



Ipswich Borough Council

Private Sector Housing

Civil Penalties Policy

Public Protection

Adopted

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Glossary

THE COUNCIL

The term 'the Council' refers specifically to Ipswich Borough Council.

LANDLORD

The term 'Landlord' also includes the owner, property managing agent/letting agent, persons in control of or persons managing the property under section 263 of the Housing Act 2004.

CIVIL PENALTY

The term 'Civil Penalty' refers to a financial penalty imposed as an alternative to prosecution under s249A of the Housing Act 2004, as inserted by Section 126 and Schedule 9 of the Housing and Planning Act 2016.

The ACT

The terms 'Act' refers to the Housing Act 2004

1. Introduction

- 1.1 The Council is committed to improving standards in private sector housing, with the aim of ensuring that all private rented accommodation is well managed, properly maintained, safe and habitable.
- 1.2 Whilst the Council acknowledges that compliant landlords do operate their business responsibly in Ipswich, there are a significant number of irresponsible landlords who knowingly rent out accommodation that is unlicensed, substandard, or unsafe.
- 1.3 The Council shares the Government's desire to support good landlords who provide decent well-maintained homes, and to crack down on those unscrupulous landlords who are flouting the law and seeking to profit from their non-compliance.
- 1.4 The Council's approach to housing enforcement is based on the principle that no-one who breaks the law should gain a financial or market advantage over someone who does not.
- 1.5 This approach is a key feature of the Public Protection Enforcement Policy.
- 1.6 The Council welcomes the action that the Government is taking to crack down on irresponsible landlords including the measures introduced under the Housing and Planning Act 2016 and it is committed to making full use of its new powers to improve standards in Ipswich's private rented sector.
- 1.7 Since 6 April 2017, local housing authorities have had the power to impose Civil Penalties of up to £30,000 on individuals and organisations, as an alternative to prosecution, for certain offences under the Act. Rent repayment orders have also been extended to cover a wider range of offences.
- 1.8 Ipswich's intelligence-led, targeted approach to housing enforcement means that the Council is well placed to competently detect and investigate possible offences and, where appropriate, to impose a Civil Penalty as an alternative to prosecution.
- 1.9 This policy contains information about the Civil Penalty and rent repayment orders and how the Council is planning to use them. It takes into account the statutory guidance issued by the Government to which Ipswich Borough Council has had regard and should be read in conjunction with the Public Protection Enforcement Policy.

2. The Government's Intentions and Expectations

- 2.1 The Government has said that it wants to support good landlords who provide decent, well-maintained homes, and avoid unnecessary regulation which increases costs and red tape for landlords and pushes up rents for tenants.

- 2.2 However, it has also pledged to crack down on rogue landlords who flout the law and knowingly rent out unsafe and substandard accommodation, with the aim of disrupting their business model.
- 2.3 The Housing and Planning Act 2016 introduced a range of measures to help local authorities deal more robustly with rogue and irresponsible landlords:
- Civil Penalties of up to £30,000 as an alternative to prosecution for certain specified offences (came into force on 6 April 2017);
 - Extension of rent repayment orders to cover illegal eviction, breach of a banning order, failure to comply with an improvement notice and certain other specified offences (came into force on 6 April 2017);
 - Database of rogue landlords and property agents who have been convicted of certain offences or received multiple civil penalties (came into force on 6 April 2018);
 - Banning Orders for the most serious and prolific offenders (came into force on 6 April 2018)
- 2.4 When introducing the Civil Penalty option Government Ministers made it very clear that they expect local authorities to use their new powers robustly as a way of clamping down on rogue landlords.

3. Housing Offences Covered by Civil Penalties

- 3.1 The power to impose a Civil Penalty as an alternative to prosecution for certain specified housing offences was introduced by the Housing and Planning Act 2016 and establishes the legal basis for the imposing of a Civil Penalty as an alternative to prosecution for specific housing offences under the Act.
- 3.2 A Civil Penalty can be imposed by the Council as an alternative to prosecution for the following offences under the Housing Act 2004:
- Failure to comply with an Improvement Notice (section 30);
 - Offences in relation to licensing of Houses in Multiple Occupation (section 72);
 - Offences in relation to licensing of houses under Part 3 of the Act (section 95);
 - Offences of contravention of an overcrowding notice (section 139);
 - Failure to comply with management regulations in respect of Houses in Multiple Occupation (section 234)
 - Offences subject to Banning Orders (subject to implementation)

4. Purpose of Civil Penalties Policy

- 4.1 The Council has the power to impose Civil Penalties for up to £30,000 on individuals and companies (for certain specified offences under the Housing Act 2004) as an alternative to prosecution.
- 4.2 A Civil Penalty will only be imposed where the Council is satisfied there is sufficient evidence to prove beyond reasonable doubt that the offence occurred, and the penalty amount is determined in line with this Policy and the relevant statutory guidance.
- 4.3 In accordance with s249A of the Act, the amount of the financial penalty is to be determined by the local authority. Although the statutory guidance recommends factors the Council should take into account when deciding the level of penalty, it does not go into any level of detail in this regard. The Council therefore has a wide discretion in determining the appropriate level of Civil Penalty in a case and seeks to set out further guidance in this Policy of how it will do so.
- 4.4 This Policy will complement the Public Protection Enforcement Policy to ensure that a level playing field is created for all landlords by dealing robustly with irresponsible landlords who fail to comply with their legal obligations.

5. Principles of Civil Penalties

- 5.1 A Civil Penalty can only be imposed as an alternative to prosecution. The legislation does not permit the Council to impose a Civil Penalty and prosecute for the same offence. This means that if a person has been convicted or is currently being prosecuted, the Council cannot impose a Civil Penalty in respect of the same offence. The same applies if a Civil Penalty has been imposed, a person cannot then be convicted of the same offence.
- 5.2 A Civil Penalty can be issued for each separate offence which falls within the specified housing offences listed in section 4 above. This means that a Civil Penalty can be imposed for the above offences and for each breach of the Houses in Multiple Occupation Management Regulations. Section 234(3) of the Act provides that a person commits an offence if he fails to comply with a regulation, therefore each failure to comply with the regulations constitutes a separate offence for which a Civil Penalty can be imposed.
- 5.3 Where the Council is in a position to prosecute a landlord and a letting agent for an offence, then a Civil Penalty can be imposed on either or both of them. The amount of the Civil Penalty may differ for both depending on individual circumstances.
- 5.4 Although only one Civil Penalty can be imposed for a single offence, if a landlord fails to comply with an Improvement Notice and subsequently receives a Civil Penalty as a result, a further Improvement Notice could then be issued if the work still hasn't been carried out.

6. Principles Underpinning Civil Penalty Action

6.1 All the Private Sector Housing team's enforcement activity will be:

- Targeted - the Council aim to prioritise its resources in areas where they will be most effective. To ensure this the Council will use an intelligence and risk-based approach, focusing on properties and persons who pose the greatest risk. This will include those landlords who fail to licence licensable properties as well as properties which put tenant's health and safety at risk along with evidence of poor property management, often evidenced by complaints of anti-social behaviour at the property.
- Proportionate - Enforcement action will be proportionate to the offence taking into account the scale, seriousness and nature of any breach/non-compliance.
- Fair and Objective - Enforcement action will be based on the individual circumstances of a case, taking all available information and evidence into account. Officers will carry out investigations in a fair- and open-minded manner.
- Transparent - Enforcement action taken will be in accordance with policies and procedures which are in the public domain. Communications will be easy to understand, with clear reasons being given for any enforcement action taken.
- Consistent - Enforcement action will be taken by competent investigators and the Private Sector Housing Team will ensure consistency in the interpretation and enforcement of legislation and will work with other regulatory agencies to share and develop good practice.
- Accountable - Enforcement action will be taken in a responsible manner that has a clear purpose.

7. Factors to be Considered when Deciding the Level of Civil Penalty

7.1 The Council expect the maximum amount for a Civil Penalty (£30,000) to be reserved for the 'very worst offenders' therefore the actual amount imposed will reflect the severity of the offence, as well as taking account of the landlord's previous record of offending.

7.2 The factors which the Council will consider when setting a Civil Penalty to ensure that it is set at an appropriate level:

- Severity of the offence. The more serious the offence, the higher the penalty should be.
- 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 therefore are expected to be aware of their legal obligations.

- 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, the higher the amount should be when imposing a Civil Penalty.
- 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.
- Deter the offender from repeating the offence. The goal is to prevent any further offending and help to ensure that the landlord fully complies with all their legal responsibilities in future. The level of penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.
- 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 the deterrence is the realisation that (a) the Council 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.
- 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 the offence, i.e. it should not be cheaper to offend than to ensure a property is well maintained and properly managed.

8. Process for Determining the Level of Civil Penalty

- 8.1 Generally, the maximum Civil Penalty amounts imposed by the Council will be reserved for the very worst offenders however, in line with the Government's statutory guidance, the actual amount imposed in any case will reflect the severity of the offence, as well as taking account of the landlord's previous record of offending.
- 8.2 To ensure that a Civil Penalty is set at the appropriate level, the Council will consider the following factors (described in more detail above).
- Severity of the offence
 - Culpability and track record of the offender
 - The harm caused to the tenant
 - Punishment of the offender
 - Deter the offender from repeating the offence
 - Deter other from committing similar offences
 - Remove any financial benefit the offender may have obtained as a result of committing the offence

- 8.3 The final factor is an overreaching one and after all other factors have been considered and applied, the Council will need to consider whether the Civil Penalty set removes any financial benefit that has been gained by the commission of the offence.
- 8.4 The Council will determine the offence category using only the culpability and harm factors in the tables below. Where an offence does not fall squarely into a category, individual factors may require a degree of weighting to make an overall assessment, see table one below.
- 8.5 Table 1 below breaks down the landlord's culpability for the offence into four categories and each category has an accompanying description of what would constitute that level of culpability. The behaviour of the landlord should be compared to the table to determine the appropriate level of culpability. This exercise will be repeated for each offence that is being considered as the landlord's culpability may vary between offences.

Table 1 Culpability

Very high	Where the offender intentionally breached, or flagrantly disregarded, the law. Ie actively overcrowding a high-risk property for financial gain
High	Actual foresight of, or wilful blindness to, risk of offending but risk nevertheless taken; Serious and or systematic failure by the person or organisation to comply with legal duties. As above but in instances of less risk from the property
Medium	Offence committed through act or omission which a person exercising reasonable care would not commit; Systems were in place to manage risk or comply with legal duties, but these were not sufficiently adhered to or implemented.
Low	Offence committed with little fault, for example because: Significant efforts were made to address the risk but were inadequate on this occasion. There was no or little warning of risk/circumstances of offence. Failings were minor and occurred as an isolated incident

- 8.6 Once the Council has determined the level of culpability (using Table 1 above) in relation to an offence, then the level of harm will need to be determined. The Council will use the following definition of harm taken from the statutory guidance on hazard rating under the Act, 'Harm is an adverse physical or mental effect on the health of a person. It includes, for example, physical injury, and illness, condition, or symptom whether physical or mental. It also includes both permanent and temporary harm'
- 8.7 Table 2 below separates the seriousness of harm risked into three categories and each category has an accompanying description of what would constitute that level of harm risked. The harm risked by the offence should be compared to the table to determine the appropriate level and this exercise will be repeated for each offence that is being considered as the seriousness of harm risked may vary between offences.

8.8 When using Table 2 to determine the appropriate level of harm, consideration should be given to the worst possible harm outcomes that could reasonably occur as a result of the landlord committing the specific offence that is being considered. This means that even if some harm has already come to tenants, or visitors to the property, consideration should still be given to whether there was the potential for even greater harm to have occurred. The vulnerability of the tenant or any visitors to a property will be taken into account when determining the seriousness of the harm risked. This will be determined on a case by case basis.

Table 2 – Seriousness of Harm Risked

High	Serious adverse effect on individual(s) and/or a widespread impact. High risk of serious adverse effect on individual(s). Provides a serious market advantage over rivals. Harm to a vulnerable individual Serious level of overcrowding
Medium	Adverse effect on individual(s) (not amounting to High Harm). Medium risk of adverse harm to an individual or low risk of a serious adverse effect. The Council's work as a regulator is undermined by the offender's behaviour. Consumer/tenant mislead
Low	Low risk of adverse effect on an individual(s). Low adverse effect on individual(s)

8.9 When determining the seriousness of harm risked in relation to an offence, consideration may be given to the guidance in relation to Class I, II, III and IV harm outcomes in the 'Housing Health and Safety Rating System - Operating Guidance'.

8.10 Once the offence category has been determined (using culpability and harm), the Council should then refer to the starting points to reach an appropriate level of Civil Penalty within the range for that category of offence. The Council should then consider further adjustment within the category range for identified aggravating and mitigating features.

Table 3 Penalty Bands

Low Culpability	Starting Point	Penalty Band Range
Low Harm	£1500	£750-£2250
Medium Harm	£3000	£2250-£3750
High Harm	£4500	£3750-£5250
Medium Culpability		
Low Harm	£4500	£3750-£5250
Medium Harm	£7500	£5250-£12000
High Harm	£12000	£9000-£15000
High Culpability		

Low Harm	£7500	£5250-£12000
Medium Harm	£12000	£9000-£15000
High Harm	£16500	£15000-£20000
Very High Culpability		
Low Harm	£12000	£9000-£15000
Medium Harm	£16500	£15000-£20000
High Harm	£25500	£20000-£30000

8.11 Table 4 below contains a non-exhaustive list of factual elements providing the context of the offence and factors relating to the landlord. The Council will identify whether any combination of these, or other relevant factors should result in an upward or downward adjustment from the starting point. In particular, relevant recent previous convictions, recent cautions and/or civil penalties are likely to result in a substantial upward adjustment. In some cases, having considered these factors, it may be appropriate to move outside the identified category range.

Table 4 Aggravating and mitigating factors

Aggravating Factors	Mitigating Factors
Relevant previous convictions having regard to (a) the nature of the offence to which the conviction relates and its relevance to this offence and (b) the time that has elapsed since the conviction	No relevant unspent previous convictions/good character
Relevant previous cautions within the last two years having regard to (a) the nature of the offence to which the caution relates and its relevance to this offence	No relevant cautions within the last two years
Relevant previous civil penalties ⁹ within the last two years having regard to (a) the nature of the offence to which the caution relates and its relevance to this offence	No relevant civil penalties within the last two years
The offence has been committed whilst the landlord is on bail/on summons for other relevant proceedings at court	Mental disorder or learning disability, where directly linked to the commission of the offence
Established evidence of wider/community impact	Serious medical conditions requiring urgent, intensive or long-term treatment
Record of providing substandard accommodation	One off event, not commercially motivated
Record of poor management or not meeting legal requirements	Good record of maintaining property
Evidence of harassment of tenant and/or illegal eviction (actual or attempted) in this case	Tenants behaviour a contributing factor to the offence

Motivated by financial gain	Steps taken voluntarily to remedy problem
Obstruction of justice, for example failing to comply with a request for information or documents ¹⁰ or other behaviour amounting to an obstruction	High level of co-operation with the investigation, beyond that which will always be expected
Offending happened over a prolonged period	
Property management is/was their only business	

8.12 Please see Appendix 2 for relevant previous convictions.

STEP THREE Review the Civil Penalty amount

8.13 Once the Civil Penalty has been calculated, the Council should review the amount to determine whether the Civil Penalty meets the objectives of civil penalties as set out in the statutory guidance.

8.14 The Council should finalise the appropriate level of Civil Penalty so that it reflects the seriousness of the offence and the Council must take into account the financial circumstances of the offender (as far as they are known).

8.15 The level of Civil Penalty should reflect the extent to which the offender fell below the required standard. The Civil Penalty should meet, in a fair and proportionate way, the objectives of punishment, deterrence and the removal of gain derived through the commission of the offence; it should not be cheaper to offend than to comply with the law.

8.16 The Council should review the Civil Penalty and, if necessary adjust the initial amount arrived at in step two to ensure that it fulfils the general principles set out above.

8.17 The Civil Penalty amount as calculated at step 2, should be considered against any quantifiable economic benefit derived from the offence, including avoided costs or operating savings. If the economic benefit is in excess of the penalty amount as calculated at step 2, then the penalty amount should be adjusted to ensure that the penalty is set at an amount which removes the financial benefit (as a minimum).

8.18 The Council may draw on information from enforcing authorities and others about the general costs of operating within the law, if this information is not available. Whether the penalty will have the effect of putting the offender out of business will be relevant, but in some cases, this might be an acceptable outcome.

8.19 In finalising the Civil Penalty amount, the Council will have regard to evidence of the following factors relating to the wider impact of the Civil Penalty on innocent third parties; such as (but not limited to);

- Impact of the Civil Penalty on the offender's ability to comply with the law or make restitution to victims;
 - Impact of the Civil Penalty on employment of staff, service users, customers and the local economy.
- 8.20 The Council will take into account a potential reduction in penalty for an admission of guilt.
- 8.21 The following factors will be considered in setting the level of reduction:
- 8.22 The maximum level of reduction for an admission of guilt will be one-third of the penalty amount. However, in some circumstances it will be appropriate to apply a lesser reduction or no reduction. For example, where the evidence is overwhelming or there is a pattern of behaviour.
- 8.23 Any reduction should not result in a Civil Penalty which is less than the amount of gain from the commission of the offence itself.
- 8.24 In all cases the Council will consider whether to take additional action. These may include works in default, Interim Management Orders or rent repayment orders. The Council cannot prosecute for the same conduct which has led to the Civil Penalty being imposed.
- 8.25 If issuing a Civil Penalty for more than one offence, or where the offender has already been issued with a Civil Penalty (within the previous 28 days), the Council will consider whether the total penalties are just and proportionate to the offending behaviour.
- 8.26 Ultimately, the Civil Penalty imposed must remove any financial gain the landlord has obtained by the commission of the offence.
- 8.24 The officer making a decision about a Civil Penalty will record their decision giving reasons for coming to the amount of Civil Penalty to be imposed.

9. An offender's ability to pay

- 9.1 In setting a Civil Penalty, the Council may conclude that an offender is able to pay any Civil Penalty imposed unless the offender has supplied sufficient financial information or evidence to the contrary.
- 9.2 It is for the offender to disclose to the Council such data relevant to his or her financial position as this will enable the Council to assess and determine what they can reasonably afford to pay.
- 9.3 Where the Council is not satisfied that it has been given sufficient reliable information, the Council will be entitled to draw reasonable inferences as to the offender's means from the evidence it has obtained and from all the circumstances of the case, including accessing information via appropriate credit referencing agencies. This may include the inference that the offender can pay the Civil Penalty.

- 9.4 As many landlords will own one or more properties, it is likely that they will be able to sell or borrow against these assets to pay a Civil Penalty. After taking into account any mortgages on the property, the Council will determine the amount of equity that could be released from the property. If the landlord claims they are unable to pay a Civil Penalty and show that they have a low income, consideration will be given to whether any of the properties can be sold or refinanced when assessing their ability to pay.

10. Procedure for the Imposition of a Civil Penalty

- 10.1 Schedule 13A of the Act sets out the process that must be followed when imposing a Civil Penalty.

Notice of Intent

- 10.2 Before imposing a Civil Penalty on a landlord, the Council must serve a 'Notice of Intent' on the landlord who has committed the offence. The notice must be given before the end of the period of 6 months, beginning with the first day on which the Council has sufficient evidence of the conduct to which the Civil Penalty relates. In the case of conduct which is continuing, the notice can be given at any stage if the conduct is continuing or within 6 months beginning with the day on which the conduct ends. The notice of intent must set out:

- The amount of the proposed Civil Penalty;
- The reasons for proposing to impose a Civil Penalty, and;
- Information about the landlord's right to make representations to the Council.

- 10.3 Any landlord who is in receipt of a 'Notice of Intent' has the right to make written representations about the proposal to impose a Civil Penalty within 28 days beginning with the day after the date on which the notice was given ('Representation Period'). Representations can be against any part of the proposed course of action, for example the imposition of the Civil Penalty in its entirety or the amount of the Civil Penalty. All representations from landlords will be considered by the Operations Manager – Public Protection and never by the colleague who served the 'Notice of Intent'.

- 10.4 Where a landlord challenges the amount of the Civil Penalty, it will be for the landlord to provide documentary evidence (e.g. tenancy agreements, bank statements, mortgage account statements, business accounts, etc.) to show that the Civil Penalty amount should be reviewed. Where no such supporting evidence is provided, the representation against the amount will be likely to carry less weight.

- 10.5 Written responses will be provided to all representations made by the recipients of a 'Notice of Intent'. No other parties have an automatic right to make representations but if any are received, they will be considered on a

case by case basis and responded to where the Council considers it necessary.

Final Notice

- 10.6 Once the 'Representation Period' has ended, the Council must decide whether to impose the Civil Penalty and if so, the final amount of the Civil Penalty. Consideration will be given to any representations made during the 'representation period' if applicable. The final amount of a Civil Penalty can be a lower amount than was proposed in the 'Notice of Intent' but it cannot be a greater amount.
- 10.7 If the Council decides to impose a Civil Penalty on a landlord, then the landlord must be given a notice imposing that penalty ('Final Notice').
- 10.8 The final notice must set out:
 - the amount of the financial penalty,
 - the reasons for imposing the penalty,
 - information about how to pay the penalty,
 - the period for payment of the penalty,
 - information about rights of appeal, and
 - the consequences of failure to comply with the notice.
- 10.9 The Council may withdraw a 'Notice of Intent' or a 'Final Notice' or reduce the amount of a Civil Penalty as stated in the 'Notice of Intent' or 'Final Notice'. Where a Civil Penalty has been withdrawn, and there is a public interest in doing so, the Council can still pursue a prosecution against the landlord for the conduct for which the Civil Penalty was originally imposed.
- 10.10 Where a Civil Penalty has been properly imposed, it must be paid within 28 days, beginning with the day after that on which the 'Final Notice' was given ("the 28-day payment period"), unless that notice is suspended due to an appeal.
- 10.11 Where a Civil Penalty has been appealed to the First-Tier Tribunal (Property Chamber) and ultimately confirmed, the penalty amount will become due.
- 10.12 Where a Civil Penalty has been imposed on a landlord, this will form a part of the Council's consideration when reviewing licence applications for properties in which they have some involvement. This includes licences under Part 2 or Part 3 of the Act.
- 10.13 Whilst a Civil Penalty will not automatically preclude the Council from granting a licence where such persons are involved, the reasons for imposing the penalty and the extent of the person's involvement in the property will be considered to determine whether they are fit and proper to hold such a licence and/or be involved in the management of the property. The same considerations will apply to the potential revocation of property licences.

11. Appeals and the Role of the First-Tier Tribunal (Property) Chamber

- 11.1 If a Civil Penalty is imposed on a landlord, the landlord can appeal to the First-Tier Tribunal (Property Chamber) against the decision. The appeal is a re-hearing of the Council's decision but can have regard to matters that the Council was unaware of at the time the decision was made. Where an appeal has been made, this suspends the Civil Penalty until the appeal is determined or withdrawn. On appeal the First-Tier Tribunal (Property Chamber) may confirm, vary (increase or decrease) or cancel the Civil Penalty.
- 11.2 The First-Tier Tribunal (Property Chamber) can dismiss an appeal if it is satisfied that the appeal is frivolous, vexatious or an abuse of process, or has no reasonable prospect of success. The Council will make applications for such dismissal to the First-Tier Tribunal (Property Chamber) when appropriate to do so.
- 11.4 Generally, in appeals to the First-Tier Tribunal (Property Chamber) each party bears their own costs. However, the Tribunal may award costs when one party has acted unreasonably in bringing, defending or conducting proceedings. The Council will be likely to apply for costs in such cases.

12. Enforcement of Civil Penalties

- 12.1 Where a landlord fails to pay the whole or part of a Civil Penalty, the Council will consider all legal options available, including pursuing the unpaid amount through the County Courts. The Council may recover the Civil Penalty or part of it, on application to the County Court as if it was an order of that Court.
- 12.2 Where appropriate, the Council will seek to recover the costs incurred in taking this action from the person to which the Civil Penalty relates.

13. Income Recovered from Civil Penalties

- 13.1 Any income from civil penalties will be retained by the Council. The Council must use any income from civil penalties to further its statutory functions in relation to enforcement activity covering the private rented sector.

14. Rent Repayment Orders

- 14.1 A rent repayment order is an Order made by the First-Tier Tribunal (Property Chamber) requiring a landlord to repay a specified amount of rent.
- 14.2 A rent repayment order can be applied for in cases where a Civil Penalty has also been imposed (in relation to certain offences).
- 14.3 The Act introduced rent repayment orders to cover situations where a landlord was in control of or managing property which required a licence under Part 2 or 3 of the Act but did not have such a licence.

14.4 The Housing and Planning Act 2016 has now extended the scope of rent repayment orders to cover a much wider range of offences:

- Violence to secure entry
- Eviction or harassment of occupiers
- Failure to comply with an Improvement Notice
- Failure to comply with a Prohibition Order
- Breach of Banning Order

14.5 Further details in relation to rent repayment orders and when the Council will apply for these can be found in the Council's Private Sector Housing Enforcement Policy.

14.6 This policy has been developed with specific regard to:

- The Housing and Planning Act 2016 and the Housing Act 2004
- Civil Penalties under the Housing and Planning Act 2016 Guidance issued for Local Housing Authorities- Department for Communities and Local Government published April 2017
- Sentencing Council Health and Safety Offences and Food Safety and Hygiene Offences Definitive Guidelines
- Private Sector Housing Enforcement Policy- Ipswich Borough Council

15. Governance

15.1 This Policy is subject to change and will be reviewed periodically, in line with changes in legislation, government statutory guidance and Council Policy.

Appendix 1

- Non-Exhaustive List of Vulnerable Persons

Children (under 18 years)

Persons on a very low income

Disabled persons

Persons with a drug or alcohol addiction

Victims of domestic abuse

Looked after children

People with complex health needs

People exploited where English is not their first language

Victims of trafficking or sexual exploitation

Refugees

Asylum Seekers

People at risk of harassment or eviction

People at risk of homelessness

Appendix 2

-Non-exhaustive list of relevant offences

Housing law or Landlord and Tenant

Offences under:

The Public Health Acts 1936 and 1961

The Building Act 1984

The Environmental Protection Act 1990

The Town and Country Planning Act 1990

The Prevention of Damage by Pests Act 1949

The Protection from Eviction Act 1977

The Local Government (Miscellaneous Provisions) Act 1976 and 1982

The Local Government and Housing Act 1989

The Housing Act 2004

The Housing and Planning Act 2016

Other regulatory offences are included.