



## Policy and Resources Committee 25 April 2016

### Statement of Principles – the Smoke and Carbon Monoxide Alarm Regulations 2015

#### Purpose of report

This report is intended to support the introduction of a Statement of Principles that is required to be published to allow East Northamptonshire Council to use the newly adopted powers under the Smoke and Carbon Monoxide Alarm Regulations 2015.

#### Attachment:

#### Appendix 1: Statement of Principles

#### 1.0 Background

1.1 In January 2016, a report was presented to this committee outlining changes in legislation that allow the council to take action against private landlords where smoke or carbon monoxide (CO) detectors are not fitted into tenanted properties. The report was supported by the committee and passed to full council for final approval, which was given on 24 February 2016. A Statement of Principles is required that sets out how the council will consider enforcement action, and the level of fines.

#### 2.0 The Smoke and Carbon Monoxide Alarm Regulations 2015

2.1 The Smoke and Carbon Monoxide Alarm Regulations 2015 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 carbon monoxide alarm must be provided in the room where the appliance is installed. Where such alarms are not fitted, the local authority has powers to serve Notice, which requires the landlord to install the required alarms within 28 days of the issue of the Notice.

2.2 Where alarms have not been fitted, powers are available to allow the council to install the alarms and issue a penalty charge of up to £5,000 to the landlord. In January 2016, the committee agreed the fine should be set at the maximum available of £5,000. A Statement of Principles outlining how that penalty will be applied is attached as Appendix 1.

#### 3.0 Important issues to consider

3.1 The adoption of the Act and the setting of the maximum fine level have already been approved by this committee and by full council.

#### 4.0 Equality and Diversity Implications

4.1 There are no equality and diversity implications arising from the proposals; in fact the publishing of a Statement of Principles will ensure the penalty is applied fairly where needed.

#### 5.0 Legal Implications

5.1 A Statement of Principles should be provided to ensure compliance with the legislation.

#### 6.0 Risk Management

6.1 If the committee decides that the Statement of Principles should not be adopted then the

council will be unable to enforce the requirements of the legislation. Publication of the Statement of Principles will ensure compliance with the legislation.

## 7.0 Resource and Financial Implications

7.1 There are no resource or financial implications arising from the proposals.

## 8.0 Constitutional Implications

8.1 There are no additional constitutional implications arising from this report.

## 9.0 Customer Service Implications

9.1 There are no additional customer service implications arising from this report. The Statement of Principles will be published on the council web site and will be available to landlords on request.

## 10.0 Corporate Outcomes

10.1 The publishing of the Statement of Principles will ensure the following corporate outcomes are achieved:

- 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.

## 11.0 Recommendation

11.1 The Committee is recommended to

- (1) Agree the adoption and publication of the Statement of Principles as attached in Appendix 1. *(To accord with legislation and provide consistency with the previous decision to adopt the Regulations)*

<b>Legal</b>	Power: The Smoke and Carbon Monoxide Alarm Regulations 2015				
	Other considerations:				
<b>Background Papers:</b> Policy and Resource Committee minutes of January 29 <sup>th</sup> , 2016.					
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Date: 4 <sup>th</sup> April 2016					
<b>CFO</b>		<b>MO</b>		<b>CX</b>	

**The Smoke and Carbon Monoxide Alarm (England) Regulations 2015**  
**Statement of Principles**

This statement is required under Regulation 13 of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (the Regulations) and relates to matters that East Northamptonshire Council (the Council) must have regard to in determining the amount of any penalty charge issued under Regulation 8 of the same Regulations.

The Regulations allow the Council to issue Penalty Charge notices where a relevant landlord has failed to take all reasonable steps to comply with a Remedial Notice. Such notices allow 28 days to:

1. Fit one or more smoke alarms in an occupied rented property.
2. Fit a carbon monoxide detector to a room with a solid fuel burning combustion appliance.
3. Take steps to check that each smoke or carbon monoxide alarm required by Regulations is working correctly at the start of a new tenancy.

In determining the amount of any penalty charge, the Council takes into account the following principles:

**Financial penalty**

Landlords issued with a Penalty Charge Notice have already been given 28 days to comply with statutory requirements that they should have complied with at their properties prior to such a notice being served. It is not enough to recover the cost of completing the works as this in itself does not deter inaction that puts tenants' lives at risk. The financial penalty should be set at an amount to ensure that those landlords who fail to comply with the law are sufficiently penalised.

The amount of financial penalty is set at £1,000 for the first offence and £5,000 for any subsequent offence, including where it can be established that the landlord has been issued with a Penalty Charge Notice from another local authority under the same provisions.

This amount is modified by the mitigating provisions noted below.

**Mitigating factors**

The Council agrees to reduce the amount of the financial penalty element of the Penalty Charge in the following circumstances:

**1. Early payment.**

Where a relevant landlord issued with a Penalty Charge Notice makes payment within 14 days of the service date, the financial element of the Penalty Charge will be reduced by £500.

**2. Discretion by the Head of Environmental Services in agreement with the Chair of Policy and Resources Committee.**

A landlord may write to the Head of Environmental Services within 28 days of the date of the Penalty Charge Notice being served, requesting a review. Such a request should include such information as appropriate as to why he/she should not be required to pay the Penalty Charge. The Head of Environmental Services, in agreement with the Chair of the Policy and resources Committee, may confirm, vary or withdraw the Penalty Charge Notice.