENDATIONS

8. APPROVAL

1. INTRODUCTION

This contract award report is in relation to the procurement of demolition of the Computer Complex building located at City Business Park, in order to facilitate the redevelopment of this site.

Contract Duration: 5 months Approx

2. BACKGROUND

The building was used as managed office space accommodation and is single storey. The building is currently closed off due to Asbestos debris above the suspended ceiling. The building would not be able to be safely reused without significant investment including replacing the Asbestos cement roof and remedial works to carefully remove the loose asbestos fibres already present on top of the suspended ceiling.

3. PROCUREMENT PROCESS

A competitive procurement was run following the 'Request for Quotation' procedure as outlined in the Council's Contract Standing Orders. This is a one stage process incorporating both suitability assessment criteria and contract award criteria. Under this process a minimum of 3 suppliers must be invited to submit written quotations, 2 of whom should be local PL postcode suppliers. For this procurement, 4 suppliers were invited (whom 3 are local) to this opportunity.

4. TENDER EVALUATION CRITERIA

Evaluation will be undertaken in accordance with the overall evaluation strategy for the project.

The Council will evaluate tender submissions as a two part process.

The first part will consist of an assessment of the Tenderer's suitability in principle to deliver the works as detailed in the ITT document pack and checking that all required documents are completed and submitted. Only Tenderers passing this first part will have their Tenders evaluated at the second part.

The second part is the award and considers the merits of the eligible Tenders in order to assess which is the most economically advantageous. In this part only quality, price and social value criteria that are linked to the subject matter of the contract are used.

Part I - Suitability Assessment

Part I assessments are made against the responses to the suitability assessment questionnaire included at Schedule I in the Return Document.

The questions included in this Schedule, as advised in PPN Action Note 8/16 9th September 2016, have been informed by the Publicly Available Specification (PAS) PAS 91:2013+A1:2017 under licence from the British Standards Institution.

Criteria

The Suitability Assessment criteria is as follows:

- Table 1 - Core Question Module C1: Supplier identity, key roles and contact information
- Table 2 - Core Question Module C2: Financial information
- Table 3 –NOT USED

- Table 4- Core Question Module C4: Health and safety policy and capability
- Table 5- NOT USED
- Table 6- Optional Question Module O2 :Environmental Management policy and capability
- Table 7 - Optional Question Module O3: Quality Management policy and capability
- Table 8- NOT USED
- Table 9- Supplementary Question Module S1: Technical Ability, technical facilities, managerial and staff resources

Methodology

All Suitability Assessment questions will be evaluated on a PASS/FAIL basis. Each question will clearly indicate what response constitutes as PASS and what response constitutes as FAIL. In the event of the Tenderer being awarded a 'fail' on any of the criteria, the remainder of your Tender will not be evaluated and you will be eliminated from the process. Your company will be disqualified if you do not submit these completed questions.

Wherever possible the Council is permitting Tenderers to self-certify they meet the minimum PASS/FAIL requirements without the need to attached evidence or supporting information. However where the Council regards the review of certain evidence and supporting information, as critical to the success of the procurement this will be specifically requested.

The return document will clearly indicate whether 'Self-certification' is acceptable or whether 'Evidence is required' for each question.

Where Tenderers are permitted to self-certify, evidence will be sought from the successful Tenderer at contract award stage. Please note the successful Tenderer must be able to provide all evidence to the satisfaction of the Council at contract award stage within a reasonable period, if the successful Tenderer is unable to provide this information the Council reserves the right to award the contract to the next highest scoring Tenderer and so on.

Part 2- AWARD

Tenderers passing all the pass/fail criteria at the Suitability Assessment stage will have their responses made within Schedules 2-9 evaluated by the Council to determine the most economically advantageous Tender based on the quality, price and social value criteria that are linked to the subject matter of the contract.

The Council will not be bound to accept the lowest price of any Tender submitted.

Criteria, Weightings and Methodology

PRICE (Schedule 4) – 50% weighting

Evaluation made against comparison of pricing schedules.

PRI Total Tender Sum 50%

TOTAL 50%

PRI Total Tender Sum

The Tenderer's Total Tender Sum will be evaluated using the scoring system below:

$$\left(\frac{\text{Lowest Total Tender Sum}}{\text{Tenderer's Tender Sum}} \right) \times \text{Weighting} = \text{Weighted score}$$

Quality (Schedule 2 and Schedules 4-9) - 40% weighting

Strength of proposals to comply with the Council's Specification - evaluation made on contract delivery proposals submitted in response to the requirements set out in specification and taking into consideration the Council's aims for the service.

Each question within Schedule 2 and Schedules 4-9 will be clearly identified as being evaluated on a pass/fail or scored basis.

Pass/Fail Questions- Questions identified as PASS/FAIL will be evaluated on a pass/fail basis. Each question will clearly indicate what response constitutes as PASS and what response constitutes as FAIL. In the event of the Tenderer being awarded a 'fail' on any of the criteria, the remainder of your Tender will not be evaluated and you will be eliminated from the process. Your company will be disqualified if you do not submit these completed questions.

Scored Questions - Questions identified as SCORED will be evaluated in accordance with the following sub-criteria and weightings:

Method Statements (Schedule 2)

MS1 Project Delivery, Risk and Disruption	10%
MS2 Programming	10%
MS3.1 Waste management/Environmental	10%
MS3.2 Asbestos management	10%
TOTAL	40%

Questions identified as SCORED will be evaluated using the scoring standard system below.

Scoring Standard System

Response	Score	Definition
Excellent	5	Response is completely relevant and excellent overall. The response is comprehensive, unambiguous and demonstrates a thorough understanding of the requirement/outcomes and provides details of how the requirement/outcomes will be met in full.
Very good	4	Response is particular relevant. The response is precisely detailed to demonstrate a very good understanding of the requirements and provides details on how these will be fulfilled.
Good	3	Response is relevant and good. The response is sufficiently detailed to demonstrate a good understanding and provides details on how the requirements/outcomes will be fulfilled.
Satisfactory	2	Response is relevant and acceptable. The response addresses a broad understanding of the requirements/outcomes but lacks details on how the requirement/outcomes will be fulfilled in certain areas.
Poor	1	Response is partially relevant and poor. The response addresses some elements of the requirements/outcomes but contains insufficient/limited detail and explanation to demonstrate how the requirements/outcomes will be fulfilled.
Unacceptable	0	No or inadequate response. Fails to demonstrate an ability to meet the requirement/deliver the required outcomes.

Tenderers must achieve an average score of 2 or more for each scored item. Any scored criteria item receiving an average of less than 2 will result in the Tender being rejected and Tenderer being disqualified from the process.

Social Value (Schedule 3) – 10% weighting

Social value bids should be assessed against the criteria laid out within **SVI** based on a combination of a quantitative and qualitative assessment.

SVI Total SV (National TOMS Calculator) Evaluation Score 10%

- | | | | |
|----|---------------------------|-----------------|-----|
| 1. | Social Value Quantitative | Sub-weighting 1 | 40% |
| 2. | Social Value Qualitative | Sub-weighting 2 | 60% |

Total SV Evaluation Score

The total Social Value score will be calculated from the scores of the quantitative and qualitative Social Value Assessments.

Please complete and return the attached spreadsheet '**Appendix M- SV National TOMS Calculator**' with your submission. Included within is the guidance to complete all aspects of the requirements.

SVI.1 Social Value Quantitative Assessment

The Quantitative assessment is based on the total £SV submitted by the bidder through using the TOMs Procurement Calculator. The bidder submitting the highest social value offer will

be scored full marks for this section. The Tenderer's Total £SV will be evaluated using the scoring system below:

$$\left(\frac{\text{Tenderer's Total Social Value Commitment (£)}}{\text{Highest Total Social Value Commitment (£)}} \right) \times \text{Weighting} = \text{Weighted score}$$

SVI.2 Social Value Qualitative Assessment

The qualitative assessment is based on the method statement in column P of the TOMs Procurement Calculator. Commitments should be evaluated in a similar way to the way in which quality in the rest of the contract is evaluated using the scoring standard system below.

Scoring Standard System

Response	Score	Definition
Excellent	5	Response is completely relevant and excellent overall. The response is comprehensive, unambiguous and demonstrates a thorough understanding of the requirement/outcomes and provides details of how the requirement/outcomes will be met in full.
Very good	4	Response is particular relevant. The response is precisely detailed to demonstrate a very good understanding of the requirements and provides details on how these will be fulfilled.
Good	3	Response is relevant and good. The response is sufficiently detailed to demonstrate a good understanding and provides details on how the requirements/outcomes will be fulfilled.
Satisfactory	2	Response is relevant and acceptable. The response addresses a broad understanding of the requirements/outcomes but lacks details on how the requirement/outcomes will be fulfilled in certain areas.
Poor	1	Response is partially relevant and poor. The response addresses some elements of the requirements/outcomes but contains insufficient/limited detail and explanation to demonstrate how the requirements/outcomes will be fulfilled.
Unacceptable	0	No or inadequate response. Fails to demonstrate an ability to meet the requirement/deliver the required outcomes.

Tenderers must achieve an average score of 1 or more for each scored item. Any scored criteria item receiving an average of less than 1 will result in the Tender being rejected and Tenderer being disqualified from the process.

The Council has decided to take a 'consensus' scoring evaluation approach to this procurement. This means that, following the independent evaluation of submissions, where there is a difference in individual evaluator scoring for one or more individual questions, a moderation session will take place to arrive at an agreed, consensus score. In the event that the evaluators cannot agree on a final score, the score awarded by the majority will be the consensus score.

5. SUMMARY OF EVALUATION

The procurement documentation was issued electronically via the, The Supplying The South West on 9th October 2020, with a tender submission date of 10th November 2020. Submissions were received from 2 suppliers.

The tender submissions were independently evaluated by Council Officers all of whom have the appropriate skills and experience, in order to ensure transparency and robustness in the process.

In order to ensure fairness of the process the evaluation of Quality and Price were split, with Price information being held back from the Quality evaluators.

Suitability

The pass/fail evaluation were undertaken by the Procurement Services Function. The minimum pass/fail suitability questions were evaluated by the evaluation panel. The results are contained in the confidential paper.

Quality

The tenders were evaluated by the evaluation panel all of whom had the appropriate skills and experience in order to ensure transparency and robustness in the process. The resulting scores are contained in the confidential paper.

Price

Price clarifications were evaluated by the internal Quantity Surveyor and managed through The Supplying The South West Portal. The financial scores are contained in the confidential paper.

6. FINANCIAL IMPLICATIONS

Financial provision has been made for this contract within the project budget. Details of the contractual pricing are contained in the confidential paper.

7. RECOMMENDATIONS

It is recommended that a contract be awarded to the highest scoring Tenderer for Computer Complex Demolition. Details of the successful Tenderer have been set out in the confidential paper.

This award will be provisional and subject to the receipt from the highest scoring supplier of the satisfactory self-certification documents detailed in the suitability assessment questionnaire.

In the event the highest scoring supplier cannot provide the necessary documentation the Council reserves the right to award the contract to the second highest scoring supplier.

8. APPROVAL

Authorisation of Contract Award Report

Author (Responsible Officer / Project Lead)	
Name:	Phil Lord
Job Title:	Building Surveyor
Additional Comments (Optional):	
Signature:	P Lord
Date:	10 th December 2020

Head of Service / Service Director [Signature provides authorisation to this award report and award of Contract]	
Name:	Brendan Arnold
Job Title:	Service Director for Finance
Additional Comments (Optional):	
Signature:	Approved by email
Date:	11 January 2021

This page is intentionally left blank

EQUALITY IMPACT ASSESSMENT

City Business Park – Computer Complex Demolition



STAGE I: What is being assessed and by whom?	
<p>What is being assessed - including a brief description of aims and objectives?</p>	<p>City Business Park (Somerset Place, PL3 4BB) comprises of three core buildings; Enterprise House, Park Link and Computer Complex which in turn each contain multiple small lettable business units.</p> <p>The Computer building has an Asbestos Cement and glazed North light roof above a suspended ceiling grid with drop in ceiling tiles. During the early part of 2019 asbestos fibres were identified on the suspended ceiling tiles. Investigation determined that these were coming from the deteriorating condition of the roof. It has been confirmed that the release of asbestos fibres into the ceiling space is continuing. There is a continued high risk of contamination into the public area posing a risk to health of those using the facility.</p> <p>The recommendation is to demolish the Computer Complex building in order to remove the asbestos and risk of contamination, allowing the land to be redeveloped by Economic Development.</p> <p>Aims</p> <p>The aims of this Project can be summarised as: -</p> <ul style="list-style-type: none"> • To fully remove risk of exposure to asbestos fibres within the City Business Park Computer Complex building. • To leave land available for redevelopment by Economic Development
<p>Responsible Officer</p>	<p>Ralph Bint, Facilities Manager (Hard Services)</p>

Department and Service	Facilities Management, Finance
Date of Assessment	01/11/2019

STAGE 2: Evidence and Impact				
Protected Characteristics (Equality Act)	Evidence and information (e.g. data and feedback)	Any adverse impact?	Actions	Timescale and who is responsible?
Age	The 2011 Census data % of Population is: - 0-4 years – 6% 5-9 years - 5% 10-14 - 5% 15-19 - 7% 20-24 - 10% 25-29 - 7% 30-34 - 6% 35-39 - 6% 40-44 - 7% 45-49 - 7% 50-54 - 6% 55-59 - 5% 60-64 - 6% 65-69 - 5% 70-74 - 4% 75-79 - 3% 80-84 - 2% 85+ - 3%	No adverse impacts are anticipated.	There are no specific actions necessary for the project based upon the age profile of our customers. The demolition will remove the H&S risk associated with Asbestos exposure to staff.	Ralph Bint Facilities Manager November 2019 through end March 2020

Disability	<p>30,000 people in Plymouth will have some form of Mental Health issue.</p> <p>0.8% (2118) of those registered with a GP are listed on the mental health register.</p> <p>A total of 31,164 people declared themselves as having a long-term health problem or disability in the 2011 Census.</p> <p>1,224 adults currently registered with a GP in Plymouth have some form of a Learning Disability.</p>	No adverse impacts are anticipated.	Monitor and review as necessary and appropriate	<p>Ralph Bint Facilities Manager November 2019 through end March 2020</p>
Faith, Religion or Belief	<p>Data shows that 32.9% of the Plymouth population stated they had no religion.</p> <p>Hindu, Buddhist, Jewish and Sikh combined totalled less than 1%.</p> <p>0.5% of the population had a current religion that was not Christian, Islam, Buddhism, Hinduism, Judaism, or Sikh such as Paganism or Spiritualism.</p>	No adverse impacts are anticipated.	Monitor and review as necessary and appropriate	<p>Ralph Bint Facilities Manager November 2019 through end March 2020</p>
Gender - including marriage, pregnancy and maternity	Citywide data shows that overall 50.6% of our population are women; this reflects the national figure of 50.8%.	No adverse impacts are anticipated.	Monitor and review as necessary and appropriate	<p>Ralph Bint Facilities Manager November 2019 through end March 2020</p>
Gender Reassignment	National figures (ONS 2013) indicate that up to 10,000 people	No adverse impacts are anticipated.	Monitor and review as necessary and appropriate	Ralph Bint

	have gone through this process, with 23 known cases in Plymouth.			Facilities Manager November 2019 through end March 2020
Race	<p>92.9% of Plymouth’s population is White British</p> <p>7.1% are Black and Minority Ethnic (BME) with White Other (2.7%), Chinese (0.5%) and Other Asian (0.5%) the most common.</p> <p>The Council has 4.1% BME employees across its workforce.</p> <p>We have a rapidly rising BME population which has doubled since the 2001 census</p>	No adverse impacts are anticipated.	Monitor and review as necessary and appropriate	Ralph Bint Facilities Manager November 2019 through end March 2020
Sexual Orientation -including Civil Partnership	<p>There is no precise local data on numbers of Lesbian, Gay and Bisexual (LGB) people in Plymouth, but it is nationally estimated at between 5 – 7%. This would mean that approx. 12,500 people aged over 16 in Plymouth are LGB.</p>	No adverse impacts anticipated.	Monitor and review as necessary and appropriate	Ralph Bint Facilities Manager November 2019 through end March 2020

STAGE 3: Are there any implications for the following? If so, please record 'Actions' to be taken		
Local Priorities	Implications	Timescale and who is responsible?
Reduce the inequality gap, particularly in health between communities.	Not at this stage	
Good relations between different communities (community cohesion).	Not at this stage	
Human Rights	Not at this stage	

STAGE 4: The Principles of Fairness	
Principles	Comment
People should be able to access opportunity whatever their circumstances	The project will allow the land to be re-developed into a more sustainable and accessible business park unit.
The city should give priority to those in greatest need when it allocates resources	This project will remove a significant H&S risk currently posed to any users of the building.
Things that make the biggest difference to people's lives should get priority when deciding where resources go	This project will remove a significant H&S risk currently posed to any users of the building.
Unfairness which takes time to remove needs policies for the long term	The project is based upon engagement with staff in the business park to address any issues of unfairness.
Preventing inequalities is more effective than trying to eliminate them	We will consistently work to ensure our policies and practice deliver services that comply with Equality Act and Human Rights Act
Services should be provided 'with' people, not 'for' them	The works proposed at City Business Park has been in full consultation with on-site staff.

The needs of future and current generations should be balanced when making decisions.	The demolition of the Computer Complex building allows the residual land to be redeveloped into a more sustainable business centre for the future (Economic Development working up BC)
---	--

STAGE 5: Publication			
Director, Assistant Director/Head of Service approving EIA.	Andrew Hardingham Head of Business Improvement, Place Directorate	Date	10 February 2020

EXECUTIVE DECISION

made by a Cabinet Member



REPORT OF ACTION TAKEN UNDER DELEGATED AUTHORITY BY AN INDIVIDUAL CABINET MEMBER


Executive Decision Reference Number – HC DI 0 20/21

Decision	
1	Title of decision: Approval of Electrical Safety Standards Policy 2020
2	Decision maker (Cabinet member name and portfolio title): Councillor Chris Penberthy (Cabinet Member for Housing and Co-operative Development)
3	Report author and contact details: Andrew Elvidge (Technical Lead – Housing Improvement – Community Connections)
4	Decision to be taken: To implement the Electrical Safety Standards Policy 2020.
5	<p>Reason for the decision: The implementation of new legislation</p> <p><i>The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020</i> are designed to ensure electrical safety within the private rented sector in England by requiring landlords to have the fixed electrical installation within rented properties inspected at least every five years.</p> <p>A private landlord (as defined in section 122(6) of the Housing and Planning Act 2016) who grants or intends to grant a specified tenancy must ensure that the fixed electrical installation is safe during the period of the tenancy.</p> <p>The regulations set out excluded tenancies which include amongst others, registered providers of social housing, shared accommodation with a landlord or landlord's family, long leases, student halls of residence, hostels and refuges, care homes, hospitals and hospices and other accommodation relating to healthcare provision.</p> <p>The regulations apply to HMOs and introduced a new mandatory condition for HMO licences from the 1st June 2020. These changes to PCC's processes were incorporated in accordance with the legislation.</p> <p>The attached briefing note sets out an overview of the policy and procedures which are expanded on within the attached policy.</p>
6	Alternative options considered and rejected:

	None, this is new legislation that we have a duty to enforce and therefore we are required to produce a policy to reflect how we will look to do this.			
7	Financial implications: There are no financial implications from implementing the policy, however there is expected to be a modest income generated through enforcement of offences, particularly in the early stages of policy implementation (i.e. first 12-18 months) of approximately £0.012m. After this, it is expected that the fines will drop away as landlords comply with the policy.			
8	Is the decision a Key Decision? (please contact Democratic Support for further advice)	Yes	No	Per the Constitution, a key decision is one which:
			X	in the case of capital projects and contract awards, results in a new commitment to spend and/or save in excess of £3million in total
			X	in the case of revenue projects when the decision involves entering into new commitments and/or making new savings in excess of £1million
		X	is significant in terms of its effect on communities living or working in an area comprising two or more wards in the area of the local authority.	
	If yes, date of publication of the notice in the Forward Plan of Key Decisions	N/A		
9	Please specify how this decision is linked to the Council's corporate plan/Plymouth Plan and/or the policy framework and/or the revenue/capital budget:	<u>Corporate Plan</u> Values – Responsible – By having a policy in place we are taking responsibility for process and our actions in delivering our statutory duty. We are also taking steps to ensure that standards are continuously reviewed to positively impact on the safety of housing conditions for our citizens. Values – Fairness – Having a policy ensures that key stakeholders can be fully informed of the local authority's procedures and requirements from them. It provides guidance, reassurance and also a benchmark of consistency for the majority of situations. Caring Council – Having a policy, will enable us to take enforcement where offences have occurred, and the action is deemed appropriate. Improvement in safety of accommodation across the city helps to reduce health inequalities. This is achieved through the provision of safer rented accommodation to the citizens of Plymouth, and robust enforcement of Rogue Landlords.		

		<u>Plymouth Plan for Homes 3</u>		
		Improving Housing Conditions in PRS – Having a policy, as well as regularly reviewing and improving standards within the private rented sector in Plymouth, helps to reduce health inequalities. This is achieved through the provision of safer rented accommodation to the citizens of Plymouth, and robust enforcement of Rogue Landlords. Improvements to accommodation can be physical in terms of the building but can also be in the management of the property.		
10	Please specify any direct environmental implications of the decision (carbon impact)	This policy has no direct environmental implications.		
Urgent decisions				
11	Is the decision urgent and to be implemented immediately in the interests of the Council or the public?	Yes		(If yes, please contact Democratic Support (democraticsupport@plymouth.gov.uk) for advice)
		No	X	(If no, go to section 13a)
12a	Reason for urgency:			
12b	Scrutiny Chair Signature:		Date	
	Scrutiny Committee name:			
	Print Name:			
Consultation				
13a	Are any other Cabinet members' portfolios affected by the decision?	Yes		
		No	X	(If no go to section 14)
13b	Which other Cabinet member's portfolio is affected by the decision?	N/A		
13c	Date Cabinet member consulted	N/A		
14	Has any Cabinet member declared a conflict of interest in relation to the decision?	Yes		If yes, please discuss with the Monitoring Officer
		No	X	
15		Name	Craig McArdle	

	Which Corporate Management Team member has been consulted?	Job title	Strategic Director for People					
		Date consulted	11/12/20					
Sign-off								
16	Sign off codes from the relevant departments consulted:	Democratic Support (mandatory)	DS75 20/21					
		Finance (mandatory)	djn.20.21.177					
		Legal (mandatory)	lt/35412/2/031220					
		Human Resources (if applicable)	N/A					
		Corporate property (if applicable)	N/A					
		Procurement (if applicable)	N/A					
Appendices								
17	Ref.	Title of appendix						
	A	Briefing report for publication						
	B	Electrical Safety Standards Regulations Policy 2020						
	C	Civil Penalties Policy						
	D	EIA						
Confidential/exempt information								
18a	Do you need to include any confidential/exempt information?	Yes		If yes, prepare a second, confidential ('Part II') briefing report and indicate why it is not for publication by virtue of Part I of Schedule 12A of the Local Government Act 1972 by ticking the relevant box in 18b below. (Keep as much information as possible in the briefing report that will be in the public domain)				
		No	X					
		Exemption Paragraph Number						
		1	2	3	4	5	6	7
18b	Confidential/exempt briefing report title:							
Background Papers								

19	Please list all unpublished, background papers relevant to the decision in the table below. Background papers are <u>unpublished</u> works, relied on to a material extent in preparing the report, which disclose facts or matters on which the report or an important part of the work is based. If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part 1 of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.							
Title of background paper(s)		Exemption Paragraph Number						
		1	2	3	4	5	6	7
https://www.legislation.gov.uk/ukxi/2020/312/contents/made Electrical Safety Standards Regulations 2020								
Existing Civil Penalty Policy								
http://www.legislation.gov.uk/ukpga/2004/34/section/249A								
http://www.legislation.gov.uk/ukpga/2004/34/schedule/13A								
Cabinet Member Signature								
20	I agree the decision and confirm that it is not contrary to the Council's policy and budget framework, Corporate Plan or Budget. In taking this decision I have given due regard to the Council's duty to promote equality of opportunity, eliminate unlawful discrimination and promote good relations between people who share protected characteristics under the Equalities Act and those who do not. For further details please see the EIA attached.							
Signature				Date of decision	12/01/2021			
Print Name	Councillor Chris Penberthy							

This page is intentionally left blank

COMMUNITY CONNECTIONS

THE ELECTRICAL SAFETY STANDARDS IN THE PRIVATE RENTED SECTOR (ENGLAND) REGULATIONS 2020 – BRIEFING NOTE.



This sets out our approach to enforcing the electrical safety standards in the private rented sector regulations within domestic rented dwellings within Plymouth.

1. **The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020** are designed to ensure electrical safety within the private rented sector in England by requiring landlords to have the fixed electrical installation within rented properties inspected at least every five years.

A private landlord (as defined in section 122(6) of the Housing and Planning Act 2016) who grants or intends to grant a specified tenancy must ensure that the fixed electrical installation is safe during the period of the tenancy.

The regulations set out excluded tenancies which include amongst others, registered providers of social housing, shared accommodation with a landlord or landlord's family, long leases, student halls of residence, hostels and refuges, care homes, hospitals and hospices and other accommodation relating to healthcare provision.

The regulations apply to HMOs and introduced a new mandatory condition for HMO licences from the 1st June 2020. These changes to PCC's processes were incorporated in accordance with the legislation.

The following is an overview of the process and powers. These are expanded upon in the policy.

1.1 **Landlord duties - testing & certification.**

- Duty for first inspection and testing of the electrical installation
 - New, specified tenancies, granted or intended to be granted on or after 1st July 2020
 - 1st April 2021 - Existing tenancies must be inspected before this date.
- Repeat inspections are required at least every 5 years (sooner if the report recommends a lesser period).
- Ensure that the electrical safety standards are met during any period when the premises are occupied under a specified tenancy.
- Where the inspection report shows a C1, C2 or FI outcome, the landlord must ensure that suitable remedial works or investigations are undertaken. A C3 outcome is advisory and therefore works do not have to be completed.
- A copy of the inspection certificate must be provided by the landlord to:
 - Each existing tenant within 28 days of the inspection
 - A new tenant before they occupy the property, or
 - A prospective tenant within 28 days of receiving a request for the report
 - The LHA within seven days of receiving a request for the certificate in writing

- A copy of the report must be kept by the landlord until the next report is due;

1.2 Local Authority duties - Remedial Notice.

- Where the LHA believes that the landlord has breached one or more of their duties, (excluding provision of certificates), the LHA must serve a remedial notice on the landlord.
- The landlord may make written representations within 21 days
- The LHA must consider any representations

1.3 Landlord duties - Remedial Notice

- A landlord must comply with a remedial notice where either no representations are made or the notice is confirmed (after consideration of the representations) unless they are able to claim that they have taken all reasonable steps e.g. tenant has prevented access.

1.4 Local Authority power to arrange remedial action.

- Failure to comply with a remedial notice also allows the LHA to undertake remedial works in default, with the consent of the tenants.
- Before undertaking such works, the LHA must serve a notice of intention to take remedial action (NIRA) on the landlord.
- Works are to be undertaken within 28 days of the end of the remedial notice expiry date (or within 28 days after confirmation of notice, if appealed).
- The tenants must be given at least 48 hours' notice of the remedial works.

1.5 Appeal against LA remedial works

- A landlord may appeal against a NIRA to the First-tier Tribunal within 28 days of service.
- An appeal suspends the NIRA until the appeal has been determined. The tribunal may affirm, vary, or quash the NIRA.

1.6 Recovery of costs

- The LHA may issue a demand to recover costs relating to works undertaken in accordance with the NIRA which becomes payable after 21 days from the day of issue unless an appeal is submitted.

1.7 Appeal against costs

- An appeal can be made to the First-tier Tribunal within 21 days of the date of issue.

1.8 Urgent remedial action

- Where an electrical report indicates that urgent action is required and the LHA is satisfied that the landlord is not undertaking the necessary work, they may arrange (with the consent of the tenants) for an electrician to undertake the urgent work.
- The tenants must be given at least 48 hours' notice of the date to carry out the work.
- The LHA must issue an urgent remedial action notice (URAN) either prior to or up to seven days from the date when the remedial action commences.

1.9 Appeal against urgent remedial action

- A landlord may appeal against a URAN to the First-tier Tribunal within 28 days of either the date that the work was started or was planned to start (whichever was the first date).
- A URAN is not suspended on appeal.

1.10 Recovery of costs for urgent remedial action

- The recovery process is like those under 1.6 above.

1.11 Financial penalties - notice of intention

- Where a local housing authority is satisfied, beyond reasonable doubt, that a private landlord has breached a duty under regulation 3 (see 1.2), the authority may impose a financial penalty (or more than one penalty in the event of a continuing failure) in respect of the breach.
- A financial penalty may be of such amount as the authority imposing it determines (See Appendix 1); but must not exceed £30,000.
- Before imposing a financial penalty a notice of intention must be served on the private landlord.
- The landlord may make written representations within 28 days.

1.12 Financial penalties – final notice

- Within 28 days of expiry of the representation period the LHA must decide whether to impose a financial penalty on the landlord.
- If it decides to impose a penalty it must serve a final penalty notice.
- The penalty is payable within 28 days.
- The LHA may, at any time, withdraw a NOI or Final notice, or reduce the penalty amount specified in a notice by doing so in writing.

1.13 Appeal against financial penalty

- A landlord can appeal a final notice within 28 days to the First-tier Tribunal.
- If appealed the final notice is suspended until withdrawn or determined.

1.14 Recovery of financial penalty

- The local housing authority which imposed the financial penalty may recover the penalty or part on the order of the county court as if it were payable under an order of that court.

1.15 Proceeds of financial penalty

- The LHA may apply the proceeds to meet the costs and expenses incurred in, or associated with, carrying out any of its enforcement functions in relation to the private rented sector. If not so applied, it must be paid into the Consolidated Fund.

2. There is an overlap of legislation with the Housing Act 2004. A property may have undertaken testing in accordance with these regulations but may be inspected under the Housing Act 2004 and served with a notice to reduce hazards identified under the Housing Health & Rating System. This may include the need to undertake electrical testing, and to obtain and supply a certification to the LA. Should the notice not be complied with prosecution or a civil penalty (up to £30,000) may be made by the LHA.

Where an offence is open to a penalty under both the Housing Act 2004 (as amended by the Housing and Planning Act 2016) and the electrical regulations then the most appropriate piece of legislation will be used taking into account circumstances on a case by case basis.

3. The penalties in respect of breaches of this legislation sit outside of, but are aligned with, Plymouth City Council's Civil Penalty Policy in that they consider the guidance published by the government for civil penalties under the Housing and Planning Act 2015.

The proposed penalty structure form Annex A of the policy together with a range of scenarios. An overview can be found at the end of this document.

The aim of the legislation is to ensure that the electrical installation within rented properties is regularly checked and that deficiencies are rectified in a speedy manner to minimise risk to the occupants. The provision of certification allows parties to see evidence that this has occurred.

The failure to provide certification does not automatically mean that the electrical installation is unsafe.

Civil penalties will be determined on a case by case basis taking into account Annex A which is in line with the Government's guidance on civil penalties.

See Annex A.

The regulations allow the Local Authority, with the consent of the tenants, to undertake remedial works. Where the Local Authority exercises this function the Local Authority will seek to recover the costs involved.

4. The majority of landlords are good and comply with the law, however, the Government is clear that the small minority of rogue landlords and property agents who knowingly break their legal obligations, rent out accommodation which is substandard and harass their tenants should be prevented from managing or letting housing. The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 are a measure to promote improvements to rented accommodation which are to the benefit of the occupiers and reduce carbon emissions to improve the environment for all.

5. The policy aims to inform interested parties, and those that may be subject to enforcement.

Overview of Proposed Determination of penalty amount.

The Authority will decide the amount of penalty up to the maximum within the regulations up to a maximum of £30,000.

A penalty may be awarded under either Part A and/or Part B.

PART A:

This applies where:

- An electrical report indicates that CI defects are present and where the works haven't been undertaken in accordance with the regulations.
- A remedial notice has been served by the Local Authority and the landlord has failed to take all reasonable steps to comply with it and the regulations have been breached.

The indicative penalty shall be determined in accordance with Plymouth City Council's Civil Penalty Policy as if an offence of failing to comply with an improvement notice in respect of I Category I hazard (electrical) has occurred.

Examples are highlighted in Annex B.

PART B:

This applies in respect offences not covered by Part A. It may include for example:

- Failing to provide certification to tenants/prospective tenants
- Where the Local Authority have served a remedial notice which the Landlord has complied with.
- Where the landlord has failed to ensure the testing has been undertaken at regular intervals by a qualified person in accordance with the regulations but has recently complied with the regulations.

Consideration will be given to the issue of a penalty as a "repeat offender". Instead of a scoring matrix the following indicative penalties will be used:

First offence	£Nil – Advice will be given
Second offence:	£300
Third:	£500
Forth & subsequent	£1,000

Considerations:

After the indicative penalty has been determined, considerations of sections (e) – (i) will be applied together with any reductions under section (j). Please refer to PCC's Civil Penalty Policy for detail. In brief these are:

e) Remove any financial benefit the offender may have obtained as a result of committing the offence – *The guiding principle here should be to ensure that the offender does 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 properly managed.*

f) Multiple offenders – *fine sharing in cases where there are multiple offenders.*

g) Punishment of the offender – *A civil penalty should not be regarded as an easy or lesser option compared to prosecution. While the penalty should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending, it is important that it is set at a high*

enough level to help ensure that it has a real economic impact on the offender and demonstrates the consequences of not complying with their responsibilities.

h) Deter the offender from repeating the offence – The ultimate goal is to prevent any further offending and help ensure that the landlord fully complies with all of their legal responsibilities in future. The level of the penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.

i) Deter others from committing similar offences – While the fact that someone has received a civil penalty will not be in the public domain, it is possible that other landlords in the local area will become aware through informal channels when someone has received a civil penalty. An important part of deterrence is the realisation that (a) the local housing authority is proactive in levying civil penalties where the need to do so exists and (b) that the level of civil penalty will be set at a high enough level to both punish the offender and deter repeat offending.

j) Reductions

- Level of compliance by perpetrator, their attitude in doing so, and early payment
- Financial hardship

10. ANNEX B: EXAMPLE SCORING

The following are example indicative penalties under Part A before considerations are applied.

Scenario 1: Where the landlord has failed to comply with a remedial notice served in respect of a single family let and regulations breached. Single landlord who has been assessed as Low Culpability. There has been no direct harm and is considered a first offence.

Offence severity:	5 points
First offence:	5 points
Culpability: Negligent	5 points
Harm: Potential for harm	2 points
Total score:	<u>17 Points</u>
Indicative fine	£2,000

Indicative fine may be altered following considerations set out in (e)-(j).

Scenario 2: Where the landlord has failed to undertake works, in accordance with the regulations, following a test indicating the presence of CI electrical defect/s in a single family home. Single landlord who has been assessed as Negligent. There has been no direct harm and is considered a first offence.

Offence severity:	5 points
First offence:	5 points

Culpability: Negligent	10 points
Harm: Potential for harm	2 points
Total score:	<u>22 Points</u>
Indicative fine	£3,000

Indicative fine may be altered following considerations set out in (e)-(j).

Scenario 3: Where the landlord has failed to undertake works, in accordance with the regulations, following a test indicating the presence of CI electrical defect/s in a HMO where the defect/s affect more than one household. Single landlord who has been assessed as Negligent. There has been no direct harm and is considered a first offence.

Offence severity:	5 points
First offence:	5 points
Culpability: Negligent	10 points
Harm: Potential for harm	2 points
HMO: multiple households affected	10 points
Total score:	<u>32 Points</u>
Indicative fine	£5,000

Indicative fine may be altered following considerations set out in (e)-(j).

This page is intentionally left blank

COMMUNITY CONNECTIONS
THE ELECTRICAL SAFETY STANDARDS IN
THE PRIVATE RENTED SECTOR (ENGLAND)
REGULATIONS 2020 – POLICY.



Contents		Page
1.0	Introduction	3
2.0	Overview of the process and duties.	3
3.0	Enforcement of the regulations	6
4.0	Appeals and representations	7
5.0	Publicity	7
6.0	Consultation	8
7.0	Implementation	8
8.0	Review & comments	8
9.0	Annex A – Determination of penalty amount.	9
10.0	Annex B – Example scoring	10
11.0	Annex C – Questions & answers	11

1.0 INTRODUCTION

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 are designed to ensure electrical safety within the private rented sector in England by requiring landlords to have the fixed electrical installation within rented properties inspected at least every five years.

A private landlord (as defined in section 122(6) of the Housing and Planning Act 2016) who grants or intends to grant a specified tenancy must ensure that the fixed electrical installation is safe during the period of the tenancy.

The regulations set out excluded tenancies which include amongst others, registered providers of social housing, shared accommodation with a landlord or landlord's family, long leases, student halls of residence, hostels and refuges, care homes, hospitals and hospices and other accommodation relating to healthcare provision.

The regulations apply to HMOs and introduced a new mandatory condition for HMO licences from the 1st June 2020. These changes to PCC's processes were incorporated in accordance with the legislation.

2.0 OVERVIEW OF THE PROCESS AND DUTIES.

2.1 Landlord duties - testing & certification.

- Duty for first inspection and testing of the electrical installation
 - New, specified tenancies, granted or intended to be granted on or after 1st July 2020
 - 1st April 2021 - Existing tenancies must be inspected before this date.
- Repeat inspections are required at least every 5 years (sooner if the report recommends a lesser period).
- Ensure that the electrical safety standards are met during any period when the premises are occupied under a specified tenancy.
- Inspections & tests must be undertaken by a competent person who is part of the electrical safety industry competent-person scheme.

The inspection report will show that the installation is one of the following:

- Safe and no further action is required
- Danger is present and there is a risk of injury (Code 1 (C1)). In this situation the cause of the danger would be rectified by the competent person before leaving the property
- The installation poses a potential danger (Code 2 (C2))
- Further investigation is required without delay (FI)
- Improvement to the installation is recommended (Code 3 (C3)); however, this is not sufficient to deem the installation as unsatisfactory.

Where the inspection report shows a C1, C2 or FI outcome, the landlord must ensure that suitable remedial works or investigations are undertaken. A C3 outcome is advisory and therefore works do not have to be completed.

- A copy of the inspection certificate must be provided by the landlord to:
 - Each existing tenant within 28 days of the inspection
 - A new tenant before they occupy the property, or
 - A prospective tenant within 28 days of receiving a request for the report
 - The LHA within seven days of receiving a request for the certificate in writing
- A copy of the report must be kept by the landlord until the next report is due; then a copy of the existing report should be provided to the person undertaking the next inspection.
- Where the work undertaken reveals further issues that require either further remedial work or further investigation, this should be addressed within a further period of 28 days (or shorter period, where this is required).
- The person completing the works should supply the landlord with a confirmation that the works have been completed (so the installation is now safe) or further work/investigation is needed. The landlord must provide a copy of this confirmation together with the original inspection certificate to each tenant and to the LHA within 28 days of the work being undertaken.
- Where further work or investigation is required, the requirements to complete work and provide the necessary confirmation are repeated (as per the original inspection).

2.2 Local Authority duties - Remedial Notice.

- Where the LHA believes that the landlord has breached one or more of their duties, (excluding provision of certificates), the LHA must serve a remedial notice on the landlord within 21 days of deciding that it has reasonable grounds for service.
- The notice includes:
 - the remedial action required to be taken within 28 days of service
 - Details of how to make representations
 - Explanation of the penalties (including the potential maximum penalty) that may result from non-compliance.
- The landlord may make written representations within 21 days, if made the notice is suspended until the representations have been considered.
- The LHA must consider any representations and confirm that outcome of those considerations, in writing, within seven days of the end of the representation period.

2.3 Landlord duties - Remedial Notice

- A landlord must comply with a remedial notice where either no representations are made or the notice is confirmed (after consideration of the representations) unless they are able to claim that they have taken all reasonable steps e.g. tenant has prevented access.

2.4 Local Authority power to arrange remedial action.

- Failure to comply with a remedial notice also allows the LHA to undertake remedial works in default, with the consent of the tenants. Before doing so, the LHA must be satisfied on the balance of probability that there has been a breach of the remedial notice.
- Before undertaking such works, the LHA must serve a notice of intention to take remedial action (NIRA) on the landlord. The notice includes:
 - The nature of the proposed remedial work
 - The date when the work will be undertaken

- Information on the right of appeal against the decision to do the work
- Works are to be undertaken within 28 days of the end of the remedial notice expiry date (or within 28 days after confirmation of notice, if appealed).
- The tenants must be given at least 48 hours' notice of the remedial works.

2.5 Appeal against LA remedial works

- A landlord may appeal against a NIRA to the First-tier Tribunal (Property Chamber) within 28 days of service.
- An appeal suspends the NIRA until the appeal has been determined. The tribunal may affirm, vary, or quash the NIRA.

2.6 Recovery of costs

- The LHA may issue a demand to recover costs relating to works undertaken in accordance with the NIRA which becomes payable after 21 days from the day of issue unless an appeal is submitted.

2.7 Appeal against costs

- An appeal can be made to the First-tier Tribunal (Property Chamber) within 21 days of the date of issue.

2.8 Urgent remedial action

- Where an electrical report indicates that urgent action is required and the LHA is satisfied that the landlord is not undertaking the necessary work, they may arrange (with the consent of the tenants) for an electrician to undertake the urgent work.
- The tenants must be given at least 48 hours' notice of the date to carry out the work.
- The LHA must issue an urgent remedial action notice (URAN) either prior to or up to seven days from the date when the remedial action commences. The URAN includes:
 - The nature of the urgent remedial action required
 - The date when the urgent work is or has been started
 - The right of appeal and the appeal period
 - The provisions relating to the issue of financial penalties.

2.9 Appeal against urgent remedial action

- A landlord may appeal against a URAN to the First-tier Tribunal (Property Chamber) within 28 days of either the date that the work was started or was planned to start (whichever was the first date).
- A URAN is not suspended on appeal.

2.10 Recovery of costs for urgent remedial action

- The recovery process is like those under 2.5 above.

2.11 Financial penalties - notice of intention

- Where a local housing authority is satisfied, beyond reasonable doubt, that a private landlord has breached a duty under regulation 3 (see 2.1), the authority may impose a financial penalty (or more than one penalty in the event of a continuing failure) in respect of the breach.

- A financial penalty may be of such amount as the authority imposing it determines (See Appendix 1); but must not exceed £30,000.
- Before imposing a financial penalty a notice of intention must be served on the private landlord. The notice includes:
 - The amount of the proposed penalty
 - The reasons for imposing the penalty
 - Information about the right to appeal
- The landlord may make written representations within 28 days.

2.12 Financial penalties – final notice

- Within 28 days of expiry of the representation period the LHA must decide whether to impose a financial penalty on the landlord.
- If it decides to impose a penalty it must serve a final penalty notice which includes:
 - The amount of the penalty
 - The reasons for imposing the penalty
 - Information about rights of appeal
 - Consequences of failure to comply
- The penalty is payable within 28 days.
- The LHA may, at any time, withdraw a NOI or Final notice, or reduce the penalty amount specified in a notice by doing so in writing.

2.13 Appeal against financial penalty

- A landlord can appeal a final notice within 28 days to the First-tier Tribunal (Property Chamber).
- If appealed the final notice is suspended until withdrawn or determined.

2.14 Recovery of financial penalty

- The local housing authority which imposed the financial penalty may recover the penalty or part on the order of the county court as if it were payable under an order of that court.

2.15 Proceeds of financial penalty

- The LHA may apply the proceeds to meet the costs and expenses incurred in, or associated with, carrying out any of its enforcement functions in relation to the private rented sector. If not so applied, it must be paid into the Consolidated Fund.

3.0 ENFORCEMENT OF THE REGULATIONS

3.1. Where it is believed that a landlord may be in breach of one of the duties the Local Authority will consider the most appropriate form of action. Typically this will involve initial contact with the landlord to ascertain if the relevant inspection and testing has occurred and seek evidence of this. Where this is not forthcoming, leaves doubt or it is believed a breach has occurred then the Local Authority will serve a relevant notice or notices as described above.

There are a range of offences that can occur. This includes where there is no harm to occupiers, (for example non provision of certification of a system that has been tested and is compliant), to serious breaches where the landlords have had a system tested which has identified serious defects but has failed to undertake remedial action.

3.2. There is an overlap of legislation with the Housing Act 2004. A property may have undertaken testing in accordance with these regulations but may be inspected under the Housing Act 2004 and served with a notice to reduce hazards identified under the Housing Health & Safety Rating System. This may include the need to undertake electrical testing, and to obtain and supply a certification to the LA. Should the notice not be complied with prosecution or a civil penalty (up to £30,000) may be made by the LHA.

Where an offence is open to a penalty under both the Housing Act 2004 (as amended by the Housing and Planning Act 2016) and the electrical regulations, then the most appropriate piece of legislation will be used taking into account circumstances on a case by case basis.

3.3. The penalties in respect of breaches of this legislation sit outside of, but are aligned with, Plymouth City Council's Civil Penalty Policy in that they consider the guidance published by the government for civil penalties under the Housing and Planning Act 2015.

The aim of the legislation is to ensure that the electrical installation within rented properties is regularly checked and that deficiencies are rectified in a speedy manner to minimise risk to the occupants. The provision of certification allows parties to see evidence that this has occurred.

The failure to provide certification does not automatically mean that the electrical installation is unsafe.

Civil penalties will be determined on a case by case basis taking into account Annex A which is in line with the Government's guidance on civil penalties.

See Annex A.

The regulations allow the Local Authority, with the consent of the tenants, to undertake remedial works. Where the Local Authority exercises this function the Local Authority will seek to recover the costs involved.

3.4. The majority of landlords are good and comply with the law, however, the Government is clear that the small minority of rogue landlords and property agents who knowingly break their legal obligations, rent out accommodation which is substandard and harass their tenants should be prevented from managing or letting housing. The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 are a measure to promote improvements to rented accommodation which are to the benefit of the occupiers and reduce carbon emissions to improve the environment for all.

3.5. The policy aims to inform interested parties, and those that may be subject to enforcement.

4.0 APPEALS & REPRESENTATIONS

Representations and appeals are built into the process and these will be highlighted as part of our actions. In particular, the process includes the opportunity for any individual who is advised of the Local Authority's intent to issue a penalty upon them to make representations

before the service of a final penalty notice. In addition any penalty notice can be appealed through the First-tier Tribunal (Property Chamber).

5.0 PUBLICITY

The Council will aim to publicise details of action taken in enforcing these regulations to increase awareness of the obligations of the legislation and to deter others from offending.

To ensure landlords and other interested parties are aware of this policy it will be published on the Council's internet web pages. We will also raise awareness through our partners for example via landlord associations and the Private Rented Sector Partnership Group.

6.0 CONSULTATION

We have consulted with a number of partners, internal and external agencies including: South West Landlord Association, Plymouth Community Homes, Plymouth Residential Lettings, Trading Standards, Plymouth Access To Housing, Plymouth Citizen's Advice, AHAH lets, Plymouth University and Shelter. We have incorporated feedback received from SWLA into revisions of the policy.

7.0 IMPLEMENTATION

Following adoption the policy will be announced by publishing it on the Council's web site, using social media, dissemination via the local landlord associations and presentation to the Private Rented Sector Partnership Group.

The policy needs to be implemented to ensure there is consistency in its application. Decisions to take formal enforcement activity are jointly made by the case officer and Housing Improvement (Technical Lead). This enables the process of the case, and the course of action, to be reviewed.

Each closed case may be subject to random auditing; this is to ensure that proper procedures have been followed.

8.0 REVIEW

The Council will keep the policy under review the effectiveness of the policy and may make amendments accordingly.

Any comments in respect of this policy can be sent to:

Community Connections
Plymouth City Council
Ballard House
West Hoe Road
Plymouth
PL1 3BJ

Or by emailing:

communityconnections@plymouth.gov.uk

9.0 ANNEX A

Determination of penalty amount.

The Authority will decide the amount of penalty up to the maximum of £30,000 limit, as set within the regulations.

A penalty may be awarded under either Part A and/or Part B.

PART A:

This applies where:

- An electrical report indicates that CI defects are present and where the works haven't been undertaken in accordance with the regulations.
- A remedial notice has been served by the Local Authority and the landlord has failed to take all reasonable steps to comply with it and the regulations have been breached.

The indicative penalty shall be determined in accordance with Plymouth City Council's Civil Penalty Policy as if an offence of failing to comply with an improvement notice in respect of I Category I hazard (electrical) has occurred.

Examples are highlighted in Annex B.

PART B:

This applies in respect offences not covered by Part A. It may include for example:

- Failing to provide certification to tenants/prospective tenants
- Where the Local Authority have served a remedial notice which the Landlord has complied with.
- Where the landlord has failed to ensure the testing has been undertaken at regular intervals by a qualified person in accordance with the regulations but has recently complied with the regulations.

Consideration will be given to the issue of a penalty as a "repeat offender". Instead of a scoring matrix the following indicative penalties will be used:

First offence	£Nil – Advice will be given
Second offence:	£300
Third:	£500
Forth & subsequent	£1,000

Considerations:

After the indicative penalty has been determined, considerations of sections (e) – (i) will be applied together with any reductions under section (j). Please refer to PCC's Civil Penalty Policy for detail. In brief these are:

e) Remove any financial benefit the offender may have obtained as a result of committing the offence – *The guiding principle here should be to ensure that the offender does 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 properly managed.*

f) Multiple offenders – *fine sharing in cases where there are multiple offenders.*

g) Punishment of the offender – *A civil penalty should not be regarded as an easy or lesser option compared to prosecution. While the penalty should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending, it is important that it is set at a high enough level to help ensure that it has a real economic impact on the offender and demonstrates the consequences of not complying with their responsibilities.*

h) Deter the offender from repeating the offence – *The ultimate goal is to prevent any further offending and help ensure that the landlord fully complies with all of their legal responsibilities in future. The level of the penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.*

i) Deter others from committing similar offences – *While the fact that someone has received a civil penalty will not be in the public domain, it is possible that other landlords in the local area will become aware through informal channels when someone has received a civil penalty. An important part of deterrence is the realisation that (a) the local housing authority is proactive in levying civil penalties where the need to do so exists and (b) that the level of civil penalty will be set at a high enough level to both punish the offender and deter repeat offending.*

j) Reductions

- Level of compliance by perpetrator, their attitude in doing so, and early payment
- Financial hardship

10. ANNEX B: EXAMPLE SCORING

The following are example indicative penalties under Part A before considerations are applied.

Scenario 1: Where the landlord has failed to comply with a remedial notice served in respect of a single family let and regulations breached. Single landlord who has been assessed as Low Culpability. There has been no direct harm and is considered a first offence.

Offence severity:	5 points
First offence:	5 points
Culpability: Negligent	5 points
Harm: Potential for harm	2 points
Total score:	<hr/> 17 Points
Indicative fine	£2,000

Indicative fine may be altered following considerations set out in (e)-(j).

Scenario 2: Where the landlord has failed to undertake works, in accordance with the regulations, following a test indicating the presence of CI electrical defect/s in a single family home. Single landlord who has been assessed as Negligent. There has been no direct harm and is considered a first offence.

Offence severity:	5 points
First offence:	5 points
Culpability: Negligent	10 points
Harm: Potential for harm	2 points
Total score:	<u>22 Points</u>
Indicative fine	£3,000

Indicative fine may be altered following considerations set out in (e)-(j).

Scenario 3: Where the landlord has failed to undertake works, in accordance with the regulations, following a test indicating the presence of CI electrical defect/s in a HMO where the defect/s affect more than one household. Single landlord who has been assessed as Negligent. There has been no direct harm and is considered a first offence.

Offence severity:	5 points
First offence:	5 points
Culpability: Negligent	10 points
Harm: Potential for harm	2 points
HMO: multiple households affected	10 points
Total score:	<u>32 Points</u>
Indicative fine	£5,000

Indicative fine may be altered following considerations set out in (e)-(j).

II. ANNEX C: Q&A:

How do we decide if it's a first, second, third of subsequent offence?

We will take into account how many final civil penalties have been issued, where the appeal period has expired, in relation to this policy, to the landlord in the previous 4 years.

Who will be issued a penalty?

The penalty will be raised against the private landlord(s) of the property. Where this is a limited company the limited company will be served, in preference to the individual directors.

The definition of "private landlord" is in section 122(6) of the Housing and Planning Act

What is a "valid report"?

A valid report - is one that meets the requirements of the regulations in that it has been produced:

- Following inspection and testing by a qualified competent person,
- In advance of any tenant's occupation of the property, (where required by the regulations)
- Within the last 5 years and/or has not expired, (i.e. is not older than the period of retesting stated on the report), and
- Covers the entirety of the electrical installation for the premises, and
- States the installation address, and is for the residential premises that is let.

What about where tenancies “Roll over” into periodic tenancies? Will these count as new tenancies?

Whether or not a ‘periodic’ tenancy is a new tenancy, as defined in Regulation 2, depends on the type of tenancy issued.

- For ‘contractual periodic tenancies’ – where it is written in the original tenancy agreement that on expiry of the fixed term the tenancy will become periodic – the periodic tenancy will be part of the same tenancy and no new tenancy will be created.
- For ‘statutory periodic tenancies’ – where on expiry of the fixed term the tenancy rolls over into a periodic tenancy automatically by statute (rather than by contract) – the periodic tenancy will be a new tenancy.
- Properties let on statutory periodic tenancies where the fixed term expires between July 2020 and April 2021 will require an inspection and test at this point under the Regulations

If I fail to issue the relevant documents to more than one tenant will I face multiple fines?

If you have a joint tenancy, or separate tenancies, starting on the same day and you fail to give the documents to more than one tenant then this will be counted as one instance and one fine.

If you have failed to give the relevant documents to tenants who are on separate tenancy agreements, which have started on different days, then you will be issued with separate penalties for each instance.

If you fail to provide relevant documents to any or all of your tenants after relevant works/investigations have been completed this will be treated as one instance and one fine. Any other situations will be treated on a case by case basis.

What if a landlord already has a report?

If a landlord has had an inspection carried out before the Regulations come into force and they have complied with all relevant requirements, the next test will not be due until 5 years have passed from the date of the report, or less if the report specifies a shorter period.

Will all installations have to comply with the 18th edition of the Wiring Regulations, even if they were installed before this edition was in force?

The Regulations state that a landlord must ensure that electrical safety standards are met and that investigative or remedial work is carried out if the report requires this.

All electrical installations should be safe for continued use. In practice, if the report does not require investigative or remedial work, the landlord will not be required to carry out any further work.

Reports can also recommend improvement, in addition to requiring remedial work. If a report only recommends improvement but does not require any further investigative or remedial work to be carried out – indicated with a 'C3' classification code – then while it would be good practice to carry out this work, it would not be required in order to comply with the Regulations.

This page is intentionally left blank

CIVIL PENALTY POLICY

Community Connections (Housing Improvement)
Version 2 – 12.03.2020



Civil Penalty Policy

<http://www.legislation.gov.uk/ukpga/2016/22/schedule/9/enacted>

<https://www.legislation.gov.uk/ukpga/2004/34/section/249A>

(HAPA 2016 S.126 Sch9 / HA 2004 S.249A Sch13A)

Maximum Penalty: £30,000

Guidance Document:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/606653/Civil_Penalties_guidance.pdf

Community Connections (Housing Improvement) – Civil Penalty Policy

Policy document setting out how Plymouth City Council will deliver section 249A of The Housing Act 2004 (as implemented by section 126 of the Housing and Planning Act 2016) in order to issue civil penalties as alternative to prosecution

Section 126 and schedule 9 of the Housing and Planning Act 2016 came into force on the 6th April 2017.

These provisions give the local housing authority the power to issue a financial penalty for certain Housing Act 2004 offences as an alternative to prosecution.

The civil penalties option can be used for the following Housing Act 2004 offences:

- S.30 Failure to comply with Improvement Notice
- S.72 Offences in relation to Licensing of HMOs
- S.95 Offences in relation to Licensing of houses under Part 3 HA2004
- S.139(7) Offences in contravention of an overcrowding notice
- S.234 Failure to comply with Management Regulations in respect of HMOs

The council is required to have a policy in place that details when to prosecute and when to consider a civil penalty.

The council must also provide guidance on how the fine levels will be set.

The guidance document issued by DCLG provides details on the considerations that must be taken into account as part of the fine setting process. It places particular emphasis upon the severity of the offence and the landlord's previous record of offending. A scoring mechanism has been devised to reflect the considerations set out in the DCLG guidance. This scoring mechanism is set out below.

When to prosecute and when to consider a civil penalty

The same criminal standard of proof is required for a civil penalty as for prosecution.

Plymouth City Council will firstly satisfy itself that if the case were to be prosecuted in the magistrates' court, there would be a realistic prospect of conviction.

In order to do so Plymouth City Council will consider its own enforcement policy, consult the Crown Prosecution Service Code for Crown Prosecutors', and work closely with our legal department.

Once satisfied that there would be a realistic prospect of conviction a decision will be taken as to whether to prosecute or to issue a civil penalty. All decisions will be taken on a case-by-case basis.

The guidance document issued by DCLG suggests that prosecution may be the most appropriate option where an offence is particularly serious or where the offender has committed similar offences in the past.

It is likely that a civil penalty will be considered as the most appropriate course of action except in the aforementioned circumstances where further consideration will be taken.

A Civil Penalty notice, or notice of intent, will only be served once reviewed and authorised by a Technical Lead (Housing Improvement), Community Connections.

Income from civil penalties

The income received will be applied in accordance with any legislation or guidance published by the government. Currently this is in accordance with <http://www.legislation.gov.uk/ukxi/2017/367/regulation/2/made>

Application of financial penalties recovered

4.—(1) A local housing authority may apply any financial penalty recovered under section 249A of the 2004 Act(1) to meet the costs and expenses (whether administrative or legal) incurred in, or associated with, carrying out any of its enforcement functions in relation to the private rented sector.

(2) Any amount recovered as a financial penalty which is not applied in accordance with paragraph (1) must be paid into the Consolidated Fund.

Enforcement

"enforcement function" means, in relation to a local housing authority(2)—

(a) any of its functions—

(i) under Parts 1 to 4 of the 2004 Act; or

(ii) under Part 2 of the 2016 Act; or

(b) where paragraph (a) does not apply, any of its functions, conferred on it as local housing authority—

(i) connected with an investigation of, or proceedings relating to, a contravention of the law relating to housing or landlord and tenant; or

(ii) connected with the promotion of compliance with the law relating to housing or landlord and tenant

Levels of fine to be set

The guidance document issued by DCLG provides the following considerations when determining the level of a civil penalty;

a) Severity of the offence - *The more serious the offence, the higher the penalty should be.*

In order to measure the severity of the offence the following criteria will be used;

<p>S.30 Improvement Notice Failing to comply</p>	<p>Nature & Type of Hazards Category 1 hazard present – 5 points Category 2 hazard present – 2 points</p> <p>Number of Hazards Each hazard identified is scored to give scale to multiple hazards being more severe</p>
<p>S.72 Licensing of HMOs Failing to licence Over Occupation Breaches of Conditions</p>	<p>Number of Occupants The greater occupancy, the greater responsibility/duty of care for the Licence Holder / HMO Manager 5 to 9 Occupants – 5 points 10 + Occupants – 10 points</p>
<p>S.95 Selective LHMOs Failing to licence Over Occupation Breaches of Conditions</p>	<p>Number of Occupants The greater occupancy, the greater responsibility/duty of care for the Licence Holder / HMO Manager 5 to 9 Occupants – 5 points 10 + Occupants – 10 points</p>
<p>S.139(7) Overcrowding Notice Over Occupation</p>	<p>Nature & Extent of Occupancy Breach Is the occupancy breach 'intentional' (i.e. by landlord actions) or 'unintentional' (i.e. by tenant actions). The % of over occupancy is taken into account in terms of the severity of the offence. Please see appendix 1A.</p>
<p>S.234 Management Regulations Breach of regulations</p>	<p>Location of Breach (communal parts/unit of accommodation) Breach in communal parts – 5 points Breach within a unit of accommodation – 2 points (per unit of accommodation)</p>

Improvement Notices only:

Category 1 Hazards – Serious - A serious and substantial risk to the health and safety of the occupiers, and/or community, with potentially life threatening results. Housing defects posing such a risk may be associated with hazards assessed under the Housing Health & Safety Rating System.

For each Category 1 Hazard a score of 5 will be added.

Category 2 Hazards – Less Serious – A risk of injury or disease to the occupiers potentially resulting in medical treatment. Housing defects posing such a risk may be associated with hazards assessed under the Housing Health & Safety Rating System.

For each Category 2 Hazard a score of 2 will be added.

Where offence is within a House of Multiple Occupancy (HMO) – A one-off premium of 10 points will be added where any hazard or issue would affect more than 1 household i.e. whole building issues or common parts issues in HMO's. This is to ensure that the scope of the hazard or issue is considered in addition to its ability to harm.

b) Culpability and track record of the offender - A higher penalty will be appropriate where the offender has a history of failing to comply with their obligations and/or their actions were deliberate and/or they knew, or ought to have known, that they were in breach of their legal responsibilities. Landlords are running a business and should be expected to be aware of their legal obligations.

In order to assess the culpability of the perpetrator the following factors will be considered;

Portfolio of Properties	How many properties does the offender have control of as Landlord / Licence Holder / HMO Manager
Experience	How many years' experience does the offender have in letting properties? The longer, the more culpable.
Accreditation	Has the offender undertaken the landlord's accreditation scheme? If yes, he/she is informed.
Affiliation	Is the offender a member of a Landlord's Association? If yes – they have had access to guidance and support.
Rogue Landlord Database	Is the offender listed on the Rogue Landlord Database? If yes, then PCC may contact other LA/s for more info and update with new details.
LA Guidance / Contact pre-offence	Has the offender received previous advice, guidance or notification from the LA in respect of this offence?

In order to measure the culpability of the perpetrator the following criteria will be used;

Culpability

Deliberate– An intentional breach by a landlord or property agent or flagrant disregard for the law for example by failing to comply with a notice or regulations.

For Deliberate acts a score of 20 will be added

Reckless– An actual foresight of, or wilful blindness to the risk of offending but decides to take the risk nevertheless for example failing to comply with a strict liability in the HMO regulations.

For Reckless acts a score of 15 will be added

Negligent– The failure of the landlord or property agent to take reasonable care to put in place and enforce proper systems for avoiding the offence, for example partial compliance with a schedule of work to an enforcement notice but failure to fully comply with all schedule items.

For Negligent acts a score of 10 will be added

Low or no culpability– The offence committed has some fault on the part of the landlord or property agent but there are other circumstances for example obstruction by the tenant to allow a contractor access for repairs, or damage caused by tenant negligence.

For Low culpability acts a score of 5 will be added

A premium will be added where the requirement to licence a property under Parts 2 or 3 of the Housing Act 2004 has not been complied with.

Where a person in control, landlord or person managing fails to obtain a licence without direct contact by Plymouth City Council requiring them to do so, a score of 5 will be added.

Where a person in control, landlord or person managing fails to obtain a licence despite direct contact by Plymouth City Council requiring them to do so, a score of 15 will be added.

Track record

In order to assess the culpability of the perpetrator the following factors will be considered;

Penalised or Convicted of the Same Offence Previously	A repeat of the same offence highlights a much greater culpability as the offender is aware of their obligations.
Penalised or Convicted of Other Offences Previously	A history of other offences can highlight an increased culpability as the offender is aware that they have obligations.

In order to measure the culpability of the perpetrator the following criteria will be used;

1st offence – no previous conviction or civil penalty imposition for offences in relation to this policy in the previous four years irrespective of the locality to which the offence relates.

For 1st offences a score of 5 will be added

2nd subsequent offence by same person/company – any conviction or civil penalty imposition for offences in relation to this policy, within four years of the 1st offence, irrespective of the locality to which the initial offence relates.

For 2nd offences a score of 15 will be added

Ongoing non-compliance - any conviction or civil penalty for offences in relation to this, within four years of the previous instance (at least 3rd occurrence), irrespective of the locality to which the initial offence relates.

For ongoing offences a score of 30 will be added

c) The harm caused to the tenant – *This is a very important factor when determining the level of penalty. The greater the harm or the potential for harm (this may be as perceived by the tenant), the higher the amount should be when imposing a civil penalty.*

The Authority will consider the following factors in its decision-making process:

Harm Outcome (Actual Harm has occurred) = 10 Points	Acknowledges both Physical and Mental harm caused or in some cases perceived by the tenant. Where applicable HHSRS assessment outcomes should be taken into consideration.
Vulnerable to Harm Outcome (Vulnerability identified but no Actual Harm has occurred) = 5 Points	Highlights an awareness of the vulnerable age group per hazard and further consideration given to an individual's propensity to harm on a case by case basis, including possible vulnerabilities. Where applicable HHSRS assessment outcomes should be taken into consideration.
Potential for Harm Outcome (No Vulnerability identified or Actual Harm has occurred, however, there is a potential for harm) = 2 Points	Acknowledges that potential hazard/s may be present in the property and that for the occupants there is the potential for harm. This is irrespective of vulnerabilities.

The severity of harm calculation needs to reflect the types of issues encountered, however a premium score will be added for actual harm having occurred and the vulnerability of the tenant as set out in the Housing Health and Safety Rating System and in the table below;

Hazard	Vulnerable age group (age of occupant)
Damp and mould growth	14 and under
Excess Cold	65 or over
Excess Heat	65 or over
Carbon Monoxide	65 or over
Lead	under 3 years
Personal Hygiene, Sanitation and Drainage	under 5 years
Falls associated with baths etc.	60 or over
Falling on level surfaces etc.	60 or over
Falling on stairs etc.	60 or over
Falling between levels	under 5 years
Electrical hazards	under 5 years
Fire	60 or over
Flames, hot surfaces etc.	under 5 years
Collision and entrapment	under 5 years
Collision and entrapment - low headroom	16 or over
Position and operability of amenities etc.	60 or over

Harm Occurred: A score of 10 will be added where the occupier/s have suffered harm due to the defects/hazards noted.

Harm Vulnerability: A score of 5 will be added where the occupiers have not suffered harm but are in the vulnerable age group to the hazard noted.

Harm Potential: A score of 2 will be added where the vulnerable age group are not present.

d) Stage I – Indicative Penalty Charge**Scoring Chart**

The scoring chart below is a reference index for the policy, as set out in the text above. Each offence is attributed points scoring based on the factors of; 'severity', are hazards exposed to 'multiple households', what is the level of 'culpability' for the perpetrator, is the property a 'licensable HMO', what is the perpetrators 'track record', what level of 'harm' is present, and what level of 'vulnerability' is present. Once the overall score has been calculated, this table is referred to for an 'Indicative Penalty Charge'. The officer will then give further consideration to the factors of; 'suitability of punishment', is it a 'deterrent to the offender' (and/or others) and does it suitably 'remove any financial benefit' received from the offence.

Score	Indicative Penalty Charge
14-20	£2,000
21-30	£3,000
31-40	£5,000
41-50	£7,500
51-60	£10,000
61-70	£15,000
71-80	£20,000
81-90	£25,000
91-100+	£30,000

e) Remove any financial benefit the offender may have obtained as a result of committing the offence – *The guiding principle here should be to ensure that the offender does 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 properly managed.*

Following the initial scoring calculation, an estimation of offender costs to resolve the hazard or issue identified will be produced.

In addition an estimation of any financial benefit, which may include rents received, arising from the offence(s) will be produced. Where rents received are considered, this will be over a maximum 12 month period.

Consideration will then be given to the initial scoring calculation as to whether or not this element has been suitably met. If there is a decision to increase the fine level the reasoning behind the decision will be clearly set out in the Notice of Intent and any Final Notice.

f) Multiple offenders

Following Stage 1 considerations (a-e above) an indicative fine level will be calculated, by applying the points total to the scoring chart matrix. Where there are multiple offenders, in relation to the same offence, the most severe outcome will be calculated in the first instance. Then each offender’s culpability score will be divided by the accumulative total of culpability scores to work out a percentage of penalty charge (see example scenario 3), before Stage 2 considerations (g-j below) are made. Where there are multiple offenders, separate notices will be served.

g) Punishment of the offender – *A civil penalty should not be regarded as an easy or lesser option compared to prosecution. While the penalty should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending, it is important that it is set at a high enough level to help ensure that it has a real economic impact on the offender and demonstrates the consequences of not complying with their responsibilities.*

The Authority will consider the following factors in its decision-making process:

Severity of the Offence	The punishment should reflect the severity of the offence as previously determined.
Economic Impact	The punishment should have a sufficient economic impact on the offender. To help determine this consideration may be given to; Credit Checks, Companies House, Portfolio Income & Equity.

Risks	Could the offender continue to operate? Is there a risk of homelessness for the tenants?
--------------	---

Following the stage 1 scoring calculation, consideration will be given as to whether or not this element has been suitably met. This will be considered separately for each offender. If there is a decision to increase the fine level the reasoning behind the decision will be clearly set out in the Notice of Intent and any Final Notice.

h) Deter the offender from repeating the offence – *The ultimate goal is to prevent any further offending and help ensure that the landlord fully complies with all of their legal responsibilities in future. The level of the penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.*

The Authority will consider the following factors in its decision-making process:

Individual Deterrent	This is a review stage of the above considerations to determine if the level of penalty is appropriate to deter further occurrences?
-----------------------------	--

Following the stage 1 scoring calculation, consideration will be given as to whether or not this element has been suitably met. This will be considered separately for each offender. If there is a decision to increase the fine level the reasoning behind the decision will be clearly set out in the Notice of Intent and any Final Notice.

i) Deter others from committing similar offences – *While the fact that someone has received a civil penalty will not be in the public domain, it is possible that other landlords in the local area will become aware through informal channels when someone has received a civil penalty. An important part of deterrence is the realisation that (a) the local housing authority is proactive in levying civil penalties where the need to do so exists and (b) that the level of civil penalty will be set at a high enough level to both punish the offender and deter repeat offending.*

The Authority will consider the following factors in its decision-making process:

Wider Deterrent	This is a review stage of the above considerations to determine if the level of penalty is appropriate to deter others, in a similar set of circumstances, from committing offences?
------------------------	--

Following the stage 1 scoring calculation, consideration will be given as to whether or not this element has been suitably met. This will be considered separately for each offender. If there is a decision to increase the fine level the reasoning behind the decision will be clearly set out in the Notice of Intent and any Final Notice.

j) Reductions

Level of compliance by perpetrator, their attitude in doing so, and early payment –

Where the decision has been taken that a prosecution is appropriate, or subsequently a civil penalty notice should be issued, it is unlikely that the perpetrator could be deemed as compliant. However if there is a clear behavioural change and a will to ensure future compliance, followed by a payment within the prescribed 28 days a reduction of 10% may be attributed to the total.

Financial hardship - Local housing authorities should make an assessment of a landlord's assets and any income (not just rental income) they receive when determining an appropriate penalty. The perpetrator will have the opportunity to make representations following the service of the Notice of Intent and may decide to set out any financial hardship in those representations. It will be for the perpetrator to provide sufficient documented evidence of income when relying upon such representations. The Council reserves the right to request further information to support any financial claim, and where this is incomplete, appears to be inaccurate or is not sufficiently evidenced may determine that the representation should not be considered. It is possible that financial hardship could be a factor when a perpetrator makes representations, particularly for lesser portfolio landlords, but this is not an easily predictable measure and needs to be judged on a case by case basis.

Example Scenarios

Scenario 1 – Failure to comply with an Improvement Notice

This person has failed to comply with an improvement notice containing 4 hazards; Excess Cold, Damp and Mould, Falls on Stairs and Fire Safety (2 x Cat 1 hazards and 2 x Cat 2 hazards). They were also previously prosecuted for failing to comply with an improvement notice 3 years ago at a different address. The occupant is a 67 year old lady who has recently been in hospital with a broken hip suffered from a fall within the home.

Scoring – Scenario 1

Factor	Description	Item Total	Running Total
Severity	1 x Cat 1 Hazard (EC) 1 x Cat 1 Hazard (FOS) 1 x Cat 2 Hazard (D&M) 1 x Cat 2 Hazard (FS)	5 points 5 points 2 Points 2 Points	14 Points
Multiple Households (Improvement Notices only)	N/A – Scenario 1 is a Single Family Dwelling	Nil	14 Points
Culpability	Deliberate – as perpetrator failed to comply with the notice	20 points	34 Points
Licensable HMO	N/A – Scenario 1 is a Single Family Dwelling	Nil	34 Points
Track Record	2 nd offence in 4 years	15 points	49 Points
Harm & Vulnerability	Broken Hip (relative to the hazards of excess cold / falls on stairs)	10 points	59 Points
Scenario 1 - Total Points Accumulation			59 Points
Scenario 1 – Level Of Associated Penalty Charge (for further consideration and deliberation)			£10,000

Following stage 1 calculations, consideration would be given to the financial benefit the perpetrator had by undertaking the offence. This would include, but may not be limited to:

- 1) The costs of works required, £8,000 (GCH - £4000, Banisters/balustrades - £1500, Damp proofing & repair works - £2000, Servicing and repair of faults to Fire System - £500).

Therefore the financial benefit would then be assessed as £8,000.

In this instance, the officer would see that the indicative penalty charge of £10,000 is sufficient to remove the financial benefit of committing the offence and would therefore retain the penalty as **£10,000**. In this instance the officer will justify the charge by detailing reasons in an Enforcement Action Proposal for authorising.

In some instances the penalty may be varied further in accordance with this policy and can be issued for up to a maximum amount of £30,000.

A Civil Penalty notice, or notice of intent, will only be served once reviewed and authorised by a Technical Lead (Housing Improvement), Community Connections.

In addition to the above, Plymouth City Council could give consideration to further enforcement action available through the Housing and Planning Act 2016.

Scenario 2 – Failure to comply with an Improvement Notice in a HMO

This person has failed to comply with an improvement notice containing 4 hazards; Excess Cold, Damp and Mould, Falls on Stairs and Fire Safety (2 x Cat 1 hazards and 2 x Cat 2 hazards). It is a licensed HMO with 8 people. They were also previously prosecuted for failing to comply with an improvement notice 3 years ago at a different address. The occupants include a 67 year old lady who has recently been in hospital with a broken hip suffered from a fall within the home.

Scoring – Scenario 2

Factor	Description	Item Total	Running Total
Severity	1 x Cat 1 Hazard (EC) 1 x Cat 1 Hazard (FOS) 1 x Cat 2 Hazard (D&M) 1 x Cat 2 Hazard (FS)	5 points 5 points 2 Points 2 Points	14 Points
Multiple Households (Improvement Notices only)	Property is a HMO with 8 persons	10 Points	24 Points
Culpability	Deliberate – as perpetrator failed to comply with the notice	20 points	44 Points
Licensable HMO	Licensed	Nil	44 Points
Track Record	2 nd offence in 4 years	15 points	59 Points
Harm & Vulnerability	Broken Hip (relative to the hazards of excess cold / falls on stairs)	10 points	69 Points
Scenario 2 - Total Points Accumulation			69 Points
Scenario 2 – Level Of Associated Penalty Charge (for further consideration and deliberation)			£15,000

Following stage 1 calculations, consideration would be given to the financial benefit the perpetrator had by undertaking the offence. This would include, but may not be limited to:

- 1) The costs of works required, £8,000 (GCH - £4000, Banisters/balustrades - £1500, Damp proofing & repair works - £2000, Servicing and repair of faults to Fire System - £500).

Therefore the financial benefit would then be assessed as £8,000.

In this instance, the officer would see that the indicative penalty charge of £15,000 is sufficient to remove the financial benefit of committing the offence and would therefore retain the penalty as **£15,000**. In this instance the officer will justify the charge by detailing reasons in an Enforcement Action Proposal for authorising.

In some instances the penalty may be varied further in accordance with this policy and can be issued for up to a maximum amount of £30,000.

A Civil Penalty notice, or notice of intent, will only be served once reviewed and authorised by a Technical Lead (Housing Improvement), Community Connections.

In addition to the above, Plymouth City Council could give consideration to further enforcement action available through the Housing and Planning Act 2016.

Scenario 3 – Failure to licence a Licensable HMO – No other offences

This couple have failed to licence a licensable HMO, they are joint owners of the property and also joint directors of the company associated with letting the property. Direct communication was exchanged with the company and one of the couple (Mr X), following a visit, advising that a licence was necessary. The property needs some attention however, no notices have been served and it is not considered that the HMO management regulations have been breached. There is no history of non-compliance in the past.

Scoring – Scenario 3

Factor	Description	Item Total	Running Total
Severity	Failure to licence a licensable HMO for 6 persons.	5 points	5 Points
Multiple Households (Improvement Notices only)	N/A – No Improvement Notice served	Nil	5 Points
Culpability	Reckless – PCC advised offender that a HMO licence was required and what offence would occur by not applying.	15 points	20 Points
Licensable HMO	Licensable HMO for 6 persons in 6 households. A licence has not been applied for, despite direct contact on this matter.	15 points	35 Points
Track Record	1 st Offence	5 Points	40 Points
Harm & Vulnerability	Potential for harm. All homes are potentially hazardous, but there was no record of actual harm.	2 Points	42 Points
Scenario 3 - Total Points Accumulation			42 Points
Scenario 3 – Level Of Associated Penalty Charge (for further consideration and deliberation)			£7,500

Following stage 1 calculations, consideration would be given to the financial benefit the perpetrator had by undertaking the offence. This would include, but may not be limited to:

- 2) The cost of the avoided HMO licence fee (if not subsequently applied)
- 3) The rents received for the 5th or more person in residence (during the period of the offence being committed) over a maximum 12 month period.

Assuming that the current HMO licence fee was £900, and each of the tenants paid £92 per week for their accommodation, which was occupied for 44 weeks of the past year. The financial benefit would then be assessed as £8,996.

In this instance, the officer would see that the indicative penalty charge of £7,500 is not sufficient to remove the financial benefit of committing the offence and would therefore look to increase the penalty to **£8,996**. In this instance the officer will justify the charge by detailing reasons in an Enforcement Action Proposal for authorising.

Direct contact had been made with landlord (Mr X) but not with (Mrs X) therefore, in terms of fairness and proportionality, the penalty charge should reflect this. The rents are received by the company and both parties are equal percentage directors. Therefore the financial benefit is considered to be equally received. Mr X is considered to be 'Reckless' because of the direct contact (carries a penalty of 15 points) but Mrs X is considered to be 'Negligent' (carries a penalty of 10 points). Where there are multiple offenders, each offender's culpability score will be divided by the accumulative total of culpability scores to work out a percentage of penalty charge. In this instance Mr X is 15/25 (60%) **£5397.60** and Mrs X is 10/25 (40%) **£3,598.40**

In some instances the penalty may be varied further in accordance with this policy and can be issued for up to a maximum amount of £30,000.

A Civil Penalty notice, or notice of intent, will only be served once reviewed and authorised by a Technical Lead (Housing Improvement), Community Connections

In addition to the above, Plymouth City Council could give consideration to further enforcement action available through the Housing and Planning Act 2016.

Scenario 4 – Offences in contravention to an Overcrowding Notice

This person lets out a flat that is suitable for a maximum occupation of 2 persons. He was written to following an initial visit where the occupancy level was identified as 4 persons in total. Tenancies were obtained for the property which evidenced that the landlord had intentionally let to 4 persons. The landlord was issued with an overcrowding notice and advised that he would need to take lawful steps to reduce the occupancy. The property needs some attention; however, there is no improvement notice served or management regulation breaches identified. There is a history of non-compliance in the past for overcrowding in connection with another property.

Scoring – Scenario 4

Factor	Description	Item Total	Running Total
Severity	Intentional overcrowding (i.e. not as a result of tenants actions) – 200% Occ (refer to Appendix 1)	10 points	10 Points
Multiple Households (Improvement Notices only)	N/A – no improvement notice served	Nil	10 Points
Culpability	Deliberate – PCC served OC notice but no actions have been taken to comply.	20 points	30 Points
Licensable HMO	N/A the property is not a licensable HMO	Nil	30 Points
Track Record	2 nd Offence	15 Points	45 Points
Harm & Vulnerability	Potential for harm. All homes are potentially hazardous, but there was no record of actual harm.	2 Points	47 Points
Scenario 4 - Total Points Accumulation			47 Points
Scenario 4 – Level Of Associated Penalty Charge (for further consideration and deliberation)			£7,500

Following stage 1 calculations, consideration would be given to the financial benefit the perpetrator had by undertaking the offence. This would include, but may not be limited to:

- 1) The rents received for the 3rd and 4th resident (as this relates to the offence) over a maximum 12 month period

Assuming that each of the tenants paid £80 per week for their accommodation, which was occupied for 52 weeks of the past year. The financial benefit would then be assessed as £8,320.

In this instance, the officer would see that the indicative penalty charge of £7,500 is not sufficient to remove the financial benefit of committing the offence and would therefore look to increase the penalty to **£8,320**. In this instance the officer will justify the charge by detailing reasons in an Enforcement Action Proposal for authorising.

In some instances the penalty may be varied further in accordance with this policy and can be issued for up to a maximum amount of £30,000.

A Civil Penalty notice, or notice of intent, will only be served once reviewed and authorised by a Technical Lead (Housing Improvement), Community Connections

In addition to the above, Plymouth City Council could give consideration to further enforcement action available through the Housing and Planning Act 2016.

Scenario 5 – Failure to comply with Management Regulations in HMOs

This person has a non-licensable HMO. They were written to following an initial visit where a number of Management Regulation breaches were identified. The offender was given an informal period of time to resolve the breaches but only partial works have been undertaken. There is no history of non-compliance.

Scoring – Scenario 5

Factor	Description	Item Total	Running Total
Severity	Breaches of HMO Management Regulations identified in common parts and unit of accommodation	7 points	7 points
Multiple Households (Improvement Notices only)	N/A – no improvement notice served	Nil	7 Points
Culpability	Negligent – PCC advised of HMO regulation breaches and requirements to undertake works.	10 points	17 Points
Licensable HMO	N/A the property is 2-storeys and occupied by 4 persons only.	Nil	17 Points
Track Record	1 st Offence	5 Points	22 Points
Harm & Vulnerability	No actual harm has been caused, however there is the potential for harm in relation to breaches of the management regulations.	2 Points	24 Points
Scenario 5 - Total Points Accumulation			24 Points
Scenario 5 – Level Of Associated Penalty Charge (for further consideration and deliberation)			£3,000

Following stage 1 calculations, consideration would be given to the financial benefit the perpetrator had by undertaking the offence. This would include, but may not be limited to:

- 1) The costs of works outstanding, £700 (Banisters/balustrades - £500, Stair repairs £200).

Therefore the financial benefit would then be assessed as £700.

In this instance, the officer would see that the indicative penalty charge of £3,000 is sufficient to remove the financial benefit of committing the offence and would therefore retain the penalty as **£3,000**. In this instance the officer will justify the charge by detailing reasons in an Enforcement Action Proposal for authorising.

In some instances the penalty may be varied further in accordance with this policy and can be issued for up to a maximum amount of £30,000.

A Civil Penalty notice, or notice of intent, will only be served once reviewed and authorised by a Technical Lead (Housing Improvement), Community Connections

In addition to the above, Plymouth City Council could give consideration to further enforcement action available through the Housing and Planning Act 2016.

Appendix 1A – Occupancy Severity Table

(Occupancy % & Points Scored)

<u>Intended 4 persons</u>	<u>Intended 5 persons</u>	<u>Intended 8 persons</u>	<u>Intended 10 persons</u>
5 = 125%	6 = 120%	9 = 112.5%	11 = 110%
6 = 150%	7 = 140%	10 = 125%	12 = 120%
7 = 175%	8 = 160%	11 = 137.5%	13 = 130%
8 = 200%	9 = 180%	12 = 150%	14 = 140%
	10 = 200%	13 = 162.5%	15 = 150%
		14 = 175%	16 = 160%
		15 = 187.5%	17 = 170%
		16 = 200%	18 = 180%
			19 = 190%
			20 = 200%
	2 points will be applied	5 points will be applied	10 points will be applied

This page is intentionally left blank

EQUALITY IMPACT ASSESSMENT

Community Connections



STAGE I: WHAT IS BEING ASSESSED AND BY WHOM?

What is being assessed - including a brief description of aims and objectives?

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 – Policy.

These regulations are designed to ensure electrical safety within the private rented sector in England by requiring landlords to have the fixed electrical installation within rented properties inspected at least every five years.

A private landlord (as defined in section 122(6) of the Housing and Planning Act 2016) who grants or intends to grant a specified tenancy must ensure that the fixed electrical installation is safe during the period of the tenancy.

The regulations set out excluded tenancies which include amongst others, registered providers of social housing, shared accommodation with a landlord or landlord's family, long leases, student halls of residence, hostels and refuges, care homes, hospitals and hospices and other accommodation relating to healthcare provision.

The communities affected by the legislation (and this policy) are:

- tenants. There are approximately 22,000 privately rented houses and flats in Plymouth. Using the English Housing Survey Households 2013/14 average of 2.5 persons/household in this sector, this suggests about 55,000 people.
- landlords. It is estimated that there are about 12,000 landlords letting property in Plymouth. Of these, about 50% reside in Plymouth.

Author

Andrew Elvidge, Technical Lead (Housing Improvement), Community Connections

Department and service

Community Connections

Date of assessment

8/12/20

STAGE 2: EVIDENCE AND IMPACT

Protected characteristics (Equality Act)	Evidence and information (eg data and feedback)	Any adverse impact See guidance on how to make judgement	Actions	Timescale and who is responsible
Age	<p>Nationally: In 2018-19, the private rented sector accounted for 4.6 million or 19% of households. Throughout the 1980s and 1990s, the proportion of private rented households was steady at around 10%. While the sector has doubled in size since 2002, the rate has hovered around 19/20% since 2013-14.</p> <p>Nationally: About two thirds (67%) of households in the private rented sector had a HRP aged under 45 years.</p> <p>However, it is known that the average age in Plymouth (39 years) is about the same as the rest of England (39.3 years), but less than the South West (41.6 years).</p> <p>The proportion of the working age population (16-64 years) is higher (66.1%) than regionally (62.8%) and nationally (64.7%).</p> <p>The removal of automatic entitlement to housing costs for 18-21 year olds in universal credit, may mean that a higher proportion of young people may occupy an HMO. A report published in January 2018 by DWP states that 96% of 18-21 year olds who applied for support for housing costs were awarded it.</p> <p>https://www.gov.uk/government/statistics/removal-of-automatic-entitlement-to-housing-costs-for-18-to-21-year-olds-in-universal-credit</p>	<p>All ages are at risk from electrical shock and burns from defective electrical installations. The most vulnerable group are young children, who are less likely to be aware of the risks posed by electricity. Boys between 5 and 14 are three times more likely to have accidents than girls of the same age.</p> <p>Rising house prices, and a shortage of properties and changes to housing benefit are making it hard for young people to find suitable accommodation, and hence may be more likely to live in rented accommodation.</p>	<p>The safety of the electrical installation is not dependent on the occupant(s).</p> <p>Identification breaches of the legislation does not necessarily reflect the occupants of the property. However, those under the age of 5 are considered most vulnerable and best endeavours will be used to identify where these may be present and that any deficiencies are identified during the course of our activities.</p> <p>Staff have been trained in Equality & Diversity and comply with the requirements. They are able to identify specific needs and requirements, apply a suitable style of communication and modify the application</p>	Strategic Manager and Technical Lead (Housing Improvement), Community Connections

			of the policy in appropriate cases.	
Disability	<p>Nationally: In 2018-19 Just over one quarter (27%) of households in the private rented sector had one or more household members with a long-term illness or disability.</p> <p>It is suggested that 1 in 3 households with a disabled person live in non-decent accommodation and 1 in 5 disabled people requiring adaptations to their home believe their accommodation is not suitable.</p> <p>A total of 31,164 people declared themselves as having a long-term health problem or disability, compared with the total number with disabilities in UK (11,600,000).</p> <p>1297 adults registered with a GP in Plymouth have some form of learning disability (2013/14).</p>	<p>The safety of the electrical installation impacts across physical need.</p> <p>The policy means that improvements can be made if required, either by negotiation or enforcement of the landlord.</p>	<p>The safety of the electrical installation is not dependent on the occupant(s).</p> <p>Identification breaches of the legislation does not necessarily reflect the occupants of the property.</p>	<p>Strategic Manager and Technical Lead (Housing Improvement), Community Connections</p>
Faith/religion or belief	<p>It is recognised that occupants of private rented accommodation may include people who would be protected under the Equality Act in regard to their faith, religion or belief.</p> <p>84,326 of the Plymouth population stated they had no religion, and those with a Hindu, Buddhist, Jewish or Sikh religion combined total less than 1%.</p>	<p>Private rented accommodation may be more central in their location within the city and thus more accessible to those visiting places of worship on regular basis.</p>	<p>The safety of the electrical installation is not dependent on the occupant(s).</p> <p>Identification breaches of the legislation does not necessarily reflect the occupants of the property.</p> <p>There may be some more specific housing requirements in regard</p>	<p>Strategic Manager and Technical Lead (Housing Improvement), Community Connections</p>

			to accommodation and shared facilities that is not addressed by this policy.	
Gender - including marriage, pregnancy and maternity	<p>Overall 50.6% of the population are women, and 49.4% are men. This reflects the national figure of 50.8% women and 49.2% men.</p> <p>In Plymouth in 2017 the mean difference between average hourly earnings of men and women as a proportion of average hourly earnings of men was 11.3% the median difference was 14.9%.</p> <p>In Plymouth 61.3% of women are working and 38.9% of men are working, however, a larger proportion of men work full time in comparison to women.</p>	<p>Gender pay gap, and issues relating to domestic abuse may see occupants of private rented accommodation more affected by this characteristic.</p> <p>Those on lower incomes may be less likely to be owner occupiers and seek cheaper accommodation that may include HMOs.</p>	<p>The safety of the electrical installation is not dependent on the occupant(s).</p> <p>Identification breaches of the legislation does not necessarily reflect the occupants of the property.</p> <p>There may be some more specific housing requirements in regard to accommodation and shared facilities that is not addressed by this policy.</p>	Strategic Manager and Technical Lead (Housing Improvement), Community Connections
Gender reassignment	<p>Recent surveys have put the prevalence of transgender people between 0.6 and 1% of the population.</p> <p>Over the last 8 years the prevalence of transgender people in the UK has been increasing at an average rate of 20% per annum in adults and 50% in children.</p> <p>A study funded by the home office suggests that there are between 300k and 500k people aged 16 and over in the UK who are experiencing some degree of gender variance. This could mean that of Plymouths</p>	<p>Many young people experience gender variance and will transition around the onset of puberty and this can bring them into conflict with parents who may find it difficult to accept their gender identity. This may lead to a displacement in the young</p>	<p>The safety of the electrical installation is not dependent on the occupant(s).</p> <p>Identification breaches of the legislation does not necessarily reflect the occupants of the property.</p>	Strategic Manager and Technical Lead (Housing Improvement), Community Connections

	<p>16 + population, we can estimate between 1287 and 2146 adults in the city that are experiencing some degree of gender variance.</p> <p>The average age presentation for male to female is 40-49, and for female to male is 20-29.</p> <p>More than 28% of trans people in a relationship in the last year have faced domestic abuse from a partner.</p>	<p>person’s housing thus private rented accommodation becoming more attractive.</p> <p>The demographic information could suggest that those experiencing gender variance or transitioning may be likely to require cheaper accommodation, even if simply in the short term, due to discrimination in the workplace, fleeing domestic abuse in the home, and displacement from home setting.</p>	<p>There may be some more specific housing requirements in regard to accommodation and shared facilities that is not addressed by this policy.</p>	
<p>Race</p>	<p>92.9% of Plymouth’s population identify themselves as White British.</p> <p>7.1% identify themselves as Black and Minority Ethnic with White Other (2.7%), Chinese (0.5%) and other Asian (0.5%) the most common ethnic groups.</p> <p>Plymouth BAME population rose from 3% in 2001 to 6.7% in 2011, and therefore has more than doubled since the 2001 census.</p> <p>Four neighbourhoods have a population of school age children where 20% or more are from a BAME background. They are City Centre (38%), Greenbank and University (32.3%) Stonehouse (29.9%) and East End (23.4%). All of these areas have a high concentration of private rented accommodation.</p>	<p>Across the country 19% of households living in private rented accommodation. As a group, ethnic minority households are more likely to rent privately than white British households and to spend a higher proportion of their incomes on rent.</p> <p>Given the proximity of private rented accommodation and the % of residents in those areas being from a BAME background, it could be a fair assumption that some accommodation may be</p>	<p>The safety of the electrical installation is not dependent on the occupant(s).</p> <p>Identification breaches of the legislation does not necessarily reflect the occupants of the property.</p>	<p>Strategic Manager and Technical Lead (Housing Improvement), Community Connections</p>

		occupied by people from a BAME background. All publication are available in translated formats.		
Sexual orientation - including civil partnership	There is no definitive data on sexual orientation at a local or a national level. A recent estimate from the 2015 ONS annual population survey suggests that 1.7% of the UK population is lesbian, gay or bisexual, if this figure is applied to Plymouth it would mean there are approximately 3649 LGB people in the city.	There is little evidence to suggest that LGB people would be more likely to occupy private rented accommodation specifically.	The safety of the electrical installation is not dependent on the occupant(s). Identification breaches of the legislation does not necessarily reflect the occupants of the property.	Strategic Manager and Technical Lead (Housing Improvement), Community Connections

STAGE 3: ARE THERE ANY IMPLICATIONS FOR THE FOLLOWING? IF SO, PLEASE RECORD ACTIONS TO BE TAKEN

Local priorities	Implications	Timescale and who is responsible
Reduce the gap in average hourly pay between men and women by 2020.	None	N/A
Increase the number of hate crime incidents reported and maintain good satisfaction rates in dealing with racist, disablist, homophobic, transphobic and faith, religion and belief incidents by 2020.	None	N/A
Good relations between different communities (community cohesion)	Identifying and supporting good quality housing where people can live their lives in safe and secure accommodation, supporting good relations between communities.	Ongoing as part of activities. Strategic Manager and Technical Lead (Housing Improvement), Community Connections

Human rights Please refer to guidance	The fee structure will be fair and will not differential on the basis of any protected characteristic or any grounds that we cannot objectively justify.	
---	--	--

STAGE 4: PUBLICATION

Responsible Officer Matt Garrett

Date 11/12/20

Director, Assistant Director or Head of Service

This page is intentionally left blank