

THE SMOKE AND CARBON MONOXIDE ALARM (ENGLAND) REGULATIONS 2015 (AS AMENDED)

STATEMENT OF PRINCIPLES UNDER REGULATION 13

Note: This statement of Principles must be read in conjunction with Camden Council's enforcement policy.

Introduction

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (as amended) introduced legal requirements on private sector landlords from the 1st October 2015 in respect of premises occupied under tenancies starting on or after that date. The requirements are to:

1. Equip a smoke alarm on each storey of the premises on which there is a room used wholly or partly as living accommodation;
2. During any period when the premises were occupied under the tenancy, to ensure that a carbon monoxide alarm is equipped in any room of the premises which is used wholly or partly as living accommodation and which contains fixed combustion appliance other than a gas cooker.
3. Carry out checks 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.
4. Where, following a report made on or after 1st October 2022 by a tenant or by their nominated representative to the landlord, a prescribed alarm is found not to be in proper working order, the alarm is repaired or replaced

For the purposes of the legislation, living accommodation is a room that is used for the primary purposes of living, or is a room in which a person spends a significant amount of time, and a bathroom or lavatory is classed within this definition.

Enforcement

In those situations where the Local Authority has reasonable grounds for believing that:

1. There are no or insufficient number of smoke and / or carbon monoxide alarms in the property; or
2. The smoke and / or carbon monoxide alarms were not working at the start of the tenancy or licence,

then the Local Authority shall, within 21 days, serve on the landlord a Remedial Notice detailing the actions that must be taken to comply with the regulations, and the Notice shall be in line with the requirements of the regulations.

The landlord has the right to request a review of the decision to issue the Remedial Notice. Any request must be in writing and made within the 28 days the landlord has for compliance.

If the Notice has not been complied with and no written representations have been made to the council, within 28 days beginning with the day on which the notice was served, then a Penalty Charge will be levied by means of a Penalty Charge Notice on the landlord.

If representations are received against a Remedial Notice within the given period of 28 days then the Remedial Notice will be suspended until the local authority considers the representations. If the Remedial Notice is confirmed in writing, it must be complied with within 21 days (beginning with the day on which the landlord is informed that the suspension ceases to have effect) or a penalty charge will be levied by means of a Penalty Charge Notice.

Penalty Charge Principles

Any penalty charge should be set at a level which is proportionate to the risk posed by non-compliance with the requirements of the legislation, and which will deter non-compliance. It should also cover the costs incurred by the Council in administering and implementing the legislation.

Fire and Carbon Monoxide are two of the 29 hazards prescribed by the Housing Health and Safety Rating System and often result in death and serious injury.

In the case of fire, the absence of working smoke alarms in residential premises is a significant factor in producing worse outcomes. This is particularly so at night, as without the early warning they provide, a small fire can develop unnoticed rapidly to the stage where smoke and fumes block escape routes or render a sleeping occupant unconscious. Working smoke alarms alert occupiers to a fire at an early stage before it prevents physical escape to safety.

The Department of Communities and Local Government estimate that 231 deaths and 5860 injuries could be prevented over ten years accruing a saving of almost £607.7 million by the provision of smoke alarms.

Carbon Monoxide is a colourless, odourless and extremely toxic gas. At high concentrations it can cause unconsciousness and death. At lower concentrations it causes a range of symptoms from headaches, dizziness, weakness, nausea, confusion, and disorientation, to fatigue, all symptoms which are sometimes confused with influenza and sometimes with depression. For all these reasons Carbon Monoxide is often dubbed "the silent killer". Open fires, faulty boilers and solid fuel appliances can be a significant source of Carbon Monoxide. Carbon Monoxide alarms alert occupiers to the presence of the gas at an early stage before its effects become serious.

The Department of Communities and Local Government estimate that six to nine deaths and 306 to 460 injuries could be prevented over ten years accruing a saving of almost £6.8 million by the provision of Carbon Monoxide alarms.

The provision of smoke detectors and carbon monoxide alarms does not place an excessive burden on a landlord. The cost of the alarms is low and in many cases they can be self-installed without the need for a professional contractor. The impact on occupiers, damage to property and financial costs resulting from a fire or Carbon Monoxide poisoning event are far out of proportion to the cost of installing alarms.

For these reasons, an effective incentive to comply with these Regulations is fully justified.

The minimum penalty (including the council's costs to enforcing the legislation including inspections, telephone calls and preparing and serving notices) for a first offence will be £2500. The penalty will then be increased or decreased depending on aggravating and mitigating factors. Aggravating factors include (but not limited to):

- The number of alarms not working or missing (regs state there should be one per storey)
- Other fire safety concerns/defects in the property which increase the risk posed to the tenants by the lack of early warning
- The length of time the offence is believed to have been on-going
- The frequency of complaints by the occupiers to the landlord about the non-working or missing alarms
- The costs of any remedial work the council have carried out in response to the breach
- The property is let as a HMO (which increases the overall risk)
- Presence of vulnerable occupiers such as elderly, children or disabled people
- Any history of previous enforcement or non-compliance of the landlord
- Attempts to obstruct the investigation

Mitigating factors include:

- Small low risk property (such as ground floor with possibility to escape from windows, short travel distance to exit the property, only one or two occupiers)

The penalty for second and subsequent offences by the same landlord will be £5000.

It is understood that the imposition of a penalty charge can present an excessive financial burden but this is balanced against the risk, the low cost of compliance and the fact that all reasonable opportunity will have been given to comply prior to any penalty charge being levied. A recipient of a fixed penalty charge has a right of appeal.

The Council may exercise discretion and reduce the penalty charge, following representation made by the landlord, if there are extenuating circumstances.. This discretion will not apply when:

1. The person / company served on has obstructed the Authority in the carrying out of its duties; and / or
2. The person / company has previously received a penalty charge under this legislation;

Representations and Appeals in relation to a penalty charge notice

The landlord has a right to seek a review of the penalty charge notice by writing to the Authority (details on the Notice) within 28 days of the Notice being served

On consideration of any representation and evidence, the penalty charge notice can be confirmed, varied or withdrawn. This decision is confirmed by serving a decision notice to the landlord.

Any representation shall be considered on its individual merit, and in line with the enforcement policy. Any extenuating circumstances will be considered by the Council in deciding whether to reduce the cost of the penalty charge.

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.

Recovery of Penalty Charge

The Local Housing Authority may recover the penalty charge as laid out in the regulations. Due to costs incurred by the Council, any penalty charge notice shall be pursued for payment.

Review of Statement

This Statement of Principles shall be reviewed and amended to reflect any change in legislation, corporate policy or official guidance. Any amendment shall be in line with meeting the requirements of the legislation and in the public interest. A review shall take place annually should no other change have occurred.

Reviewed in May 2023