

DECISION ITEM



REPORT OF	MEETING	DATE	ITEM NO
DEVELOPMENT SERVICES	ENVIRONMENT, HEALTH AND HOUSING COMMITTEE	8 SEPTEMBER 2015	6

THE SMOKE AND CARBON MONOXIDE ALARM (ENGLAND) REGULATIONS 2015

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

The Smoke and Carbon Monoxide (England) Regulations (The regulations) will come into force on 1st October 2015. The regulations require the installation, in tenanted residential properties in the private rented sector, of suitably sited smoke detectors and, in some case, carbon monoxide detectors. Enforcement of the regulations is a duty of the local housing authority which is Fylde Borough Council.

RECOMMENDATION

1. That the council's functions under The Smoke and Carbon Monoxide Alarm (England) Regulations be delegated to the Director for Development Services.

CORPORATE PRIORITIES

To Promote the Enhancement of The Natural & Built Environment (Place)		To Encourage Cohesive Communities (People)	√
To Promote a Thriving Economy (Prosperity)		To Meet Expectations of our Customers (Performance)	

SUMMARY OF PREVIOUS DECISIONS

No previous decisions

REPORT

1. The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (The regulations) will come into effect on 1st October 2015.
2. The regulations apply to premises that are occupied under a residential tenancy or licence. It is estimated that there are more than 6,500 units of rented accommodation in the Fylde

Council area to which these regulations will apply. They require the provision of a smoke alarm on each storey of the premises on which there is a room that is used as living accommodation. They also require the installation of a carbon monoxide alarm in any room of the premises which is used as living accommodation and contains a solid fuel combustion appliance. It is also a requirement of the regulations that any alarm that is required to be fitted is checked at the start of a new tenancy to ensure it is properly working.

3. The regulations apply to the relevant landlord of the premises and there are a number of types of tenancies that are excluded from the regulations. The exclusions include; properties for which the landlord is a registered provider of social housing, accommodation that is shared with the landlord, hostels and refuges, student halls of residence, care homes, hospitals hospices and other healthcare accommodation.
4. The duty to enforce the regulations is given to the local housing authority which for this area is Fylde Borough Council. Any enforcement action needs to be taken under procedures as laid out in the regulations. If a breach of the regulations is found the council must serve a remedial notice on the landlord and the notice must include details of the breach and the remedial actions required to remedy the breach. Twenty eight days must be allowed for the landlord to take action and the notice must also advise the landlord of the right to make representations against the notice. It must also advise of the penalty charge that may also be imposed.
5. If the landlord fails to take all reasonable steps to comply with the remedial notice it becomes a requirement of the regulations that the council must itself take the remedial action that the landlord has failed to carry out. The council is also obliged to take all reasonable steps to arrange remedial action within 28 days of the need to do so.
6. If a landlord fails to comply with a remedial notice the council may require, by notice, the landlord to pay a penalty charge which may not exceed £5,000.
7. The penalty charge notice must contain prescribed information including; the amount of the penalty charge and the reasons for its imposition, the amount of work that the council has carried out at the premises, the time within which payment must be made or within which the landlord may ask for a review of the penalty charge. The notice may also offer a reduction of the penalty charge for prompt payment within 14 days. If the landlord on whom a penalty charge notice is served makes a representation the council must consider those representations and decide whether to vary the notice. The landlord may exercise a right of appeal to the First Tier Tribunal against the council's decision in relation to the penalty charge.
8. In setting the level of the penalty charge the council must prepare and publish a statement of principles which it proposes to follow. It may revise the statement of principles from time to time but must follow the most recently prepared and published statement of principles at the time when the breach of regulations took place.
9. The regulations do not apply to houses in multiple occupation or other residential premises, which are required to have a licence under parts 2 or 3 of the Housing Act 2004. The regulations require that the council must include in the mandatory conditions attached to such licences, similar requirements as imposed by the regulations on other occupied tenanted premises.
10. The statement of principles which is to be followed in determining the amount of a penalty charge will be prepared and published by the Director of Development Services. The statement will include; the level of the penalty having regard to factors such as the turnover and scale of the operation of the landlord, the expected awareness of the requirements of the regulations particularly in the time immediately following their introduction, the amount and costs of remedial work undertaken by the council.

IMPLICATIONS	
Finance	There may be additional expenditure incurred by the requirement to take remedial action in the event of non-compliance. Any additional expenditure can be recovered by the imposition of a penalty charge. Additional income may also be provided if penalty charges are levied at a level which is above the actual costs incurred. It is estimated that there are more than 6,500 units of rented accommodation to which the regulations will apply. The impact on staff time and workload is as yet unknown.
Legal	A duty to enforce The Regulations is placed on the council.
Community Safety	None
Human Rights and Equalities	None
Sustainability and Environmental Impact	None
Health & Safety and Risk Management	None

LEAD AUTHOR	TEL	DATE	DOC ID
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LIST OF BACKGROUND PAPERS		
Name of document	Date	Where available for inspection