

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015¹

Statement of Principles

Introduction.

The intention of the Regulations is to increase the safety of private sector tenants by ensuring that they have working alarms at the beginning of and throughout the duration of the tenancy.

This statement of principles sets out what we will consider when the Council takes enforcement action against a landlord who fails to comply with the duties imposed by the Regulations.

All decisions within the ambit of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (“the Regulations”) will be taken in a manner that complies with the Council’s duties and in accordance with its responsibilities under the Equalities Act 2010.

Landlord’s Duties

With effect from 1st October 2015, the Smoke and Carbon Monoxide Alarm (England) Regulations state that landlords must ensure:

- A smoke alarm is installed in every rented property on every storey that contains a room used for habitation; “Room used for habitation” includes bathrooms and lavatories
- A Carbon Monoxide detector is installed in every room used solely or partly for habitation that contains a solid fuel² burning device; and
- That alarms are installed and in good working order at the start of every tenancy.

Council’s duties

The Local Housing Authority must serve a Remedial Notice within 21 days of having reasonable grounds to believe that a landlord has failed to comply with these duties.

Reasonable grounds:

- Would include a credible report from any person with knowledge of the property or reliable information from any other source.
- We will attempt to visit every property to confirm what remedial measures have been taken place before taking further action, although there is no obligation under the Regulations for the Council to visit any property, to verify non-compliance before issuing a remedial notice.

Works in default:

¹ <https://www.gov.uk/government/publications/smoke-and-carbon-monoxide-alarms-explanatory-booklet-for-landlords/the-smoke-and-carbon-monoxide-alarm-england-regulations-2015-qa-booklet-for-the-private-rented-sector-landlords-and-tenants>

² For example, a coal fire or wood burning stove.

The Council must take remedial action within 28 days of the **Remedial Notice** if there are reasonable grounds to believe that it has not been complied with. Remedial action must:

- Be carried out by an authorised person
- Take place after 48 hours' notice has been given
- Only take place if the occupiers consent

Penalty Charges

The Council will consider issuing a penalty charge when the landlord has not complied with a **Remedial Notice**.

The Council will have regard to the principle, that imposing any penalty must be a necessary and proportionate response to the level of breach and the potential harm it could cause.

The Council regards a landlord failing to carry out their duties under the Regulations as a serious matter. Fire and Carbon Monoxide are two of the 29 hazards prescribed by the Housing Health and Safety Rating System. Both have the potential to cause death and serious injury.

In the absence of working smoke alarms in residential premises, a small fire can develop unnoticed to the stage where smoke and fumes block escape routes or render a sleeping occupant unconscious. Working smoke alarms alert occupiers at an early stage and facilitate an 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 alarms³.

Carbon monoxide poisoning is a serious and preventable form of poisoning. Each year there are around 40 deaths from accidental Carbon monoxide poisoning in England and Wales (Office for National Statistics Statistics) and in excess of 200 non-fatal cases that require hospitalisation. [Source](#).

In 2013-14, 181 people were killed by accidental house fires. Dwellings with no smoke alarm accounted for 38% of deaths in home fires in Great Britain, and nearly one fifth of deaths occurred where no smoke alarm worked. [Source](#).

Complying with the regulations does not place an excessive burden on a landlord. The cost of the alarms is low and in many cases they can be 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 far outweigh the cost of installing alarms.

For these reasons, an effective incentive to comply with these Regulations is fully justified. These penalty notices will only be imposed after the landlord has had the chance to comply, and has failed to do so.

The purpose of issuing a penalty charge is:

- To ensure that occupiers are kept safe from the serious dangers of fire and carbon monoxide by incentivising the landlord to comply with their duties under the Regulations in future;
- To deter members of the wider landlord community from non-compliance;
- To recoup the costs to the council in implementing and enforcing these regulations;

³ http://www.legislation.gov.uk/ukxi/2015/1693/pdfs/ukxiem_20151693_en.pdf

- To recoup the costs of carrying our works in default.

What the Council will consider before issuing a penalty charge:

Lewisham Council aim to respond to breaches of regulations in a measured and proportionate manner. Before deciding to issue a financial penalty we will consider any relevant fact or issue that is specific to the case we are considering or which has a broader application to the regulations generally. These include but not limited to:

- The extent to which the ability to remedy the failure was within the landlord’s control;
- Whether the landlord had policies in place to ensure compliance with the regulations and any reason that these were not followed;
- What (if any) steps the landlord took after receiving the Remedial Notice;
- Any evidence of historical compliance (such as signed inventories);
- Whether it is in the public interest to issue a penalty charge.

The amount of the Penalty Charge

Failure to comply with a Remedial Notice is always serious, as it puts residents at risk of serious harm. Compliance with a Remedial Notice is simple, and the Council will not issue a Penalty Charge where the defence that the landlord has taken all reasonable steps to comply short of court action applies, and can be demonstrated.

Repeated breaches of duty show a reckless disregard for the safety and wellbeing of residents.

The maximum penalty for breach is £5,000

Breach	Amount
First	£2500
	£1250 (if paid within 14 days)
Second	£5000
	£2500 (if paid within 14 days)
Third and subsequent	£5000

Representations and appeals

The person made subject to a penalty charge has the right to make representations to the Council. Any representations must be made in writing to the following address:

Licensing and Enforcement Manager

Private Sector Housing Agency

Lewisham Council

2nd floor Civic Centre

Catford Road

London SE6 4RU

Email: pshe@lewisham.gov.uk

We will consider representations based on the following:

- The decision to issue a penalty charge was as a result of an error of fact
- The decision to issue a penalty charge was as a result of an error of law
- The amount of the penalty charge is unreasonable
- The decision to issue a penalty charge was unreasonable for any other reason

After considering representations, the Council will send the person made subject to the penalty charge a Notice confirming, amending or withdrawing the charge.

The person who received the penalty charge has the right to appeal to the First-tier Tribunal, if they are not satisfied with the response to their representations. Where the notice of application relates to a right to appeal from any decision (including any notice, order or licence), the applicant must provide lodge their application at the Tribunal within 28 days after the date on which notice of the decision, to which the appeal relates, was sent to the landlord/agent⁴.

The contact details for the First-tier Tribunal are:

10 Alfred Place
London
WC1E 7LR

Email: London.Rap@justice.gov.uk

Telephone: 0207 446 7700

Fax: 01264 785 060

⁴ The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 S.I. 2013 No. 1169 (L. 8)