



Policy and Resources Committee – 18 January 2016

Changes in Housing Legislation

Purpose of report

This report advises members of new legislative requirements relating to retaliatory eviction and the requirement for landlords to install carbon monoxide (CO) and smoke alarms.

1.0 Background

- 1.1 Privately rented properties make up an important part of the housing mix within our district. The provision of well managed and looked after privately rented properties is key and recently a number of changes have been made by the government to bring into force legislation which requires landlords to provide smoke alarms (and in some circumstances CO alarms) for rented properties.
- 1.2 Additionally, legislation has been introduced which gives tenants protection from Retaliatory Eviction in some circumstances. Both of these changes occurred on 1 October 2015.

2.0 Retaliatory Eviction

- 2.1 On 1 October 2015 a number of provisions in the Deregulation Act 2015 came into force which affects tenancies commencing on or after that date. These provisions are designed to protect tenants against unfair eviction. From 1 October, where a tenant makes a genuine complaint about the condition of their property that has not been addressed by their landlord, their complaint has been verified by a local authority inspection, and the local authority has served either an improvement notice or a notice of emergency remedial action, a landlord cannot evict that tenant for six months. The landlord is also required to ensure that the repairs are undertaken.
- 2.2 The above restrictions relate to Section 21 Notices of eviction only and do not prohibit the landlord from taking action should other conditions of the tenancy be breached. A Section 21 Notice gives the landlord the right to reclaim the property at any time without giving a reason once the fixed term of tenancy has expired. A Section 8 Notice would be used to seek possession of the property on a number of grounds such as anti social behaviour or non payment of rent, and can still be used.
- 2.3 Should a complaint of retaliatory eviction be received from a tenant, then an authorised officer of the Council could investigate and, where appropriate, take proceedings against the landlord.

3.0 CO and Smoke Alarms

- 3.1 On 1 October 2015, The Smoke and Carbon Monoxide Alarm Regulations 2015 came into force. The regulations require that a smoke alarm is installed by the landlord on every floor of privately rented accommodation. Where an appliance that uses solid fuel is installed (such as a woodburning stove or an open fire) a CO alarm must be provided in the room where the appliance is installed. Whilst it is not intended at the current time to carry out individual inspections to determine whether there are alarms in place, Officers will react to complaints from residents and will also carry out checks as part of planned inspections.

- 3.1 Where such alarms are not fitted, the local authority has powers to serve notice under The Smoke and Carbon Monoxide Regulations 2015, which require the landlord to install the necessary alarms within 28 days of the issue of that notice. Once a notice is served, checks will be made on the property on the 29th day to ensure the alarms have been fitted.
- 3.2 Where alarms have not been fitted, the Local Authority now has powers to install the alarms once the notice period has expired and issue a penalty charge to the landlord of up to £5,000. The authority must serve notice of its intention to impose such a charge on the landlord and advise them of various factors as stated in the legislation, such as the amount of the charge and the payment period.
- 3.3 A reduction in the penalty charge can be applied if the landlord makes payment or written representation to the local authority within 14 days of the service of that penalty charge notice. The authority must consider any written representations before determining if a reduction will be applied.

4.0 Equality and Diversity Implications

- 4.1 An initial Equality Impact Assessment has been completed following the introduction of this new power. There are no negative impacts assessed that require a detailed assessment to take place.

5.0 Legal Implications

- 5.1 Were the powers for retaliatory eviction and smoke and CO alarms not adopted, then this authority would be unable to take enforcement action in respect of complaints about these matters.

6.0 Resource and Financial Implications

- 6.1 Section 12 of The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 stipulates how to recover the monetary penalty if it is not paid. A certificate signed by the Chief Finance Officer stating that the amount due has not been paid will provide conclusive evidence of that fact to the court who will issue a formal court order requiring payment.
- 6.2 Sums received by the authority from the monetary penalty may be used by the authority for any of its functions.

7.0 Constitutional Implications

- 7.1 In order for officers to begin taking action under the new requirements and to use the powers provided, members are required to adopt these powers into the Council's constitution. Delegation for this function is recommended to the Executive Director, Head of Environmental Services, Environmental Protection Manager and the Housing Technical Officers.

8.0 Corporate Outcomes

- 8.1 The adoption of this duty contributes to the following Corporate Outcomes:
- Good Quality of Life – Safe and Healthy. To improve the quality of life for private rented sector tenants by ensuring adequate protection in respect of smoke and carbon monoxide.
 - High Quality Service Delivery – to ensure our customers are benefitting from the most up to date and relevant guidance and legislative changes.
 - Good Quality of Life – Prevention from retaliatory eviction for vulnerable tenants.


9.0 Recommendations

9.1 That the Monetary Fee to be imposed be set as £5,000, unless otherwise determined by the Head of Environmental Services, in consultation with the Chairman of the Policy and Resources Committee.

(Reason – To comply with government guidance.)

9.2 That the Council be recommended to adopt Section 33 of the Deregulation Act 2015 and The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 and delegate authority to the Executive Director, Head of Environmental Services, Environmental Protection Manager and Housing Technical Officers to undertake the new functions.

(Reason – To ensure legislative compliance and that the appropriate governance framework is in place within the Constitution.)

Legal	Power: Deregulation Act 2015 The Smoke and Carbon Monoxide Alarm (England) Regulations 2015				
	Other considerations:				
Background Papers: Equality Impact Assessment – New Housing Legislation (available on request)					
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