

# Southend-on-Sea Borough Council

Report of Deputy Chief Executive (People)

to

Cabinet

on

14<sup>th</sup> March 2017

Report prepared by: Andrew Fiske  
Housing Group Manager

Agenda  
Item No.

13

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## NEW LEGISLATION REQUIRING PRIVATE SECTOR LANDLORDS TO INSTALL AND MAINTAIN SMOKE ALARMS & CARBON MONOXIDE ALARMS

Relevant Scrutiny Committee: Policy and Resources  
Executive Councillor: Councillor Flewitt  
*A Part 1 Public Agenda Item*

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### 1. Purpose of Report

- 1.1 To update Members on new legislation and regulations which have come in to force which places new duties on relevant landlords to provide and maintain smoke and carbon monoxide (CO<sup>2</sup>) alarms in privately rented properties.
- 1.2 The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 place a duty on Local Housing Authorities (LHAs) to serve a remedial notice where the required alarms are not in place and carry out works in default. LHAs are also empowered to issue penalty charge notices of up to £5,000 where remedial notices are not complied with. The LHA must publish a 'Statement of Principles' which it will follow when determining the amount of a penalty charge (Appendix 1). The LHA may keep any monies received, however must give the landlord opportunity first to complete the remedial works requested.

### 2. Recommendations

That Cabinet agrees that all the enforcement powers under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 be delegated to both the Deputy Chief Executive (People) and the Director of Adult Services and Housing and that paragraph 4.7 of the Scheme of Delegation in Part 3 Schedule 3 to the Constitution be amended accordingly.

### 3. Background

- 3.1 With the growing numbers of households renting in the Private Rented Sector (PRS) there has been pressure for improvements to be made to fire detection requirements as the requirements on single occupancy lets are less than those on Houses in Multiple Occupation (HMOs) both licensed and unlicensed.

- 3.2 The Regulations require that at least one smoke alarm is installed on every storey of a rented property and that a CO<sup>2</sup> alarm is installed in any room which contains a solid fuel burning appliance (excluding gas boilers). Landlords will also be required to ensure all alarms are in proper working order at the start of each new tenancy.
- 3.3 CO<sup>2</sup> alarms have not previously been mandatory whilst the requirement for provision and testing of smoke alarms has regularly been passed from landlords on to their tenants via the tenancy agreement.
- 3.4 To coincide with the enforcement of the Regulations, the Government is providing funding to Fire Services throughout England for free smoke alarms to be made available to rented or owner occupied homes.
- 3.5 Given that smoke alarms have been widely available to landlords for free, and that the new Regulations have been well publicised in the national media as well as via the Council's own Landlords' Forum, it is proposed that any penalty charge should be at the maximum of £5,000. Further details on how this is proposed to be followed are outlined in Appendix 1 being the Council's proposed 'Statement of Principles', which will need to be made publicly available in leaflets and on the Council's website.
- 3.6 Hopefully the majority of landlords will comply, therefore the Council would only need to serve a very small number of remedial notices which will be very easy for a landlord to comply with. If compliance is achieved, then the penalty charge cannot be served. This means that any revenue gained from the enforcement of this new Regulation is likely to be minimal, if any at all.
- 3.7 In addition, whilst penalties may be up to a maximum of £5,000, the cost of appealing is nominal – usually set at £155 (paid to the Tribunal not the Council) therefore it is highly likely that any charge could be appealed. Therefore any penalties would cover the Council's costs.

#### **4. Other Options**

- 4.1 The Council has no alternative but to comply with the Regulations, but it may decide not to introduce a penalty charge. However without the threat of a penalty charge it would weaken the Council's position to enforce the Regulations.

#### **5. Reasons for Recommendations**

- 5.1 The Council has a legal responsibility to meet these new Regulations and Officers need to have Members agreement to introduce penalty charges if a landlord is in breach of the Regulations.

#### **6. Corporate Implications**

- 6.1 Contribution to Council's Vision & Corporate Priorities

Safe, Clean, Healthy, Prosperous, Excellent

This new legislation is intended to result in improvements to fire and carbon monoxide detection safety throughout England and where landlords comply or are made to comply will increase safety.

## 6.2 Financial Implications

The proposals outlined in this Report could generate some additional income as the new regulations are enforced and where landlords fail to comply but it's likely to be cost neutral.

## 6.3 Legal Implications

The Council has a statutory duty to enforce these new regulations. The Council needs to determine a policy or 'Statement of Principles' for the level of penalty charges and this can be seen in Appendix 1.

As penalty charges could be appealed to the First Tier Tribunal where the service responsible for issuing it would be required to defend the appeal and given the quasi-judicial nature of the Tribunal Service, it is likely to also require Legal Officer time as is the case for other Housing Act enforcement cases.

## 6.4 People Implications

It is not anticipated that the impact of these new regulations will have a significant impact on staff resources.

## 6.5 Property Implications

There are no property implications arising from this Report.

## 6.6 Consultation

There is no need to consult externally on these proposals.

## 6.7 Equalities and Diversities Implications

None identified

## 6.8 Risk Assessment

There are no significant risks to the Council arising from this Report as it is the landlords' responsibility to ensure that their properties meet these new Regulations.

## 6.9 Value for Money

None arising from this report

## 6.10 Community Safety Implications

None arising from this report

## 6.11 Environmental Impact

None arising from this report

## 7. Background Papers

- Section 150 (2) of the Energy Act 2013
- The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

## 8. Appendices

Appendix 1 – Proposed statement of principles & procedure for the level of the fine.