

Appendix D

Eastbourne Borough Council

Statement of Principles for Determining the Amount of a Penalty Charge

May 2016

Eastbourne Borough Council Statement of principles for determining the amount of a penalty charge

Introduction

As a local authority, Eastbourne Borough 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. To ensure that we fulfil this commitment, the Regulatory Services Enforcement Policy was adopted by Full Council in November 2015, and reviewed and re-adopted in *** 2016.

Section 5 of the Regulatory Services Enforcement Policy sets out the enforcement options available to the Council when determining breaches of housing legislation. Included within these options is 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 will follow in determining the amount of such penalty charges.

Penalty Charge Notice

Where the Council is satisfied that there is 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 amount agreed in local policy.

Any penalty charge notice will include;

- the reasons for imposing the penalty charge;
- where applicable, 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

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- 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;
- any reduction for early payment of the penalty charge;
- where applicable the statutory appeals process;
- 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 statute.

Review of the Penalty Charge

Any representations to review the penalty charge shall be considered by the Senior Specialist Advisor. In deciding whether to confirm, vary or withdraw the penalty charge notice, the review will take into account all representations made. The representations will be considered on their own merit in respect of that case and in particular the following may be considered relevant in deciding any reduction in the charge made:

- 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;
- Undue financial hardship – if the fine would cause the offender undue financial hardship such that it might not be able to continue to operate.

In any case it will be the responsibility of the recipient to provide sufficient evidence to support their representations.

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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.

Review

This policy will be reviewed annually and updated if necessary to take into account legislative changes. The policy will also be reviewed if comments are received.

Comments should be sent to;

Customer First
Eastbourne Borough Council
Tel no 01323 41000
Email: customerfirst@eastbourne.gov.uk

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