

Report of:	Head of Environmental Health
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Key Decision:	Yes
Report Track:	Cabinet: 10/12/15

CABINET
10 DECEMBER 2015
THE SMOKE AND CARBON MONOXIDE ALARM (ENGLAND) REGULATIONS
2015

1 Purpose of Report

- 1.1 To inform Cabinet of recently introduced legislation and request agreement to set a penalty charge level.

2 Recommendations

- 2.1 That Cabinet approves the penalty charge levels as set out in Appendix 1.
- 2.2 That Cabinet delegates the power to enforce the requirements of the Energy Act 2013 and any Regulations or Orders made thereunder to the Head of Environmental Health.

3 Key Issues and Reasons for Recommendation

- 3.1 The Council has a duty to respond to the discovery or suspicion of significant residential hazards. These regulations introduce a new requirement to serve a remedial notice where smoke or carbon monoxide alarms are absent or defective.
- 3.2 A local housing authority must prepare and publish a statement of principles which it proposes to follow in determining the amount of a penalty charge. See Appendix 1.

4 Relationship to Corporate Priorities

- 4.1 The service aim to “improve the quality and availability of Private Sector Housing” forms part of the Housing Portfolio section within the agreed 2014-15 “Place” Priority Delivery Plan.

5 Report Detail

- 5.1 The widespread introduction of smoke alarms from the late eighties onwards has coincided with a dramatic reduction in deaths and injuries from domestic fires. There still remains a stubborn 10% of homes across all tenures that do not have smoke detection. However in the Private Rented Sector that proportion is almost double at 18% (English Housing Survey 2011). It is not uncommon to find that rented property has no or substandard fire detection when we survey. Death from fire is 4 times more likely in an unprotected home than one fitted with smoke alarms. In addition there is a massive cost to society where fires are not detected quickly.
- 5.2 Since the introduction of the Housing Act in 2004 there has been a requirement that dwellings are safe from fire (amongst other hazards) and should have smoke alarms fitted. However, it is not widely known legislation and hasn't succeeded in getting alarms fitted throughout the sector. A DCLG review of the sector in 2014 found almost universal support for compulsion to fit smoke and carbon monoxide detectors. The National Landlords Association has for some time recommended their use and are comfortable with compulsion.
- 5.3 Carbon monoxide (CO) is sometimes referred to as the "silent killer". Every year in the UK, over 200 people go to hospital with suspected carbon monoxide poisoning, which leads to around 40 deaths. CO is colourless and has no smell and the symptoms of poisoning are similar to many other illnesses. It is considered to be significantly under reported. It can be produced from incomplete combustion of fossil fuels. More risk is associated with burning of solid fuels.
- 5.4 The Private Rented Sector has doubled in size both nationally and locally in the last ten years. Private renting has now overtaken social renting as the second largest tenure type (behind owner occupation). Demand for all accommodation is strong. Given the restricted numbers of social rented properties and cost of home ownership, demand for private rented has been steadfastly robust.
- 5.5 This is also reflected at the worst end of the market. Whilst there are many good private rented homes in use, the latest English House Condition Survey reports that one third of private rentals fail the decent home standard and one fifth contain a category 1 hazard (significant risk to safety or health).
- Some landlords are ignorant of their responsibilities or choose to ignore them.
- 5.6 The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 made under the Energy Act 2013 introduce an enforcement regime aimed at reducing

the risk of fires and carbon monoxide poisoning along with the consequential impacts arising from the absence of suitable detection devices in privately rented properties.

- 5.7 The requirements of the regulations are not onerous. A ten year life sealed battery smoke detector is required on each floor. These can be bought for as little as £10. A CO detector is required in any room that contains a SOLID fuel appliance eg wood burner or coal fire/stove. They are not required for gas/oil installations. These are available from £15. Both can be easily installed with double sided tape or small screws by following manufacturer's advice. It does not require a specialist. Landlords (or their agent) are also required to test alarms at the commencement of any new tenancy.
- 5.8 There are some exemptions for certain types of accommodation e.g. Licensed Houses in Multiple Occupation, lodgings, student halls, care homes, hostels. Normally other specific safety law exists.
- 5.9 Where alarms are missing or defective the housing authority are required to serve a remedial notice which instructs the landlord to install alarms within twenty eight days. If this is not done the Council must get the alarms installed and may issue a penalty charge notice.
- 5.10 The maximum permitted charge is £5000. The Council are required to produce a statement of principles which determines the amount of penalty charge. See Appendix1. It is proposed that where it is considered that there has been unreasonable non-compliance the first penalty charge should be £2500 and any subsequent failures by the same landlord would be charged at £5000.
- 5.11 The Regulations require that the Council offer an opportunity for review by a named officer. If that review confirms the penalty charge then there is a further appeal available to Residential Property Tribunal.

6 Implications

6.1 Financial

Income arising from Penalty Charges issued in pursuance of the requirements of the Regulations will be allocated to the Decent Homes budget

6.2 Legal

The regulations require the Council publish a statement of principles including the penalty charge fee and to serve a remedial notice where smoke or CO alarms are not present or defective.

The Regulations are made under Section 150 of Energy Act 2015 and the Head of Environmental Health requires delegated power to exercise these functions.

6.3 Human Resources

None

6.4 Section 17 (Crime Prevention)

None

6.5 Human Rights Act

None

6.6 Data Protection

None

6.7 Risk Management

None

6.8 Equality & Diversity

None

6.9 Best Value

None

7 Appendices to the Report

APPENDIX 1 Cannock Chase DC Statement of Principles – Smoke and CO alarms Penalty Charge 1.10.2015

Previous Consideration

Background Papers

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015
Cannock Chase D.C. Statement of Principles 1.10.2015

Introduction

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 introduced the following requirements for all landlords from 1 October 2015 when the premises are occupied:

- (i) A working smoke alarm on each storey of the premises on which there is a room used wholly or partly as living accommodation.
- (ii) A carbon monoxide detector in any room of the premises which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance.
- (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.

Enforcement

Where the Local Housing Authority has reasonable ground to believe that:

- There are no or insufficient number of working smoke alarms or carbon monoxide detectors in the property as required by the regulations or
- The smoke alarms or carbon monoxide detectors were not present or working at the start of the tenancy or licence.

then the local housing authority shall serve on the landlord a remedial notice detailing the actions the landlord must take to comply.

If after 28 days the landlord has not complied with the remedial notice a penalty charge notice may be issued.

Penalty Charges

The regulations allow for a charge of up to £5000. This is a considerable sum. Most rented properties are owned by landlords who have one or two properties and incurring a full charge might threaten the sustainability of the rental offer. However, this must be balanced against the potentially tragic consequences of lack of detection. The regulations have been enacted to bring the last stubborn tranche of rented properties up to modern safety standards and a persuasive upper penalty allowed. The remedial costs of compliance are tiny compared to the personal and economic costs of death or injury. The Fire Service and Cannock Chase District Council have publicised the incoming regulations and free detectors have been available to landlords for several months in the run up to implementation of the regulations.

Given the above where it is considered that a landlord has unreasonably failed to comply with the requirements of a remedial notice then the Council will arrange for the alarms to be fitted and a penalty charge notice issued.

The charge will be £2500 for a first time failure and £5000 for any subsequent failure by the same landlord or business organisation at any premises whether within or outside of the Cannock Chase District Council area.

Once the penalty charge notice has been issued there will be a review available by a named officer for 28 days. There is a further review available to the First-tier Tribunal.