

NORTH LINCOLNSHIRE COUNCIL

**ASSETS, CULTURE AND HOUSING
CABINET MEMBER**

**THE SMOKE AND CARBON MONOXIDE ALARM (ENGLAND)
REGULATIONS 2015**

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 came into force on the 1 October 2015.
- 1.2 The regulations require landlords of private rented accommodation to install smoke and carbon monoxide alarms. Where they fail to do so, the Council can do the work and serve a penalty charge.
- 1.3 Before we can serve a penalty charge we are required to agree and publish a statement of principles. This report is seeking approval for the determined penalty charge and statement of principles.

2. BACKGROUND INFORMATION

- 2.1 Statistically, those living in privately rented accommodation are less likely to have a working smoke alarm in their home compared to national figures for other forms of tenure.
- 2.2 The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 have made it an offence for a property to be rented out if it does not have smoke alarms or, where there is a solid fuel appliance, a carbon monoxide alarm.
- 2.3 Data from the Chief Fire Officers' Association indicates that you are four times more likely to die in a fire in a home with no working smoke alarm. They estimate that the new Regulations could result nationally in 231 fewer deaths and 5,860 less injuries.
- 2.4 The Regulations only require the fitting of a smoke detector in the hallway/landing of each storey of a property and a carbon monoxide alarm in the same room as a solid fuel appliance. The requirements are neither onerous nor expensive.

- 2.5 Where alarms are not provided, the local authority has to serve a remedial notice. The notice gives the landlord 28 days to carry out the necessary work. If they still do not fit the alarms, we have to fit the alarms. We may then serve a fixed penalty notice to recover the costs and impose a penalty for none compliance.
- 2.6 Before imposing any penalty charge we are required to publish a statement of principles. The statement of principles outlines the new procedure and the reasons for why a penalty charge will be made following none compliance. Our draft statement of reasons are attached at Appendix 1.
- 2.7 The penalty charge we are looking to impose for an offence under the Regulations is £5,000. If the charge is agreed, we will publicise the new duties and the potential penalty for none compliance so that landlords are made aware of the council's position.
- 2.8 We are exploring options of working in partnership with Humberside Fire and Rescue Service around the installation of the alarms.

3. OPTIONS FOR CONSIDERATION

- 3.1 The Cabinet Member is asked to agree the statement of principles attached to this paper and the proposed penalty charge.

4. ANALYSIS OF OPTIONS

- 4.1 Whilst we do not have to impose a penalty charge for failing to comply with the Remedial Notice, we must do the work required. To recover our costs through a penalty charge, we must publish a statement of principles.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

- 5.1 Financial – there is a financial cost related to the enforcement of the Regulations. The proposed penalty charge will cover our costs, including the fitting of the alarms. It has also been set at the maximum level to act as a deterrent and ensure that landlords comply.
- 5.2 Staffing – we believe that we can contain the additional workload within our current resources. However, we will review the impact on resources after a three-month period.

6. OUTCOMES OF INTEGRATED IMPACT ASSESSMENT (IF APPLICABLE)

6.1 Officers have completed an integrated impact assessment and no significant impacts were identified.

7. OUTCOMES OF CONSULTATION AND CONFLICTS OF INTERESTS DECLARED

7.1 The report was circulated to finance, legal and public health for comment and our partners, Humberside Fire and Rescue Service. Comments made by the Fire Service were incorporated into the report.

8. RECOMMENDATIONS

8.1 That the Cabinet Member agrees the statement of principles and the penalty charge to apply with immediate effect.

DIRECTOR OF PLACES

Civic Centre
Ashby Road
SCUNTHORPE
North Lincolnshire
DN16 1AB
Author: Liz Webster
Date: 19/11/2015

Background Papers used in the preparation of this report:-

- Smoke and Carbon Monoxide Alarm (England) Regulations 2015,

Where appropriate the report has been seen and commented on by (✓ or n/a)

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

STATEMENT OF PRINCIPLES

Introduction

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 introduces the following requirements for all landlords during any period beginning on or after 1st October 2015 when their premises are occupied under a tenancy —

- (i) A smoke alarm is equipped on each storey of the premises on which there is a room used wholly or partly as living accommodation;
- (ii) A carbon monoxide alarm is equipped in any room of the premises which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance; and
- (iii) Checks are made by or on behalf of the landlord to ensure that each prescribed alarm is in proper working order on the day the tenancy begins if it is a new tenancy.

Approach

These new safety measures have been introduced with immediate effect. The measures can be implemented easily and cheaply and it is not therefore necessary or appropriate to provide a period of introduction. The requirement to fit smoke detection and carbon monoxide alarms is solely to protect the health and safety of the occupants and save lives. Therefore, there should be no reason not to comply.

Where we have reasonable grounds to believe that these Regulations are not being met, we will serve a Remedial Notice on the landlord detailing the work required to comply with the Regulations. The landlord then has 28 days in which to comply or request a review. Failure to do either within that

timescale will result in the issuing of a penalty charge notice* and works being carried out by an authorised contractor on our behalf to ensure compliance with the remedial notice.

If a written request is received from the landlord, we must decide whether to confirm, vary or withdraw the remedial notice and we must write to the landlord to tell them our decision.

How have we determined the penalty charge?

The enforcement of these Regulations and the setting of a penalty charge complies with the overall objectives and priorities contained within the Technical and Environment Enforcement Policy (available on the Council's web site) to achieve effective compliance.

When setting the penalty charge, we considered the following factors:-

1. A suitable financial penalty for the breach to act as a deterrent for the future,
2. Before any penalty charge is made, the landlord is given an opportunity to do the work (through the service of a Remedial Notice),
3. The cost of undertaking works in default,
4. First or subsequent/repeat breaches,
5. Officer time and costs to investigate and serve a remedial notice and penalty charge notice,
6. Administrative costs in organising the work in default,
7. Recovery costs,
8. The maximum penalty that can be charged (which must not exceed £5,000), and
9. The Regulations and what they say regarding the determination of the penalty charge.

Consequently, our view is that the penalty charge should be a deterrent, the remedy is relatively simply and low cost but the risks associated with none compliance are high. Therefore, we have determined that **£5,000** per offence is the penalty charge for none compliance within North Lincolnshire.

The Regulations allow the penalty charge to be reduced if paid within 14 days. This option has been considered, but in line with the reasons given above, we are not offering a reduced fee for early payment.

Recovery of Penalty Charge

North Lincolnshire Council as the local housing authority may recover the penalty charge as laid out in the Regulations by order of a court.

Appeals in relation to a penalty charge

The landlord can ask the council to review the penalty charge notice provided that they do so by contacting the council within 28 days of receiving the penalty charge notice.

If a written request is received from the landlord, we must decide whether to confirm, vary or withdraw the penalty charge notice and we must write to the landlord to tell them our decision.

A landlord who is served with a notice confirming or varying a penalty charge notice has the right to appeal to the First-tier Tribunal if they are unhappy with our decision.

*The wavering of a fixed penalty charge is at the discretion of the Director of Places or the Assistant Director for Technical and Environment.