



Housing Conditions and Supply Team

**The Smoke and Carbon Monoxide Alarm
(England) Regulations 2015 Policy**

July 2017

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POLICY

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This document is held by Tamworth Borough Council, and the document owner is Rob Barnes.

Printed documents may be obsolete. An electronic copy will be available on Tamworth Borough Councils Intranet. Please check for current version before using.

Revision History

Revision Date	Version Control	Summary of changes
25 th May 17	0.1	This is a new policy introduced in line with the provisions of The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

Document Review Plans

This document is subject to a scheduled annual review. Updates shall be made in accordance with business requirements and changes and will be with agreement with the document owner.

Distribution

The document will be available on the Intranet and the website.

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1. Introduction

This policy sets out the approach which Tamworth Borough Council will take in its adoption of The Smoke and Carbon Monoxide Alarm (England) Regulations 2015.

Properties in the private rented sector have fewer alarms installed than other types of housing tenure.

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 came into force on 1st October 2015. Private sector landlords are now required to ensure that at least one working 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. The Regulations also require landlords to ensure that such alarms are in proper working order at the start of each new tenancy. In addition, the regulations amend the conditions which must be included in a licence under Part 2 or 3 of the Housing Act 2004 (“The 2004 Act”) in respect of smoke and carbon monoxide alarms. A ‘new tenancy’ is a tenancy agreement that begins on or after 1 October 2015 and is not a renewal of a previous tenancy agreement.

There are exceptions listed in the Regulations but in short the Regulations apply to Single family dwelling and non-licensed HMOs in the private rented sector unless there is a long lease, in excess of 7 years in place.

2. Responsibility for enforcement

The Local Authority is the enforcing body for this regulation. The Regulations do not actually require a local authority to enter a property. Intelligence can be gathered from the tenant or other agencies.

3. The process

Local Authorities are **required** to issue a remedial notice where they have reasonable

grounds to believe a landlord has not complied with one or more of the requirements of the Regulations .Remedial action could include installing alarms or fixing current ones. The landlord must comply with the notice within 28 days.

If they do not, the local authority **must** carry out the remedial action (where the occupier consents) to ensure the requirements in the regulations are met and can issue a civil penalty **of up to £5,000**. Written notice of the intention to issue a 'penalty' charge notice must be given including the reasons for the notice.

It is the breach of the Remedial notice that attracts the penalty.

Local authorities should be open and transparent regarding the civil penalty and publish a statement of principles which they will follow when determining the amount of a penalty charge. The amount of the charge comprises of 2 elements, a punitive element and the costs of actually undertaking the works.

A landlord can request for the penalty notice to be reviewed and if still not resolved appeal to the 1st Tier tribunal Service.

The Regulations impose a number of procedural steps which must be taken before the council can impose a financial penalty. Before imposing a requirement on a landlord to pay a penalty charge the council must, within a period of six weeks from the point at which it is satisfied that the landlord has failed to comply with the requirements of the Remedial Notice, serve a penalty charge notice setting-out:

- The reasons for imposing the penalty charge;
- The premises to which the penalty charge relates;
- The number and type of prescribed alarms (if any) installed at the premises;
- The amount of the penalty charge;
- The obligation to pay that penalty charge or to give written notice of a request to review the penalty charge;
- How payment of the charge must be made; and
- The name and address of the person to whom a notice requesting a review may be sent.

Where the Council is satisfied on the balance of probabilities that the landlord on whom it has served a remedial notice (the notice) under regulation 5 has failed to take the remedial

action specified in the notice within the period specified the council will, on written notice from the landlord served with a penalty charge notice, review the penalty charge imposed. In conducting the review, the council will consider any representations made by the landlord, and serve notice of its decision whether to confirm, vary or withdraw the penalty charge to the landlord

4. Our approach

We will adopt and use the provisions of this Regulation. This will include working with authorised and vetted contractors to undertake the works to provide/ install/ repair the alarms on our behalf.

Adopting the Regulations will provide us with another tool to increase the safety of tenants in the private rented sector and the properties in which they live. A financial penalty will be an effective incentive in getting landlords to comply. Until recently Staffordshire Fire and Rescue service, would in most circumstances, fit 10 year life smoke detectors in homes for free (this would include rented properties). This service has now been scaled back to cover only older and more vulnerable people. This means it is even more important for us to undertake work around ensuring that homes do have detectors

The Senior private sector housing officer will undertake the initial 'casework' and serve the remedial action notice. If the notice is not complied with the case will be discussed with the Housing Conditions and supply manager who will be able to agree that the works to comply with the Notice can be undertaken. (If the tenant consents).

If the remedial action is not complied with the case to serve the penalty will be prepared by the Senior private sector housing officer, in discussion with the Housing conditions and supply manager. The Corporate Director will sign off the penalty charge notice. The Corporate Director will also deal with issues of appeals and reductions of the penalty.

5. Charges

As described above there are 2 elements to this, the punitive element and the costs of the works including the admin costs of undertaking the remedial action. Officer time will be charged at the hourly rate of the Senior private sector housing Officer.

There is discretion to reduce the charges for swift payment.

Please see Appendix 1 for full fees statement.

6. Publicity

Although these Regulations have received a great deal of national publicity already there will be information published on the Council webpages, information disseminated via the landlords' forum and a press release issued advising that we are now adopting the Regulations.

10. Policy Revision

The Policy will be reviewed regularly and will take account of any changes to Legislation, Guidance and Procedure. Minor changes to policy delivery may be required from time to time, and will be undertaken with the agreement of the Corporate Director of Communities, Partnerships and Housing.

11. Complaints

Tamworth Borough Council has an established corporate complaints procedure for dealing with complaints. Information on how to make a complaint is outlined in a complaints leaflet that is available at all Tamworth Borough Council Offices and on the website. (The 'tell us system')

12. Further information

If you would like further information about this policy, please contact Tamworth Borough Councils Housing Conditions and Supply Team

In writing

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By telephone

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Appendix 1

Statement of principles for determining the amount of penalty charge in respect of The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

1. Introduction

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 introduces the following requirements for all landlords during any period beginning on or after 1st October 2015 when the premises are occupied under the tenancy:

- A smoke alarm is equipped on each storey of the premises on which there is a room used wholly or partly as living accommodation;
- 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
- 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. Enforcement

Where the Local Housing Authority has reasonable grounds to believe that there has been a breach of the Regulations then the Authority shall serve on the Landlord in a method prescribed by the Regulations, a Remedial Notice detailing the actions the landlord must take to comply with the Regulations.

If after 28 days the Landlord has not complied with the Remedial Notice a Penalty Charge shall be levied through a penalty charge notice.

3. Principles to be followed in determining the amount of a Penalty Charge

Where a local housing authority is satisfied, on balance of probabilities, that a landlord on whom it has served a remedial notice is in breach of the duty under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015, The Authority may require the landlord to pay a penalty charge of such an amount as the authority may determine. The amount of the penalty charge must not exceed £5,000.

4. Level of Penalty Charge

The cost recovery element of the penalty shall be as follows:

- Officer costs calculated at an hourly full cost recovery rate
- A £250 administration fee; and
- A £250 cost recovery fee, unless paid within 14 days.

The deterrent element of the penalty shall be as follows:

- A £500 base sum;
- For landlords who have been subject to single previous formal action under Housing Act 2004 or other housing legislation, an additional £1000;
- For landlords who have been subject to more than one case of formal action under the Housing Act 2004 or other housing legislation, an additional £2500.

Any funds left over after any necessary remedial works have been taken Tamworth Borough Council will be redeployed to further the work of the Housing Conditions and Supply Team.

5. Recovery of Penalty Charge

The local housing authority may recover the penalty charge as laid out in the Regulations:

- The penalty will be enforceable on the order of a court, as if payable under a court order.
- Where proceedings are necessary for the recovery of the penalty, a certificate signed by the local housing authority's chief finance officer stating that the amount due has not been received by a date stated on the certificate will be taken as conclusive evidence that the penalty has not been paid.

6. Appeals in relation to a penalty charge notice

The landlord can request in writing, in a period that must not be less than 28 days beginning with the day on which the penalty notice was served, that the local housing authority review the penalty charge notice. The local housing authority must consider any representation and decide whether to confirm, vary or withdraw the penalty charge notice. A landlord who is served with a notice confirming or varying a penalty charge notice may appeal to the First-tier Tribunal against the local housing authority's decision.

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