

# Housing offences sentencing guidelines

CIEH response to a Sentencing Council consultation

April 2026

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## About the Chartered Institute of Environmental Health (CIEH)

CIEH is the professional voice for environmental health representing over 7,000 members working in the public, private and non-profit sectors. Building on its rich heritage, CIEH ensures the highest standards of professional competence in its members, in the belief that through environmental health action people's health can be improved.

Environmental health has an important and unique contribution to make to improving public health and reducing health inequalities. CIEH campaigns to ensure that government policy addresses the needs of communities and business in achieving and maintaining improvements to our environment and our health.

For more information visit [www.cieh.org](http://www.cieh.org).

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## Responses to consultation questions

### **Unlawful eviction and unlawful harassment**

Question 5: Do you have any comments on the culpability factors for the unlawful eviction and unlawful harassment guidelines for individuals and organisations?

We do not agree that coercion, intimidation or exploitation are factors that should be associated with lesser culpability.

Question 6: Do you have any comments on the harm factors for the unlawful eviction and unlawful harassment guidelines for individuals and organisations?

It should be clear whether the definition of property in Category 1 harm is referring to the victim's home, their possessions or both. We think both should be high harm factors. We do not agree Category 1 harm should be restricted to permanent deprivation. For example, if the victim loses their home for several months, it may force them to relocate into temporary accommodation in another part of the country, or become street homeless, by which time significant harm has been caused. To notionally offer the property back at a distant future date should not be a tactic that can be used to prevent the most serious penalty being imposed.

Victim vulnerability could also be a factor indicating high harm (for example heavily pregnant woman, newborn baby, someone at risk due to a serious medical condition).

Harassment that significantly impacts on the victim's right to quiet enjoyment of their home should also be indicative of higher Category 1 harm.

Overall, we think the definition of high (Category 1) harm is overly brief and does not adequately capture the full range of high harm criteria. We also question whether it is appropriate to restrict these offences to two harm categories, rather than the three harm categories featured in other sections of this consultation.

Question 7: Do you have any comments on the starting points and category ranges for the unlawful eviction and unlawful harassment guideline for individuals?

We think the proposed starting point of a Band C fine for an individual landlord is pitched far too low for someone found guilty of such a serious offence, even at the lower end of culpability and harm.

It is unclear whether sentencing of a company director or office holder would be assessed against the individual or organisation criteria, or by using a hybrid approach. It is important to clarify this point as these offences can be committed by a company and/or its office holders.

Question 8: Do you have any comments on the starting points and category ranges in the unlawful eviction and unlawful harassment guideline for organisations?

With many private landlords operating just a handful of properties and increasingly through an incorporated business structure, we think the turnover of up to £2 million for a 'micro' organisation is pitched too high. Within the private rented sector, a turnover of up to £500,000 may be more appropriate for a micro landlord business.

It is unclear whether sentencing of a company director or office holder would be assessed against the individual or organisation criteria, or by using a hybrid approach. It is important to clarify this point as these offences can be committed by a company and/or its office holders.

Question 9: Do you have any comments on the aggravating and mitigating factors for the unlawful eviction and unlawful harassment guidelines for individuals and organisations?

Do you have any comments specifically on the aggravating factors 'Victim evicted from a property they resided in for a significant period of time?' or 'Conduct intended or likely to cause maximum or additional distress (for example, offence committed in the middle of the night)'?

We think the comprehensive list of aggravating and mitigating factors usefully summarises a wide range of relevant issues for the court to consider. We agree victim conduct or victim blaming should not be considered a mitigating factor. What remains unclear is how the factors would be assessed by the court to determine the level of fine imposed within the category range. Some further guidance on how to balance aggravating and mitigating factors would be useful.

Question 10: Do you have any comments on the guidance for obtaining financial information in the unlawful eviction and unlawful harassment guidelines for individuals and organisations?

We support the guidance on obtaining financial information.

Question 11: Do you have any comments on compensation (Step 3), confiscation (Step 4) or 'Ensure that the combination of financial orders (compensation, confiscation if appropriate, and fine) removes any economic benefit derived from the offending' (Step 5)?

We support steps 3, 4 and 5 to compensate the victim, seek confiscation where appropriate and remove any economic benefit derived from the offending.

### **Houses in Multiple Occupation (HMOs)**

Question 15: Do you have any comments on the culpability factors and categories for the HMO offence guidelines for individuals and organisations?

We do not agree that the absence of any prior warning indicates lesser culpability. Landlords and managing agents who knowingly breach licensing requirements, fail to check what licensing schemes have been implemented or fail to properly manage a house in multiple occupation should not benefit from a reduced penalty because no warning was issued by the local authority. In relation to lesser culpability, guidance would be useful on the intended meaning of a property being unlicensed for “a short period of time”. For example, might this be a licensing breach ongoing for a few days, weeks or months? We would view any breach ongoing for more than 6 to 12 months as ongoing for a long period of time and involving higher culpability.

The intended meaning of “appropriate standard” with respect to organisational culpability is unclear. Alternative wording might be ‘where best practical means have been taken to avoid committing an offence’. For example, lesser culpability could be involved where the organisation has put in place appropriate systems and procedures but the offence has been caused by an isolated system or human error.

It is unclear whether sentencing of a company director or office holder would be assessed against the individual or organisation criteria, or by using a hybrid approach. It is important to clarify this point as these offences can be committed by a company and/or its office holders.

Question 16: Do you have any comments on the harm factors and categories for the HMO offence guidelines?

It is unclear how the situation would be assessed if the offence involves aspects from different harm categories. For example, no overcrowding and acceptable living conditions (Category 3) with a low risk of a serious adverse effect (Category 2).

The intended meaning of “adverse effect” and “serious adverse effect” are unclear. For example, Category 2 harm references low risk of serious adverse effect whereas Category 3 harm references low risk of an adverse effect. If these terms are intended to align with Housing Health and Safety Rating System (HHSRS) Category 1 and 2 hazards, this should be indicated. Alternatively, it could be a more general assessment of higher or lower risk.

It is unclear whether the prosecutor would be expected to admit evidence on the perceived risk of harm for sentencing purposes or the court would make its own assessment based on all the evidence in the case.

Question 17: Do you have any comments on the fine levels for the HMO offence guidelines for individuals and organisations?

With regard to individuals, we would request clarification about how the ‘relevant weekly income’ framework would be applied to a private landlord where gross rental income does not equate to profit. If rental income is supplementary to the landlord’s main employment, does relevant weekly income reflect their total income, including income from their principal employment?

Assessing notional income from one or more rental properties may necessitate a more complex assessment which offsets rental income against repair and maintenance, mortgage payments, management fees, utility bills, council tax and notional tax due. This may require the offender's self-assessment tax returns.

Some landlord business models will focus more on long term capital growth to contribute to a pension pot with rental income reinvested in property acquisition, creating the perception of a low weekly income whereas in practice they may have accumulated substantial assets.

For the most serious offences with high culpability and Category 1 harm, the maximum Band F fine equates to 700% of relevant weekly income. Sentencing guidance indicates that, if no financial information is available, the court should assume relevant weekly income of £440. This equates to a maximum fine of £3,080. This amount is pitched significantly below new statutory guidance for civil financial penalties. High net worth landlords may decline to engage in the court's financial assessment to try to restrict the maximum fine imposed.

We are concerned that the proposed penalty matrix that takes no account of property portfolio value could result in woefully low fines for a criminal landlord who intentionally evades their legal responsibilities and places their tenants' lives at risk. This could discourage local authorities from pursuing a criminal prosecution route if civil financial penalties imposed under statutory guidance are set at a significantly higher level.

With regard to organisations, we believe the starting point for lesser culpability (Band C) offences is set too low across all four levels of company turnover. The matrix places too little weight on the seriousness of Category 1 harm when calculating an appropriate penalty.

With many private landlords operating just a handful of properties and increasingly through an incorporated business structure, we think the turnover of up to £2 million for a 'micro' organisation is pitched too high. Within the private rented sector, a turnover of up to £500,000 may be more appropriate for a micro landlord business.

We would question how turnover is calculated for a managing agent instructed to act on behalf of a landlord. Most will act as rent collector; rent will be paid into their designated client account and then paid to the landlord after deducting their management fee. It would seem reasonable to exclude rental income that passes through the client account and is paid to the landlord.

Question 18: Do you have any comments on the aggravating and mitigating factors for the HMO offence guidelines for individuals and organisations?

We think the comprehensive list of aggravating and mitigating factors usefully summarises a wide range of relevant issues for the court to consider. What remains unclear is how the factors would be assessed by the court to determine the level of fine imposed within the category range. Some further guidance on how to balance aggravating and mitigating factors would be useful.

Question 19: Do you agree with the approach of a short guideline to cover the offence of breach of an overcrowding notice?

We support the idea of a short guideline to cover offences of breaching an overcrowding notice under section 139 of the Housing Act 2004.

Question 21: Do you have any further comments on the guidelines for HMO related offences?

We are disappointed that the sentencing guidelines exclude selective licensing under Part 3 of the Housing Act 2004. We would encourage the Sentencing Council to develop similar guidelines covering that topic, or include selective licensing offences under this heading, as HMO and selective licensing schemes often operate in parallel. To have sentencing guidelines for one without having them for the other would be a greatly missed opportunity.

## **Housing standards**

Question 22: Do you have any comments on the culpability factors and categories for the housing standards guidelines for individuals and organisations?

We do not agree that the absence of any prior warning indicates lesser culpability. The landlord will have received an improvement notice and/or prohibition order that sets out what action is required and by when and details their right of appeal if they do not agree. In this context, a warning has by default already been given. Lesser culpability might include evidence of obstruction by the tenant, or unavoidable delays sourcing specialist materials or a specialist contractor, whereas higher culpability would be knowingly allowing the situation to persist or allowing continued occupation in breach of a prohibition order.

The intended meaning of “appropriate standard” with respect to organisational culpability is unclear. Alternative wording might be ‘where best practical means have been taken to avoid committing an offence’. For example, lesser culpability could be involved where the organisation has put in place appropriate systems and procedures to comply with the notice but the offence has been caused by an isolated system or human error.

It is unclear whether sentencing of a company director or office holder would be assessed against the individual or organisation criteria, or by using a hybrid approach. It is important to clarify this point as these offences can be committed by a company and/or its office holders.

Question 23: Do you have any comments on the harm factors and categories for the housing standards guidelines for individuals and organisations?

The intended meaning of “adverse effect” and “serious adverse effect” are unclear. For example, Category 2 harm for HMOs references low risk of serious adverse effect whereas category 3 harm references low risk of an adverse effect. If these terms are intended to align with HHSRS Category 1 and 2 hazards, this should be indicated. Alternatively, it could be a more general assessment of higher or lower risk.

It is unclear whether the prosecutor would be expected to admit evidence on the perceived risk of harm for sentencing purposes or the court would make its own assessment based on all the evidence in the case.

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We are concerned that the proposed penalty matrix that takes no account of property portfolio value could result in woefully low fines for a criminal landlord who intentionally evades their legal responsibilities and places their tenants’ lives at risk. There is a serious risk the rental income from continued occupation of a property subject to a prohibition order could exceed the level of fine imposed. This could discourage local authorities from pursuing a criminal prosecution route if civil

financial penalties imposed under statutory guidance are set at a significantly higher level.

With regard to organisations, we believe the starting point for lesser culpability (Band C) offences is set too low across all four levels of company turnover. The matrix places too little weight on the seriousness of Category 1 harm when calculating an appropriate penalty.

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We would question how turnover is calculated for a managing agent instructed to act on behalf of a landlord. Most will act as rent collector; rent will be paid into their designated client account and then paid to the landlord after deducting their management fee. It would seem reasonable to exclude rental income that passes through the client account and is paid to the landlord.

Question 25: Do you agree that the fine levels should be the same for HMO-related offending and the other housing standards offences?

We have no objection to the housing standards fine levels being identical to those for HMO-related offences. It may be useful to include some worked examples to demonstrate how the guidance should be applied and to achieve a greater degree of consistency.

Question 26: Do you have any comments on the aggravating and mitigating factors for the housing standards guidelines for individuals and organisations?

We think the comprehensive list of aggravating and mitigating factors usefully summarises a wide range of relevant issues for the court to consider. What remains unclear is how the factors would be assessed by the court to determine the level of fine imposed within the category range. Some further guidance on how to balance aggravating and mitigating factors would be useful.

Question 27: Do you agree with the approach of a short guideline to cover the offence of providing false or misleading information to a local authority?

We would support a short guideline to cover the offence of providing false or misleading information to a local authority. We would highlight that this can have serious harm implications for tenants (for example, providing fraudulent gas and electrical safety certificates that indicate the installations are safe when in fact they provide an imminent risk of harm). We would also highlight the high culpability associated with providing false or misleading information to try to evade further

enforcement action by the local authority. We would welcome further dialogue on the draft guideline once it has been prepared.