

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.