



Oadby and Wigston Borough Council

Statement of principles for determining the amount of a penalty charge

Rev – March 2016

As a local authority, Oadby and Wigston Borough Council has a statutory duty to enforce a wide range of laws affecting local businesses and individuals. The Council is committed to fair and effective enforcement, which protects both the economic interest and the health and safety of the public, businesses and the environment.

A corporate enforcement and prosecution policy was adopted by committee on 22 July 2014. This Policy sets out the enforcement options available to the Council when determining breaches of legislation. This statement sets out the principles which the Council proposes to follow in determining the amount of such penalty charges.

Penalty Charge Notices

Where the Council is satisfied that it has evidence of regulatory non-compliance and the breach allows for the Council to require the offender to pay a penalty charge it will issue a penalty charge notice in line with its Statement of Principles . Any penalty charge notice will generally include;

- the reasons for imposing the penalty charge;
- where applicable, the premises to which the penalty charge relates;
- the amount of the penalty charge;
- that the person responsible for the breach is required, within a period specified in the notice –
 - to pay the penalty charge, or
 - to give written notice to the local housing authority that the offender wishes the authority to review the penalty charge notice;
- how payment of the penalty charge must be made;
- any reduction for early payment of the penalty charge;
- where applicable the statutory appeals process;
- the person to whom, and the address (including if appropriate any email address) at which, a notice requesting a review may be sent and to which any representations relating to the review may be addressed; and
- any other information as required by statute.

Any representations to the penalty charge shall be considered by the Environmental Health Team Leader. The Team Leader will review the penalty charge in line with the factors detailed below. All representations will be considered on their own merit.

In any case it will be the responsibility of the recipient to provide sufficient evidence to support their representations.

When any review determines a final amount of penalty and this is not paid the Council will pursue non-payment of the penalty through a court order process.

Policy Review

This Policy shall be subject to an annual review to be conducted by the Environmental Health Team Leader or of Head of Communities.

Statement of Principles for Amount of Penalty Charge under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015

The above regulations require the following:

Information to be published by local housing authority

13.—*(1) A local housing authority must prepare and publish a statement of principles which it proposes to follow in determining the amount of a penalty charge.*

(2) A local housing authority may revise its statement of principles and, where it does so, it must publish the revised statement.

(3) In determining the amount of a penalty charge, a local housing authority must have regard to the statement of principles which was most recently prepared and published at the time when the breach in question occurred.

Therefore Oadby and Wigston Borough Council has set and published the following statement in order to satisfy the above requirements:

The amount of penalty applied shall be a maximum of £5000 based upon a combination of items 1 and 2 below:

1.
 - a) The costs associated with officer time to investigate and enforce the regulations for the specific case, being an hourly rate as calculated by a Financial Officer of the Council to include the overhead costs for the officer time;
 - b) The cost to purchase and equip the property with appropriate alarms;
 - c) A deterrent element as set out below.

2. The amount of deterrent element of the penalty shall be as follows:
 - a) A first offence will attract a penalty of £2500 and the actual cost element (net of vat).
 - b) A second offence will attract a penalty of £4000 to deter non compliance.
 - c) Third and subsequent offences will attract a penalty of the maximum £5000.

Early payment (payment within 14 days beginning with the day on which the penalty charge notice was served) will reduce the deterrent element by 50% for first and second offences only. For third and subsequent offences no early repayment option will be offered. The actual cost element will remain at 100%.

3. Item 1) a – c above shall be used by the Council to offset service costs.

The period within which the penalty charge is payable is 28 days beginning with the day on which the penalty charge notice is served.

Date of Statement: 23rd March 2016