

RECORD OF OFFICER DECISION

Adoption of policy to allow penalty charge notices to be issued under The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

Decision made

To adopt the Statement of Principles for the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 set out in Appendix A

Made by;

Simon Hendey, Director for Housing and Commercial Development

Background

1. As the Director for Housing and Commercial Development, I am responsible for any matters relating to the enforcement of poor housing condition in Wiltshire. To undertake this work the council needs to utilizing the legal tools available to ensure compliance and the safety of residents. The adoption of the statement of principle for the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 set out in Appendix A will add to the tools that are available. The power to make a decision in respect of this matter is delegated to me pursuant to Wiltshire Council's Constitution.
2. The Smoke and Carbon Monoxide Alarm (England) Regulation 2015 regulations require private rented sector landlords, from 1 October 2015, to have:
 - at least one smoke alarm installed on every storey of their rental property which is used as living accommodation, and
 - a carbon monoxide alarm in any room used as living accommodation where solid fuel is used.
3. The regulation allows a council to issue a penalty charge notice in the case of non compliance. In order to issue a penalty charge notice a council must first adopt a statement of principles which is a requirement under the regulation 13. A penalty charge notice can then be issued should a landlord not provide the required smoke and carbon monoxide detection in a let domestic property.
4. There are no negative financial issues for the council. It is unlikely that there will be any income from fines as the remedies available are quick and simple for the landlord to undertake. There is likely to be a small efficiency savings as landlords are more likely to be more cooperative in remedying the matter given the possibility of a charge thus making it likely that staff will have only limited involvement before a landlord remedies the issue. In the first 6 months of the regulation being in place 5 addresses were identified where there was non-compliance. The number and frequency of cases has declined since that time. In all cases the landlord installed the detection in a timely fashion and would not have been subject to a penalty if the council had adopted the measure.

Reason for decision

1. The decision is required to allow the regulation 13 to be utilized.
2. I confirm that in making this decision I have considered the following in line with Wiltshire Council's Constitution:
- 3.

Key decision requirements	N/A
Views of relevant cabinet member(s), committee chairman, area board(s)	No
Consideration of the area boards and delegated decision checklist for officers on the issue of when and how to involve local councillors and area boards in decisions about local services	N/A
Implication of any council policy, initiative, strategy or procedure	Yes
Consultation in accordance with the council's consultation strategy	N/A
Range of options available	Yes – see below
Staffing, financial and legal implications	N/A
Risk assessment	Yes – see below
Involvement of statutory officers and/or directors	N/A
Regional or national guidance from other bodies	N/A
The council's constitution	Yes
This contract is suitable for execution under the e-signature process.	N/A

Conflict of Interest

4. Not applicable

Other options considered

5. Not to adopt a policy which would reduce the council's ability to tackle poor housing conditions and have negative implication in terms of reputation of the council



Made by:

Simon Hendey, Director for Housing and Commercial Development

Date: 14/8/2020

Appendix A

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

Statement of Principles

This statement is required under Regulation 13 of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 and relates to matters that Wiltshire Council (the Council) must have regard to in determining the amount of any penalty charge issued under Regulation 8 of the same Regulations.

The Regulations allow the Council to issue Penalty Charge notices where a relevant landlord has failed to take all reasonable steps to comply with a remedial notice. Such notices allow 28 days to:

1. Fit one or more smoke alarms in an occupied rented property.
2. Fit a carbon monoxide detector to a room with a solid fuel burning combustion appliance.
3. Take steps to check that each smoke or carbon monoxide alarm required by Regulations are working correctly at the start of a new tenancy.

In determining the amount a penalty charge the Council takes into account the following principles:

1. Financial penalty

Landlords issued with a penalty charge notice will have already been given 28 days to comply with statutory provisions that they should already have undertaken. Given this it is considered not enough to recover the cost of completing the works as this in itself does not deter inaction that puts tenants' lives at risk. The level of penalty should, however, as a minimum, cover the cost of all works in default, officer time, recovery costs, an administration fee and a fine. Repeated offences should attract a progressively higher penalty in view of continuing disregard for legal requirements and tenant safety. The financial penalty should therefore be set at an amount to ensure that those few landlords that flout the law are sufficiently penalised.

The amount of financial penalty is set at £1,000 for the first offence and £5,000 for any subsequent offence, including where it can be established that the landlord has been issued with a Penalty Charge Notice from another local authority under the same provisions.

This amount is modified by the mitigating provisions noted below.

2. Mitigating factors

The Council agrees to reduce the amount of the financial penalty element of the Penalty Charge in the following circumstances:

- a. Early payment.

Where a relevant landlord issued with a penalty charge notice makes payment within 14 days of the service date, the financial penalty element of the penalty charge will be reduced by 50%.

b. Discretion by Head of Service

A landlord may write to the Head of Service within 28 days of date the Penalty Charge Notice is served requesting a right to review. Such a request should include such information as appropriate as to why he should not be required to pay the Penalty Charge. The Head of Housing Strategy & Assets may confirm, vary or withdraw the penalty charge notice.

All communications for representations made against the Penalty Notice are to be sent to:

Head of Service, Private Sector Housing, Wiltshire Council, Council House, Bourne Hill,
Salisbury, sp1 3uz