

## APPENDIX A



# Private Sector Housing Civil Penalties Policy

for the Regulation of Housing Standards

1 August 2017

# CONTENTS

	<b>Page</b>
<b>1. Introduction</b>	<b>3</b>
<b>2. The Government's Intentions and Expectations</b>	<b>4</b>
<b>3. Housing Offences covered by Civil Penalties</b>	<b>6</b>
<b>4. Purpose of the Civil Penalties Policy</b>	<b>6</b>
<b>5. Principles of Civil Penalties</b>	<b>7</b>
General considerations	<b>7</b>
Principles underpinning civil penalty action	<b>7</b>
Deciding on an appropriate sanction	<b>8</b>
Benefits to the local economy	<b>9</b>
<b>6. Regulation of Private Sector Housing</b>	<b>9</b>
Dealing with complaints	<b>9</b>
Housing Health and Safety Rating System	<b>9</b>
Houses in multiple occupation	<b>9</b>
Overcrowding	<b>10</b>
Empty properties	<b>10</b>
<b>7. Financial Matrices for Civil Penalties</b>	<b>10</b>
Factors taken into account when deciding the level of a civil penalty	<b>10</b>
The costs of investigating, determining and applying for a civil penalty	<b>11</b>
Investigative charges	<b>11</b>
Punitive charges	<b>13</b>
Defence charges	<b>13</b>
Financial means to pay a civil penalty	<b>14</b>
<b>8. Rent Repayment Orders</b>	<b>14</b>
<b>9. Guidance</b>	<b>15</b>

## 1. Introduction

- 1.1 Northampton Borough Council is committed to improving standards in private sector housing, bringing empty homes back into use and ensuring that all private rented accommodation is well managed, properly maintained and safe and habitable.
- 1.2 Although Northampton has some excellent landlords<sup>1</sup>, it also has a significant number of criminal, rogue and irresponsible landlords who knowingly rent out accommodation that is unlicensed, substandard and/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 Northampton's approach to housing enforcement is based on the principle that it should be the offender (rather than good, responsible landlords or the local council tax payers) who pays for the cost of housing enforcement and that no-one who breaks the law should gain a financial advantage over someone who does not.
- 1.5 This approach – a key feature of the Council's Private Sector Housing Enforcement Policy and Fees & Charges Policy since February 2016 – enjoys widespread support from local landlords who want the Council to create a level playing field for all landlords by dealing robustly with criminal, rogue and irresponsible landlords.
- 1.6 The Council welcomes the action that the Government is taking to crack down on criminal, rogue and 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 Northampton's private rented sector.
- 1.7 Since 6 April 2017, local housing authorities have had the power to impose civil penalties (financial penalties) of up to £30,000 on individuals and organisations, as an alternative to prosecution, for certain offences under the Housing Act 2004. Rent repayment orders have also been extended to cover a wider range of offences.
- 1.8 Northampton's intelligence-led, targeted approach to housing enforcement – together with its expectation that all members of its Housing Enforcement Team will study for the Advanced Professional Certificate in Investigative Practice – 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 Private Sector Housing Civil Penalties Policy contains information about civil penalties and rent repayment orders, and how the Council is planning to use them. It takes into account the statutory guidance that has been issued by the Government under Schedule 9 of the Housing and Planning Act 2016, and should be read in conjunction with the Council's Private Sector Housing Enforcement Policy.

**Note** <sup>1</sup> – In this Policy, the term “landlords” also includes “property agents”, “managing agents” and “letting agents” unless otherwise specified

## 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 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.

2.3 The Housing and Planning Act 2016 introduces a number of measures to help local authorities deal more robustly with criminal, 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 (scheduled to come into force on 1 October 2017);
- **Banning orders** for the most serious and prolific offenders (scheduled to come into force on 1 October 2017).

2.4 When introducing civil penalties through the Housing and Planning Act 2016, Government Ministers made it very clear that they expect local housing authorities to use their new powers robustly as a way of clamping down on rogue landlords.

2.5 In the House of Commons, Marcus Jones MP (Parliamentary Under Secretary of State at the DCLG) explained why the maximum penalty is £30,000:

**“ [it is necessary to] clamp down on rogue landlords, so the civil penalty [has been increased] up to a maximum of £30,000”.**

**“ It is important [to] raise the level of civil penalty to £30,000, because a smaller fine may not be significant enough for landlords who flout the law to think seriously about their behaviour and provide good quality, private sector rented accommodation for their tenants”.**

2.6 Although the Government states (in its guidance) that, generally, it would expect the maximum civil penalty of £30,000 to be “reserved for the very worst offenders”, it recommends that the actual amount imposed in any case should reflect the severity of the offence and take into account the landlord's previous record of offending.

2.7 The Government recommends that, in order to ensure that the civil penalty is set at an appropriate level, local housing authorities should consider the following factors:

**① The severity of the offence**

The more serious the offence, the higher the civil penalty should be.

**② The 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.

**③ 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 the local housing authority imposes a civil penalty.

**④ The 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.

**⑤ Whether it will 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.

**⑥ Whether it will deter others from committing the offence**

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.

## **7 Whether it will 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.

### **3. Housing offences covered by civil penalties**

3.1 The power given to local authorities to impose a civil penalty as an alternative to prosecution for certain specified housing offences was introduced by section 126 and Schedule 9 of the Housing and Planning Act 2016.

3.2 Civil penalties are intended to be used against landlords who are in breach of one or more of the sections of the Housing Act 2004 listed below:

- **Section 30** – Failure to comply with an Improvement Notice
- **Section 72** – Offences in relation to licensing of Houses in Multiple Occupation
- **Section 95** – Offences in relation to licensing of houses under Part 3 of the Act
- **Section 139** – Offences of contravention of an overcrowding notice
- **Section 234** – Failure to comply with management regulations in respect of Houses in Multiple Occupation

### **4. Purpose of the Civil Penalties Policy**

4.1 Local housing authorities have the power to impose civil penalties of up to £30,000 on individuals and organisations (for certain specified offences under the Housing Act 2004) as an alternative to prosecution.

4.2 The purpose of this Private Sector Housing Civil Penalties Policy is to describe how the Council will use its new powers, how it will decide when to prosecute and when to impose a civil penalty, and how it will determine the size of each civil penalty.

4.3 The Civil Penalties Policy is designed to ensure transparency, consistency and fairness in how and when civil penalties are imposed. Complementing the Private Sector Housing Enforcement Policy, it will play a significant role in helping the Council to create a level playing field for all landlords by dealing robustly with criminal, rogue and irresponsible landlords.

## 5. Principles of Civil Penalties

### General considerations

- 5.1 As the Housing and Planning Act 2016 has only just been enacted, there are not yet any legal precedents in relation to the use and levels of civil penalties.
- 5.2 Although the maximum civil penalty that can be imposed for an offence is £30,000, it is for the Council to determine the level of civil penalty.
- 5.3 Northampton Borough Council will continue to take robust action against those landlords that flout the law, and it will ensure that its use of civil penalties is consistent, appropriate, proportionate and fair.
- 5.4 Civil penalties can only be used as an alternative to prosecution. This means that, if a civil penalty has already been imposed, the offender cannot be prosecuted for the same offence. Likewise, a person who has been (or is being) prosecuted for a particular offence cannot be issued with a civil penalty for the same offence.
- 5.5 Although only one civil penalty can be issued (as an alternative to prosecution) for each of the first 4 offences listed in Paragraph 3.2 above, a civil penalty can be issued for each separate breach of the HMO Management Regulations.
- 5.6 Where the Council is in a position to prosecute a letting agent and landlord for failing to obtain a licence for a licensable HMO, it has the option of imposing a civil penalty on the letting agent and the landlord instead, as an alternative to prosecution.
- 5.7 Where the letting / managing agent and landlord have committed the same offence, the Council can impose a civil penalty on both of them, as an alternative to prosecution. The level of the civil penalty imposed on each offender may differ, depending on the circumstances of the case.

### Principles underpinning civil penalty action

- 5.8 All of the Private Sector Housing Team's enforcement activity will be:
  - **Targeted** – Enforcement action will target the properties and people that pose the greatest risk, including the owners and landlords that evade licensing and regulation, and those whose properties cause a nuisance or put people's health and safety at risk.
  - **Proportionate** – Enforcement action will be proportionate and reflect the nature, scale and seriousness of any breach or non-compliance.
  - **Fair and objective** – Enforcement action will be based on the individual circumstances of the case, taking all available facts into account. Officers will carry out investigations with a balanced and open mind.

- **Transparent** – Enforcement action will be undertaken in accordance with clearly defined policies and procedures that are readily available. All communications will be easy to understand, with clear reasons being given for any enforcement action taken.
- **Consistent** – Enforcement action will be undertaken by well-trained investigators, and the Private Sector Housing Team will ensure consistency in the interpretation and enforcement of legislation, work with other regulatory agencies and share and develop good practice.
- **Accountable** – Enforcement action will be undertaken in a responsible manner that has a clear purpose. Where appropriate, the Private Sector Housing Team will work closely with landlords, tenants and other stakeholders that have an interest in private sector housing.

### **Deciding on an appropriate sanction**

- 5.9 The same criminal standard of proof is required for a civil penalty as for prosecution. This means that, before taking formal action, the Council needs to satisfy itself that, if the case were to be prosecuted in the magistrates' court, there would be a realistic prospect of conviction.
- 5.10 To achieve a conviction in the magistrates' court, the Council must be able to demonstrate beyond reasonable doubt that the offence has been committed. The same principle applies in respect of civil penalties so, where a civil penalty is imposed and an appeal is subsequently made to the First-tier Tribunal, the Council will need to be able to demonstrate beyond reasonable doubt that the offence had been committed.
- 5.11 Prosecution may be the most appropriate option where an offence is particularly serious or where the offender has committed similar offences in the past. However, that does not mean that civil penalties should not be used in cases where serious offences have been committed.
- 5.12 A civil penalty of up to £30,000 can be imposed where a serious offence has been committed and the Council believes that the most disruptive sanction to impose on a criminal, rogue or irresponsible landlord is a financial penalty (or penalties if there have been several breaches), rather than prosecution.
- 5.13 If the Council believes that it has a reasonable prospect of a conviction in a particular case, it will always consider a civil penalty in the first instance and only by exception will it seek alternative measures such as prosecution or formal cautions.
- 5.14 The use of civil penalties (and rent repayment orders) will not only prevent the businesses of criminal, rogue and irresponsible landlords from profiteering from illegal and dangerous practices, but it will also demonstrate the Council's commitment to ensuring that it is offenders (rather than good, responsible landlords or the local council tax payers) who pay for the cost of housing enforcement.
- 5.15 As the Council is allowed to retain the income it receives from civil penalties, this course of action will also provide the Council with the opportunity to increase its housing enforcement activity in the borough and support its social lettings agency.

## **Benefits to the local economy**

- 5.16 Northampton Borough Council aims to create neighbourhoods of choice: areas where people want to live, bring up their children and work. Maintaining healthy, safe and well-regulated housing will benefit the local economy.

## **6. Regulation of Private Sector Housing**

### **Dealing with complaints**

- 6.1 The Private Sector Housing Team will respond to complaints from tenants and other residents about private housing, prioritising the complaints on the basis of an assessment of the risk and seriousness. If enforcement action is necessary, a variety of regulatory powers may be used to address and resolve the problem.

### **Housing, Health and Safety Rating System (HHSRS)**

- 6.2 The HHSRS is set out in Part 1 of the Housing Act 2004. It is a method of assessing how likely it is that the condition of a property will cause an unacceptable hazard to the health of the occupant(s). There are two categories of possible hazards:

- **Category 1 hazards** represent a serious danger to health and the Council has a duty to take appropriate action to deal with these.
- **Category 2 hazards** represent a lesser danger and, although it has no duty to take action, the Council will exercise its power to reduce category 2 hazards through appropriate action.

- 6.3 In most cases, the Council will follow a pre-formal process in which it will seek to work with landlords to reduce hazards. However, it will avoid actions that may encourage owners, landlords and agents to be non-compliant, such as carrying out costly works in default where it may be difficult for the Council to recover its costs.

- 6.4 Charges will be made for any formal enforcement action that the Council takes (see separate Private Sector Housing Fees & Charges Policy for further information).

### **Houses in multiple occupation (HMOs)**

- 6.5 In Northampton, there are many hundreds of Houses in Multiple Occupation: properties that are occupied by more than one household that share facilities.

- 6.6 As HMOs are higher risk than single family homes, the conditions, facilities and management are regulated. Some HMOs are subject to licensing:

- **Mandatory HMO Licensing** – An HMO licence is required for HMOs that have 3 or more storeys and are occupied by 5 or more persons who are sharing facilities and comprise 2 or more households.

- **Additional HMO Licensing** – An HMO licence is required for HMOs that are situated in the Additional HMO area, have 2 storeys and are occupied by at least 3 persons who are sharing facilities and comprise 2 or more households.

- 6.7 The HMO licensing regime includes arrangements for assessing the suitability of the premises for the number of occupants, including the adequacy of the amenities. It also provides for the assessment of the fitness of a person to be the licence holder and the potential management arrangements of the premises.
- 6.8 It is a criminal offence if a person controlling or managing an HMO does not have the required licence. Failure to comply with any condition attached to a licence is also an offence. The Council will consider all available enforcement options when dealing with unlicensed HMOs and breaches of the licence conditions.
- 6.9 The Council will vigorously pursue anyone who is controlling or managing a licensable HMO without a licence and, where appropriate, it will impose civil penalties on them or pursue their prosecution.
- 6.10 Where a non-licensable HMO is being badly managed and/or is in a poor state of repair, the Private Sector Housing Team will prioritise it for action, based on an assessment of risk.

### **Overcrowding**

- 6.11 Overcrowding is a difficult issue to deal with because, unlike other hazards, there is often very little that the landlord can do to resolve the problem unless the tenant has moved other people into the accommodation since the start of the tenancy.
- 6.12 In cases of severe overcrowding, the Council will explore the housing options available to the tenant, including a move to alternative accommodation.

### **Empty properties**

- 6.13 There is a high demand for accommodation in Northampton. As well as being a wasted source of housing, empty properties can be an eyesore, damage adjoining properties, blight neighbourhoods and attract anti-social behaviour.
- 6.14 The Council will identify, risk assess and prioritise long-term, problematic and nuisance empty properties, using the full range of informal and formal action (including enforced sales and compulsory purchase) to bring them back into use.

## **7. Financial Matrices for Civil Penalties**

### **Factors taken into account when deciding the level of civil penalty**

- 7.1 Generally, the maximum civil penalties will be reserved for the very worst offenders. The actual amount levied in any particular case will reflect the severity of the offence and take account of the landlord's previous record of offending.

7.2 In order to ensure that the civil penalty is set at an appropriate level, the Council will consider the following factors (described in more detail in Paragraph 2.7 above) that the Government has identified, in its statutory guidance, as being pertinent:

- ① The severity of the offence
- ② The culpability and track record of the offender
- ③ The harm caused to the tenant
- ④ The punishment of the offender
- ⑤ Whether it will deter the offender from repeating the offence
- ⑥ Whether it will deter others from committing the offence
- ⑦ Whether it will remove any financial benefit the offender may have obtained as a result of committing the offence

7.3 The final factor is an overarching one and, after all the other factors have been considered and applied, the Council will need to ensure that the civil penalty that is set removes the financial benefit that has been gained from committing the offence.

7.4 When setting a civil penalty, the Council will also take into account the cost of investigating the offence(s) and preparing the case for formal action, together with any costs that it incurs in defending its decision at the First-tier Tribunal.

### **The costs of investigating, determining and applying a civil penalty**

7.5 In keeping with the key principle of ensuring that the costs of enforcement are borne by the offender (rather than by good, responsible landlords or the local council tax payers), the costs associated with investigating, determining and applying a civil penalty will be reflected in the level of civil penalty that is imposed.

7.6 Cases that result in the Council issuing civil penalties clearly entail investigative and preparation costs and may involve costs in defending an appeal. These costs, comprising resources and officer time, will be built into the civil penalty charge.

7.7 The final civil penalty amount is made up of two main financial elements – the investigative charge and the punitive charge. There will be a third financial element imposed if the Council successfully defends an appeal to the First-tier Tribunal.

### **Investigative charges**

7.8 Investigative costs have been calculated for each of the offences that are covered by civil penalties by determining the average number of hours taken to complete the work, the hourly rate of the Officers involved and the service on-costs. The costs are then broken down into 3 bands: low, medium and high.

### Investigative Charges – Improvement Notice

Offence		Cost of investigation		
		Band 1 (Low)	Band 2 (Medium)	Band 3 (High)
Housing Act 2004 section 30	Failure to comply with Improvement Notice	£200	£300	£400

### Investigative Charges – Mandatory and Additional HMO Licensing

Offence		Cost of investigation		
		Band 1 (Low)	Band 2 (Medium)	Band 3 (High)
Housing Act 2004 section 72(1)	Failure to license a licensable HMO	£500	£750	£1,000
Housing Act 2004 section 72(2)	Overcrowding a licensed HMO	£300	£450	£600
Housing Act 2004 section 72(3)	Failure to comply with HMO licence conditions	£300	£450	£600

### Investigative Charges – HMO Management Regulations

Offence		Cost of investigation		
		Band 1 (Low)	Band 2 (Medium)	Band 3 (High)
Regulation 3	Information not available/displayed	£300	£450	£600
Regulation 4	Duty to take safety measures	£300	£450	£600
Regulation 5	Duty to maintain water supply and drainage	£300	£450	£600
Regulation 6	Duty to supply and maintain gas and water	£300	£450	£600
Regulation 7	Duty to maintain common parts	£300	£450	£600
Regulation 8	Duty to maintain living accommodation	£300	£450	£600
Regulation 9	Duty to provide waste disposal facilities	£300	£450	£600

- 7.9 The investigative costs incurred in dealing with a landlord's failure to comply with an Improvement Notice are significantly lower (compared to other offences) because the Council will already have charged some preliminary costs (currently £408) when serving the Improvement Notice. The additional costs will cover the work involved in confirming that the improvements are not completed, obtaining tenants' statements, interviewing any suspects under caution and deciding if there is a case to answer.
- 7.10 The other preliminary costs and bands reflect the complexity of the investigation, the numbers of witnesses interviewed, the obtaining of warrants to enter properties, and the cost of specific services, such as a locksmith to gain full access to the premises.
- 7.11 If an investigation leads to more than one civil penalty being imposed, the initial fixed investigatory costs will be divided equally and added to each civil penalty. There will only be one set of investigatory charges for each investigation/operation undertaken by the Council.

### **Punitive charges**

- 7.12 The Council has created a table of punitive charges (based on Culpability and Harm) that Officers will use as a starting point for determining, on a case by case basis, the level of civil penalty that should be imposed:

## **CULPABILITY**

		Low	Medium	High	Very High
<b>H A R M</b>	<b>Low</b>	£2,000	£3,000	£4,000	£5,000
	<b>Medium</b>	£3,000	£6,000	£8,000	£10,000
	<b>High</b>	£4,000	£8,000	£12,000	£18,000
	<b>Very High</b>	£5,000	£10,000	£18,000	£27,000

- 7.13 In order to ensure that the punitive charge is set at an appropriate level, the Council will complete its investigation and consider all of its findings against the factors (described in detail in Paragraph 2.7 above) identified in the statutory guidance.
- 7.14 Aggravating factors in the case will increase the initial amount and, equally, any mitigating factors will reduce the initial amount.

### **Defence charges**

- 7.15 A person who has been issued with a civil penalty has a right of appeal to the First-Tier Tribunal and this will involve a re-hearing of the Council's decision to impose the civil penalty. The Tribunal has the power to confirm, vary (increase or reduce) or cancel the civil penalty that the Council has issued.

- 7.16 The First-tier Tribunal can dismiss an appeal if it is satisfied the appeal is frivolous, vexatious or an abuse of process, or it has no reasonable prospect of success.
- 7.17 The Council intends to defend its decision to issue civil penalties rigorously and this will involve not only Officer time and resources but also specialist legal support.
- 7.18 The Council will robustly seek to recover its legal costs in the event that it is required to defend its decision at a Tribunal. Therefore, each civil penalty notice that is unsuccessfully appealed will have the penalty increased by at least £2,000 per penalty charge for each person who has incurred the civil penalty.

### **Financial means to pay a civil penalty**

- 7.19 In setting a financial penalty, the Council may conclude that the offender is able to pay any financial penalty imposed, unless the offender has supplied suitable and sufficient financial information to the contrary.
- 7.20 It is for the offender to disclose to the Council such data relevant to his financial position as will enable the Council to assess what s/he can reasonably afford to pay.
- 7.21 Where the Council is not satisfied that it has been given sufficient reliable information, it will be entitled to draw reasonable inferences as to the offender's financial means from the evidence it holds and from all of the circumstances of the case which may infer that the offender can afford to pay any financial penalty.
- 7.22 As many offenders will own one or more properties in Northampton, it is likely that they will have assets that they can sell or borrow against. 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 an offender claims that they are unable to pay a financial penalty and shows that they have only a low income, consideration will be given to whether any of the properties can be sold or refinanced.

## **8. Rent Repayment Orders**

- 8.1 A rent repayment order is an order made by the First-tier Tribunal requiring a landlord to repay a specified amount of rent.
- 8.2 The Housing Act 2004 introduced rent repayment orders to cover situations where the landlord of a property had failed to obtain a licence for a property that was required to be licensed, specifically offences in relation to licensing of HMOs.
- 8.3 Rent repayment orders have now been extended through the Housing and Planning Act 2016 to cover a much wider range of offences, described below.
- Failure to comply with an Improvement Notice (under section 30 of the Housing Act 2004)
  - Failure to comply with a Prohibition Order (under section 32 of the Housing Act 2004)

- Breach of a banning order made under section 21 of the Housing and Planning Act 2016 (due to be enacted in November 2017);
- Using violence to secure entry to a property (under section 6 of the Criminal Law Act 1977)
- Illegal eviction or harassment of the occupiers of a property (under section 1 of the Protection from Eviction Act 1977)

- 8.4 Rent repayment orders can be granted to either the tenant or the local housing authority. If the tenant paid their rent themselves, then the rent must be repaid to the tenant. If rent was paid through Housing Benefit or through the housing element of Universal Credit, then the rent must be repaid to the local housing authority. If the rent was paid partially by the tenant with the remainder paid through Housing Benefit/Universal Credit, then the rent should be repaid on an equivalent basis
- 8.5 A rent repayment order can be made against a landlord who has received a civil penalty in respect of an offence, but only at a time when there is no prospect of the landlord appealing against that penalty.
- 8.6 The Council must consider a rent repayment order after a person is the subject of a successful civil penalty and in most cases the Council will subsequently make an application for a rent repayment order to recover monies paid through Housing Benefit or through the housing element of Universal Credit.
- 8.7 The Council will also offer advice, guidance and support to assist tenants to apply for a rent repayment order if the tenant has paid the rent themselves.

## 9. Guidance

- 9.1 This Policy has been developed with specific regard to:

- **The Housing and Planning Act 2016**
- **Civil penalties under the Housing and Planning Act 2016 Guidance for Local Housing Authorities** - Department for Communities and Local Government published April 2017
- **Private Sector Housing Enforcement Policy** - Northampton Borough Council updated August 2017