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| <b>SUBJECT:</b>            | <i>The Smoke and Carbon Monoxide Alarm (England) Regulations 2015</i>  |
| <b>REPORT OF:</b>          | <i>Healthy Communities Portfolio – Cllr Graham Harris</i>  |
| <b>RESPONSIBLE OFFICER</b> | <i>Martin Holt, Head of Healthy Communities</i>  |
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| <b>WARD/S AFFECTED</b>     | <i>All</i>   |

### 1. Purpose of Report

To update Members on the implications of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015; to seek approval to amend the Scheme of Delegation and prepare a Statement of Principles in respect of the power to impose a Penalty Charge for failure to comply with a remedial notice.

#### RECOMMENDATIONS:

1. That the requirement for residential landlords to install smoke and carbon monoxide alarms in their rented properties be noted.
2. That Cabinet agree to give delegated authority to the Head of Healthy Communities to enforce the Regulations and the Scheme of Delegations be amended accordingly.
3. That Cabinet authorise the Head of Health and Housing to prepare and agree a Statement of Principles in respect of the fixed penalty charge for failure to comply with a remedial notice in consultation with the Portfolio Holder.
4. That Cabinet agree setting the fixed penalty charge at the maximum amount of £5000 where a landlord has failed to comply with a remedial notice.

### 2. Reasons for Recommendations

2.1 The maximum penalty is considered the most appropriate option for failing to comply with a remedial notice as the duty placed on landlords is not onerous or expensive. Landlords will have been given 28 days' notice in which to comply and the consequences of not complying are potentially serious injury or death.

2.2 Furthermore, Bucks Fire & Rescue Service has promoted the draft regulations during July and August and has also made available free smoke and carbon monoxide alarms to eligible landlords ahead of the regulations coming into force. The Authority has also sought to promote the forthcoming regulations and availability of free alarms to letting agents and landlords

### 3. Content of Report

- 3.1 Regulations have been published requiring private landlords of residential premises to:
- Install smoke alarms on each floor of their rented property
  - Install a carbon monoxide alarms in each room where there is a solid fuel burning appliance
  - Carry out checks to ensure the alarms are in working order at the start of each new tenancy

The regulations come into force on 1 October 2015.

3.2 The Council as local housing authority will enforce the regulations. Where the authority has reasonable grounds to believe that a landlord is in breach of the regulations they must serve a 'Remedial Notice' giving the landlord 28 days in which to comply. Where the local authority is satisfied that a landlord has not complied with a remedial notice, they have a duty to arrange for the required works to be carried out (with the consent of the occupier). They also have a discretionary power to require the landlord to pay a penalty charge of up to £5000.

3.3 A landlord will have a right to request a review of a penalty charge and can appeal to a First Tier Tribunal against the review decision on specific grounds, including that the amount of charge is unreasonable. The local authority may recover the charge under a Court Order. Sums received under a penalty charge may be used by the authority for any of its functions. The local authority must prepare and publish a statement of principles which it proposes to follow in determining the amount of a penalty charge.

#### **4. Consultation**

Not Applicable

#### **5. Options**

5.1 The authority has a duty to enforce the Regulations. However, it has discretion whether to require a non-compliant landlord to pay a fixed penalty charge. The options are therefore:

- Charge the maximum penalty of £5000 in all cases
- Charge a lesser amount, or have a scale of charges for repeated or breaches at multiple properties.
- Not charge a fixed penalty at all.

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

6.1 Finance: The Regulations will be enforced using the existing resources of the Housing Standards team. The regulations allow the authority to use income from fixed penalty charges for any purpose but may need to recover the charge under a court order.

6.2 Legal: The Regulations will confer a mandatory duty on the local authority to take action where they have reasonable grounds to believe there has been a breach.

**7 Links to Council Policy Objectives**

This links to the 'Working towards safe and healthier local communities' aim of the Joint Business Plan 2014-19.

**8. Next Step**

Officers will prepare a Statement of Principles in respect of the Fixed Penalty charge to be agreed with the Head of Healthy Communities in consultation with the Portfolio Holder.

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| <b>Background</b> | None except as referred to in this report |
| <b>Papers:</b>    |   |