

9 December 2015

Environment and Housing Management Committee

Civil Penalty Scheme for non-compliance with The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

Report of: Ashley Culverwell, Head of Borough Health Safety & Localism

Wards Affected: All

This report is: Public

1. Executive Summary

- 1.1 New legislation has been introduced to ensure smoke and carbon monoxide alarms are in working order in privately rented accommodation.
- 1.2 The legislation allows discretion for Local Authorities to set a Civil Penalty in the form of Fixed Penalty for non-compliance with the requirements. This can be up to £5000.
- 1.3 This report seeks authority to set this Civil Penalty at a tiered structure of £2000 for a first offence and £5000 for a subsequent offence for a property within the ownership of the same landlord.

2. Recommendation(s)

- 2.1 **Delegates Authority for the administration and enforcement of The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 To the Head of Borough Health Safety and Localism and Officers nominated by him.**
- 2.2 **That the committee set the Civil Penalty for failure to comply with requirements of these Regulations at tiered levels with an initial £2000 for a first offence of the requirements of the Regulations, and £5000 for a subsequent offence for a property within the ownership of the same landlord.**
- 2.3 **Agrees to the promotion of the Regulations and Civil Penalty Scheme via the medium of landlords forums, community safety newsletters, press releases and other applicable communication channels .**

3. Introduction and Background

- 3.1 In 2013-14 there were 50,000 fires in dwellings in the UK, around two thirds due to accidental causes. This resulted in 275 fatalities and 3,614 non-fatal casualties.
- 3.2 There has been a downward trend in recent years in the number of casualties mainly due to improved construction, fire detection and education. However, 38% of fatalities in single occupied dwellings occurred where there was no alarm.
- 3.3 Statistically privately rented dwellings are seven times more likely to have a fire compared to owner occupied properties and can contain some of the most vulnerable members of society. The private rented sector plays an important part of the national housing make-up: currently 17% and growing.
- 3.4 This can include Houses in Multiple Occupation (HMOs) where several units of accommodation can be present in one property, thereby increasing the fire risk.
- 3.5 A survey in October 2015 found that 1 in 7 tenants do not have a smoke alarm.
- 3.6 From 1st October 2015 private sector landlords have to ensure that at least 1 smoke alarm is installed on every storey of their rented property and that a carbon monoxide alarm is installed in any room containing a solid fuel burning appliance. These requirements are set out in the Smoke and Carbon Monoxide Alarms (England) Regulations 2015.
- 3.7 Landlords are also under a requirement to ensure such alarms are in a proper working order at the start of each new tenancy
- 3.8 Failure to comply with the regulations will result in the Local Authority serving a Remedial Notice requiring compliance within 28 days. If not complied with the Local Authority must carry out remedial action where the occupier consents, and can issue a Civil Penalty up to £5000
- 3.9 For information there are some exemptions to the regulations such as Registered Social Landlords, Licensed HMOs (those of 3 storeys or more) and care homes etc.

4. Issue, Options and Analysis of Options

4.1 The options available are to:

1. Consider whether a civil penalty scheme will be enforced
2. Agree on the proposed level of civil penalty which is set at £2000 for the first offence and £5000 for subsequent offences.

4.2 It is considered that option 2 is preferred. The importance of fire safety has been explained above and landlords will have 28 days with which to comply with the remedial notice. This will state that they need to install a smoke or carbon monoxide alarm, as appropriate. The relatively high level of fixed penalty reflects the seriousness to which the Council takes this offence, balanced against the inexpensive effective controls of fitting detectors.

5. Reasons for Recommendation

5.1 It is acknowledged that the private rented sector plays an important and valuable role in the provision of housing to our residents. Whilst we support landlords in providing this service the health and safety of tenants is paramount. A remedial notice is served where a breach of the legislation is discovered, giving the landlord 28 days in which to install a smoke or carbon monoxide alarm. This action is not onerous and there are few excuses for non-compliance. Therefore a civil penalty of £2000 for initial non-compliance with the legislation will illustrate the seriousness to which the Council takes this matter whilst also not overly punishing landlords. Due to the very low cost of having to comply with the Regulations any subsequent offence will result in a fine of £5000 for properties in the ownership of the same landlord.

6. Consultation

Other Local Authorities in Essex have been consulted to establish the levels of civil penalty that they will be applying. There is a wide variation in the fine levels different Local Authorities have set ranging from £0 to £4000. This is a choice under the Localism Agenda and officers consider that the fee level suggested provides the right level of penalty to Landlords for what is a simple and low cost solution for the early detection of fire or carbon monoxide having the potential to save lives of our residents.

7. References to Corporate Plan

7.1 Housing, Health & Wellbeing

We will support vulnerable homeowners and responsible landlords to improve housing conditions and will compel rogue landlords to improve standards.

8. Implications

Financial Implications

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- 8.1 The additional requirements of the legislation can be met within existing budgets.
- 8.2 As landlords are given 28 days notice to comply it is not expected there will be additional income from fines although they act as a strong incentive to comply with the regulations.

Legal Implications

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- 8.3 On 1st October 2015 , the Smoke and Carbon Monoxide Alarm (England) Regulations came into effect . These require all specified tenancies including private sector landlords to install a smoke alarm on every floor of their property , as well as install a Carbon Monoxide alarm in their properties which use or burn solid fuels , additionally check that alarms are working at the start of every new tenancy . Private sector landlords could be fined up to £5000 by local council's if they fail to meet the new regulations

Other Implications (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

- 8.4 Equality and Diversity - The private rented sector is an important part of the make-up of housing provision. However, it should be noted that the most vulnerable members of society often find themselves in this sector and a small percentage of landlords can take advantage of this by offering low rent, poor quality accommodation. Safety of all tenants is paramount regardless of background, personal circumstances and type of accommodation. Implementing these regulations and penalty scheme will ensure non-exclusion of all landlords and safeguard vulnerable tenants.

9. Background Papers (include their location and identify whether any are exempt or protected by copyright)

- 9.1 The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

10. Appendices to this report

None

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