

BABERGH DISTRICT COUNCIL and MID SUFFOLK DISTRICT COUNCIL

From: Corporate Manager – Private Sector Housing	Report Number: R72
To: Strategy Committee Executive Committee	Date of meeting: 3 December 2015 7 December 2015

JOINT IMPLEMENTATION POLICY - THE SMOKE AND CARBON MONOXIDE ALARM (ENGLAND) REGULATIONS 2015

1. Purpose of Report

- 1.1 To agree the Penalty Charge Notice levels for Babergh and Mid Suffolk District Councils.
- 1.2 The proposed levels contained in the policy have been agreed with the other five Suffolk District and Borough Councils to ensure a consistent approach.

2. Recommendation

- 2.1 That the levels of the Penalty Charge as contained in Paragraph 3.0 of the policy (attached as Appendix A) be adopted with immediate effect.

The Committee is able to resolve this matter.

3. Financial Implications

- 3.1 The costs of implementing the new policy will be met from existing budgets.
- 3.2 The proposed penalty charges cover the cost of Officer time, administration costs and a fine. Any costs incurred for works carried out in default will be recovered in addition to the penalty charge.

4. Risk Management

- 4.1 This report does not link with any of the Council’s Corporate / Significant Business Risk. However there are risks which are set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
Failure to carry out the requirements of the Regulations	3 -probable	Bad	Adopt the attached policy.
Failure to adopt Penalty Charge Notice fee structure and unable to recover costs and charge a fine	3 - probable	Bad	Adopt the attached policy

5. Consultations

- 5.1 The National Landlords Association has been consulted on the proposals. They have raised no objections. Babergh and Mid Suffolk have an excellent working relationship with the NLA and they have been very proactive in advising their members of their responsibilities with regard to the regulations.
- 5.2 Housing Portfolio Holders have been consulted on the policy and the proposed fine structure.

6. Equality Analysis

- 6.1 The positive increase in the number of smoke alarms and carbon monoxide alarms installed will protect life in the most vulnerable and affluent households alike across the private rented sector.

7. Shared Service / Partnership Implications

- 7.1 The proposed penalty charges have been aligned across Suffolk to ensure a consistent approach.
- 7.2 The Suffolk Fire and Rescue Service are working closely with all seven district and borough councils to ensure these regulations are complied with and are offering free smoke alarms to landlords for a limited period of time. They are wholly supportive of the proposed penalty charge structure.

8. Key Information

- 8.1 The Regulations came into force on 1 October 2015 and require private landlords to ensure their properties have a smoke alarm installed on each storey and a carbon monoxide alarm in each room where there is a solid fuel burning appliance.
- 8.2 Where there are an insufficient number of smoke alarms or carbon monoxide detectors the Council must take action prescribed by the Regulations. If a landlord fails to comply with the Regulations following a 28 day Notice the Council must issue a Penalty Charge Notice. The Council must also undertake works in default in a manner specified by the Regulations.
- 8.3 The amount of the penalty charge must not exceed £5,000.
- 8.4 It is proposed that the penalty charge for a first offence is significantly lower than for repeat offences. For third and subsequent offences the maximum level of £5,000 is proposed due to the continuing disregard for tenant safety.
- 8.5 The Authority can recover the penalty charge as laid out in the Regulations on the order of a Court, as if payable under a Court Order.
- 8.6 The Regulations are mandatory and must be enforced by the Local Housing Authority and the Councils must publish a 'Statement of Principles' before commencing statutory enforcement.

9. Appendices

Title	Location
A Joint Implementation Policy – The Smoke and Carbon Monoxide Alarm (England) Regulations 2015	Attached

Authorship:

Heather Worton 01473 825702
Corporate Manager – Private Sector Housing heather.worton@babberghmidsuffolk.gov.uk

J:\DOCS\Committee\REPORTS\Strategy\2015\031215 - Smoke Alarm Policy Report.docx

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

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015



The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

1.0 Introduction

As of the 1st October 2015, private sector landlords of residential premises must ensure during any period on or after 1 October 2015 when the premises are occupied under the tenancy that:

1. A smoke alarm is installed on each storey of the premises on which there is a room used wholly or partly as living accommodation.
2. 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 appliance; and
3. 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. It is expected that this will be included as part of the contract between the landlord and tenant.

This Legislation does not apply to:

1. Registered Providers of Social Housing.
2. Licensed HMO's. (*NB. Non-licensed HMO's are covered by these regulations*)
3. Premises with live in landlords (or landlords family)
4. Long Lease property (right to occupy 7 or more years)
5. Student Halls of Residence
6. Hostels and refuges
7. Care Homes/ hospitals and NHS premises.

2.0 Enforcement

2.1 Where the Local Housing Authority has reasonable grounds to believe that:

- There are no or insufficient number of smoke alarms or Carbon Monoxide Detectors in the property as required by the regulations or;
- The Smoke Alarms or Carbon Monoxide Detectors were not working at the start of a tenancy or licence.

Then the Authority must 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 the Local Authority must issue a penalty charge levied through a Penalty Charge Notice (PCN).

The Local Authority must also undertake works in default in the manner specified in the Regulation. Where works in default are taken, the Local Authority will install Grade D LD3 mains wired smoke detectors with an integral battery back-up (or equivalent unit in life span) as per the recommended standard of Local Government Regulation (Formerly LACORS) guidance for existing residential accommodation.

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

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

The Councils consider that in the interests of proportionality, a lesser penalty will be merited on the occasion of a first offence only and that prompt payment of the penalty on that first occasion should attract a reduced penalty in recognition of early admission of liability.

The level of penalty should, however, as a minimum, cover the cost of all works in default, officer time, recovery costs, administration fee and a fine. This is reflected in the calculation of the first time offence charge. Appendix 1 shows the costs involved.

The Legislation allows the Local Authority to set PCN levels up to a maximum of £5000. Having ensured proportionality, the Enforcement Policy and the interests of regulation, repeat offences should attract a progressively higher penalty in view of a continuing disregard for the legal requirements and tenant safety.

3.0 Level of Penalty Charge

The Penalty Charge shall be set at **£550.00** for the first offence but this will be **reduced to £400 if paid within a 14 day period** from the date of service.

	Level of PCN	Reduction for early payment
First offence	£550.00	-£150.00
Second offence	£2500.00	None
Third and subsequent offences	£5000.00	None

No discount will be given for early payment after the first offence has been committed.

4.0 Recovery of Penalty Charge

The local housing authority may recover the penalty charge as laid out in the Regulations on the order of a Court, as if payable under a Court Order.

5.0 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.

If a Landlord is genuinely unsure as to whether and how these provisions apply to them, they should either contact Private Sector Housing or seek independent professional advice.

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

APPENDIX 1

Intervention costs based on a Grade 5 salary

Investigation and Remedial Notice	Hours	Cost
Referral to PSH, creation of new job on computer system	0.5	£14.68
Inspection of property	1	£36.97
Recording and Remedial Notice Letters to landlord and tenant	1	£36.97
Remedial Notice delivery and recording	1	£36.97
Admin support/printing	0.5	£14.68
<i>SUB TOTAL (RECOVERABLE)</i>		<i>£140.27</i>
Penalty Charge Notice		
Re-inspection of the property		£36.97
Completing PCN and recording	1	£36.97
Delivery and recording	1	£36.97
<i>SUB TOTAL (RECOVERABLE)</i>		<i>£110.91</i>
TOTAL COST (RECOVERABLE)		£251.18