

Stage 1 - set the starting point.

Step 1 - set the level of culpability

4 levels of culpability:

1. Very high. Deliberate flouting of the law. (Intent)
2. High. Continued to take obvious, serious risk. (Recklessness)
3. Medium. Failed to take proper care to avoid breach. (Negligence)
4. Low. Did not fall far short of duty standard. (Strict liability)

Step 2 - set the level of harm

4 levels of harm

Calculate on the basis of the level and likelihood of occurrence.

	Level A	Level B	Level C
	Death, Serious, life changing injuries requiring long term assistance, Significant reduction in life expectancy	Physical or mental impairment, not amounting to very serious, but which has a substantial and long-term effect on the sufferer's ability to carry out normal day-to-day activities or on their ability to return to work A progressive, permanent or irreversible condition	Any injury or potential injury not falling in to Levels A and B
High likelihood	Class 1	Class 2	Class 3
Medium likelihood	Class 2	Class 3	Class 4
Low likelihood	Class 3	Class 4	Class 4

Note for guidance

Information about the level of potential harm and the likelihood of this happening should be obtained from the authorised qualified person. This is not an HHSRS calculation, and the most likely outcome/highest likelihood is the basis for setting the harm level.

Step 3 - calculate the starting point

CULPABILITY LEVEL	HARM LEVEL				
		Level 1	Level 2	Level 3	Level 4
Very High		£20,000 - £30,000 Starting point £25,000	£15,000 - £20,000 Starting point £17,500	£10,000 - £15,000 Starting point £12,500	£5,000 - £10,000 Starting point £7,500
High		£15,000 - £20,000 Starting point £17,500	£10,000 - £15,000 Starting point £12,500	£5,000 - £10,000 Starting point £7,500	£2,500 - £5,000 Starting point £3,750
Medium		£10,000-£15,000 Starting point £12,500	£5,000 - £10,000 Starting point £7,500	£2,500 - £5,000 Starting point £3,750	£500-£2,500 Starting point £1,500
Low		£5,000 - £10,000 Starting point £7,500	£2,500 - £5,000 Starting point £3,750	£500 - £2,500 Starting point £1,500	£50 - £500 Starting Point: £250

Step 4 - adjust for aggravating features

Adjust the starting point upwards within the bracket, in light of aggravating features which include but are not exhaustive:

- Actual harm caused to any person.
- Persons outside the occupier and their immediate household, were also exposed to a risk of harm. This includes neighbours and visitors such as delivery staff, home helps etc.
- Previous record of non-compliance
- Previous convictions for housing offences
- Provision of falsified documents.
- Dishonest conduct, i.e. lying about their identity as landlord or nature of property, putting pressure on tenants to refuse admission or provide incorrect information.
- Prioritising cost savings at the expense of safety
- General poor standards of accommodation - HHSRS score E - A for any hazard in the premises-see [Housing Health and Safety Rating System-Guidance for Landlords and Property Professionals p11](#)
- Unlicensed HMO
- Significant breaches of licence conditions or management regulations in HMO property

Note for guidance

Aggravating features have to be considered in their totality. One very serious aggravating feature, for example providing a false electrical report that attempted to continue to expose residents to significant risk of serious harm may increase the penalty more than a number of relatively less serious aggravating features, such as spent housing offence convictions combined with historical incidences of non compliance and a category 1 trip/fall on stairs hazard caused exclusively by a missing balustrade.

Aggravating features may take the level of financial penalty to the top of the bracket. This should not be exceeded unless the case is exceptional and authorisation is given by a manager.

The proposed amount

The figure produced by this process is the proposed amount of the financial penalty and should be the figure on the **Notice of Intent**.

Any factual or personal mitigation, and the landlord's financial circumstances are to be taken into account, if the landlord makes representations, and the decision is to proceed with issuing a final notice. If relevant and significant mitigation is raised, the amount of the Civil Penalty on the Final Notice may be reduced to reflect this.

Representations

If the landlord chooses to make representations, these will be considered and may be taken into account when deciding whether to issue a **Final Notice**, and for setting the level of any Civil Penalty.

Step 5 - taking mitigation into account.

A **Final Notice** will be issued in all cases where there is evidence to prove the breach of duty to the criminal standards, unless information reveals the case to be wholly exceptional to the extent that it is not in the public interest to proceed to issue a civil penalty notice.

We will consider all relevant mitigation, including the following:

- Absence of previous housing convictions
- Absence of history of providing poor quality housing or housing management
- Good history of compliance with orders, notices and requirements
- Property otherwise of high standard
- Voluntary steps taken to resolve issue
- Mental disorder or learning disability, where linked to the commission of the offence
- Serious medical condition requiring urgent, intensive or long term treatment.
- Sole or primary carer for dependant relatives

If a decision is taken to issue a **Final Notice**, the amount can be adjusted downward within the bracket to take into account any personal mitigation.

Step 6 - the landlord's financial circumstances/reviewing the Civil Penalty Notice

Landlords will have the option of sending a **Statement of Means**. This will be sent with the **Notice of Intent**. The landlord is under no obligation to complete this form. However, in setting the level of a financial penalty, we will have regard to the landlord's financial resources in so far as these are disclosed.

The level of **Civil Penalty Notice** should reflect the extent to which the offender fell below the required standard. The financial 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 take the appropriate precautions.

The final step is to review the level of the Financial Penalty, to ensure that it fulfils the general principles set out above. This may include increasing or decreasing the level of penalty, and moving between brackets, if appropriate.

The **Financial Penalty** should be added to the **Final Notice** following this review.