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Bath and North East Somerset Council's consultation on Housing Services Enforcement and Financial Penalty Policy

Response from Propertymark

August 2026

Background

1. Propertymark is the UK's leading professional body for estate and letting agents, property inventory service providers, commercial agents, auctioneers and valuers, comprising 19,000 members representing over 12,800 branches[1]. We are member-led with a Board which is made up of practicing agents, and we work closely with our members to set professional standards through regulation, accredited and recognised qualifications, an industry-leading training programme and mandatory Continuing Professional Development.

Overview

2. Bath and North East Somerset Council are seeking views on its proposed approach to enforcing housing legislation and imposing financial penalties where landlords or other housing providers do not comply with their legal responsibilities. The policy is intended to set out a fair, consistent and transparent framework for enforcement, including the circumstances in which different enforcement measures may be used and how financial penalties should be calculated. In particular, the consultation is asking for views on the proposed starting levels for financial penalties, a possible 10% increase where aggravating factors are present, a possible 10% reduction for mitigating factors, and a further 20% adjustment based on factors such as the type of landlord and their financial circumstances. The Council is also asking whether the policy is clear and accessible and whether these proposed penalty levels and adjustments are proportionate.[2]

Propertymark response

Question 1: Do you agree with our approach to enforcement of Housing legislation?

3. We do not agree with Bath and North East Somerset's approach to enforcement of Housing legislation. We support the Council having a robust and effective approach to enforcing housing legislation, particularly where there is serious, deliberate or persistent non-compliance. However, we have concerns about the proposed approach to financial penalties and think that each element of the framework needs to be proportionate, evidence-based and capable of distinguishing between deliberate wrongdoing and administrative or inadvertent failures.

4. In relation to the proposed starting levels for financial penalties, we recognise the need for meaningful penalties where landlords knowingly fail to comply with their legal obligations.

[1] The professional body for the property sector | Propertymark

[2] https://www.bathnes.gov.uk/housing-services-enforcement-and-financial-penalty-policy-consultation

However, starting penalties should not be set at a level that assumes a high degree of culpability in every case. The starting point should reflect the seriousness of the particular breach, the actual or potential harm to tenants and the landlord's conduct. There should remain sufficient flexibility for the Council to consider the circumstances of each individual case rather than allowing the starting point to become, in practice, the expected penalty.

5. We have particular concerns about the proposed 10% increase for aggravating factors. Aggravating factors should be clearly defined and applied consistently, rather than allowing relatively minor matters to result in a significant increase to an already substantial penalty. In particular, a failure to respond to a Council letter should not automatically be treated as evidence of deliberate non-compliance. Landlords and letting agents may have legitimate reasons for not responding immediately, including administrative errors, correspondence being sent to an incorrect address, reliance on a managing agent, or simply failing to understand the significance of a particular request. There should be a clear distinction between genuine non-cooperation and an isolated failure to respond.

6. This is particularly important given the proposed approach to increasing penalties where landlords fail to engage with the Council. We strongly support action where a landlord deliberately obstructs an investigation or repeatedly refuses to provide information. However, the financial penalty should remain primarily connected to the underlying housing offence. A failure to answer correspondence should not become a mechanism for significantly increasing a penalty where there is no evidence that the landlord intended to frustrate enforcement.

7. We support the principle of a 10% reduction for mitigating factors but think this should be capable of reflecting the full circumstances of a case. Examples could include promptly remedying a breach, cooperating with the Council, accepting responsibility, demonstrating that the breach was isolated, and taking reasonable steps to prevent it happening again. It is important that mitigation is not applied so narrowly that responsible landlords who act quickly to put matters right receive little meaningful recognition. The purpose of enforcement should ultimately be to improve housing standards and compliance, rather than simply maximise the financial penalty.

8. The proposed cap on mitigating reductions should therefore be considered carefully. If the Council is prepared to increase penalties where aggravating circumstances exist, there should be meaningful scope to recognise genuine mitigation. A landlord who promptly remedies a breach, cooperates fully and demonstrates a clear commitment to compliance should be treated differently from one who ignores the Council and continues to offend. The policy should make that distinction clear.

9. We also have concerns about the proposed 20% adjustment based on landlord type. While it is reasonable to consider factors such as the size and nature of a landlord's portfolio, the number of properties owned should not, in itself, be treated as evidence of greater culpability. A professional landlord with a larger portfolio may have greater resources and regulatory knowledge, but that does not mean that every breach is more serious or that a higher penalty

is automatically justified. Equally, smaller landlords should not automatically be assumed to be less responsible for complying with their legal obligations. Any landlord-type adjustment should therefore be based on relevant evidence and the circumstances of the particular breach. A more nuanced approach should recognise professional competence, previous compliance and the steps taken to prevent breaches, rather than simply applying an uplift because a landlord falls within a particular category.

10. The proposed 20% adjustment based on financial considerations also requires careful safeguards. We accept that penalties should be sufficiently meaningful to deter deliberate non-compliance and that landlords should not be able to treat fines simply as a cost of doing business. However, a person's financial position should not be used as a justification for disproportionately increasing a penalty without clear evidence. There should be transparency about what financial information the Council will consider and how it will be used.

11. More broadly, we question whether multiple percentage adjustments could result in penalties escalating significantly beyond what is proportionate to the original offence. The Council should clearly explain how the different adjustments will interact and whether there is an overall cap on increases. There should be a clear requirement to consider the final penalty in the round, rather than applying a series of percentage increases mechanically.

12. We would also encourage the Council to strengthen the distinction between enforcement and engagement. Professional landlords and letting agents should be given clear information about what is required of them and a reasonable opportunity to rectify less serious breaches where there is no immediate risk to tenants. This is particularly important in a regulatory environment where housing legislation is becoming increasingly complex, and landlords and agents are having to adapt to significant legislative change.

13. Overall, we support the Council's objective of improving compliance and protecting tenants, but we do not support an enforcement model which becomes disproportionately punitive. Financial penalties should be reserved for circumstances where they are justified by the seriousness of the breach and the conduct of the offender. Deliberate and persistent offenders should face meaningful consequences, while responsible landlords and agents who make genuine mistakes, cooperate with the Council and take prompt action to remedy problems should be treated proportionately.

14. We would therefore encourage the Council to review the proposed percentage uplifts and reductions, provide much clearer definitions of aggravating and mitigating factors, and introduce stronger safeguards around the treatment of non-response to Council correspondence. Enforcement will be most effective where landlords and agents understand what is expected of them and have confidence that the system is fair, consistent and proportionate.

Question 2, Is the policy clear and easy to understand?

15. Yes. We think the policy is generally clear in setting out the Council's proposed approach to enforcement and financial penalties, but there are areas where it could be made more accessible and easier to understand. In particular, the way the different penalty adjustments interact is not always clear, and further explanation is needed on how aggravating and mitigating factors will be assessed in practice. The proposed 10% and 20% adjustments should be accompanied by clear worked examples so landlords and agents can understand how a penalty could increase or decrease.

16. A key part of making the policy effective will be ensuring that landlords and agents are properly informed about the proposals and understand what will be expected of them. While we have reservations about some aspects of the approach, we want to support the Council in communicating the changes clearly and encouraging compliance before enforcement becomes necessary. We would be happy to support this through landlord forums, presentations or roundtable discussions, and by helping to facilitate engagement with local letting and managing agents. This would provide an opportunity to explain the proposals, answer questions and ensure that those operating in the sector have a clear understanding of their responsibilities.

Question 3, Do you agree with the starting penalties within Table 3?

17. We do not agree with the starting penalties within Table 3. We have concerns about the proposed starting penalties in Table 3, particularly given the level of the fines and the potential for significant financial penalties to arise from breaches of different levels of seriousness. We support strong enforcement where landlords or letting agents fail to maintain electrical safety or deliberately ignore remedial works, particularly where there is a genuine risk to tenants. However, the starting penalties should be proportionate to the nature of the breach, the level of risk and the landlord's culpability. A starting penalty of £20,000 for failure to undertake remedial action, for example, could be disproportionate where the circumstances are less serious, where the landlord has taken reasonable steps to arrange works, or where delays have resulted from factors outside their control.

18. We are also concerned that the proposed £12,000 starting penalty for failing to provide an electrical report upon request does not necessarily reflect the seriousness of the underlying breach. A failure to produce a document promptly is very different from a failure to ensure that electrical installations are safe. The policy should distinguish clearly between administrative non-compliance and circumstances where tenants have been exposed to an actual or significant potential safety risk.

19. Ultimately, we think that before imposing these penalties, there should be consideration of whether the landlord has taken reasonable steps to comply, whether the breach has been remedied, the duration of the breach, the level of risk to occupants and whether there are any mitigating circumstances. There should also be clear guidance on how the starting penalties interact with the proposed aggravating and mitigating adjustments.

20. We would therefore not support the starting penalties as currently proposed without further clarification and safeguards. We would encourage the Council to review whether the figures are proportionate and to provide worked examples showing how they would be applied in different circumstances. It will also be important to communicate the requirements clearly to landlords and agents so that enforcement is used to drive compliance and improve electrical safety, rather than simply becoming punitive. However, as we have outlined in our response to question 1, we would be happy to support the Council in communicating these requirements to the local sector, including through landlord forums and engagement with letting and managing agents.

Question 4, Do you agree with the starting penalties within Table 4?

21. We have some concerns about the proposed starting penalties in Table 4. We support robust enforcement of property licensing conditions, particularly where breaches create a genuine risk to tenant safety or involve serious and persistent non-compliance. However, the starting penalties should be proportionate to the nature of the breach and the actual or potential harm caused. The proposed £20,000 starting penalty for breaches of House in Multiple Occupation (HMO) fire standards is particularly significant. While failures relating to fire safety can be serious, the policy should distinguish between different levels of risk and the nature and extent of the breach. A minor or isolated failure should not necessarily attract the same starting penalty as a serious failure affecting the safety of multiple occupants. There should also be recognition where a landlord has identified an issue and is actively taking steps to remedy it.

22. Similarly, the £20,000 starting penalty for amenity standards resulting in over-occupation or insufficient amenities appears high and should be applied with care. The Council should consider the degree and duration of over-occupation, the actual impact on residents and whether the landlord has taken reasonable steps to address the situation. There may also be circumstances where occupancy has changed without the landlord's knowledge or where the landlord is actively working with tenants and the Council to resolve the issue. We are also concerned about the £12,000 starting penalty for failing to provide safety certificates or declarations on demand. A failure to provide documentation is not necessarily evidence that the underlying safety requirement has not been met. The policy should clearly distinguish between a landlord who has failed to obtain the required certification and one who has undertaken the necessary checks but has been unable to produce documentation immediately. There should be an opportunity to rectify an administrative failure before a substantial financial penalty is imposed, where there is no immediate risk to occupants. The £3,000 starting penalties for failing to provide other information or documentation, including information to tenants, appear more proportionate. However, even these penalties should take account of the circumstances and whether the failure was deliberate, repeated or caused actual detriment to the tenant.

23. More generally, we would like to see greater clarity around the proposed £7,000 starting penalty for other licence conditions. This is a very broad category covering matters of

potentially very different levels of seriousness, from antisocial behaviour and waste to other fire and amenity requirements. A single starting point risks treating significantly different breaches in the same way. The Council should consider whether this category could be divided into clearer levels of seriousness. We would therefore encourage the Council to provide clear criteria and worked examples showing how these starting penalties will be applied. The final penalty should take account of the seriousness of the breach, the landlord's culpability, the risk or harm to occupants, the duration of the breach, previous compliance and any steps taken to remedy the problem. It is important that the starting penalty is not treated as an automatic fine, particularly where landlords have acted responsibly and are making genuine efforts to comply.

Question 5, Do you agree with the 10% increase for aggravating factors listed in Step 2?

24. We disagree with the 10% increase for aggravating factors listed in Step 2, but do not necessarily think it is a case of fines being too low or too high. We support the principle of taking aggravating factors into account when determining a financial penalty, particularly where there is deliberate, persistent or serious non-compliance. However, we have reservations about applying an automatic 10% increase without greater clarity about how the factors will be assessed in practice.

25. The policy should clearly define what constitutes an aggravating factor and ensure that the Council considers the individual circumstances of each case. For example, a failure to respond to a Council letter should not automatically result in a higher penalty where there may be a reasonable explanation or where the landlord or agent has otherwise cooperated with the investigation. There should be a clear distinction between deliberate obstruction and an administrative or inadvertent failure.

26. We would also expect the Council to ensure that aggravating factors are not effectively counted twice, particularly where the seriousness of the original breach has already been reflected in the starting penalty. The 10% increase should be evidence-based, proportionate and subject to clear safeguards.

27. We would therefore support the principle, but not without further clarification of the criteria and how the Council intends to apply the 10% uplift consistently and proportionately. We have highlighted that engagement is key, and we think this particular area is a fundamental area that requires engagement with landlords and their agents.

Question 6, Do you agree the aggravating factors should be capped at a 50% increase listed in Step 2?

28. Yes. We do agree with a 50% cap, provided it is treated as an absolute maximum rather than an automatic uplift. The cap provides a necessary safeguard against penalties escalating disproportionately where several aggravating factors are present. However, the Council should clearly explain how the individual factors will be assessed and ensure that any increase is proportionate to the seriousness of the breach, the landlord's culpability and the harm or

potential harm to tenants. The same circumstance should not be taken into account more than once.

Question 7, Do you agree with the 10% decrease for mitigating factors listed in Step 2?

29. Yes. We support the proposed 10% reduction for mitigating factors, as it provides a clear and consistent way of recognising circumstances that reduce the seriousness of a breach or the level of culpability. It is important that landlords and agents who take prompt action to remedy a breach, cooperate fully with the Council or demonstrate that the breach was isolated and not deliberate are treated differently from those who deliberately or repeatedly fail to comply. However, we would encourage the Council to retain some flexibility where there are particularly strong mitigating circumstances. The 10% reduction should not become an automatic ceiling where the circumstances clearly justify greater mitigation. The policy should also provide clear examples of how mitigating factors will be assessed, so landlords and agents can understand how their actions may influence the final penalty. Overall, we support the principle of a 10% reduction, provided it is applied fairly, transparently and proportionately.

Question 8, Do you agree the mitigating factors should be capped at a 50% decrease listed in Step 2?

30. Yes. We agree with the proposed 50% cap on reductions for mitigating factors. This provides a clear and consistent framework and is in line with the overall approach to setting and limiting financial penalties. It also gives the Council sufficient flexibility to recognise significant mitigating circumstances while maintaining consistency between cases.

31. We would support the Council retaining discretion to apply a reduction of up to 50%, depending on the circumstances of each case. This should allow appropriate recognition of landlords and agents who have acted promptly to remedy a breach, cooperated with the Council and taken steps to prevent future non-compliance. However, we would also emphasise that in some cases a financial penalty may not be necessary or proportionate at all. Where a breach is minor, isolated or readily remedied, alternative approaches such as a warning, advice, education or an opportunity to rectify the issue may be more appropriate. This would support the Council's wider objective of improving compliance rather than relying on financial penalties in every circumstance.

Question 9, Do you agree with the 20% upward adjusted for the landlord type & financial considerations?

32. No. We do not agree with a blanket 20% upward adjustment based on landlord type and financial considerations. We are concerned that this could result in substantially higher penalties without necessarily reflecting the seriousness of the underlying breach or the landlord's actual level of culpability.

33. The size or type of a landlord's portfolio should not, in itself, be treated as evidence that a breach is more serious. Professional landlords and letting agents may have greater regulatory

responsibilities, but they should not automatically face a higher financial penalty simply because they operate a larger business. Similarly, financial circumstances should not be used as a mechanism to increase penalties beyond what is proportionate to the offence.

34. We would strongly encourage the Council to remove the blanket 20% uplift and instead consider the circumstances of each case individually. Any adjustment should be based on clear, objective and evidenced factors, including the seriousness of the breach, culpability, actual or potential harm to tenants and the landlord's compliance history. The overall penalty should remain proportionate and should not become a means of penalising landlords simply because they are perceived to have greater financial resources.

Question 10, Do you agree with the criteria listed for the upward adjustment for landlord type & financial considerations?

35. No. We have concerns with the proposed criteria because they risk placing greater financial penalties on landlords based on the size or type of their portfolio and their financial position, rather than the seriousness of the actual breach.

36. While it is reasonable for the Council to consider a landlord's experience, level of responsibility and financial circumstances when determining an appropriate penalty, these factors should not automatically result in an upward adjustment. A larger or professional landlord is not necessarily more culpable, and financial capacity should not be treated as a justification for increasing a fine.

37. We would prefer the criteria to focus on objective factors directly connected to the breach, such as the landlord's level of culpability, previous compliance, the duration and seriousness of the breach, and the actual or potential harm to tenants. Any financial considerations should be applied carefully and transparently, with clear evidence and an opportunity for the landlord or agent to make representations.

Question 11, Tell us your suggestions

38. We would strongly encourage the Council to take a proactive approach to engagement as the policy develops and is implemented. This should include working collaboratively such as through the West of England Partnership well as continuing to engage through local landlord forums. There is also an opportunity for more targeted engagement with property agents in the area, including Propertymark-specific roundtables and discussions with local members. We would be very happy to support the Council by speaking at landlord forums, participating in roundtables and helping to communicate the proposals to landlords and agents, ensuring the policy is understood and can be implemented effectively.