

## **Statement of Principles for Determining the Amount of a Penalty Charge**

As a local authority, Rother District Council has a statutory duty to enforce a wide range of laws affecting local businesses and individuals. The Council is committed to fair and effective enforcement, which protects both the economic interest and the health and safety of the public, businesses and the environment.

The Council's Private Sector Housing Enforcement Policy sets out the enforcement options available to the Council when determining breaches of housing legislation. Under certain types of legislation, the Council has the ability to issue Variable Monetary Penalties (penalty charges) for mid to high level examples of regulatory non-compliance. This statement sets out the principles which the Council proposes to follow in determining the amount of such penalty charges.

Where the Council is satisfied that it has evidence of regulatory non-compliance and the breach allows for the Council to require the offender to pay a penalty charge, it will issue a Penalty Charge Notice for the full sum allowable within the regulations that have been breached. Any Penalty Charge Notice will include:

- the reasons for imposing the penalty charge;
- the premises to which the penalty charge relates;
- the amount of the penalty charge;
- that the person responsible for the breach is required, within a period specified in the notice –
  - to pay the penalty charge, or
  - to give written notice to the local housing authority that the offender wishes the authority to review the Penalty Charge Notice;
- how payment of the penalty charge must be made;
- the person to whom, and the address (including if appropriate any email address) at which, a notice requesting a review may be sent and to which any representations relating to the review may be addressed; and
- any other information as required by the regulations that have been breached.

Should the Council receive representations for the review of a penalty charge this review shall be undertaken by the relevant Service Manager. The Service Manager will review the penalty charge and take into account all representations made. All representations will be considered on their own merit; in particular the following may be considered relevant in deciding any reduction in the charge made:

- internal failed preventative measures – in cases of national agents/landlords/businesses where due to internal processes failing local office has breached regulations;
- good attitude and cooperation with the Council – in cases where the offender has cooperated fully with the Council in investigating the breach of the regulations;
- immediate and voluntary remediation – when the offence was brought to the attention of the offender they immediately rectified any breach of the regulations;
- no previous history of non-compliance with other Housing legislation – if this is a first breach of any housing related legislation;
- any relevant personal circumstances; and
- undue financial hardship – if the fine would cause the offender undue financial hardship such that it might not be able to continue to operate.

When any review determines a final amount of penalty and this is not paid the Council will pursue non-payment of the penalty through a court order process.

This Policy shall be subject to a biennial review by the Executive Director of Business Operations. A record of the review having taken place will be made and any substantive changes will be approved and adopted by Cabinet.