# The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

Statement of principles for determining the amount of a penalty charge

**Introduction**

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 were introduced on 1st October 2015 and require all landlords to ensure the following are complied with where a tenancy exists on or after this date:

I. Each storey of the premises on which there is a room used wholly or partly as living accommodation must be equipped with a smoke alarm.

II. Any room of the premises which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance must be equipped with a carbon monoxide detector.

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 if it is a new tenancy.

**Enforcement**

If the Local Housing Authority has evidence that a landlord has failed to comply with the requirements of the regulations, they shall serve a Remedial Notice on the landlord detailing the works required in order to ensure compliance. The notice must be complied with within 28 days. Failure to comply with the notice will result in a penalty charge notice being served for the **full sum allowable within the regulations**. The maximum penalty charge is £5,000.

The landlord may request in writing, no later than 28 days from service, that the remedial notice or penalty charge notice be reviewed by the Head of Housing and Environment, who must then consider the representation. A landlord may also subsequently appeal the notice to confirm or vary the penalty charge notice to the first tier tribunal.

Any penalty charge notice served will include the following information:

- the reasons for imposing the penalty charge;
- the premises to which the penalty charge relates;
- the amount of the penalty charge;
- a requirement for the person committing the breach, within a period specified in the notice –

    i. to pay the penalty charge, or
    ii. to give written notice to the local housing authority that the landlord wishes the authority to review the penalty charge notice;

- how payment of the penalty charge must be made;
- any reduction for early payment of the penalty charge;
- where applicable the statutory appeals process;
- the contact details for the person to whom a review of the notice be made
- any other information as required by statute.

**Mitigating Factors**

Fire and Carbon Monoxide represent a clear and significant danger to tenants and alarms provide a cost effective method of managing those dangers. Normally this Council will require a penalty charge of the maximum allowed in the Regulations, £5000 (or £2500 for early payment: see below).

When a Penalty Charge Notice is served, the Council has discretion to apply the following mitigating factors and potentially award a percentage reduction. The percentage scores can be added together and applied to the maximum penalty applicable for the offence.

- No previous history of non-compliance with other Housing legislation – if this is a first breach of any housing related legislation - 20% reduction.
- Any relevant personal circumstances - 20% reduction.
- Financial impact causing hardship – if the fine would cause the offender undue financial hardship such that they may not be able to continue to operate their business - 10% reduction.

In every case it will be the responsibility of the recipient of the notice to provide sufficient evidence to support their representations.

When any review determines a final amount of penalty and this is not paid, the Council will pursue non-payment of the penalty through a court order process.

If payment is made within 28 days then the fine is reduced to £2500 (less any relevant deductions granted by the Council, again at the Council's absolute discretion).

All enforcement action will be undertaken in accordance with both the current Private Sector Housing Enforcement Policy and The Housing and Environment Enforcement Policy.