

Smoke and Carbon Monoxide Alarm Regulations 2015 (England) Statement of Principles 2023



Introduction

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 introduced requirements from 1 October 2015 for all landlords when residential premises are occupied to ensure smoke and carbon monoxide alarms are installed and maintained. These Regulations were updated by the Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022 of which this updated Statement of Principles takes account.

This Statement of principles supersedes the Cannock Chase Council - Statement of Principles Dated 11 Nov 2015. The updated Regulations apply to all registered providers of social housing (in addition to private rented housing) unless excluded.

The Regulator of Social Housing expects all registered providers of social housing to be compliant with the regulations when they come into force on 1 October 2022, or to have plans in place to ensure their compliance in a prompt and timely way that mitigates any risk to tenants.

These regulations should be considered alongside other relevant laws on fire and carbon monoxide safety in rented homes such as the [Housing Act 2004](#), the [Fire Safety Act 2021](#) and the [Building Safety Act 2022](#).

Landlord and tenant guidance can be found [here](#).

1. Legal Requirements

All relevant landlords must:

- Ensure at least one smoke alarm is equipped on each storey of their homes where there is a room used as living accommodation.
- Ensure a carbon monoxide alarm is equipped in any room used as living accommodation which contains a fixed combustion appliance (excluding gas cookers).
- Ensure smoke alarms and carbon monoxide alarms are repaired or replaced once informed and found that they are faulty.
- Ensure 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.

3. Exempted tenancies

The following tenancies are excluded from the regulations:

- shared accommodation with a landlord or landlord's family
- long leases
- student halls of residence

- hotels and refuges
- care homes
- hospitals and hospices
- low cost ownership homes
- other accommodation relating to health care provision

4. Enforcement

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

- There are either no, or an 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 Council shall serve on the landlord a remedial notice detailing the actions the landlord must take to comply. The landlord has 28 days beginning with the day on which the remedial notice is served to comply with the notice. The landlord is entitled to make written representations against the notice within 28 days.

'Reasonable grounds' would include being informed by a tenant, letting agent, housing officer that the required alarms are not installed. The regulations do not require the Council to enter the property or prove non-compliance to issue a remedial notice although this will in most cases be done.

5. Representations

The Council will consider representations made within 28 days of receipt. During this time, the remedial notice is suspended whilst the Council considers them written and until they advise the landlord in writing of the outcome. Landlords are not expected to take remedial action during the period of the remedial notice being suspended but can do so if they wish.

Representations/reviews can be made to:

Housing Standards
Environmental Health & Public Protection
Cannock Chase Council
Civic Centre
Beecroft Road
Cannock
WS11 1BG

Email: privatesectorhousing@cannockchasedc.gov.uk

If, following a suspension period, the Council decides a landlord is in breach and confirms the remedial notice, the suspension ceases to have effect and the landlord will have a further 21 days to comply.

The Council will confirm the remedial notice in writing within seven days of the expiry of the original period for making representations (28 days). The remedial notice will be deemed to be withdrawn if the Council fails to do this.

If after 28 days, the landlord submits no representations and on the balance of probabilities has not complied with the remedial notice, a penalty charge notice can be issued. Any notice served

on a landlord under the regulations may be amended or revoked by the Council in writing at any time.

6. Penalty Charges

In deciding whether it would be appropriate to impose a penalty charge, we will take account of the circumstances under consideration. Factors which the Council will take into consideration include, but are not limited to:

- The extent to which the circumstances from which the contravention or failure arose were within the control of the landlord.
- The presence or absence of internal controls or procedures which were intended to prevent the breach.
- The steps that the landlord has taken since being served with a Remedial Notice.
- Whether the landlord has been obstructed in his duty, or if the tenant has removed detectors.
- Evidence of compliance with the legislation e.g. a signed inventory at the start of the tenancy, photographic evidence showing measures installed with the date and time attached, or confirmations by the tenant.
- A financial penalty will not normally be used if the Council considers other regulatory action is more appropriate. The regulations allow for a charge of up to £5000.

The penalty charge issued must be balanced against the potentially tragic consequences of a suitable lack of detection. The remedial costs of compliance are small compared to the personal and economic costs of death or injury.

Where it is considered that a landlord has unreasonably failed to comply with the requirements of a remedial notice, the Council will arrange for the alarms to be fitted (where the occupier consents) and a penalty charge notice issued. There is no provision made in the regulations for the Council to redeem costs for any remedial works carried out. Collection of the civil penalty fine is the only method.

Subject to the determination of any appeal, the Council will recover any unpaid penalty charge, plus legal costs, through court proceedings.

7. Criteria for determining the amount of a penalty charge

The Regulations set a maximum penalty charge of £5000. In determining the amount of penalty to be applied the Council will take into consideration a range of factors, as set out in the [Appendix 1](#). Each case will be treated on its merits and will take account of the following general principles:

- That the landlord will have been served with a Remedial Notice and will, therefore,
- have been provided with sufficient time in which to put matters right.
- That, by not complying with the requirements of the remedial notice, the landlord is demonstrating a clear disregard for their tenant's safety and for compliance with the legislation.
- Whether works are undertaken by the landlord or, in default, by the Council.
- The cost incurred by the Council including officer-time and the cost of carrying out the works following non-compliance.
- Whether there have been repeated breaches or failure to comply.

- Whether there have been breaches of other housing legislation.
- Attempt to conceal the breach or failure to comply.
- The likely impact on tenants and associated risk to their health and safety and wellbeing.
- The absence of management controls or procedures intended to prevent the breach.
- Co-operation with investigation undertaken by the Council.
- Any unjustified written representations made against a Remedial Notice.
- Representations to the Council to review the penalty charge which are considered to be justified.
- Any other relevant matters.

Failure to comply with each remedial notice can lead to a fine. Fines will be applied per breach, rather than per landlord or property.

8. Appeal Process

If a landlord does not agree with a penalty charge notice, they can make a request to the Council for it to be reviewed. This request must be made in writing to the contact details outlined in section 4 and be made within 28 days.

Upon receiving a review request, a Senior Officer of the Council (not previously involved in the case) will consider any representations made, decide whether to confirm, vary or withdraw the notice, and serve a notice of its decision on the landlord.

If the Council decides to confirm or vary a penalty charge notice, it will inform the landlord that they can appeal to First-tier Tribunal. A landlord may appeal if the penalty charge notice is confirmed or varied after review. If an appeal is lodged, the penalty charge notice is suspended until the appeal is determined or withdrawn.

Appeals can be made on the grounds that the decision 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.

9. Revision of statement of principles

Regulation 13(2) provides that the Council may revise its statement of principles and, where it does so, it will publish the revised statement on its website.

General principles
No penalty charge shall be issued above the statutory maximum of £5,000
No penalty charge shall be less than 20% of the starting value after all aggravating and mitigating factors are considered and after perpetrator income has been taken into account.
Mitigating factors will be considered based on evidence submitted by the landlord or their agent to the Housing Standards Team including any information provided following inspection and any representations that the landlord provides following service of a Notice of Intent to issue a Financial Penalty
In recovering the value of any financial penalty, The Council will consider the incomes, savings and assets of the perpetrator and where appropriate a payment plan considered.

Starting value of penalty charge (note 1)	£
1 st offence	2500
2nd subsequent offence by same person/company	3000
Subsequent offences by same person/company	4000
Aggravating factors (use all that apply) (note 2)	
Acts or omissions demonstrating high culpability. (note 4)	500
Large housing portfolio (note 5)	500
Vulnerable occupant and/or significant harm occurred as result of housing conditions (note 6)	500
Mitigating Factors (use all that apply) (note 3)	
Evidence of Low culpability (note 7)	-500

Notes to accompany charging table

Notes 1-3 set out the overall process for determining the value of a given financial penalty. Notes 4-7 give detail on specific other issues.

Note 1 - Determining the starting value of a financial penalty

The starting point for a financial penalty is based on the number of:

- Previous Final Notices of a Financial Penalty issued under these regulations

issued to the same person or corporate entity for the same type of offence. The Council will take into account any such financial penalties irrespective of the locality to which the offence relates.

Note 2 - Aggravating factors

After the starting point as per note 1 has been determined any relevant aggravating factors are considered and where appropriate to do so, the given value is added to the starting point to provide the maximum level of financial penalty.

At this stage it is possible for the notional penalty to be above the statutory maximum, but once mitigation and income are considered, if the value is still above the statutory maximum it will be capped as per the “general principles”.

Note 3 - Mitigating factors

After aggravating factors are considered and applied where appropriate, mitigating factors are considered and where there is sufficient and compelling evidence the relevant value will be discounted from the Financial Penalty.

In considering whether it is appropriate to include a mitigating factor, evidence shall be considered that has been gathered by the inspecting officer in the course of the investigation into the offence as well as any representations that have been provided following a Notice of Intent.

Note 4 - Acts or omissions demonstrating high culpability

This premium will be applied where, the person to which the financial penalty applies, acted in a reckless or deliberate manner in not complying with the statutory notice or previous relevant formal advice.

Note 5 - Large housing portfolio

The premium is applied where the perpetrator has control or manages of 10 or more units of accommodation.

For the purposes of this premium, the definition of a person having control and person managing are as defined by Housing Act 2004 Section 263.

Note 6 - Vulnerable persons

This note applies where the occupant is considered vulnerable to harm or where significant harm has occurred as result of failure to comply with regulations.

- Vulnerable occupant and/or significant harm occurred as result of the failure to comply with the Regulations.

For the purposes of this factor a vulnerable person is defined as:

A person who suffers, or be at risk of suffering harm or detriment which the ordinary person would not suffer or be at risk of suffering due to age, disability or severe financial insecurity”

This factor applies where an occupant is vulnerable and, due to the underlying failure to comply with the relevant legislation is placed at additional risk or harm compared with a non-vulnerable resident.

For purposes of this factor, significant harm is defined as physical or mental illness or injury that corresponds to one of the four classes of harm as recorded in Housing Act 2004 Section 9 Operating Guidance for the Housing Health and Safety Rating System.

Note 7 - Low culpability

This factor will apply where the perpetrator provides sufficient evidence that they only marginally fell short of their legal obligations, for instance:

- significant efforts were made to address the risk, breaches or offences, although they were inadequate to mitigate the underlying cause to issue the penalty;
- they have offered a reasonable defence for why they were unaware of the risk, breach or offence.

It will not be sufficient to claim not to have known of the legal requirement or deficiency that forms the underlying reason for the financial penalty in order to benefit from this factor.

It will also not apply where the underlying failure was due to the inaction of the perpetrator in properly managing rented properties, responding to complaints of poor standards, carrying out routine visits, instruct others to assist where necessary etc.