

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

Statement of Principles

Introduction

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

- A smoke alarm is equipped on each storey of the premises on which there is a room used wholly or partly as living accommodation;
- 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
- 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.

Enforcement

Where the Local Housing Authority has reasonable grounds to believe that;

- There are no or insufficient number of smoke alarms or Carbon Monoxide Detectors in the property as required by the regulations or,
- The Smoke Alarms or Carbon Monoxide Detectors were not working at the start of a tenancy or licence.

If an authorised officer is aware that the appropriate detectors are not in place as required by the regulations, a remedial notice will be served on the landlord within 21 days. The Notice will require provision of the appropriate detectors and will give the landlord 28 days to comply.

Failure to comply with the remedial notice will result in the issue of a penalty charge.

Main principles to be taken into account when setting the penalty charge;

- The level of penalty should as a minimum cover the cost of all the works in default, officer time, recovery costs, an administration fee and a fine.
- Repeated offences should attract a higher penalty in view of continuing disregard for legal requirements and tenant safety.
- The Authority considers that a lesser penalty will be merited on the occasion of the first offence and that prompt payment of the penalty on that first occasion should attract a reduced penalty in recognition of early admission of liability and savings in administration costs.

Level of Penalty Charge

Should the Landlord not comply with a remedial notice then the fine shall be set as follows:

The Penalty Charge shall be set at £1000 for the first offence but this will be reduced to £750 if paid within 14 day period. For any subsequent offences the Penalty Charge will be set at the maximum of £5000 with no reduction for early payment.

Recovery of Penalty Charge

The Council may recover the penalty charge as laid down in the regulations i.e on the order of a court, as if payable under a court order.

Review in relation to a penalty charge notice

The Landlord can request in writing that the local authority review the penalty charge notice. The request for a review must be made within 28 days on which the penalty charge notice is served.

The local authority must consider any representation and decide whether to confirm, vary or withdraw the penalty charge notice. The Environmental Health and Licensing Manager (EHLM) will be the decision maker in relation to any representations.

The EHLM, in making decision will consider the following;

1. Whether the facts of the matter supported the service of the penalty charge notice.
2. The decision was correct having regard to the relevant laws.
3. The amount of the penalty charge was reasonable having regard to any mitigating or other circumstances submitted with the request for review.

Appeals

A landlord who is served with a notice confirming or varying a penalty charge may appeal to the First-tier Tribunal against the local authority's decision.

Review of Statement of Principles

This statement will be reviewed annually or if any circumstances change that require review.

The statement of principles was considered and agreed by the Community Services Committee on the 17th November 2015