

# Civil Penalty Fee Worked Examples

## WORKED EXAMPLES

### WORKED EXAMPLE 1

#### Offence: Operating an unlicensed HMO

A landlord owns and operates an unlicensed HMO that has 5 tenants. The HMO is subject to the Mandatory HMO licensing scheme but is not in the designated areas for any other schemes. The landlord was made aware of the need to apply for a licence but chose to ignore these warnings and did not submit an application until after a court warrant of entry was executed to access the property and gather evidence that the property was an unlicensed HMO. The landlord operated the HMO with 5 occupants for 40 weeks before submitting an application and they charged £100 a week per tenant. In the last 2 years, the landlord has received a simple caution for not licensing another HMO and they have also had 2 improvement notices served on them, both of which were complied with.

#### The Severity of the Offence (Penalty Band)

Culpability	<b>'Very High'</b>	The landlord is aware of requirement to licence the property and the consequences of not doing so but has chosen not to comply regardless.
Seriousness of harm risked	<b>'Level C'</b>	Operating an unlicensed HMO does not mean that there are any defects or deficiencies in the property. As such, the seriousness of harm risked would not meet the descriptions of 'Level A' or 'Level B'.

Seriousness of Harm Risked	Culpability			
	Very high	High	Medium	Low
Level A	5+	5	4	3
Level B	5	4	3	2
Level C	<b>4</b>	3	2	1

Penalty Level	Penalty Band
1	£600 - £1,200
2	£1,200 - £3,000
3	£3,000 - £6,000
<b>4</b>	<b>£6,000 - £15,000</b>
5 / 5+	£15,000 - £30,000

With culpability level of 'Very High' and a seriousness of harm risked of 'Level C', the penalty band for the offence is Band 4. This gives us a starting amount of £6,000 and an upper limit of £15,000.

### The Landlord's Income

Penalty Level	Relevant Weekly Income
1	<b>Gross rental income or management fees for the property where the offence occurred or to which the offence relates</b>
2	
3	
<b>4</b>	
5 / 5+	All income for the offender (carry out a financial assessment)

Penalty Level	% of Relevant Weekly Income
1	50% of relevant weekly income
2	100% of relevant weekly income
3	150% of relevant weekly income
<b>4</b>	<b>250% of relevant weekly income</b>
5	400% of relevant weekly income
5+	600% of relevant weekly income

The two tables on the left tell us that for Band 4, we should consider the income that the landlord gets from the property and that we should add 250% of this amount to the civil penalty.

We know that the landlord receives £500 a week in rental income and 250% of £500 is £1,250.

Therefore, we will add £1,250 to the civil penalty to account for the landlord's income.

### The Landlord's Track Record

Offence	Weighting Score
1 caution for a relevant offence	2
2 relevant notices under Part 1 of the Housing Act 2004	10
<b>Total</b>	<b>12</b>

The landlord's track record gives us a score of 12 and this corresponds to a 30% increase in the starting amount.

<b>Score</b>	0	1-2	3-4	5-6	7-8	9-10	<b>11-12</b>	13-14	15-16	17-18	19-20
<b>%</b>	0	5%	10%	15%	20%	25%	<b>30%</b>	35%	40%	45%	50%
<b>Score</b>	21-22	23-24	25-26	27-28	29-30	31-32	33-34	35-36	37-38	39+	
<b>%</b>	55%	60%	65%	70%	75%	80%	85%	90%	95%	100%	

The starting amount for Band 4 is £6,000 and so a 30% increase means that £1,800 will be added to the civil penalty to account for the landlord's track record.

## The Penalty Calculation

Starting Amount for Band 4	£6,000
Amount added because of the Landlord's track record	£1,800
Amount added because of the Landlord's income	£1,250
<b>Total</b>	<b>£9,050</b>

We get the total for the penalty calculation by taking the starting amount for the penalty band and adding the amounts we calculated for the Landlord's track record and their income. The three amounts added together give us a total of £9,050.

The next step is to check whether the total for these three amounts is higher or lower than the upper limit for the penalty band. If it is lower, we will use the amount we have calculated but, if it is higher, we will cap the amount at the upper limit.

The upper limit for Band 4 is £15,000 and so our total of £9,050 is a lower amount and will be the amount we will use for our civil penalty. If our total had been a higher amount, we would have used £15,000 instead.

## Financial Benefit from the Offence

In this example, the landlord was legally permitted to have 4 tenants before they needed to apply for a licence (i.e. before they were committing an offence). As such, the rental income from the first 4 tenants is not financial benefit from the offence that was committed.

However, they were not permitted to put a 5<sup>th</sup> tenant in the property without a licence (or a duly made application) and so the rental income from this tenant is financial benefit that they obtained by committing the offence.

The 5th tenant was in the house for 40 weeks before a duly made application was submitted and they paid £100 a week during this period. This gives us a total of £4,000 over the period of the offence.

If we take the £9,050 that we calculated above and then add the £4,000 in financial benefit, we get a total of **£13,050** and this is the amount that we will impose a civil penalty for.

## WORKED EXAMPLE 2

### Offence: Failing to comply with an improvement notice

A landlord owns and manages a house occupied by an 80 year old lady. An improvement notice was served on the landlord following an inspection which found one Category 1 hazard (Excess Cold) and several Category 2 hazards. The landlord did not comply with the notice. The Council had tried to work informally with the landlord by writing to him prior to serving the Improvement Notice and advising him of the work that was required. The landlord also owns one other property. The Council undertook the work in default of the landlord and placed a charge on the property

### The Severity of the Offence (Penalty Band)

Culpability	<b>'Very High'</b>	The landlord was aware of the need to comply with the Improvement Notice but actively tried to avoid complying with it.
Seriousness of harm risked	<b>'Level A'</b>	The property had a large number of hazards that posed a serious risk to the occupants.

Seriousness of Harm Risked	Culpability			
	Very high	High	Medium	Low
Level A	<b>5+</b>	5	4	3
Level B	5	4	3	2
Level C	4	3	2	1

Penalty Level	Penalty Band
1	£600 - £1,200
2	£1,200 - £3,000
3	£3,000 - £6,000
4	£6,000 - £15,000
<b>5 / 5+</b>	<b>£15,000 - £30,000</b>

With culpability level of 'Very High' and a seriousness of harm risked of 'Level A', the penalty band for the offence is Band 5+. This gives us a starting amount of £15,000 and an upper limit of £30,000.

### The Landlord's Income

Penalty Level	Relevant Weekly Income
1	Gross rental income or management fees for the property where the offence occurred or to which the offence relates
2	
3	
4	

**5 / 5+ All income for the offender (carry out a financial assessment)**

Penalty Level	% of Relevant Weekly Income
1	50% of relevant weekly income
2	100% of relevant weekly income
3	150% of relevant weekly income
4	250% of relevant weekly income
5	400% of relevant weekly income

**5+ 600% of relevant weekly income**

The two tables on the left tell us that for Band 5+, we should consider the all of the income that the landlord receives and that we should add 600% of this amount to the civil penalty.

We know that the landlord receives £200 a week in all income and 600% of £200 is £1,200.

Therefore, we will add £1,200 to the civil penalty to account for the landlord's income.

**The Landlord's Track Record**

Offence	Weighting Score
1 relevant notice under Part 1 of the Housing Act 2004	1
<b>Total</b>	<b>1</b>

The landlord's track record gives us a score of 1 and this corresponds to an 5% increase in the starting amount.

<b>Score</b>	0	<b>1-2</b>	3-4	5-6	7-8	9-10	11-12	13-14	15-16	17-18	19-20
<b>%</b>	0	<b>5%</b>	10%	15%	20%	25%	30%	35%	40%	45%	50%
<b>Score</b>	21-22	23-24	25-26	27-28	29-30	31-32	33-34	35-36	37-38	39+	
<b>%</b>	55%	60%	65%	70%	75%	80%	85%	90%	95%	100%	

The starting amount for Band 4 is £15,000 and so an % increase means that £750 will be added to the civil penalty to account for the landlord's track record.

### The Penalty Calculation

Starting Amount for Band 4	£15,000
Amount added because of the Landlord's track record	£750
Amount added because of the Landlord's income	£1,200
<b>Total</b>	<b>£16,950</b>

We get the total for the penalty calculation by taking the starting amount for the penalty band and adding the amounts we calculated for the Landlord's track record and their income. The three amounts added together give us a total of £16,950.

The next step is to check whether the total for these three amounts is higher or lower than the upper limit for the penalty band. If it is lower, we will use the amount we have calculated but, if it is higher, we will cap the amount at the upper limit.

The upper limit for Band 5+ is £30,000 and so our total of £16,950 is a lower amount.

**Civil penalties are always capped at £30,000 per offence.**

### Financial Benefit from the Offence

In this example, the landlord did save money by not completing the works on the notice but this financial benefit was effectively removed by the works in default and the subsequent charge for them. As such, at the time of considering the civil penalty, the landlord has not obtained any financial benefit from committing the offence. This means that no additional amount will be added to the total amount.

There is no financial benefit from this offence and so we get a total amount of £16,950, which is the amount that we will impose the civil penalty for.

**WORKED EXAMPLE 3**

**Offence: Failure to comply with management regulations in respect of Houses in Multiple Occupation.**

The landlord is the appointed manager of a three bedroom licenced HMO. The company is paid £22 per week to manage the property on behalf of the owner. During a compliance inspection, it was found that they had neglected to display any of the manager’s details anywhere in the property. They were warned about this one year ago and stated that they were aware of the requirement but an oversight meant that they missed this property when displaying details. They have not been the subject of any formal enforcement action in the last 2 years and the property was otherwise in a satisfactory condition.

**The Severity of the Offence (Penalty Band)**

Culpability	<b>‘Low’</b>	The company does not have a history of non-compliance and the breach was fairly minor and easily rectified.
Seriousness of harm risked	<b>‘Level C’</b>	The seriousness of harm risked to the tenants was low and so it would not meet the descriptions of harm found in ‘Level A’ or ‘Level B’.

Seriousness of Harm Risked	Culpability			
	Very high	High	Medium	Low
Level A	5+	5	4	3
Level B	5	4	3	2
Level C	4	3	2	1

Penalty Level	Penalty Band
<b>1</b>	<b>£600 - £1,200</b>
2	£1,200 - £3,000
3	£3,000 - £6,000
4	£6,000 - £15,000
5 / 5+	£15,000 - £30,000

With culpability level of ‘Low’ and a seriousness of harm risked of ‘Level C’, the penalty band for the offence is Band 1. This gives us a starting amount of £600 and an upper limit of £1,200.



### The Landlord's Income

Penalty Level	Relevant Weekly Income
1	<b>Gross rental income or management fees for the property where the offence occurred or to which the offence relates</b>
2	
3	
4	
5 / 5+	All income for the offender (carry out a financial assessment)

Penalty Level	% of Relevant Weekly Income
1	<b>50% of relevant weekly income</b>
2	100% of relevant weekly income
3	150% of relevant weekly income
4	250% of relevant weekly income
5	400% of relevant weekly income
5+	600% of relevant weekly income

The two tables on the left tell us that for Band 1, we should consider the income that the landlord gets from the property and that we should add 50% of this amount to the civil penalty.

We know that the landlord receives £22 a week in management fees and 50% of £22 is £11.

Therefore, we will add £11 to the civil penalty to account for the landlord's income.

### The Landlord's Track Record

Offence	Weighting Score
No offences or notices in the last 2 years	0
<b>Total</b>	<b>0</b>

The landlord's track record gives us a score of zero and this means there will be no increase in the starting amount.

Score	<b>0</b>	1-2	3-4	5-6	7-8	9-10	11-12	13-14	15-16	17-18	19-20
%	<b>0</b>	5%	10%	15%	20%	25%	30%	35%	40%	45%	50%
Score	21-22	23-24	25-26	27-28	29-30	31-32	33-34	35-36	37-38	39+	
%	55%	60%	65%	70%	75%	80%	85%	90%	95%	100%	

### The Penalty Calculation

Starting Amount for Band 4	£600
Amount added because of the Landlord's track record	£0
Amount added because of the Landlord's income	£11
<b>Total</b>	<b>£611</b>

We get the total for the penalty calculation by taking the starting amount for the penalty band and adding the amounts we calculated for the Landlord's track record and their income. The three amounts added together give us a total of £611.

The next step is to check whether the total for these three amounts is higher or lower than the upper limit for the penalty band. If it is lower, we will use the amount we have calculated but, if it is higher, we will cap the amount at the upper limit.

The upper limit for Band 1 is £1,200 and so our total of £611 is a lower amount and will be the amount we will use for our civil penalty. If our total had been a higher amount, we would have used £1,200 instead.

### Financial Benefit from the Offence

In this example, the cost of displaying Landlord C's management details would be negligible and so it would not be reasonable to claim that financial benefit was obtained from committing the offence.

There is no financial benefit from this offence and so we get a total amount of £611, which is the amount that we will impose the civil penalty for.