

Manchester City Council - Statement of Principles

In accordance with Regulation 13 of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (S.I. 2015 No. 1693) (the 'Regulations')

Introduction

Manchester City Council (the 'Council') has prepared and published this statement of principles which it will follow when determining the penalty charge payable under the Regulations. This Statement of Principles has been developed in accordance with the Council's Enforcement Policy.

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

If the Council has reasonable grounds to believe a landlord is in breach of one or more of the following duties, the Council will serve a Remedial Notice on the landlord.

The duties are that:

- (a) during any period beginning on or after 1st October 2015 when the premises are occupied under the tenancy—
 - (i) a smoke alarm is equipped on each storey of the premises on which there is a room used wholly or partly as living accommodation;
 - (ii) a carbon monoxide alarm is equipped in any room of the premises which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance; and
- (b) checks are made by or on behalf of the landlord to ensure that each prescribed alarm is in proper working order on the day the tenancy begins if it is a new tenancy.

The Remedial Notice will specify what remedial action the landlord is required to undertake and specify a timescale in which the landlord must comply with the notice.

If satisfied the landlord has failed to comply with the Remedial Notice, the Council will make arrangements to undertake the remedial actions specified in the notice.

The Council may also serve a Penalty Charge Notice (PCN) requiring the landlord to pay a penalty charge of such an amount as the authority may determine. The amount will be determined in accordance with this Statement of Principles however it must not exceed £5,000.

Determining the Penalty Charge

The charge will cover all costs likely to be incurred by Manchester City Council in enforcing this legislation, which will include costs associated with:

- Serving the Remedial Notice
- Considering the landlord's representations, if any
- Serving the Notice of Remedial Action
- Carrying out the Work in Default - number and type of alarms, contractors, officer time etc.

- Serving the Penalty Charge Notice
- Reviewing the PCN, if requested
- PCN Review Decision Notice
- Other costs (mileage, administration etc.)

The charge will also include a penalty over and above the costs associated with the legal process and the completion of works.

The maximum penalty charge will be £5,000. Cases likely to attract the maximum penalty charge are likely to involve a history of non-compliance, failure to improve following advice or any other aggravating factors consistent with the Council's Corporate Enforcement Policy.

Determining the Penalty Charge Following a Review

Landlords served with a PCN are entitled to make a written request to the Council for a review of the PCN under Regulation 9.

The Council will consider all such representations in accordance with Regulation 10 and will decide whether to confirm, vary or withdraw the penalty charge notice, then notify the landlord of its decision by serving a PCN Review Notice.

If the Council is satisfied that the decision to serve the penalty charge notice was wrong in law, the Council will withdraw the Penalty Charge Notice.

If the Council is satisfied that the decision to serve the penalty charge notice was based on an error of fact, the Council will consider varying or withdrawing the Penalty Charge Notice.

In exceptional circumstances, when the landlord's representations demonstrate the amount of the penalty charge is unreasonable or the decision was unreasonable for any other reason, the Council will consider varying or withdrawing the Penalty Charge Notice.

Factors that will be considered include:

- The costs incurred by the Council in relation to exercising their powers and performing their duties under these Regulations at the premises concerned.
- Whether the information provided for this review could have been provided prior to the PCN, for example, in making representations following the Remedial Notice.
- Any history of failing to comply with Council guidance or any legislation relating to housing.
- Other factors detailed in paragraph 6.1(d) of the Council's Corporate Enforcement Policy