

WESTMINSTER CITY COUNCIL

STATEMENT OF DECISION

SUBJECT: SMOKE AND CARBON MONOXIDE ALARM (ENGLAND) REGULATIONS 2015

Notice is hereby given that the Cabinet Member for Housing has made the following executive decision on the above mentioned subject for the reasons set out below.

Summary of Decision

1. That the Cabinet Member for Housing approved the Statement of Principles for determining financial penalties under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015.
2. That the Cabinet Member for Housing agreed that the Statement of Principles be uploaded to the website and included in publication lists for the authority.
3. That the Cabinet Member for Housing agreed that the Statement of Principles be reviewed on a regular basis or as the need arises from factors such as First Tier Property Tribunal appeals.
4. That the Cabinet Member for Housing agreed the full proposed Statement of Principles as enclosed in Appendix A of the report and the summary table of the proposed charges as shown below:

| Proposed Charges | Level Of Penalty Charge | Reduction for early payment (within 14 days) |
|-------------------------|--------------------------------|--|
| First Offence | £2500 | 50% = £1250 |
| Subsequent Offences | £5000 | 0% (not available) |

5. That the Cabinet Member for Housing noted that the proposals will be implemented from 20 March 2017.

Reasons for Decision

1. Prior to any penalty charge being issued by the local authority, the landlord will have been afforded the opportunity to comply with his duty under the Regulations through the service of a formal remedial notice. The landlord has the opportunity to make written representations against the notice within the 28 day period of compliance, which the Department will consider.
2. If the Council is satisfied that the formal notice has not been complied with within 28 days from the date of service of the notice, then the local authority has a statutory duty under the Regulations to carry out remedial works (the installation of the required alarms).

3. There are no specific provisions in the Regulations which enable the authority to recover the costs of undertaking these works. The Regulations provide that the authority may require the landlord to pay a penalty charge where he has failed to comply with the requirements of the remedial notice.
4. Any penalty charge will include the cost of all the works in default, officer time, recovery costs, administration costs and the penalty or non-compliance. There are a number of properties exempt from these regulations and these are listed in Appendix B of the report.
5. Repeated offences will attract a higher penalty in view of the continuing disregard for the legal requirements and tenant safety by the landlord.
6. A provisional benchmarking exercise was undertaken of a number of local authorities across the country that determined that charges for first offences ranged from £500 to the maximum of £5000 (with 50 % discount being offered for early payment – in line with legislation requirements).
7. If the landlord does not agree with the civil penalty charge they can write to the Council and request a review within 28 days. After that if they remain dissatisfied they can appeal to the First Tier Tribunal. Appeals can be made on the grounds that the decision of the authority to vary or confirm the penalty charge notice was based on factual error, it was wrong in law or was unreasonable for any other reason. The appeal can also be made on the grounds that the amount charged was unreasonable.

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