

Rent repayment orders policy

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Offences under the Housing Act 2004

The Housing Act 2004 introduced rent repayment orders to cover situations where the responsible person for a property had failed to obtain a licence for a property that was required to be licensed.

These orders can be imposed for offences specifically relating to:

- [licensing of HMO \(section 72\(1\)\)](#)
- [houses under part 3 of the act \(section 95\(1\)\)](#)

Rent repayment orders have now been extended through the [Housing and Planning Act 2016](#) to cover the additional offences listed below.

[Section 30 of the Housing Act 2004](#)

Failure to comply with an improvement notice, which is a notice served by the council requiring the improvement and / or repair of a property within a certain timescale.

[Section 32 of the Housing Act 2004](#)

Failing to comply with a prohibition order – an order served by the council, preventing the use of a premises, or part of a premises, as living accommodation

[Section 21 of the Housing and Planning Act 2016](#)

Breach of a banning order made by the [First-tier tribunal \(property chamber\)](#) on application by the local authority, banning a person from the following in England:

- letting housing
- engaging in letting agency or property management work

[Section 6 of the Criminal Law Act 1977](#)

Using violence, or threatening to use violence, to secure entry to a property.

[Section 1 of the Protection from Eviction Act 1977](#)

Illegal eviction or harassment of the occupiers of a property.

Where we've secured a prosecution for a relevant offence, we must consider applying for a rent repayment order.

Additionally, we may apply for a rent repayment order when a relevant offence has been committed, whether or not the person responsible has been convicted.

In these circumstances, we'll satisfy itself that there's sufficient evidence to prove, beyond reasonable doubt, that an offence has been committed.

In deciding whether to apply for a rent repayment order for the commission of a relevant offence is appropriate, we'll consider each case individually and will take into consideration factors including:

- the seriousness of the offence
- the culpability of the offender
- the harm, or potential harm to tenants
- the impact on the wider community

It should be noted that we may impose a civil penalty and apply for a rent repayment order for certain offences. Both sanctions are available for the following offences under the Housing Act 2004:

- failure to comply with an improvement notice ([section 30](#))
- offences in relation to licensing of HMO ([section 72\(1\)](#))
- offences in relation to licensing of houses under part 3 of the act ([section 95\(1\)](#))

Furthermore, where the responsible person has not been convicted of the offence to which the rent repayment order application relates, the following factors will be taken into account when considering how much rent we'll seek to recover.

Factors considered when no conviction is given

Punishment of the offender

Rent repayment orders are intended to have a real economic impact on the offender and demonstrate the consequences of not complying with their responsibilities.

Factors that the council may consider include:

- conduct of the landlord and tenant
- financial circumstances of the responsible person
- whether the landlord has previously been convicted of similar offences

Deter the offender from repeating the offence

The level of the penalty will be set at a high enough level such that it's likely to deter the offender from repeating the offence.

Dissuade others from committing similar offences

Rent repayment orders are imposed by the First-tier tribunal and the fact that someone has received a rent repayment order will be in the public domain. We intend that robust and proportionate use of rent repayment orders is likely to help ensure others comply with their responsibilities.

Remove any financial benefit the offender may have obtained as a result of committing the offence

The responsible person is forced to repay rent, and thereby loses much, if not all, of the benefit that accrued to them by not complying with their responsibilities.