

Report of: Executive Member for Housing and Development

Meeting of:	Date	Ward(s)
Executive	4.2.16	All

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SUBJECT: Implementation of the Smoke and Carbon Monoxide Alarm Regulations

1. Synopsis

- 1.1 The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 came into force on 1st October 2015. Private sector landlords are now required to ensure that at least one smoke alarm is installed on every storey of their rented property and that a carbon monoxide alarm is installed in any room containing a solid fuel burning appliance.
- 1.2 The local housing authority has a duty to serve a remedial notice and may issue a penalty charge notice if these requirements are not met. If they choose to issue penalty charge notices, the local housing authority must agree and publish a statement of principles which it proposes to follow in determining the amount of a penalty charge. In addition to a financial penalty, the regulations allow local authorities to carry out remedial action and install smoke alarms in some privately rented properties where the landlord has not complied with the remedial notice.

2. Recommendations

- 2.1 To agree the proposed Statement of Principles as attached at Appendix 1.

3. Background

- 3.1 The new regulations introduce a minimum standard of smoke and carbon monoxide alarms for single family occupied dwellings and non-licensable HMOs (houses in multiple occupation). They also amend the standard conditions for licensable HMOs so that these properties are also required to install working smoke alarms. The regulations will improve standards in private rented properties and could be lifesaving in the event of a fire or presence of faulty boilers or heaters.
- 3.2 The regulations introduce a fixed penalty charge for non-compliance, a new provision for housing offences. Each local housing authority has to agree and publish a statement of principles, setting out the schedule of charges they propose to introduce. The maximum penalty that can be imposed is

£5,000 with flexibility to reduce it to a level felt appropriate for the area. The proposed statement is attached at appendix 1 and recommends that the maximum will be adopted other than for first offences when it will be reduced to £2,000. If early payment is made, then the fee will be reduced by 50%. The levels have been selected so that they will act as a deterrent as the penalty charge is only issued where the remedial notice expires without compliance.

4. Implications

4.1 Financial implications:

This enforcement work will be covered within existing resources and it is not anticipated that enforcement of these regulations cause a significant demand as non-compliance is expected to be a relatively minor occurrence.

4.2 Legal Implications:

The enforcement authorities (local authorities) are required to issue a remedial notice where they have reasonable grounds to believe a landlord has not complied with one or more of the requirements. The landlord must comply with the notice within 28 days. If they do not, the local authority must carry out the remedial action (where the occupier consents) to ensure the requirements in the regulations are met and can issue a civil penalty of up to £5,000.

If an appeal is lodged, the penalty cannot be enforced until the appeal is disposed of though the local authority may continue to carry out the remedial action.

Appeals can be made on the grounds that the decision of the local authority to vary or confirm the penalty charge notice was based on a factual error, was wrong in law, or was unreasonable for any other reason. Appeals can also be made on the grounds that the amount of the penalty is unreasonable.

4.3 Environmental Implications:

The regulations introduce a legal minimum standard for fire detection in privately rented property which should ensure that harm from fires, smoke and carbon monoxide is prevented through early detection.

4.4 Resident Impact Assessment:

The Council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The Council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The Council must have due regard to the need to tackle prejudice and promote understanding.

A Resident Impact Assessment was completed on 2nd November 2015 and the summary is as follows:

Equality, safeguarding risks and potential human rights breaches

- Any officer that carries out remedial action will ensure that legal access to do so has been gained lawfully with due regard and notification to tenants, landlord and other occupiers. E.g. consequences of not providing access and the legal means of which access is being sought. Authorised officers will be DBS cleared and ensure that contractors carrying out remedial action services have been appropriately procured and are supervised at all times.
- The statement of principles sets out of how the Council has formed it's decisions in determining the amount of financial penalty
- Landlords are provided with a means of appeal against penalties. A landlord may appeal to the

First-tier Tribunal if the penalty charge notice is confirmed or varied by a local authority after a review.

5. Conclusion and reasons for recommendations

- 5.1 Agreement of the statement of principles will allow authorised officers to enforce the regulations and ensure that properties are safe for private renters.

Appendices

Appendix 1 - Statement of principles

Final report clearance:

Signed by:



19.1.16

**Executive Member for Housing and
Development**

Date

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