

Ref:

Called in

Yes/No

THE THANET DISTRICT COUNCIL

RECORD OF DECISION OF CABINET

Name of Cabinet Member:

Relevant Portfolio:

Date of Decision:

Subject:

Key Decision In Forward Plan

Brief summary of matter:

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 introduced new enforcement responsibilities for Thanet District Council.

The regulations require private sector landlords to:

- Provide at least one smoke alarm on every storey of each of their rented properties;
- Provide a carbon monoxide alarm in every room which contains a solid fuel burning appliance; and
- Ensure that such alarms are in proper working order at the start of each new tenancy.

Failing to comply with the regulations may result in a penalty charge being imposed by the council. The setting of penalty charge amounts is at the discretion of the council; however, there is a statutory maximum of £5,000.

Before any penalty charges can be imposed, the council must first prepare and publish a statement of principles which it will follow when determining the amount of a penalty charge.

Decision made:

Cabinet agreed to adopt the following Statement of Principles and Schedule of Penalty Charges:

Statement of Principles

- Fires and carbon monoxide have the potential to cause serious injury and death.
- Non-compliance with The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (“the Regulations”) is a serious matter.
- Therefore, Thanet District Council will impose penalty charges in accordance with the Regulations.
- Penalty charges should be proportionate to the potential harm arising from non-compliance.

- No penalty charge may exceed the statutory maximum of £5,000.
- Penalty charges should be punitive in nature and not just cover the cost of remedial works, officer time, recovery expenses and administration.
- All penalty charges should represent a significant financial deterrent.
- In the interests of proportionality, the first penalty charge notice served on a landlord should be at a lower level than that for any subsequent penalty charge notice served on the same landlord.
- In order to encourage prompt payment, the penalty charge should be subject to a 50% discount if paid within 14 days of the service of the penalty charge notice.

Schedule of Penalty Charges

- First penalty charge notice: £2,500 (or £1,250 if paid within 14 days of the date of service of the notice).
- Any subsequent penalty charge notice served on a landlord who has previously been subject to such a notice: £5,000 (or £2,500 if paid within 14 days of the date of service of the notice).

Reasons for decision:

The council is under a mandatory duty to enforce the regulations. Before doing so, the council must first prepare and publish a statement of principles which it will follow when determining the amount of a penalty charge. The council must also determine the amount of penalty charges that will be imposed in carrying out its duties.

Alternatives considered and why rejected:

While the council was under a duty to prepare and publish a statement of principles, the setting of penalty charge amounts was at its discretion. It could therefore have adopted an alternative schedule of charges.

The council considered the proposed charges to be reasonable in the circumstances, and not unduly excessive or lenient. The proposed penalty charges are also similar to those adopted or proposed by the majority of other Kent local housing authorities. As such, adopting an alternative schedule of charges was not considered to be appropriate at this time.

Details of any conflict of interest declared by any executive Member who has been consulted and of any dispensation granted by the Standards Committee:

None

Author and date of Officer report:

Richard Hopkins, Housing Regeneration Team Leader

Background papers

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

Statement if decision is an urgent one and therefore not subject to call-in:

Not applicable

Last date for call in:

27 June 2016