

Economic Note	Number: HOEN 0034
Title of regulatory proposal	Increased civil penalties for non-compliance with the Right to Work (RTW) and Right to Rent (RTR) Schemes
Lead Department/Agency	Home Office
Expected date of implementation	January 2024
Origin	Domestic
Date	10/11/2023
Lead Departmental Contact	Scott.Bailey2@homeoffice.gov.uk
Departmental Assessment	GREEN

Rationale for intervention, objectives and intended effects

To increase the maximum value of civil penalty issued per person to employers and private rental sector landlords, specifically those who employ or let private residential accommodation to someone who is not permitted to do so by reason of their immigration status. The objective is to further incentivise compliance with the Right to Work (RTW) and Right to Rent (RTR) Schemes, thereby strengthening the Government's response to tackle rogue employers and landlords and those seeking to enter or remain in the UK illegally.

Policy options (including alternatives to regulation)

Option 1: Do Nothing. Retain the current maximum civil penalty per person and civil penalty calculation process for non-compliance with the RTW and RTR Schemes.

Option 2: Increase the maximum civil penalty per person. **This is the government's preferred option as it meets the strategic and policy objectives**

Costs and benefit summary

A reduction in illegal migrant population would lower demand on public services and improve conditions in the private rental sector market for those renters residing lawfully in the UK. Monetised impacts are increased public sector income and, an equivalent, increase in payment from non-compliant employers or landlords; and, increased appeals and objections, resulting in costs to the Home Office, employers, and landlords. Non-monetised impacts include those resulting from an increase in the number of checks carried out from currently non-compliant employers and landlords now incentivised to comply.

Risks

An increase in discriminatory behaviour by employers or landlords against those with time limited permission to remain in the UK or complex immigration status; and an increase in non-compliant employers and landlords who cease trading either because they cannot pay or to avoid liability.

Total Cost £m PV	Transition Cost £m	Cost to Business £m	Total Benefit £m PV
£1.8m	N/A	£0.0m	£16.1m
NPSV (£m)	BNPV (£m)	EANDCB (£m)	BIT Score (£m)
£14.3m	£0.0m	£0.0m	£0.0m
Price Base Year	PV Base Year	Appraisal period	Transition period
2023-24	2023-24	5 years	N/A

Departmental sign-off (SCS): Rebecca Nugent Date: 10/11/23

Chief Economist sign-off: Tim Laken Date: 10/11/23

Better Regulation Unit sign-off: Emma Kirk Date: 10/11/23

Background

1. The Right to Work (RTW) and Right to Rent (RTR) Schemes ('the Schemes') were introduced as part of a suite of measures designed to tackle and deter illegal immigration. They are intended to prevent individuals without lawful immigration status in the UK from taking up employment in the UK or accessing accommodation in the private rented sector in England; and to support efforts to tackle those who exploit vulnerable migrants.
2. Employers and Landlords (including letting agents) have a responsibility to prevent illegal working and access to private rental accommodation by those individuals not entitled.¹ They can do this by conducting checks on all prospective employees and tenants, including British and Irish citizens.
3. These checks ensure the individual is not disqualified from carrying out the work in question, or renting a property, by reason of their immigration status. The undertaking of such checks ensures the employer or landlord can obtain a statutory excuse against liability for a civil penalty.
4. There are three types of check:
 - A manual check of original, hard-copy documents from a prescribed list of acceptable documentation (all citizens).
 - A check using Identification Document Validation Technology (IDVT) via the services of an Identity Service Provider (IDSP) (UK and Irish citizens only).²
 - A Home Office online check (non-UK and non-Irish citizens only).
5. Employers or landlords/letting agents identified as employing or letting private residential accommodation to someone who is not permitted to do so by reason of their immigration status can be issued a civil penalty.
6. The maximum penalties were last set in 2014 and are shown in Table 1.

Table 1: Current maximum civil penalty per worker or occupier³

	First Breach	Repeat Breach (within 3 years)
Employers	£15,000 (per worker)	£20,000 (per worker)
Landlords	£80 (per lodger) £1000 (per occupier)	£500 (per lodger) £3000 (per occupier)

Source: Home Office (2022). Illegal working penalties: codes of practice for employers; Home Office (2023). Right to rent immigration checks: landlords' code of practice

¹ Section 15, Immigration, Asylum and Nationality (IANA) 2006: <https://www.legislation.gov.uk/ukpga/2006/13/section/15>; Section 22-23, Immigration Act 2014: <https://www.legislation.gov.uk/ukpga/2014/22/contents/enacted>

² Digital identity document validation technology (IDVT) – GOV.UK: <https://www.gov.uk/government/publications/digital-identity-document-validation-technology-idvt>

³ Illegal working penalties: costs of practice for employers – GOV.UK: <https://www.gov.uk/government/publications/illegal-working-penalties-codes-of-practice-for-employers>; Right to rent immigration checks: landlords' code of practice – GOV.UK: <https://www.gov.uk/government/publications/right-to-rent-landlords-code-of-practice>

7. A maximum penalty is not always applied as mitigating factors are considered during the penalty calculation. For RTW, these include evidence of reporting suspected illegal workers and evidence of effective document checking practices.
8. In addition, a fast payment discount of 30 per cent, applicable to first breaches only, is available to employers and landlords who pay the issued civil penalty within 21 calendar days.
9. Around 1,105 penalties were issued to employers in 2022-23 and around 45 to landlords/letting agents.⁴
10. The mean civil penalty issued per worker in the 2022 calendar year was around £11,800. The mean civil penalty issued per tenant was around £730 (unpublished).
11. Employers and landlords who have been issued with a civil penalty may object to the Home Secretary on the grounds that they are not liable, there is a statutory excuse, or the penalty is too high. If someone receives a Civil Penalty Notice and wants to object, they have 28 days from the date given in the notice to do so.
12. If the decision is maintained, employers or landlords may appeal to the County Court on the same three grounds.⁵ The appeal must be lodged within 28 days of the given date of the objection outcome notice. A total of around 315 objections and 35 appeals were seen during 2022-23 (unpublished).

The policy issue and rationale for government intervention

13. Increasing the maximum civil penalty increases the cost of non-compliance. Employers or landlords found employing or letting to individuals without status will face much higher potential penalties. The higher expected cost of non-compliance aims to reduce the number of landlords and employers engaging in this activity. This is intended to further reinforce the objectives of the RTW and RTR scheme in terms of deterring illegal migration.
14. The policy links to the Home Office Outcome Delivery plan objective of 'Tackle illegal migration, remove those with no right to be here and protect the vulnerable' and is additional to recent increases in enforcement activity to clamp down on illegal working.⁶
15. Access to work or accommodation in the private rental sector facilitates migrants who are remaining in the UK illegally. Employer and landlord non-compliance creates unfair competition. It negatively impacts legitimate businesses and those who are lawfully in the UK, can affect rental housing prices and availability and put additional pressure on public services.
16. Civil penalties for non-compliance with the Schemes have remained the same since they were increased in 2014 and the Government is concerned that they do not provide a sufficient deterrent to landlords and employers and therefore facilitate those entering or remaining in the UK illegally. The Government intends to reform the Schemes so that they are tougher on non-compliant employers and landlords by increasing the level of the maximum civil penalty per person.

⁴ [Immigration Enforcement data: Q1 2023 - GOV.UK: https://www.gov.uk/government/publications/immigration-enforcement-data-q1-2023](https://www.gov.uk/government/publications/immigration-enforcement-data-q1-2023)

⁵ Appeals are made to the Sheriff Courts in Scotland (for RTW).

⁶ [Over 100 arrested in record breaking illegal working crackdown – GOV.UK: https://www.gov.uk/government/news/over-100-arrested-in-record-breaking-illegal-working-crackdown](https://www.gov.uk/government/news/over-100-arrested-in-record-breaking-illegal-working-crackdown)

Policy objectives and intended effects

17. The policy objective is to further encourage employers and landlords to comply with their current responsibilities to prevent illegal working and renting by levying heavier maximum penalties. The policy is intended to further reduce the availability of accommodation and legal employment opportunity for those residing illegally in the UK and therefore to deter both illegal migration and individuals from remaining in the country without status.

Policy options considered, including alternatives to regulation

18. The Government has considered two options:

- **Option 1: Do nothing.** No change to the maximum penalties will not reduce levels of illegal working or illegal rental residency as it provides no additional deterrent.
- **Option 2:** The preferred option is to increase the maximum civil penalty. The new maximum penalties are shown in Table 2. **This is the government's preferred option as it meets the strategic and policy objectives.**

Table 2: New maximum civil penalty per worker or occupier

	First Breach	Repeat Breach (within 3 years)
Employers	£45,000 (per worker)	£60,000 (per worker)
Landlords	£5,000 (per lodger) £10,000 (per occupier)	£10,000 (per lodger) £20,000 (per occupier)

Non-regulatory options

19. This measure is part of a wider set of recent actions to curb illegal migration, including increased funding for the Home Office's Immigration Enforcement Department to enable more operational enforcement activity to residential and commercial premises..

20. The Home Office also intend activity with their contracted debt provider to review both the pre-legal and legal debt strategy in response to the changes.

Appraisal

General assumptions and data

21. Unpublished management information of all civil penalties issued from January to March 2019 was used to inform appraisal assumptions. Around 530 illegal working penalties were issued over this period and 40 right to rent penalties. The source enabled outcomes across penalties of different initial value to be compared. The information was analysed in September 2023, giving a maximum observation window of around 4.6 years.

22. There is uncertainty using penalties issued over a specific three-month historic window, only, to inform appraisal inference. The observed outcomes would differ if an alternative historic

sample was chosen, covering a different, or longer (or shorter) historic period. It is also possible that outcomes in future years may differ due to factors like changing economic conditions.

23. There is uncertainty caused by the magnitude of the maximum penalty increase. The January to March 2019 sample, saw only around 95 illegal working penalties of £30,000 or more (18 per cent of all RTW penalties) and 30 illegal working penalties of £40,000 or more (6 per cent of all RTW penalties). All illegal penalties are likely to be over £30,000 following implementation (see Table 2).
24. This issue is particularly stark for the RTR scheme. Only one right to rent civil penalty was greater value than £2,000 was in the January to March 2019 sample. There is therefore limited certainty on outcomes seen for historic civil penalties landing in the penalty value range to be seen following implementation. This issue would have arisen with observations on any historic sample.

Table 3: Distribution of illegal working penalties – January 2019 to March 2019⁷

Value of initial penalty issued	Total	%
£10,000	195	37.6
£15,000	165	31.4
£20,000	75	13.8
£30,000	65	12.3
£40,000	5	1.3
£45,000	15	2.6
£50,000	0	0.4
£60,000	5	1.1
£70,000	0	0.2
£75,000	0	0.2
	530	100

Source: Home Office estimates, 2023

25. The familiarisation cost to business is negligible and so unmonetised. The change in maximum penalty value will formally be communicated by an update in published guidance and codes of practice. Negligible time will be required by employers or landlords in reading or understanding the change in the written maximum penalty value.

Penalties in future years

26. Most civil penalties result from unannounced immigration enforcement visits.⁸ As such, Immigration Compliance and Enforcement (ICE) resource allocated for illegal working and renting referrals is the key driver of realised volumes.

⁷ Totals rounded to nearest 5. Percentages based on unrounded figures.

⁸ Home Office (2023). [Developing an evaluation strategy for the compliant environment](https://www.gov.uk/government/publications/developing-an-evaluation-strategy-for-the-compliant-environment-review-of-internal-data-and-processes/developing-an-evaluation-strategy-for-the-compliant-environment-review-of-internal-data-and-processes): <https://www.gov.uk/government/publications/developing-an-evaluation-strategy-for-the-compliant-environment-review-of-internal-data-and-processes/developing-an-evaluation-strategy-for-the-compliant-environment-review-of-internal-data-and-processes>

27. Recent commitments and actions have increased the volume of visits on illegal working.⁹ The central appraisal scenario, therefore, assumes a future volume of civil penalties higher than recent periods.
28. For appraisal purposes, only, the central scenario assumes 2019/20 civil penalty levels for future years. The lower scenario assumes 2022/23 and the upper 2017/18.¹⁰ This therefore captures committed intentions within a range informed from a recent historic period.

Benefits

29. **Reduction in irregular migrant population.** The increase in penalties increases the cost of non-compliance to employers and landlords. The aim is to drive changes in their behaviour in terms of reducing the incidence of non-compliant letting and employment, therefore deterring individuals from remaining in the country without status and illegal migration.
30. Savings in public service costs will arise if this measure encourages those without valid leave to depart the UK or equally dissuades individuals from entering or otherwise becoming non-compliant with immigration rules. While total costs are not monetised in this appraisal due to the difficulty in estimating the impact of the proposal estimates of annual average expenditure per individual for working age adults in the UK are health (£2,657), social services (£553), wider public services (£665), congestible public goods (£3,859), and welfare (£4,178) [2023-24 prices].¹¹
31. **Public sector – change in penalty income.** There will be a change in income stream to the public sector due to higher civil penalties issued to non-compliant employers and landlords. This change in income is **£16.0m (discounted) in the central scenario** over the five-year appraisal period. There is uncertainty on this figure and a range is presented in the annex alongside detail on the assumptions.

Costs

32. **Employers and landlords – Change in penalty payments.** The cost of increased payments land to non-complaint employers and landlords only. Those that continue to act in a legitimate manner, by checking and recording the documents of their employees or tenants, will not be affected by the strengthened penalty regime. As above, the change in payment is **£16.0m (discounted) in the central scenario** over the appraisal period.
33. **Home Office – Objections and Appeals.** The increase in the value of penalties has risk of an increase in objection and appeal rates for both illegal working and right to rent penalties. These costs are presented below. The cost is negligible for objections. The cost is higher for appeals. However, the overall direct cost to the public sector in any one year is far below Better Regulation Framework requirements for Impact Assessment (IA) production.

⁹ [PM statement on illegal migration: 13 December 2022 – GOV.UK: https://www.gov.uk/government/speeches/pm-statement-on-illegal-migration-13-december-2022](https://www.gov.uk/government/speeches/pm-statement-on-illegal-migration-13-december-2022)

¹⁰ [Immigration Enforcement data: Q1 2023 - GOV.UK: https://www.gov.uk/government/publications/immigration-enforcement-data-q1-2023](https://www.gov.uk/government/publications/immigration-enforcement-data-q1-2023)

¹¹ [Illegal Migration Bill, Final Impact Assessment 2023: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1165397/Illegal_Migration_Bill_IA_-_LM_Signed-final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1165397/Illegal_Migration_Bill_IA_-_LM_Signed-final.pdf)

Table 4: Home Office – Cost of objections and appeals (central scenario)¹²

Scenario	Cost per year	Total cost	Total cost (PV)
Objections RTW	£7,735	£38,685	£36,155
Objections RTR	£2,460	£12,290	£11,490
Appeals RTW	£320,345	£1.60m	£1.50m
Appeals RTR	£39,935	£0.20m	£0.19m

Source: Home Office estimates, 2023

34. **Employers and Landlords – Objections and Appeals.** It is thought to typically take an employer or landlord a small amount of time to complete an objection and the Home Office do not charge a fee if an objection is made. The cost of appeals in the central scenario is presented in the table below. This measures court fee payments from appellants only with other costs, such as potential legal charges, not monetised.

Table 5: Employers and Landlords– Cost of Appeals (Court Fees) (central scenario)¹³

	Cost per year	Total cost	Total cost (PV)
Employers	£6,370	£31,855	£29,775
Landlords	£795	£3,970	£3,710

Source: Home Office estimates, 2023

35. **HM Courts and Tribunals Service – Appeals.** Those who appeal against a penalty are charged a fee of around £140 to take their appeal to court. The total costs in Tables 4 and 5, therefore, also measure court fee receipts. Those fees may not fully recover the costs associated with appeals for the court service.
36. **Employers and Landlords – Change in check volumes.** The policy intention is to increase compliance which would therefore see an increase in volumes of right to work and rent checks. Employers and landlords pay a fee to an IDSP to carry out a check and the manual documentation check or Home Office online routes require their time.
37. **Home Office – Change in check volumes.** A larger volume of checks as part of the Schemes will the impact the Home Office. Home Office staff resource can be required to provide confirmation of a person's right to rent/work.

Summary

38. Table 6 summarises costs and benefits under scenarios and assumptions documented above. The increase in the penalty payments from employers and landlords are not included as costs in the table (or the Business Net Present Value (BNPV) or Equivalent Annual Direct Cost to Business (EANDCB) as they apply to non-compliant groups.
39. The equivalent increase in penalty receipts to the public sector have, however, been included as benefits in Table 6. It is this which accounts for the positive Net Present Value (NPV) among the

¹² All values rounded to nearest 5.

¹³ All values rounded to nearest 5.

valued impacts. There are also non-monetised impacts discussed above which, if valued, would also affect the observed NPV figure. The appraisal has not modelled resulting behaviour change due to the policy.

40. There would be additional successful appeals from employers or landlords if the appeal success rate remains the appeal rate under the scenarios above remains at the BAU rate. These costs accrue to employers and landlords found to be compliant with legislation.
41. 14 per cent of appeals were successful in the January to March 2019 sample. The monetised costs to all employers and landlords associated with appeals are small (see tables 4 and 5). This monetised cost captures court fees only. The very small monetised cost that would be associated with the compliant employer or landlord sub-set has not been included in Table 6.

Table 6: Total costs and benefits summary, discounted, 2023-24 prices, 5 year appraisal period, £ million

	Low	Central	High
Cost of appeal – Home Office	£0.51	£1.68	£2.43
Cost of objection – Home Office	£0.00	£0.05	£0.07
Cost of appeal – appellant	£0.01	£0.03	£0.05
Total costs	£0.52	£1.76	£2.56
Increased penalties	£1.68	£16.05	£40.63
Increased court fees	£0.01	£0.03	£0.05
Total benefits	£1.69	£16.08	£40.68
NPV	£1.16	£14.32	£38.13

Source: Home Office estimates, 2023

Risks

42. A risk is some employers or landlords change their recruitment or vetting strategies to avoid employing or letting to migrants to ensure compliance with the Schemes rather than risking facing liability for a heavier financial penalty. In terms of Right to Rent, despite some concerns, a recent Home Office Evaluation of the Right to Rent Scheme found no statistical evidence that the Scheme led to discriminatory behaviour.¹⁴
43. There is limited evidence available in this area, but some academic studies noted that Right to Work checks could change migrant behaviour and noted perceived complexity in correctly applying the checks.¹⁵

¹⁴ [Banerjee, J., Green, M., and Scanlon, K. \(2023\). Right to Rent scheme: Phase two evaluation: https://www.gov.uk/government/publications/right-to-rent-scheme-phase-two-evaluation/right-to-rent-scheme-phase-two-evaluation](https://www.gov.uk/government/publications/right-to-rent-scheme-phase-two-evaluation/right-to-rent-scheme-phase-two-evaluation)

¹⁵ [Home Office \(2023\). A review of external evidence of the compliant environment: Literature synthesis of external evidence and best use of international examples: https://www.gov.uk/government/publications/a-review-of-external-evidence-of-the-compliant-environment-literature-synthesis-of-external-evidence-and-best-use-of-international-examples/a-review-of-external-evidence-of-the-compliant-environment-literature-synthesis-of-external-evidence-and-best-use-of-international-examples](https://www.gov.uk/government/publications/a-review-of-external-evidence-of-the-compliant-environment-literature-synthesis-of-external-evidence-and-best-use-of-international-examples/a-review-of-external-evidence-of-the-compliant-environment-literature-synthesis-of-external-evidence-and-best-use-of-international-examples)

- 44. A risk is that increased civil penalties increase instances of employers or landlords who cannot afford to pay and therefore cease trading or increase instances of employers or landlords who liquidate or dissolve their business to avoid liability.
- 45. The main appraisal risks are: 1) civil penalties issued over a 3-month historic period only, and their outcomes, are used to inform assumptions; and 2) the magnitude of the maximum penalty increase means there is limited, or no, observed historic outcomes on penalty values that will more commonly be seen following implementation. A wide range has been applied to the penalty recovery rate for future civil penalties of different value to account for the later.

Implementation, monitoring and evaluation

- 46. Home Office Analysis and Insight (HOAI) will assess direct impact of the policy through assessment of any changes in composition and characteristics of those receiving civil penalties and their actions as a result.
- 47. This will include assessing variables such as volume of penalties issued, fast payments and/or objections made along with broad characteristics of businesses receiving civil penalties and any available information related to those found working illegally.
- 48. Monitoring will include assessment pre and post the increase in penalties, approximately six months after the introduction of the increase. This will also be incorporated into our long-term monitoring of the compliant environment.
- 49. Evidence on broader impacts will also be sought, for example via the English Landlord Survey which currently include a few questions on the understanding and awareness of Right to Rent checks (Right to Rent only apply in England).

Specific Impact Test Checklist

Mandatory specific impact test - Statutory Equalities Duties	Complete
<p>Statutory Equalities Duties</p> <p>The public sector equality duty requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations in the course of developing policies and delivering services. [1. Equality Duty Toolkit and 3. Equality Duty Resources]</p> <p>As is the case now, the maximum penalty will only be levied on an employer or landlord (including letting agents) who has breached the Schemes on more than one occasion.</p> <p>The new maximum level of penalty further strengthens enforcement of the right to work and the right to rent in the UK by making the sanctions more punitive whilst acting as a deterrent to those who would seek to undermine the UK's immigration laws or provide the means for migrants to remain in the UK unlawfully. This supports wider Government activity to tackle illegal migration and unscrupulous employers and landlords (including letting agents). That is in the interests of a prosperous and fair society, which supports those who play by the rules and protects those who would otherwise be exploited.</p> <p>The maximum penalty will be increased across both schemes, no other areas are changed through this amendment. There is no bias within any limb other than for landlords and employers who rent or employee those with no lawful rights to remain in the UK.</p>	<p>Yes</p>

Annex

1. This annex supplies further detail and documents the derivation of the cost and benefit figures in the Economic Note.

Employers and landlords – Change in penalty payments.

2. Legitimate employers or landlords will not face higher costs through increased penalties. The scope of the penalty regime has not changed. Those that continue to act in a legitimate manner, by checking and recording the documents of their employees or tenants, will not be affected by the strengthened penalty regime.
3. Employers and landlords are not required to take any additional actions and only those who act in an illegitimate manner by, for example, employing those who do not have permission to work will face a higher maximum penalty.
4. An indication of change in penalty payments / receipts has been informed by analysis of the January to March 2019 sample. This showed the total amount paid, as of September 2023, across civil penalties of different values. This information was used alongside an assumed new distribution of civil penalty values following implementation. The latter was informed by the maximum penalty change in Table 1 compared to Table 2.
5. Two issues complicate inference:
 - Difference in compliance across employer groups; and
 - Future penalties at values higher than previously seen.

Difference in compliance across employer groups

6. Around 195 illegal working penalties of £10,000 were issued from January to March 2019 with total value £1.95m (e.g., 195 penalties x £10,000 per penalty). 49 per cent of that total value was paid by September 2023. In contrast, 22 per cent of the total value of the 65 illegal working penalties of £30,000 issued from January to March 2019 were paid by September 2023.
7. This comparison, however, is not like-for-like. Those receiving a £10,000 penalty have received less than the maximum per worker (see Table 1). Illegal working penalties of £30,000 apply to two groups. First, employers with three workers who received a penalty of £10,000 per worker (e.g., less than the maximum). Second, employers with two workers who received a penalty of £15,000 per worker (e.g., the maximum). A maximum penalty is not applied for factors such as co-operation with the Home Office.

Future penalties at values higher than previously seen

8. There is uncertainty on the penalty recovery rate (e.g., the amount paid back relative to value) to be seen for illegal working penalties of £40,000 or more. This is due to the lack of observation of penalties currently landing in that range (see Table 3). In addition, insight into future penalty recovery in the RTR Scheme is based on outcomes seen in the RTW scheme for the same reason.

9. A wider range of sensitivity is applied to illegal working due to the relatively higher civil penalty values and volumes, per annum.
10. The high scenario assumes a high rate of penalty recovery. With reference to the above, it is assumed that 49 per cent of the total value of illegal working penalties of value £30,000 will be paid in around 5 years. The rationale being that penalties of that value are applied to the same group of employers currently issued with penalties of £10,000 value.
11. The low scenario assumes a recovery rate of 22 per cent for penalties of this value within around 5 years. With reference to the above, the rationale is this rate has been observed against penalties of that value over a historic period. The central scenario rate is the mid-point of the high and low.
12. There is uncertainty on recovery rates for future penalties of value of £90,000 or more. With reference to Table 3, penalties currently issued of £30,000 or more will land at £90,000 or more following implementation. There were no penalties in this range in the January to March 2019 sample. The low scenario assumes a 16 percent recovery for future penalties in this range. The high assumes 21 per cent. The central assumes the mid-point (18 per cent).¹⁶

Overall range

13. Additional assumptions are applied for an indicative range:
 - The expected total receipt within around 4.6 years from a penalty issue is assumed equal to the expected total receipt within 5 years. This assumption is made because outcomes after around 4.6 years are not seen from the January to March 2019 sample and a 5-year appraisal period has been applied.
 - The change in penalty receipts within the 5-year appraisal period, only, is assessed. For example, 1,505 illegal working penalties are assumed under the central scenario in appraisal year 3. A portion of those penalties will be paid back outside of this appraisal period. That proportion is not considered.
 - The distribution of issued penalty values changes in line with the maximum penalty increase. For example, with reference to Table 3, it is assumed that 37.6 per cent of penalties are issued for £10,000 under BAU and 37.6 per cent of penalties are issued for £30,000 following implementation. Similarly, it is assumed 1.3 per cent of penalties are issued for £40,000 under BAU and 1.3 percent of penalties are issued for £120,000 following implementation. This is consistent with the trebling of the maximum penalty for employers (see Tables 1 and 2).
 - For appraisal purposes only, the expected total receipt within 5 years from a penalty issue is assumed to land evenly across those years following implementation for illegal working penalties. In practice, there will be fast payment option uptake after implementation meaning the distribution would not be even over years. It is assumed 50 per cent of total receipt arrives soon after penalty issue (and paid under the fast payment option) under BAU for illegal working. Both assumptions are informed the January to March 2019 sample which showed greater likelihood of fast payment discount for lower value civil penalties for illegal working penalties.
14. The penalty payment/ receipt increase ranges from **£1.7m to £40.6m (discounted)** with a central scenario of **£16.0m (discounted)**.

¹⁶ The low scenario is given by the total amount paid relative to the total penalty value of penalties of £45,000 or more in the January to March 2019 sample. The high scenario is given by the same calculation, but with observation of penalties of £30,000 or more in the January to March 2019 sample.

Home Office – Objections

15. Around 1,105 illegal working civil penalties were issued in 2022/23 and around 315 objections (28 per cent) were seen in the same year. Around 45 right to rent civil penalties were issued with around 5 objections seen (9 per cent) (unpublished).
16. The Home Office response to an objection is a review by an alternative caseworker based on any new evidence the liable party has provided. This caseworker will cancel, maintain, reduce, or increase the initial penalty amount.
17. It is assumed to take a caseworker around 2 hours to process an objection and another member of staff (Administrative Officer grade) 30 minutes to log the received objection. The total resource cost, per objection, is estimated as £55 (2023/24 prices).¹⁷

Right to Work

18. There is risk of an increase in the objection rate for illegal working penalties. It is thought to take an employer or landlord a short amount of time to complete an objection and they face no financial charge to submit one. As such, it may be expected they may be more likely to field one under the new regime when faced with much higher penalties.
19. However, the empirical evidence for an increase - based on the January to March 2019 civil penalty sample alone - is not strong. There, 38 per cent of all illegal working civil penalties were objected and 31 per cent of civil penalties of £30,000 or greater were objected. Most illegal working penalties are anticipated to be £30,000, or over, following policy implementation (see Table 2). This finding is therefore in opposite direction to expectations.
20. Looking at civil penalties of £50,000 value or more, 50 per cent were objected. However, the confidence on this ratio is low due to the small number of penalties observed in that range. Only 10 out of 529 illegal working penalties issued from January to March 2019 were of £50,000 or over.
21. The Business as Usual (BAU) objection rate is assumed 28 per cent (the 2022/23 actual).¹⁸ The low scenario assumes no change in objection rates. This assumption reflects the findings from the January to March 2019 sample (discussed above) where relatively higher objection rates were not seen for civil penalty values of £30,000 or greater, alongside Home Office operational lead judgement who felt a decrease in the objection rate as unlikely. The high and central scenario assume an objection rate of 37.5 per cent.¹⁹
22. The total cost over the appraisal period ranges from **£0 to £49,190 (discounted)**.

¹⁷ 2 hrs at Executive Officer grade (£42) and 0.5 hrs at Administrative Officer grade (£7) (2021/22 prices). Totalled to approximately £55 in 2023/24 prices. Based on Home Office internal staff cost model (Immigration Enforcement staff, national average gross pay, pension, employer national insurance) and published GDP deflators, September 2023.

¹⁸ The Business as Usual (BAU) objection rate is the assumed objection rate seen if this policy was not implemented.

¹⁹ The overall objection rate in the January to March 2019 RTW sample was 37.8 per cent and the objection rate for RTW penalties of value £50,000 or greater was 50.0 per cent. The 37.5 per cent objection rate is based on this and the assumed BAU objection rate of 28 per cent.

Table A1: Home Office – Cost of objections RTW Scheme²⁰

Scenario	Civil Penalties (p.a)	Objections under BAU	Objections under NEW	Cost (p.a)	Total cost	Total cost (PV)
Low	1,105	315	315	£0	£0	£0
Central	1,540	435	575	£7,735	£38,685	£36,155
High	2,095	595	785	£10,525	£52,630	£49,190

Source: Home Office estimates, 2023

Right to Rent

23. There is also risk that objection rates in the Right to Rent Scheme increase. The rates currently seen are very low compared to Right to Work (see above) and the relatively lower current maximum civil penalty values in the Right to Rent scheme could be a reason (see Table 1).
24. 8 per cent of right to rent civil penalties were objected and 42 per cent of illegal working penalties of £10,000 value were objected in the January to March 2019 sample. This difference is used to infer a potential cost. The new maximum penalty for landlords will rise to £10,000 (per occupier) (see Table 2). Therefore, the objection rates seen historically for illegal working penalties at that value are assumed to give insight into future rates in the Right to Rent Scheme.
25. The Business as Usual (BAU) objection rate is assumed as 9 per cent (the 2022/23 actual). The future rate is assumed to be 47 per cent.²¹ This gives 45 additional objections, per year, in the central scenario with annual cost of £2,460 (45 objections x £55 cost per objection).
26. The total cost over the appraisal ranges from **£4,495 to £24,475 (discounted)**.

Table A2: Home Office – Cost of objections RTR Scheme²²

Scenario	Civil Penalties (p.a)	Objections under BAU	Objections under NEW	Cost (p.a)	Total cost	Total cost (PV)
Low	45	5	20	£960	£4,810	£4,495
Central	115	10	55	£2,460	£12,290	£11,490
High	245	20	115	£5,235	£26,185	£24,475

Source: Home Office estimates, 2023

Home Office – Appeals

27. Around 35 appeals (3.1 per cent) were seen in 2022/23 for the Right to Work Scheme and 0 for the Right to Rent Scheme (0 per cent). The appeal rate over 2017 – 2022 was higher. Appeals were seen at an average of 7.1 per cent and 0.71 per cent for Work and Rent, respectively.
28. The financial cost of an appeal to the Home Office are £5,000 to £6,000 on average. Some appeals cost considerably more than this. £5,500, per appeal, is assumed for appraisal

²⁰ All values rounded to nearest 5.

²¹ The overall objection rate in the January to March 2019 RTR sample was 8 per cent and the objection rate for RTW penalties 10,000 was 42 per cent. The 47 per cent objection rate is based on this and the assumed BAU objection rate of 9 per cent.

²² All values rounded to nearest 5.

purposes. This captures payment from the Home Office to the Government Legal Department (GLD) who undertake defending the appeal at court.

29. There is also resource requirement from the Home Office appeals team for the actions they undertake with GLD. The number of hours of activity varies case by case. An approximate average is 66 hours of case worker time. This gives a resource cost, per appeal, of £1,540 (2023/24 prices).²³
30. The court may order the appellant to pay reasonable costs or expenses incurred by Home Office defending the appeal where the appeal is found in Home Office favour. This has not been accounted for in the appraisal. As such, the Home Office costs under each scenario may be considered as upper bounds.

Right to Work

31. The January to March 2019 sample shows, in general, appeal rates increase as illegal working penalties increase. 6.6 per cent of all illegal working civil penalties issued during January to March 2019 were appealed. In contrast, of all civil penalties of value of £30,000 or more, 9.4 per cent were appealed. Most illegal working civil penalties are anticipated to be £30,000, or over, following policy implementation (see Table 2).
32. The low scenario assumes a Business as Usual (BAU) appeal rate of 3.1 per cent (the 2022/23 actual) and a rate of 4.4 per cent following policy implementation.²⁴ The central and high scenario assumes a BAU rate of 7.1 per cent (the 2017 – 2022 actual) and a future rate of 10.0 per cent.
33. The central scenario has cost of £320,345 per year. This is given by (1,540 penalties per year x 10.0 per cent appeals) - (1,540 penalties per year x 7.1 per cent appeals) x £7,040 per appeal. The other scenarios are calculated analogously.
34. The total cost over the appraisal period is **£0.47m to £2.04m (discounted)**.

Table A3: Home Office – Cost of Appeals RTW Scheme²⁵

Scenario	Civil Penalties (p.a)	Appeals under BAU	Appeals under NEW	Cost (p.a)	Total cost (£m)	Total cost (£m) (PV)
Low	1,105	35	50	£99,790	£0.50	£0.47
Central	1,540	110	155	£320,345	£1.60	£1.50
High	2,095	150	210	£435,795	£2.18	£2.04

Source: Home Office estimates, 2023

Right to Rent

35. There is also a risk appeal rates in the Right to Rent Scheme increase. No appeals were seen in the RTR scheme in the January to March 2019 sample. In contrast, 5.7 per cent of illegal working penalties of £10k value were appealed. This difference is assumed to give insight into potential levels of future appeals in the Right to Rent Scheme following the maximum penalty

²³ 66.6 hours at Executive Officer grade is £1,407 in 2021/22 prices and £1,539 in 2023/24 prices. Based on Home Office internal staff cost model (Immigration Enforcement staff, national average gross pay, pension, employer national insurance) and published GDP deflators, September 2023.

²⁴ The overall appeal rate for right to work civil penalties in the January to March 2019 sample was 6.6 per cent. The appeal rate for illegal working penalties of £30,000 value or more was 9.4 per cent. The assumed appeal rates, following implementation, are derived based on this and the assumed BAU objection rates.

²⁵ All values rounded to nearest 5.

increase. The rationale is the new maximum penalty for landlords will rise to £10k (per occupier) (see Table 2).

36. The low scenario assumes a Business as Usual (BAU) appeal rate of 0.0 per cent (the 2022/23 actual) and a rate of 2.8 per cent following policy implementation.²⁶ The central and high scenario assumes a BAU rate of 0.7 per cent (the 2017 – 2022 actual) and a future rate of 5.7 per cent.
37. The central scenario has cost of £39,935 per year. This is given by (115 penalties per year x 5.7 per cent appeals) - (115 penalties per year x 0.7 per cent appeals) x £7,040 per appeal. The other scenarios are calculated analogously.
38. The total cost over the appraisal period is **£0.04m to £0.40m (discounted)**.

Table A4: Home Office – Cost of Appeals RTR Scheme²⁷

Scenario	Civil Penalties (p.a)	Appeals under BAU	Appeals under NEW	Cost (p.a)	Total cost (£m)	Total cost (£m) (PV)
Low	45	0	0	£8,980	£0.04	£0.04
Central	115	0	5	£39,935	£0.20	£0.19
High	245	0	15	£85,080	£0.43	£0.40

Source: Home Office estimates, 2023

Employers and Landlords – Objections and Appeals.

39. It is thought to typically take an employer or landlord a small amount of time to complete an objection and the Home Office do not charge a fee if an objection is made. The time required for an appeal will vary and depends on whether the employer or landlord appeals themselves or engages legal support.
40. An employer or landlord may appeal against the Civil Penalty to a County Court in England, Wales, and Northern Ireland and to the Sheriff’s Court in Scotland. Appellants are charged a fee of around £140 to take their appeal to court in any nation. The court fee costs under each scenario are shown in Tables 8 and 9.
41. There will also be associated legal charges the representative may bill for. Moreover, as mentioned above, a court may order the appellant to pay reasonable costs or expenses incurred by Home Office defending the appeal where the appeal is found in Home Office favour.

Table A5: Employers – Cost of Appeals (Court Fees) RTW scheme²⁸

Scenario	Civil Penalties (p.a)	Appeals under BAU	Appeals under NEW	Cost (p.a)	Total cost	Total cost (PV)
Low	1,105	35	50	£1,985	£9,925	£9,275
Central	1,540	110	155	£6,370	£31,855	£29,775
High	2,095	150	210	£8,665	£43,335	£40,505

Source: Home Office estimates, 2023

²⁶ The overall appeal rate in the Jan-Mar 2019 sample was 6 per cent. This is broadly comparable to the overall appeal rate from 2017-2022 (7.1 per cent). The appeal rate in 22-23 was, however lower at 3 per cent. There, the NEW appeal rate to correspond with lower BAU scenario has been calculated as 5.7 / 2.

²⁷ All values rounded to nearest 5.

²⁸ All values rounded to nearest 5.

Table A6: Landlords - Cost of Appeals (Court Fees) RTR scheme²⁹

Scenario	Civil Penalties (p.a)	Appeals under BAU	Appeals under NEW	Cost (p.a)	Total cost	Total cost (PV)
Low	45	0	0	£180	£895	£835
Central	115	0	5	£795	£3,970	£3,710
High	245	0	15	£1,690	£8,460	£7,905

Source: Home Office estimates, 2023

²⁹ All values rounded to nearest 5.