

**Report to the Director of Environment & Housing**

**Date: 18<sup>th</sup> November 2015**

**Subject: Amendments to the Director of Environment & Housing sub-delegation scheme to enforce The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 contained within the Energy Act 2015.**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: n/a Appendix number: n/a	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Summary of main issues**

1. This report sets out proposed amendments to the sub-delegation scheme for the Director of Environment & Housing regarding the introduction of new legislation that improves safety in privately rented properties by ensuring that landlords are compliant with The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 that are incorporated within the Energy Act 2015.
2. All sub-delegations made by the Director of Environment & Housing within the scheme are sub-delegated to officers of suitable experience, competency and seniority.

**Recommendations**

The Director of Environment & Housing is asked to approve the amendments to the sub-delegation scheme as set out in this report.

## **1 Purpose of this report**

- 1.1 The purpose of this report is to seek changes to the sub delegation scheme in order to authorise officers identified in the service to enforce new Government legislation. The new legislation, The Smoke and Carbon Monoxide (England) Regulations 2015 came into force on 1<sup>st</sup> October 2015.
- 1.2 The new scheme means that private rented sector landlords will be required from 1<sup>st</sup> October 2015 to ensure that at least one smoke alarm is installed on every storey of their rented property, and that a carbon monoxide detector is installed in any room which contains a solid fuel burning appliance. They will also require landlords to ensure that such alarms are in proper working order at the start of each new tenancy.

## **2 Background information**

- 2.1 The Constitution of Leeds City Council sets out the Officer Delegation Scheme in respect of council functions and executive functions. The Officer Delegation Scheme includes the power for officers to delegate further any function which has been delegated to them under the scheme, to another officer or officers of suitable experience, competency and seniority.
- 2.2 Each Director and Chief Officer listed in Article 12 of the Constitution must prepare a sub-delegation scheme which sets out which officers will be given authority to make decisions under the Director or Chief Officer's delegated powers and subject to which terms and conditions. Sub-delegation schemes must be lodged with the Head of Governance Services.
- 2.3 Whilst Directors and Chief Officers may authorise other officers to take delegated decisions, the decision is still the personal responsibility of the Director or Chief Officer.
- 2.4 With effect from 27<sup>th</sup> May 2010 the making or amendment of a sub-delegation scheme is a Significant Operational Decision and must therefore be recorded on a Delegated Decision Notification, and will be published on the Council's website.

## **3 Main issues**

- 3.1 A range of activities are already successfully undertaken by the Council in order to regulate housing conditions in the private rented sector (PRS). These existing practices include a raft of enforcement powers that ensure that private landlords are required to maintain their properties to a satisfactory standard.
- 3.2 The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 has been introduced by the Government specifically to improve safety in private rented homes. The intention is to increase the fire safety of all privately rented accommodation and improve consumer confidence in the market.

- 3.3 The requirement is to be enforced by local authorities and specific guidance is provided by Government. The enforcement authority is required to issue a remedial notice where they have reasonable grounds to believe a landlord has not complied with one or more of the requirements. The landlord must comply with the notice within 28 days. If they do not, the local authority MUST carry out the remedial action (where the occupier consents) to ensure the requirements in the regulations are met and can issue a civil penalty of up to £5,000.
- 3.4 There is no guidance on how the remedial works should be completed or the level of penalty to impose. Officers are expected to determine appropriate levels and although this income can be retained by the local authority it is also subject to appeal so must be “proportionate and reasonable”.
- 3.5 The existing Directors Sub Delegation Scheme now needs to be amended to include this new piece of legislation. This will ensure that the relevant enforcement staff within private sector housing are effectively authorised to implement the new Order and recover financial penalties.
- 3.6 The main aim of these new regulations is to raise basic safety standards in homes within the private rented sector. Previously, the only way for local authorities to improve fire safety was through implementation of the Housing Act 2004 but these new regulations provide an additional tool that will be particularly useful in smaller properties.
- 3.7 Thorough consultation and engagement has already taken place with the various landlord associations in order to raise awareness of this new legislation. It is also intended to carry out widespread publicity in the city to ensure all parties are aware of their responsibilities and it is hoped that the vast majority of landlords in the city will readily comply with the requirement. Also, as many landlords have properties in neighbouring authorities, officers have undertaken discussions with those authorities to ensure a consistent approach.

## **Corporate Considerations**

### **3.8 Consultation and Engagement**

- 3.8.1 The decision to amend the sub-delegation scheme does not require public consultation or engagement. However the revised scheme will be published on the Council’s intranet.
- 3.8.2 Full consultation has taken place with key stakeholders, including Legal services to clearly set out enforcement processes and debt recovery procedures.

### **3.9 Equality and Diversity / Cohesion and Integration**

- 3.9.1 There are no implications for equality and diversity or cohesion and integration arising from the amendments recommended in this report.

### **3.10 Council policies and City Priorities**

3.10.1 Principle 2 of the Code of Corporate Governance (Part 5 (k) of the Constitution) states that the Council will have clear responsibilities and arrangements for accountability. In order to achieve this, the Council needs up to date and accurate schemes of delegated executive and council responsibilities to Directors and other appropriate officers.

3.10.2 Therefore, updating the attached sub-delegation scheme will contribute towards this principle.

### **3.11 Resources and value for money**

**3.11.1** There is no resource or value for money implications arising from this report. The capacity required to implement this new legislation will be found within existing resources. The issuing of financial penalty notices for these offences may generate extra income for the Council. However, the level of penalty imposed also needs to cover the cost of all work in default and is also subject to appeal so income generation is likely to be limited.

### **3.12 Legal Implications, Access to Information and Call In**

3.12.1 In accordance with Part 3 of the Council's Constitution each Director and Chief Officer named in Article 12 has the authority to sub-delegate any of their functions to officers of suitable experience and seniority. However the officer to whom the delegation has been made in the Constitution remains responsible for any decision taken pursuant to such arrangements.

3.12.2 The approval of this sub-delegation scheme will ensure that it is documented and made available for public inspection during normal office hours and that the public has the right to copy or to be provided with a copy of any part of that record.

3.12.3 The decision to approve amendments to this sub-delegation scheme is not eligible for Call-In as it is not a Key or Major decision.

### **3.13 Risk Management**

3.13.1 Ensuring that the Director of Environment & Housings Sub Delegation Scheme is amended to take account of this new legislation reduces the risk of decisions being taken without the correct authority.

## **4 Recommendations**

4.1 The Director of Environment and Housing is asked to approve the amendments to the sub-delegation scheme set out in Appendix 1 to this report. These are highlighted and can be found in section 2b(i) on page 25 and Schedule 15 on page 54.

## **5 Background documents**

5.1 None.