

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

East Cambridgeshire District Council's Statement of Principles for financial penalties

1. The scope of this document

Regulation 13 of the Regulations requires the Council to prepare and publish a statement of principles which it proposes to follow in determining the amount of penalty to charge.

Future revisions of the statement of principles can be made, but further publication of each set of new rules would be required.

Where a penalty charge is made the Council must have regard to the statement of principles that was published and in place at the time of the breach.

The Council must have regard to satisfying the balance of probabilities test that the landlord has failed to take the remedial action required in the notice.

2. The purpose of this statement

This statement sets out the principles that East Cambridgeshire District Council (the Council) will apply in exercising its powers to require a "relevant landlord" (the Landlord) to pay a financial penalty.

3. The legal framework

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (the Regulations) introduces a requirement for all residential landlords when the premises are occupied under the "specified tenancy", to ensure that:

- i. A smoke alarm is equipped on each storey of the premises on which there is a room used wholly or partly as living accommodation;
- ii. 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
- 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 specified tenancy begins if it a new tenancy.

Where the Council becomes aware that

- i. There are an insufficient number of smoke alarms or carbon monoxide detectors in the property or;
- ii. The smoke alarms or carbon monoxide detectors were not working at the start of the specified tenancy.

Then the Council must within 21 days serve a remedial notice on the landlord detailing the actions to be taken to comply with the Regulations.

Regulation 8 provides that the Council may require the landlord to pay a penalty charge if 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 action required within the period specified.

4. Principles in determining the amount of charge

The Council considers 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:

- Officer time incurred in determining whether any remedial action is required
- Officer time incurred in the preparation of a remedial notice
- The service of a remedial notice
- The cost incurred in undertaking the remedial work
- Officer time incurred in the preparation of a penalty charge notice
- Officer time incurred in the service of a penalty charge notice
- A fine

The Regulations allow the Council to set the penalty charge up to a maximum of £5000. Repeated offences should attract a progressively higher penalty in view of continuing disregard for legal requirements and tenant safety.

5. Levels and recovery of charges

The Penalty Charge shall be set at £500 for the first offence but this will be reduced to £400 if paid within a 14 day period from the date of service.

Should the landlord fail to comply with future Remedial Notices then the fine shall be set according to the table below:

| | Level of PCN | Reduction for early payment |
|-------------------------------|--------------|-----------------------------|
| First offence | £500 | £400 |
| Second offence | £1000 | None |
| Third and subsequent offences | £5000 | None |

No discount will be given for prompt payment after the first occasion.

Background information for cost calculation:

| | |
|---|---------|
| Officer time for visit and assessment | 2 hours |
| Officer time for preparation of notice | 2 hour |
| Service of notice | 30 mins |
| Cost of purchasing an alarm and fitting | £100 |
| Preparation of 2 nd notice | 1 hour |
| Service of notice | 30 mins |
| Fine | £160 |

Average hourly rate of Officer = £40 per hour

Total = £500