

BRIEFING - EXECUTIVE DECISION FOR MINIMUM ENERGY EFFICIENCY STANDARDS (MEES) (PRIVATE RENTED)



This policy sets out our approach to enforcing the minimum energy standards within domestic rented dwellings within Plymouth.

It is worth noting that the enforcement of this policy will be absorbed into the existing resource of the Housing Improvement Team. There is expected to be a small amount of income, which is currently forecast in FY20/21 as an approximate £6000. However, this is not expected to be sustainable source of income as once fined, it is unlikely that an offender will re-offend.

1.1 The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 as amended are designed to tackle the least energy-efficient properties in England and Wales – those rated F or G on their Energy Performance Certificate (EPC). The Regulations establish a minimum standard for both domestic and non-domestic privately rented property.

The current domestic regulations aim to drive improvements to F or G rated homes

The minimum standard will apply to any domestic privately rented property which is legally required to have an EPC and which is let on certain tenancy types.

The minimum level of energy efficiency means that, subject to certain requirements and exemptions:

- a) From the 1st April 2018, landlords of relevant domestic private rented properties may not grant a tenancy to new or existing tenants if their property has an EPC rating of band F or G (as shown on a valid Energy Performance Certificate for the property);
- b) From 1 April 2020, landlords must not continue letting a relevant domestic property which is already let if that property has an EPC rating F or G (as shown on a valid EPC for the property). Landlords are encouraged to take action as soon as possible to ensure that their properties reach EPC E by the deadline of 1 April 2020. These requirements are referred to in the Regulations and in this guidance as “the prohibition on letting of sub-standard property”. Where a property is sub-standard, landlords must normally make energy efficiency improvements which raise the EPC rate to minimum E before they let the property.

In certain circumstances, landlords may be able to claim an exemption from this prohibition on letting sub-standard property.

Where a valid exemption applies, landlords must register the exemption on the PRS Exemptions Register.

1.2 Local authorities are responsible for enforcing compliance with the domestic minimum level of energy efficiency. They may check whether a property meets the minimum level of energy efficiency and may issue a compliance notice requesting information where it appears

to them that a property has been let in breach of the Regulations (or an invalid exemption has been registered in respect of it).

1.3 Where a local authority is satisfied that a property has been let in breach of the Regulations it may serve a notice on the landlord imposing financial penalties (up to £5,000). The authority may also publish details of the breach on the PRS Exemptions Register.

The Authority will decide the amount of penalty up to the maximum within the regulations. These are:

Infringement	Penalty (under 3 months in breach)	Penalty (three months or more in breach)
Renting out a non-compliant property	(A) Up to £2,000, and/or Publication penalty.	(B) Up to £4,000, and/or Publication penalty.
Providing false or misleading information on the PRS Exemptions Register	(C) Up to £1,000, and/or Publication penalty	
Failing to comply with a compliance notice	(D) Up to £2,000, and/or Publication penalty	

It is important to note that the maximum penalty amounts apply **per property, and per breach** of the Regulations.

The Authority will not impose a financial penalty under both (A) and (B) above in relation to the same breach of the Regulations. But it may impose a financial penalty under either (A) or (B), together with financial penalties under (C) and (D), in relation to the same breach. Where penalties are imposed under more than one of these paragraphs, the total amount of the financial penalty may not be more than £5,000.

The proposed penalty structure is attached.

1.4 The legislation is unusual in that the Authority may serve a compliance notice on a landlord up to 12 months after the suspected breach and may serve a penalty notice on a landlord up to 18 months after the suspected breach. This means that a person may be served with a compliance notice after they have ceased to be the landlord of the property.

1.5 There is an overlap of legislation with the Housing Act 2004. A property may be subject to a penalty under this policy and be inspected under the Housing Act 2004 and served with a notice requiring improvements to reduce hazards identified under the Housing Health & Rating System. The works requested under the Housing Act 2004 may be in excess of any figure for relevant energy improvements/self-funding under MEEs, (currently £3,500).

1.6 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 whether it is a first or subsequent offence and consider culpability where there are multiple offenders. Failing to comply with a notice served under the Housing Act 2004 may result in enforcement (prosecution or civil penalty up to £30,000) in addition to any penalty under MEES.

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

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

1.9 This policy takes into account national guidance

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/788145/domestic-private-rented-property-minimum-standard-guidance-landlords-las.pdf

Further guidance is available here:

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

2.0 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 flout their legal obligations, rent out accommodation which is substandard and harass their tenants should be prevented from managing or letting housing. The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 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.

PROPOSED PENALTY STRUCTURE:

Track Record	EPC Rating	(A) Renting out a non-compliant property (in breach less than 3 months)
Up to max £2000		
1st Offence	F	£1,250
	G	£1,500
Subsequent Offence(s)	F	£1,750
	G	£2,000
Track Record	EPC Rating	(B) Renting out a non-compliant property (in breach for 3 months or more)
Up to max £4000		
1st Offence	F	£2,500
	G	£3,000
Subsequent Offence(s)	F	£3,500
	G	£4,000

Track Record	EPC Rating	(C) Providing false, or misleading, information
Up to max £1000		
1st Offence	N/A	£750
Subsequent Offence(s)	N/A	£1,000

Offences	(D) Failing to comply with a compliance notice
up to max £2000	
Failure to provide documents requested by LA in Compliance Notice	£1,500
Failure to register an exemption on the PRS exemptions register	£500
Failure to provide documents requested by LA, and failure to register an exemption	£2,000

The penalty will be raised against the individual who lets the domestic private rented property to the tenant, where there are multiple individuals who have let the property the penalty will be apportioned between them taking into account an assessment of culpability. This will be determined on a case by case basis in relation to the evidence.