

Private Sector Housing – Enforcement Policy

Smoke and Carbon Monoxide Alarm (England) Regulations 2015

Statement of Principles

This document forms part of the Private Sector Housing Enforcement policy which will be included in the full Regulatory Services Enforcement Policy. It contains the Statement of the Principles, required by regulation 13 of the above legislation, which the London Borough of Southwark will apply in exercising its powers to require a relevant landlord to pay a financial penalty charge. It also outlines the enforcement process and policy that the council will follow in enforcing the Regulations. All of these policies sit under the Council's General Enforcement Policy.

Duties on Landlords

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 became operative for all new tenancies after 1 October 2015.

The Regulations require that landlords for all let properties (see Regulations for details of exemptions) ensure that:

- a smoke alarm is installed on each storey of premises where there is living accommodation
- a carbon monoxide alarm is installed in any room of premises used as living accommodation, which contained a solid fuel burning appliance.

AND for tenancies starting from 1 October 2015

- checks are made by the landlord, or someone acting on his behalf, that the alarm(s) are in proper working order on the day the tenancy starts.

Properties subject to Part 2 or Part 3 licensing are exempt from the 2015 Regulations although compliance is achieved through an additional clause being added to the property licensing conditions.

A complete copy of the regulations can be found here: <http://www.legislation.gov.uk/id/uksi/2015/1693>

Guidance from The Ministry of Housing, Communities and Local Government (was Department for Communities and Local Government) on the requirement of the regulations is available at: www.gov.uk/government/publications/smoke-and-carbon-monoxide-alarms-explanatory-booklet-for-landlords

Process for enforcement

- 1) Where the Council has reasonable grounds to believe that, in relation to premises situated within its area, a relevant landlord is in breach of one or more of the duties under regulation 4(1), a remedial notice will be served on the landlord within 21 days.
- 2) The landlord will be given 28 days to comply with the remedial notice.
- 3) On receipt of a Remedial Notice a landlord can, within 28 days from Notice service, make a written request to the Council to review their decision.
 - a) Reviews of remedial notices will be carried out and decided by a manager.
 - b) The manager will review the facts of the case and can confirm or vary the decision, and will serve notice giving the result of their review.
 - c) Reviews should be made in writing and addressed to the Private Sector Housing Enforcement Unit Manager either by email to resi@southwark.gov.uk or by post to Southwark Council, Regulatory Services, Private Sector Housing Enforcement, PO BOX 70063, London SE15 9EG
- 4) If a landlord can show they have taken all reasonable steps, other than legal proceedings, to comply with the notice, they will not be in breach of the duty to comply with the remedial notice.

- 5) If the local authority is satisfied, on the balance of probabilities, that a landlord has breached the duty to comply with the remedial notice within 28 days, the Council will must arrange for the works to be carried out in the owners default.
- 6) A 'penalty charge notice' will also be served on the landlord within 6 weeks of the date that the Council makes the decision that it is reasonably satisfied of the landlord's failure to comply with the remedial notice.

Statement of Principles for determining Criteria the amount of a financial penalty

- 7) The penalty charge notice will impose a fine in accordance with the statement of principles penalty below.
 - a) Regulations 8 (2) states the amount of the penalty charge must not exceed £5,000.
 - b) The penalty charge comprises two parts;
 - i) a punitive element for failure to comply with the absolute requirement to comply with a remedial notice, and
 - ii) a cost element relating to costs incurred by the Council in complying with its duties.
 - c) Costs incurred by the Council could include time spent with; investigating, surveying, contacting relevant parties, administration and any remedial works arranged and carried out by the Council's contractor. The council has calculated the average cost that would be incurred as £500. This is a fixed fee and has been included in the penalties below. The remainder is the punitive element of the penalty.
 - d) Penalties will be calculated as follows:

e)

Criteria	Penalty to be incurred
First offence	£2500
Second offence and subsequent offences	£5000

- f) Penalty Charges must be paid within 28 days and robust action will be taken to recover any unpaid charges.

Right to Request Review of a Remedial Notice or Penalty Charge Notice

- 8) On receipt of a Penalty Charge Notice a landlord can, within 28 days from Notice service, make a written request to the Council to review their decision.
 - a) The Council will review the facts of the case and can confirm or vary their decision, and will serve notice giving the result of their review.
 - b) Reviews should be made in writing and addressed to the Private Sector Housing Enforcement Unit Manager either by email to resi@southwark.gov.uk or by post to Southwark Council, Regulatory Services, Private Sector Housing Enforcement, PO BOX 70063, London SE15 9EG
 - c) Reviews of Penalty Charge Notices will be carried out and decided by a panel consisting of the following council officers; a lawyer from the Litigation Division, two managers and one senior manager from within the Environment and Leisure Department. The senior manager will also act as chair of the panel. The final

decision of the panel will be sent, in writing, to the person(s) making the representation in the same manner as the representation was received (i.e. by email or post).

Right of Appeal

- 9) A landlord can appeal against the penalty charge review decision to the First Tier (Residential) Tribunal; the Tribunal can then quash, confirm, or vary the Penalty Charge Notice (but cannot increase the penalty charge).
- 10) The operation of the Penalty charge notice is suspended until the tribunal has determined the appeal.
- 11) Where a landlord appeals to the First-tier (Residential) Tribunal, the operation of the penalty charge notice is suspended until the appeal is finally determined or withdrawn.
- 12) Appeals to the First Tier Tribunal can be made online here: <https://www.gov.uk/government/collections/residential-property-first-tier-tribunal-forms>

Reduction in Penalty for prompt payment

- 13) Penalty Charge Notices must be paid within 28 days of service however; if the offender pays the penalty within 14 days from the date of the penalty charge notice a discount of 20% will be applied.

Suspension / revocation of a notice

- 14) Any notice served on a landlord under the regulations may be amended, suspended, or revoked in writing at any time. If a remedial notice is suspended and the Council decides to re-instate this once the compliance period has run out or is shortly about to, the notice would be reissued to start a new 28 day compliance period.