

Sheffield City Council – Smoke and Carbon Monoxide Alarm

Statement of Principles

In accordance with the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (S.I. 2015 No. 1693) (the ‘Regulations’)

Any references to legislation in the Sheffield City Council – Smoke and Carbon Monoxide Alarm Statement of Principles (the Statement) is for guidance only and is not intended as an authoritative interpretation of the law. Persons seeking an interpretation of the legislation referred to in the Statement are advised to seek independent legal advice.

1.0 Overview

1.1 From the 1 October 2015, under the above mentioned Regulations, private sector landlords are required to ensure the following, provided the property is occupied under specific tenancies:

- At least one smoke alarm is installed on every storey of their rented property, on which there is a room used wholly or partly as living accommodation, this includes a bathroom or lavatory.
- And that a carbon monoxide alarm is installed in any room which contains a solid fuel burning combustion appliance.

1.2 They are also required to ensure that such alarms are in proper working order at the start of each new tenancy.

1.3 These requirements are enforced by Sheffield City Council (The Council) as the Local Housing Authority. The Council where it is satisfied on the balance of probabilities that a landlord has breached any of the requirements set out above may impose a penalty charge (The Charge).

1.4 It is a requirement that the Council have a statement of principles to which it has regard to when deciding the amount of the Charge in individual cases. The Statement complies with this requirement.

1.5 The Statement sets out the Council’s approach to enforcement of the Regulations which follows the principles of the Regulators Code and apply these in a consistent manner to impose penalties if breaches of the Regulations are identified.

1.6 The Statement also sets out the Councils approach and the matters it will have regard to when deciding the level of the Charge where it is satisfied there has been a breach of the Regulations by a landlord and when considering any written representations made by them. The Government requires the Council to be open and transparent regarding how it determines the Charge and to publish the Statement which sets out the principles it will follow when determining the amount of the Charge. The Statement is published on the Councils website.

1.7 The Council may revise the Statement at any time, but where it does so, it must publish the revised Statement.

2.0 Breach of the Regulations and the Service of a Remedial Notice

2.1 If the Council has reasonable grounds to believe a landlord is in breach of one or more of the following duties, as defined under the Regulations, the Council will serve a Remedial Notice on the landlord.

The duties are that a relevant landlord in respect of specific tendencies must insure that:

- (a) during any period when the premises are occupied under the tenancy—
 - (i) a smoke alarm is equipped on each storey of the premises on which there is a room used wholly or partly as living accommodation;
 - (ii) 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
- (b) 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

2.2 Reasonable grounds may include being informed by the tenant, lettings agent or housing officer that the required alarms are not installed. The Regulations do not require the Council to enter the premises or prove non-compliance to issue a Remedial Notice. This is 'intelligence led' enforcement.

2.3 The Remedial Notice will be served within 21 days of the Council determining that there is a breach by the landlord of the Regulations and contain the required information set out in the Regulations . Amongst other things, it must inform the

landlord which premises it relates to, how the Council considers the landlord has breached the Regulations and what remedial action the landlord is required to undertake and specify a timescale in which the landlord must comply with the notice. In addition it needs to explain that the landlord is entitled to make written representations against the notice within 28 days beginning with the day on which the notice was served

- 2.4 If satisfied the landlord has failed to comply with the Remedial Notice, the Council must then make arrangements to undertake the remedial actions specified in the notice.

3.0 Compliance with the Remedial Notice

- 3.1 The landlord has 28 days beginning with the day on which the remedial notice is served to comply with the notice. If the landlord can show they have taken all reasonable steps, other than legal proceedings, to comply with the notice, they will not be in breach of the duty to comply with the Remedial Notice.

4.0 Remedial Action in default of Remedial Notice

- 4.1 If the Council is satisfied, on balance of probabilities, that a landlord has breached the duty to comply with the Remedial Notice within 28 days, the Council will arrange for remedial action to be taken, where the occupier consents.
- 4.2 This is to ensure that tenants are protected by working alarms and may involve installing a required alarm, repairing an installed alarm or checking an installed alarm is in proper working order.
- 4.3 the matters that the Council may have regard to when deciding whether a landlord is in breach of the Regulations includes the following:
- Dated photographs provided by the landlord or tenant
 - Confirmation by the tenant
 - Installation records
 - Confirmed via a site inspection by an authorised officer of the Council

4.4 Remedial action taken in default by the Council will be undertaken within 28 days following confirmation of the breach of the Remedial Notice.

4.5 When undertaking such works in default of the Remedial Notice the Council will:

(a) give not less than 48 hours' notice of the remedial action to the occupier of the premises; and

(b) if requested by the landlord or occupier, the officer carrying out the works will produce evidence of their identity and authority.

5.0 Civil Penalty – Penalty Charge Notice

5.1 The Council, in accordance with the Regulations, may also serve a Penalty Charge Notice (PCN) requiring the landlord to pay a Charge of such an amount as the authority may determine. The amount will be determined in accordance with the Statement however it must not exceed £5,000.

5.2 will serve a PCN. This sets out certain required information including:

- The reasons for imposing the Charge
- The premise to which the Charge relates
- The number and type of prescribed alarms (if any) that the Council has installed at the premises
- The amount of the Charge and details of how payment can be made
- That the landlord is required to pay the Charge or give written notice that they wish the Council to review the PCN within a period specified in the notice
- Information about the right to make representation relating to the review to the Council.

6.0 Determining the Penalty Charge

6.1 The Charge will cover all costs likely to be incurred by the Council in enforcing this legislation, which will include costs associated with:

- Serving the Remedial Notice
- Considering the landlord's representations, if any

- Serving the Notice of Remedial Action
- Carrying out the Work in Default - number and type of alarms, contractors, officer time etc.
- Serving the PCN
- Reviewing the PCN, if requested
- PCN Review Decision Notice
- Any other reasonable costs incurred, such as mileage, administration etc.

6.2 The Charge may also include a penalty over and above the costs associated with the legal process and the completion of works. This is to act as a deterrent to other landlords and a punishment to those landlords who flout their legislative requirements

6.3 When deciding the level of the penalty element of the Charge the matters the Council may have regard to include:

- The previous history of compliance of the landlord
- The financial capabilities of the landlord
- The size of the landlord's property portfolio if any
- The landlord's conduct during the Council's intervention
- Any financial gain achieved by the landlord by not adhering to the legislative requirements
- The level of actual / likely harm which could have occurred
- Any other aggravating factors consistent with the Council's Enforcement Policy

6.4 This is not an exhaustive list and the matter will be decided on the circumstances of the case. The Council has discretion to offer any early payment reduction if a landlord pays the Charge within 14 days beginning with the day the penalty charge notice is served. The early payment reduction will be 50% of the original Charge.

7.0 Penalty Charge Notice Review

7.1 Landlords served with a PCN may make a written request to the Council for a review of the PCN under the Regulations. This request must be made within 28 days from the day on which the notice was served.

7.2 The Council will consider all such representations in accordance with the Regulations and will decide whether to confirm, vary or withdraw the PCN, then notify the landlord of its decision by serving a PCN Review Notice.

7.3 The Council will consider the landlord's representations and any additional documents provided by them and where it considers it appropriate the Council may vary or withdraw the PCN. Factors that will be considered include:

- The costs incurred by the Council in relation to exercising their powers and performing their duties under the Regulations at the premises concerned.
- Whether the information provided for this review could have been provided prior to the PCN, for example, in making representations following the Remedial Notice.
- Any history of failing to comply with Council guidance or any legislation relating to housing.
- The financial capabilities of the landlord
- The size of the landlord's property portfolio if any
- The landlords conduct during the Councils intervention
- Any financial gain achieved by the landlord by not adhering to the legislative requirements
- Any other factors relevant to the matter, assessed on a case by case basis.

This is not an exhaustive list and the matter will be decided on the circumstances of the case.

7.4 Where the authority decides to confirm or vary a PCN, it will inform the landlord in writing of this decision by serving a PCN Review Notice. This notice will include the following:

- The council's decision on whether to confirm /vary the PCN following the review
- The amount of the financial penalty
- The reasons for imposing the penalty
- Information about how to pay the penalty

- The period for payment of the penalty
- Information about rights of appeal to the First Tier Tribunal
- The consequences of failure to comply with the notice.

8.0 Appeals in relation to Penalty Charge Notices

8.1 To ensure that the enforcement process is administered fairly, landlords are provided with a means of appeal against the Council's decision to confirm or vary the PCN.

8.2 A landlord may appeal to the First Tier Tribunal if the PCN is confirmed or varied by the Council after a review.

8.3 If an appeal is lodged, the PCN cannot be enforced before the end of the period of 28 days beginning with the day on which the appeal is finally determined or withdrawn.

8.4 Appeals can be made on the grounds that the decision of the Council to vary or confirm the PCN 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 Charge is unreasonable.