



Please ask for Rachel Appleyard
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The Chair and Members of Cabinet

11 March 2019

Dear Councillor,

Please attend a meeting of the CABINET to be held on TUESDAY, 19 MARCH 2019 at 10.30 am in Committee Room 1, Town Hall, Rose Hill, Chesterfield, the agenda for which is set out below.

AGENDA

Part 1(Public Information)

1. Declarations of Members' and Officers' Interests relating to items on the Agenda
2. Apologies for Absence
3. Minutes (Pages 3 - 14)

To approve as a correct record the Minutes of the Cabinet meeting held on 26 February, 2019.

4. Forward Plan

Please follow the link below to view the latest Forward Plan.

[Forward Plan](#)

5. Delegation Report (Pages 15 - 16)

Items Recommended to Cabinet via Cabinet Members

Cabinet Member for Health and Wellbeing

6. Sport and Leisure Fees and Charges 2019/2020 (Pages 17 - 32)
7. Change to the waste legislation - householder duty of care fixed penalty notice (Pages 33 - 42)
8. Enforcement Policies (Pages 43 - 102)

Yours sincerely,

A handwritten signature in black ink, appearing to be 'S. Smith', written in a cursive style.

Local Government and Regulatory Law Manager and Monitoring Officer

CABINET

Tuesday, 26th February, 2019

Present:-

Councillor P Gilby (Chair)

Councillors Bagley
Blank
Brunt

Councillors T Gilby
Huckle
Serjeant

Non-voting Catt
Members Dickinson

J Innes

*Matters dealt with under the Delegation Scheme

98 **DECLARATIONS OF MEMBERS' AND OFFICERS' INTERESTS RELATING TO ITEMS ON THE AGENDA**

No declarations of interest were received.

99 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors A Diouf and Ludlow.

100 **MINUTES**

RESOLVED –

That the minutes of the meeting of Cabinet held on 5 February, 2019 be approved as a correct record and signed by the Vice-Chair.

101 **FORWARD PLAN**

The Forward Plan for the four month period 1 March to 30 June, 2019 was reported for information.

***RESOLVED –**

That the Forward Plan be noted.

102 DELEGATION REPORT

Decisions taken by Cabinet Members during January and February, 2019 were reported.

***RESOLVED –**

That the Delegation Report be noted.

103 RE-SIGNING THE DERBYSHIRE ARMED FORCES COMMUNITY COVENANT

The Assistant Director – Policy and Communications submitted a report recommending for approval the re-signing of the updated Derbyshire Armed Forces Covenant.

During 2012, the Council joined with all Derbyshire districts and Derbyshire County Council to sign and adopt an Armed Forces covenant and have worked together to deliver on pledges. The Ministry of Defence, in collaboration with the Royal British Legion, have updated the covenant to better reflect the challenges currently faced by the armed forces community and highlight key areas where local authorities and other partners can provide support.

Members of the Derbyshire Armed Forces Covenant Partnership work together to maximise the Council's impact in these areas and seek external funding to support projects. The partnership had recently been successful in bidding for £50k of external funding to deliver a research project which will provide qualitative and quantitative data about the Derbyshire armed forces community and their needs.

By re-signing the Derbyshire Armed Forces Community Covenant, the Council will continue working with its partners in the Derbyshire Armed Forces Covenant Board to develop an updated action plan to continue to maximise the Council's support for the armed forces community and deliver on community covenant pledges.

***RESOLVED –**

1. That it be recommended to full Council that the Council re-sign and commit to implementing the updated Derbyshire Armed Forces Community Covenant.
2. That the Council works with our partners in the Derbyshire Armed Forces Covenant Partnership to develop an updated action plan to deliver on community covenant pledges.

REASON FOR DECISIONS

To demonstrate our support and commitment to the armed forces community.

104 2019/20 BUDGET & MEDIUM TERM FINANCIAL PLAN

The Director of Finance and Resources submitted a report on the draft General Fund budget. The report included recommendations that would be made to full Council on budget allocations and the Council Tax level for 2019/20.

The original budget for 2018/19 was approved in February, 2018 and predicted a surplus of £56k. Throughout 2018/19 there had been active management of budget variances and regular budget monitoring reports to identify further variances. Due to this strict budgetary control, the updated revised budget for 2018/19 showed an estimated surplus of £162k.

The report also detailed the Local Government Finance Settlement announced in December, 2018 which confirmed the continued reduction of the Revenue Support Grant received by local authorities which will be phased out by 2020/21.

The budget had been prepared assuming a council tax increase of £5 for a Band 'D' property, or 3.13% in percentage terms, which equates to 9.6 pence a week.

Members were informed of the expenditure estimates for the coming financial year as well as the medium term forecasts for 2020/21 through to 2023/24.

***RESOLVED –**

That it be recommended to full Council that:

1. The revised budget for 2018/19 be approved.
2. Delegated authority be granted to the Director of Finance and Resources, in consultation with the Deputy Leader of the Council, to make decisions related to the application of the business rates retail relief scheme.
3. The Collection Fund and Tax Base forecasts be noted.
4. The overall revenue budget summary for 2019/20 be approved.
5. The use of capital receipts to fund the revenue costs of the ICT programme be approved on the basis that implementation of the programme will lead to budget savings.
6. The budget forecasts for 2020/21 and the medium term forecasts, as well as the strategy for addressing the projected deficits, be noted.
7. The estimates of reserves including maintaining the General Working Balance at £1.5m be approved.
8. The budget risks and sensitivity analysis be noted.
9. The recommended £5 increase in the Council's share of Council Tax for a Band 'D' property in 2019/20 be approved.
10. The 2019/20 Council Tax Requirement and financing be approved.
11. The Director of Finance and Resources' assurances be noted.

REASON FOR DECISIONS

In order to meet the statutory requirements relating to setting a budget and the council tax.

The Assistant Director – Policy and Communications submitted a report to recommend for approval the Council Plan for 2019 – 2023.

In 2015, the Council moved to a four year Council Plan which aligned with the medium term financial forecast. This approach had been successful in targeting resources and collective effort on key priorities and delivering positive outcomes for local communities.

A new four year plan had been developed for 2019 – 2023 which defined the Council's key priorities, objectives and commitments over the four year period. A year one delivery plan for 2019/20 had also been developed setting out the key milestones and measures needed to keep the Council Plan on target for delivery. The delivery plan will need to be reviewed annually and approved by Council in February alongside the budget and medium term financial plan.

In addition, a new performance management framework will be introduced to underpin the Council Plan. This framework will measure and demonstrate the Council's success in terms of milestones, outputs, outcomes and measures, and effectively review and challenge performance.

***RESOLVED –**

That it be recommended to full Council that:

1. The Council Plan 2019 – 2023 be approved.
2. The Council Plan 2019/20 delivery plan be approved.
3. The performance management framework be approved. Delegated authority be granted to the Deputy Leader to approve any minor drafting and design changes that may be required in order to improve the readability and accessibility of the plan.

REASON FOR DECISIONS

To provide the Council with a clear statement of its strategic priorities for 2019 – 2023, approve the year 1 delivery plan and establish a new performance management framework to support plan delivery.

The Director of Finance and Resources submitted a report recommending for approval the General Fund Capital Programme for the financial year 2019/20.

The report provided details of the updated expenditure forecasts, new schemes added to the Capital Programme during the last year and progress made on current major schemes. Members were also made aware of the Council's capital financing arrangements, the level of capital receipts and its net financing position.

***RESOLVED –**

That it be recommended to full Council that the updated General Fund Capital Programme expenditure and financing, as detailed in Appendix A of the officer's report, be approved.

REASON FOR DECISION

To update the Council's General Fund Capital Programme and ensure that it is affordable and deliverable over the medium term.

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HOUSING REVENUE ACCOUNT (HRA) - BUDGET 2019/20 TO 2023/24

The Director of Finance and Resources submitted a report presenting the probable outturn on the Housing Revenue Account (HRA) for 2018/19, and the budget estimates for 2019/20 through to 2023/24.

The Council is required to produce a 30 year HRA Business Plan that is financially viable and maintains at least the minimum Decent Homes Standard.

The probable outturn for the HRA in 2018/19 was reported in section 5 of the officer's report.

The financial strategy for the HRA is to deliver a balanced and sustainable budget which is self-financing in the longer term and reflects both the requirements of tenants and the strategic vision and priorities of the Council. The initial budget forecast for 2019/20 was detailed in section 7 of the officer's report.

***RESOLVED –**

1. That it be recommended to full Council that:
2. The probable outturn for the current financial year 2018/19 be noted.
3. The draft budget estimates for 2019/20 and future financial years be approved.
4. The growth request, as detailed in annexe 6 of the officer's report, be approved.

REASONS FOR DECISIONS

1. To enable the council to set the Housing Revenue Account budget for 2019/20.
2. To continue with the financial strategy contained in the Housing Revenue Account Business Plan and self-financing debt settlement arrangements.

108

HOUSING CAPITAL PROGRAMME: NEW PROGRAMME FOR 2019/20 THROUGH TO 2023/24

The Director of Finance and Resources submitted a report seeking approval for the public sector Housing Capital Programme for 2019/20 and provisionally for 2020/21 through to 2023/24.

The overall financing strategy continued to focus on maintaining the Decent Homes Standard, improving non-traditional housing stock, delivering improvements to the estate environment and increasing the development programme of new council housing in the immediate short term.

The Housing Capital Programme had been set in accordance with the profile set out in the stock condition survey carried out by Savills in 2017. Improvements to existing housing stock will include the continuation of the central heating and roof replacement programmes, replacement of aging UPVC windows and installation of external wall insulation to non-traditional and solid wall properties.

In addition, the second phase of environmental improvements at the Barrow Hill London Boroughs Estate will commence in April 2019, a further two former sheltered housing schemes will be refurbished and a new build housing programme will deliver up to 100 units over the 5 year period. The report also detailed the portion of the Capital programme that will be allocated to the Council's operational services division.

***RESOLVED –**

That it be recommended to full Council that:

1. The Housing (Public Sector) Capital Programme for 2019/20 be approved and its procurement, as necessary, be authorised.
2. The Housing (Public Sector) Capital Programmes for 2020/21 to 2023/24 be provisionally approved.
3. The Commercial Services share of the 2019/20 programme be approved.
4. Delegated authority be granted to the Assistant Director – Housing and/or Director of Finance and Resources to transfer funds between programme heads and budgets in order to effectively and efficiently manage the Capital Programme.

REASONS FOR DECISIONS

1. The Council will be able to maintain its 'Decent Homes Standard' targets in line with the Council's Vision and Corporate Plan.
2. The condition of the Public Sector housing stock and its environment will be maintained and improved.
3. To contribute to the aims of the Borough Housing Strategy and to deliver the HRA Business Plan.

109 HOUSING REPAIRS BUDGET 2019/20

The Director of Finance and Resources and Assistant Director – Commercial Services submitted a report recommending for approval the Housing Repairs Budget for 2018/19.

During 2016/17, a detailed review of the way in which the Council delivers future repairs and maintenance programmes was undertaken. As a result, actions were put in place to ensure the long term viability of the Housing Revenue Account. These actions included reducing the Housing Repairs Budget by £500k in 2017/18 and again in 2018/19, and making changes to the tenant repair obligations and repair response times.

Actual savings in the housing repair budgets had exceeded the £500k target for both financial years. This had provided some mitigation against changes in national housing and welfare policy, and will contribute to ensuring the HRA Business Plan remains balanced, sustainable and self-financing in the longer term.

***RESOLVED –**

1. That the Housing Repairs Budget of £8.355m for 2019/20, as detailed in Appendix 1 of the officer's report, be approved.
2. That delegated authority be granted to the Assistant Director - Commercial Services to transfer funds between responsive repairs budget heads in order to effectively manage and respond to fluctuations in tenant-led or weather dependent repairs.

REASONS FOR DECISIONS

1. To permit the required maintenance of the Housing Stock.
2. To contribute to the delivery of a balanced and sustainable Housing Revenue Account, which is self- financing in the longer term.
3. To support the Council's vision and priorities within the Council Plan.

110 SCRUTINY PROJECT GROUP REPORT ON SKILLS

The Lead Member of the Skills Scrutiny Project Group, Councillor Simmons, presented the report and recommendations of the Enterprise and Wellbeing Scrutiny Committee on Skills.

The full report of the Scrutiny Project Group was attached at Appendix 1 to the Cabinet report.

The recommendations had been considered and approved by the Enterprise and Wellbeing Scrutiny Committee on 5 February, 2019. The Committee's recommendations were now required to be considered by Cabinet and a formal response provided to the Enterprise and Wellbeing Scrutiny Committee, in accordance with the Council's Scrutiny Procedure rules.

The Scrutiny Project Group had received excellent support from officers within the Council and had engaged with external stakeholders including careers leads at schools in the borough. Their input had helped to develop the report's recommendations which were focussed on supporting the achievement of objectives within the Council's Skills Action Plan 2017 – 2020 and improving on the excellent work carried out in schools and colleges through the co-funded Enterprise Co-ordinator and the Economic Development team.

***RESOLVED –**

1. That the Cabinet thanks the Enterprise and Wellbeing Scrutiny Committee for the report which highlights an important area of work for the Council and reflects our commitment to driving skills development in the Borough through our support of the Skills Action Plan and continued engagement with key partners and stakeholders.
2. That the Cabinet notes and endorses the recommendations, and acknowledges that the recommendations can be accommodated within the normal work programme and through partners.
3. That the decision to co-fund the Enterprise Co-ordinator post be deferred for consideration as a growth request as part of the budget setting process for 2020/21. The Cabinet recognises the positive impact of the Enterprise Co-ordinator for Chesterfield and that this is currently co-funded for 2 years until 2019/20.

REASONS FOR DECISIONS

1. To improve the capturing of developments that are or will be subject to local labour agreements; and to promote best practice, encouraging smaller developments to get involved in the local skills and employment agenda.

2. To promote consistency and high quality apprenticeships across the borough.
3. To continue the good work currently being undertaken with schools to prepare students for future employment and skills pathways, particularly in preparation for HS2.
4. To encourage the consideration of future impacts, such as HS2 and EU exit, ensuring the skills and employment priorities stay relevant and meet the changing demands.

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CABINET MEETING

19 March 2019

DELEGATION REPORT

DECISIONS TAKEN BY LEAD MEMBERS

Cabinet Member for Economic Growth

Decision Record No.	Subject	Delegation Reference	Date of Decision
21/18/19	Sale of freehold interest in premises at Ringwood Avenue, Newbold	G260L	25 February 2019
<p>Decision</p> <p>(1) That the proposed sale of premises at 2 Ringwood Avenue, Newbold be approved.</p> <p>(2) That the Property Procurement and Contracts Law Manager be granted delegated authority to agree late amendments to the sale.</p>			
<p>Reasons for Decision</p> <p>1. To secure a capital receipt for the Council.</p> <p>2. To enable the conclusion of the sale contract in a timely and efficient manner.</p>			

Cabinet Member for Homes and Customers

Decision Record No.	Subject	Delegation Reference	Date of Decision
22/18/19	Outstanding debts for write off	G100L	1 March 2019
<p>Decision</p> <p>That the debt shown in the officer's report be written off.</p>			
<p>Reasons for Decision</p> <ol style="list-style-type: none"> 1. The company has ceased to trade and the guarantors have gone bankrupt. 2. Enforcement proceedings are not possible. 3. There is no likelihood of obtaining payment of the debt. 4. The debt is less than four years old and therefore the VAT can be reclaimed. 			

For publication

Sport and Leisure Fees and Charges for 2019 – 2020

Meeting:	Cabinet
Date:	19 th March 2019
Cabinet portfolio:	Health and Wellbeing
Report by:	Assistant Director – Health and Wellbeing

For publication

1.0 Purpose of report

- 1.1 To ask Members to approve the proposed fees and charges for 2019 / 20 as outlined in Appendix A that relate to various activities and facilities provided within Queens Park Sports Centre and Staveley Healthy Living Centre.

2.0 Recommendations

- 2.1 That Members approve the proposed fees and charges as detailed in Appendix A, with effect from 1st April 2019.
- 2.2 That the proposals for concessionary charges be approved as outlined in Appendix A and that the concessionary memberships continue as Change4Life.

- 2.3 That the Assistant Director – Health and Wellbeing through delegated authority with the Portfolio Holder for Health and Wellbeing applies appropriate fees and charges to new activities that are introduced during the period covered by this report.
- 2.4 Where there are promotional opportunities to stimulate usage, support the retention of customers and /or to respond to external market forces that the Assistant Director – Health and Wellbeing through delegated authority with the Portfolio Holder applies appropriate fees and charges to maximise these opportunities.

3.0 **Background**

- 3.1 In accordance with the Council`s Financial Regulations, it is necessary for all fees and charges to reviewed annually.
- 3.2 General principles that govern the Councils approach to fees and charges include;
 - 3.2.1 To make a charge wherever non-statutory services benefit an identifiable group as opposed to the entire community.
 - 3.2.2 Fees and charges should aim to recover at least the full cost of the service except where; there is an opportunity to maximise income, or Members determine a reduction or subsidy should be made for a specific reason.
 - 3.2.3 That where charges are reduced from full cost the reason for that reduction is reviewed periodically to ensure it remains valid.
 - 3.2.4 People of low income and / or suffering disadvantage through poverty or social exclusion may be charged less to ensure equal access.

- 3.3 This report reflects the approach taken over the past four years on charging for sport and leisure activities given the need for financial efficiencies to support service sustainability.
- 3.4 The service is committed to delivering affordable and accessible opportunities to engage in physical activity to support the Council's priority of improving health and wellbeing outcomes and reducing inequalities.
- 3.5 Chesterfield has significant areas of deprivation and the Sport and Leisure Service provides a variety of programmes and initiatives that contribute to promoting health and wellbeing for our communities which necessitates the need for discretionary pricing to support the most vulnerable.
- 3.6 The leisure centres alongside all council services continue to work under economic pressures. There is increasing competition locally with low level fees for access due to their operating model; which directly influences the ability of the service to change its fee structure.
- 3.7 It is appropriate for the Council to take a more commercial approach to service delivery to ensure sustainability of service delivery. The need for a balance between competitive pricing, maximising income and community wellbeing priorities will be maintained in the approach to fees and charges outlined within this report.
- 3.8 The service will develop its customer relationship through increasing the use of direct debit to ensure that our payment options for customers are suitable and sufficient to ensure continued good customer care.
- 3.9 Benchmarking has been undertaken to identify charges applied by other sport and leisure providers throughout Derbyshire and in neighbouring counties. This helps to provide some context and background as to the rational that

the service has applied to its proposed fees and charges for 2019 / 20. These are presented in appendix B.

4.0 Issues for Consideration

4.1 Setting the fees and charges for the Sport and Leisure Centre service needs to be sensitive to a range of factors that influence customer choice to consume the services that the centres offer. Given concerns in relation to maintaining income levels to support the sustainability of the services being delivered the proposed fees and charges have reflected upon and taken into account the following;

- 4.1.1 The need to develop income opportunities to work towards a zero subsidy for sports and leisure services, including wider value for money considerations including accessibility, booking arrangements, service quality and membership benefits.
- 4.1.2 The level of fees and charges applied by neighbouring sports and leisure providers and the potential impact of local competition on centre use and membership.
- 4.1.3 The Council's Concessions Policy aligned to the need to support addressing health inequalities in our communities.
- 4.1.4 The need to fulfil customer expectations and develop and deliver new activities to support regular physical activity.

4.2 The approach to fees and charges has been consistent for both centres without any significant areas of market differential. This consistency will remain in place under the recommendations for 2019 / 20.

4.3 Each centre will deliver promotional opportunities to stimulate demand or to support the retention of customers. This will help ensure that the service remains relevant and a sustainable proposition to our customers.

- 4.4 A detailed review of local provider fees and charges has been undertaken, to provide suitable insight to inform our decision making regarding the proposed fees and charges. These are attached within Appendix B. The areas covered include key activities that are comparable to those delivered in Chesterfield in addition to membership costs for other local authority providers and local private sector providers.
- 4.5 The service faces increased inflationary pressures in relation to the cost of operation; consequently it is important to try, as far as is reasonably practicable to offset these pressure through income growth. The overall income budget for the service has been set to achieve an inflationary increase of 3%.
- 4.6 To achieve this increase, the service has assessed its fees and charges and as a result has applied a range of percentage increases on those areas that it is believed can support a price rise. This assessment utilised insight based on competitor analysis, risk of attrition and demand for services and facilities. The net effect of this approach is an overall 3% increase on income; however this does mean that some fees and charges will increase by more than 3%. Details are contained within Appendix A.
- 4.7 The proposed fees and charges have been developed with full consideration for equality impact and the provisions of the Council's Concessions Policy. The Change4Life membership will continue to provide access to reduced fees and charges in line with the corporate concessions policy. There are concessionary prices applied for persons meeting the eligibility criteria detailed in section 5.0 of the Concessions Policy.

5.0 **Human resources/people management implications**

- 5.1 There are no human resource implications within the context of this report.

6.0 **Financial implications**

- 6.1 The proposed fees and charges are anticipated to achieve an overall 3% uplift in income (based on demand remaining consistent with patterns over the previous 12 months) to help address increase inflationary pressures on the cost of operation. In deciding on the increase applied to each activity / facility provided by the service consideration has been given to competition, demand / market value of some services, risk of attrition, equalities and the wider health and wellbeing outcomes for the Borough.
- 6.2 Retention of customers remains a key focus in order to maintain a sustainable service. It is essential that the Sport and Leisure offer remains relevant to our customers so that perceived value for money remains high. This is being addressed in a number of ways to include, but not exclusive to, continuous evaluation of the services offered, partnership working, targeted investment in new technology / equipment, development of new activities and programmes, targeted marketing and promotion and the investment in training, learning and development of staff to deliver the very best experience and customer service.
- 6.3 The analysis of fees and charges has shown that the proposed increases remain consistent with other local providers. Price promotion will be developed where appropriate to support the services ambition to grow its customer base, support the delivery of improved health and wellbeing outcomes and target areas of low use to continue the commitment for a sustainable service.

7.0 **Risk management**

7.1 There is a risk that any significant increase in charges above those proposed could have a negative impact on usage and therefore income. Proposed increases have therefore been carefully considered and are targeted, competitive, market focussed and sensitive.

7.2 The key risks are identified below:

Description of the Risk	Impact	Likelihood	Mitigating Action	Impact	Likelihood
Severe economic conditions	High	Medium	Developing a retention plan to ensure that both centres remain a feasible option for residents of the Borough. Building a quality and attractive programme developing targeted activities towards specific community groups. Regular review of financial performance.	High	Low
Competition	High	High	Pricing and packages for services to offer value for money. Robust retention and promotion plans. Monitoring of external market environment. Continued development of a varied activity programme in line with industry trends and with key stakeholders and partners.	High	Medium

			Proactive outreach to create potential interest.		
Exclusion of groups	Medium	Low	Accessible usage and charging schemes in place. Engagement of community through partnership working and consultation.	Medium	Low

8.0 Equalities Impact Assessment (EIA)

- 8.1 A preliminary Equality Impact assessment has been completed and no group is anticipated to face a disproportionate negative impact. The impacts of the fees and charges proposed have been evaluated in line with the Council's Concessions Policy. There remains concessionary prices applied for persons meeting the eligibility criteria detailed in section 5.0 of the Concessions Policy.

9.0 Alternative options and reasons for rejection

- 9.1 There were a number of options considered in terms of achieving the required net income growth to offset inflationary operating costs. These included a fixed 3% increase on all fees and charges and a higher than 3% increase in an attempt to deliver additional net gain, however these were rejected due to risks associated with adversely affecting demand given market forces and local competition.
- 9.2 The option of not increasing fees and charges was also considered but given the inflationary operational cost pressures that the service faces and the need to ensure a sustainable service this was not deemed to be an acceptable option at this stage.

10.0 **Recommendations**

- 10.1 That Members approve the proposed fees and charges as detailed in Appendix A with effect from 1st April 2019.
- 10.2 That the proposals for concessionary charges be approved as outlined in Appendix A and that the concessionary memberships continue as Change4Life.
- 10.3 That the Assistant Director – Health and Wellbeing through delegated authority with the Portfolio Holder for Health and Wellbeing applies appropriate fees and charges to new activities that are introduced during the period covered by this report.
- 10.4 Where there are promotional opportunities to stimulate usage, support the retention of customers and /or to respond to external market forces that the Assistant Director – Health and Wellbeing through delegated authority with the Portfolio Holder applies appropriate fees and charges to maximise these opportunities.

11.0 **Reasons for recommendations**

- 11.1 To set the fees and charges for Sport and Leisure activities and facilities with effect from 1st April 2019.

Decision information

Key decision number	873
Wards affected	All wards
Links to Council Plan priorities	To improve the health and well-being of people in Chesterfield Borough. To reduce inequality and support the more vulnerable members of our communities.

	To provide value for money services.
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Document information

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Background documents	
These are unpublished works which have been relied on to a material extent when the report was prepared.	
Appendices to the report	
Appendix A	Proposed Fees and Charges
Appendix B	Comparison of Fees and Charges for other service providers in the area

Appendix A - REVIEW OF FEES AND CHARGES FY18 - Charging effective 1st April 2019 to 31st March 2020.

All Income areas	Codes	Activity	Existing FY18	Derbys Average	Proposed FY19
Stock	9101	NTP Swimming badges	£3.60		£3.80
		BG Badges	£3.60		£3.80
Fitness Room - General	9149	Fitness Room (Casual) - Induction - Adult	£6.20	£6.83	£6.50
		Fitness Room (General) - Induction - C4L	£3.00		£3.15
		Card Replacement	£2.00		£2.10
		Shower	£2.00		£2.10
Main Hall Activities	9150	Main Hall Activities - Per badminton court x 1 (45m) - Adult	£9.30	£9.70	£9.75
		Main Hall Activities - Per badminton (45m) - Conc/Jnr	£6.60		£6.95
Activity Parties	9164	Dry side Activity Parties	£90.00		£95.00
Swimming - Juniors	9165	Swimming - Junior	£2.70	£2.75	£2.85
		Swimming - Junior Fun based sessions from...	£2.70		£2.85
		Swimming - Junior Water Rave	£3.70		£3.90
Holiday Activities	9166	Holiday Activities - half day non-member	£7.50		£7.90
		Holiday Activities - half day member	£6.75		£7.10
Playzone	9168	Playzone - Child	£4.40		£4.60
		Playzone - Term time (9-3pm)	£3.50		£3.60
		Playzone - Organisation Hire	£80.00		£84.00
		Playzone - Per Child (Not Private)	£2.80		£2.90
		Playzone 12-24mths New Price	£2.20		£2.30
		Playzone - under 12 mths	£0.60		£0.60
		Playzone- 30mins	£2.00		£2.10
Swimming - Clubs	9169	Main Pool Hire - per lane/hour	£14.80		£15.50
		Small Pool Hire - per lane/hour	£10.00		£10.50
Swimming - Adults	9170	Swimming - Adult	£3.75	£4.18	£3.95
		Swimming - Adult Fun based sessions from...	£3.75		£3.95
		Swimming - Adult Change4Life	£2.70		£2.85
Leisure Pass	9171	Change4Life	£2.60		£2.75
Squash	9172	Squash - per court - Full	£8.40	£8.20	£8.85
		Squash - per court - Junior/Conc	£6.40		£6.75
		Squash Off Peak - per court (Promotional price used with disgression)	£6.20		£6.50
Fitness Room - Casual	9175	Fitness Room (Casual) - PAYP - Adult	£6.20	£6.83	£6.50
		Fitness Room (Casual) - PAYP - Conc/C4L	£3.00	£4.10	£3.15
Outdoor Synthetic Pitch	9176	Outside Pitch - (1hr)	£32.50		£32.50
		Outside Pitch - (1hr) - (Promotional price used with disgression)	£29.50		£29.50
	9177	Health Spa - (2hrs)	£5.00		£5.25
Main Hall - School Use	9202	Main Hall Education	£9.30	£9.70	£9.75
Hire of Small Hall	9204	Activity Studio Hire - hourly - by negotiation from	£27.50		£29.25
		Table Tennis - Adult 45 mins	£9.30		£9.75
		Table Tennis - Junior 45 mins	£6.60		£6.95
Swimming - Family	9208	Swimming - Family (max. two 16yrs+)	£9.50	£10.35	£10.00
		Swimming - Family (max. two 16yrs+) (school holidays)	£7.80		£8.20
		Swimming - Family Change4Life	£7.80		£8.20
Swimming Lessons - Adults	9220	Swimming Lesson - Adult - 45 min	£5.95	£5.52	£6.25
		Swimming - Stroke technique/improvement (10 for 8 applicable)	£3.75		£3.95
Course - Gymnastics	9222	Gymnastics /trampolining - Junior (member)	£5.15		£5.40
		Gymnastics /trampolining - Junior (non-member)	£5.70		£6.00
		Gymnastics/trampolining - Infant/toddler (member)	£3.90		£4.10
		Gymnastics/trampolining - Infant/toddler (non-member)	£4.30		£4.50
		Gymnastics/Trampoline Academy - (member per hour)	£3.70		£3.90
		Gymnastics/Trampoline Academy - (non-member per hour)	£4.10		£4.30
Fitness Classes	9223	Fitness Classes - Adult Indoor cycling	£5.50		£5.75
		Fitness Classes - Adult 60 minutes	£4.90		£5.15
		Fitness Class - Adult 45 minutes	£4.10		£4.30
		Fitness Class - Adult 30 minutes	£2.85		£3.00
		Fitness Classes - Junior AVERAGE CHARGE	£2.90		£3.00
		Fitness Classes - C4L (targetted sessions only)	£2.90		£3.00
		Fitness Classes - Health, Wellbeing & Specialist	£2.80		£3.00
		Return to Sport	£3.25		£3.40
		Active Ability	£2.10		£2.20
		Arrears	£3.00		£3.15
Swimming Lessons - Juniors	9224	Swimming Lesson - Jnr - 30min (member)	£5.15	£5.16	£5.40
		Swimming Lesson - Jnr - 30min (non-member)	£5.65		£5.95
		Swimming Lesson - Jnr - 60min (member)	£5.65		£5.95
		Swimming Lesson - Jnr - 60min (non-member)	£6.85		£7.20
		Survive and Save (2 Hour)			£9.00
Swimming Lessons - 1-2-1s	9225	Swimming Lesson - 1-2-1's	£19.70		£20.70
		Swimming Lesson - 1-2-1's member	£17.20		£18.00
		Swimming Lesson - 1-2-2's	£29.60		£31.00
		Swimming Lesson - 1-2-2's member	£26.50		£27.80
Swimming - Schools	9226	Main Pool - HLC/hour	£47.68		£56.00
		Main Pool - QPSC/hour	£61.49		£63.50
		Teacher hire/hour	£21.75		£22.50
Room Hire	9234	Training room hire (by negotiation but from...)	£15.00		£15.75
Swimming - Promotions	9239	Swimming - Promotions - 10 for 8	£30.00		£30.80
		Swimming - Promotions - 10 for 8 - Change4Life	£23.20		£24.80
Swimming - Parties	9240	Swimming - Main Pool (Inflatable)	£125.00		£130.00
		Swimming - HLC + QP Small Pool	£90.00		£93.00

Course - Other	9244	Adult sports courses from...	£4.00		£4.20
		Junior sports courses from...	£3.10		£3.25
		Pool Lifeguard Courses- Prices from	£230.00		£170.00
		First Aid - Prices from	£185.00		£85.00
Membership Fees	9245	Memberships Fee's - DD's - Full	£28.90	£34.13	£29.00
		Memberships Fee's - DD's - Conc/Corp	£24.40	£24.55	£24.50
		Memberships Fee's - DD's - Student	£16.00	£22.06	£16.00
		Memberships Fee's - DD's - Family (4)	£57.80		£58.00
		Memberships Fee's - DD's - Motiv8	£10.00	£15.50	£10.00
		Memberships Fee's - 3 month pre-paid - Full	£105.00		£105.00
		Memberships Fee's - 3 month pre-paid - Conc/Corp	£79.80		£79.80
		Memberships Fee's - 3 month pre-paid - Student	£54.00		£54.00
		Memberships Fee's - 3 month pre-paid - Family (4)	£210.00		£210.00
		Memberships Fee's - 3 month pre-paid - Motiv8	£39.00		£39.00
		Memberships Fee's - 12 month pre-paid - Full	£317.90		£319.00
		Memberships Fee's - 12 month pre-paid - Conc/Corp	£268.40		£269.50
		Memberships Fee's - 12 month pre-paid - Student	£176.00		£176.00
		Memberships Fee's - 12 month pre-paid - Family (4)	£635.80		£638.00
		Memberships Fee's - 12 month pre-paid - Motiv8	£110.00		£110.00
		Memebership Fee's CBC Workplace	£15.00		£15.00
		One month pro-rata membership (e.g. armed forces leave, etc)	£23.50 - £33.60		24.4-28.9
		Active Chesterfield (All memberships) from...	£16.00		£17.00
Climbing Wall	9248	Climbing Wall - Adult inc Concession	£5.15		£5.40
		Climbing Wall - Taster (60 mins)	£4.15		£5.00
		Climbing Wall - Koala U7 (60 mins)	£5.10		£5.35
		Climbing Wall - Club 7-13 (90 mins)	£5.55		£6.00
		Climbing Wall - Club 12-17 (90mins)	£9.00		£6.00
		Climbing Wall - Induction	£20.00		£21.00
		Climbing Wall - Induction DD	£0.00		
		Climbing Wall - Parties max 6	£45.00		£47.25
		Climbing Wall - Parties 7-12 persons NEW	£65.00		£68.25
		Climbing Wall - Adult inc Concession 1048 NEW	£41.20		£43.20
		Climbing Wall - Club 7-13 1048 NEW	£72.00		£48.00
		Climbing Wall - Club 12-17 1048 NEW	£44.40		£48.00
		Photocopying - Black per copy	£0.05		£0.05
		Photocopying - Colour per copy	£0.10		£0.10

Notes

Sports courses to be worked out pro-rate to an hourly rate given length of coaching session

All dryside courses to include badminton, squash, etc.

															North East e.g. Dronfield	Bolsover e.g. The Arc @ Clowne	Derbyshire Dales e.g. The Arc @ Mappleton	PPA Amber Valley e.g. Alfreton	Sheffield e.g. Hillsborough PFP Graves e.g. Graves High Peak e.g. New Mills	South Derbys e.g. Green Bank	Derby City e.g. Springwell @ Oakwood	Erewash e.g. West Park	Mansfield e.g. Water Meadows EA Ashfield e.g. Lammas @ Sutton	Others:	Nuffield	Virgin active	Lifestyles	Exercise 4 Less	Simply Gym	Darwin Forest	Brampton Mann	Average
Swimming																																
Adult	Price 1	£3.80	£4.90	£4.50	£4.20	£4.65	£5.00	£4.00	£3.30	£4.50	£4.25	£5.65	£3.70																			
	Price 2	£3.20	£3.00	£4.00	-		£4.00	£2.70	-	-	£2.55	£4.20	£2.30																			
Junior	Price 1	£2.40	£3.00	£3.20	£2.80	£2.60	£3.30	£2.30	£2.40	£3.35	£2.55	£4.20	£1.95																			
	Price 2	-	-	-	-	-	£2.60	-	-	-	-	-	-																			
Family	Price 1	£9.50	N/A	N/A	N/A	£14.55	N/A	N/A	N/A	£9.20	£12.35	£12.50	N/A																			
	Price 2	-	-	-	-	-	-	-	-	-	-	-	-																			
Swimming Lessons																																
Adult	Price 1	£5.40	£17.00	£6.90	£23.00	£24.00	£23.00		£13.30	£65.40	£5.60	£21.50	£21.46	£16.00																		
	Price 2	-	-	£6.50	-		-	-	-	£21.65	-	-	-																			
Junior	Price 1	£4.90	£17.00	£5.80	£23.00	£24.00	£23.00		£17.50	£65.40	£5.05	£21.50	£21.46	£16.00																		
	Price 2	-	-	£5.30	-		-	-	-	£21.65	-	-	-	£7.50																		
Gym (non-member)																																
Adult	Price 1	£6.50	£6.20	£7.10	£7.15	£7.00	£6.50	£6.20	£6.45	£7.75	£7.25	£6.00	£5.95																			
	Price 2	-	-	-		£5.25	-	-	-	-	-	-	-																			
Concession	Price 1	£3.20	£4.50	£4.35	N/A	N/A	N/A	£3.30	N/A	£4.65	£4.60	N/A	£3.00																			
	Price 2	-	-	-	-	-	-	-	-	-	-	-	-																			
Junior	Price 1	N/A	£4.00	£4.35	£4.00	N/A	N/A	£3.30	N/A	-	£3.05	£3.25	£3.00																			
	Price 2	-	-	-	-	-	-	-	-	-	-	-	-																			
Fitness Classes																																
Adult	Price 1	from £1.60	£5.00	£5.65	from £5.25	£7.00	£6.50	from £4.00	from £2.85	from £3.75	£6.40	£6.20	from £3.00																			
	Price 2	-£4.50	£4.00	£5.15	-£6.50	£5.25	-	-£6.20	-£6.20	-£5.85	-	£5.20	-£5.40																			
Concession	Price 1	N/A	£4.00	£3.90	N/A	£7.50	N/A	N/A	N/A	from £2.25	N/A	N/A	N/A																			
	Price 2	-	-	£3.40	-	-	-	-	-	-£3.50	-	-	-																			
Junior	Price 1	£3.25	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A																			
	Price 2	-	-	-	-	-	-	-	-	-	-	-	-																			
Gym membership																																
Adult	Price 1	£30.00	£29.95	£39.60	£39.00	£38.00	£34.99	£35.00	£36.50	£38.00	from £25.00	£26.95	£34.00	£39.00	£54.00	£15.99	£19.99	£16.99	£40.00	£40.95												
	Price 2	-	£25.00	-	-	-	-	-	-	-	-£30.00	-	-	£33.00			£15.99		£31.00													

Concession	Price 1	£19.00	£27.00	£26.80	N/A	£30.00	N/A	N/A	£26.00	£28.50	£20.00	N/A	£28.00
	Price 2	-	-	-	-	-	-	-	-	-	-	-	£20.50
Corporate	Price 1	£25.00	N/A	£316.80	N/A	£26.00	N/A	N/A	N/A	from £30.20	N/A	N/A	£28.05
	Price 2	-	-	£158.40	-	-	-	-	-	-£33.10	-	-	-
Junior	Price 1	£16.00	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	£15.00	N/A	£18.50
	Price 2	-	-	-	-	-	-	-	-	-	-	-	-
Student	Price 1	N/A	N/A	N/A	£19.00	£28.00	N/A	N/A	£26.00	£23.25	£20.00	N/A	£20.50
	Price 2	-	-	-	-	£21.00	-	-	-	-	-	-	-
Family	Price 1	N/A	£365.00	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	£84.00
	Price 2	-	-	-	-	-	-	-	-	-	-	-	-

Badminton

Peak/Standard	Price 1	£9.30	£7.70	£10.60	£9.70	£9.90	N/A	£10.50	£8.70	£11.40	£9.55	£9.20	£7.65
Off Peak	Price 2	£5.10	£6.00	-	-	-	-	£6.50	-	-	-	£6.50	£4.70
Concession	Price 3	-	-	£7.10	-	-	-	-	-	-	-	-	£7.65
Junior	Price 4	-	-	-	-	£9.90	-	-	-	£8.55	-	-	£4.70
	Price 5	-	-	-	-	-	-	-	-	-	-	-	-
Time period (45/60 minutes)		45min	60min	55mins	60mins	45mins	-	60mins		60mins			55mins

Squash

Peak/Standard	Price 1	£7.95	N/A	£8.00	£9.00	£7.30	N/A	£7.00	£8.00	£9.40	£8.00	N/A	£6.60
Off Peak	Price 2	£5.90	-	-	-	-	-	£4.95	-	-	-	-	£4.25
Concession	Price 3	-	-	£5.30	-	-	-	-	-	-	-	-	£6.60
Junior	Price 4	-	-	-	-	£7.30	-	-	-	£7.05	-	-	£4.05
	Price 5	-	-	-	-	-	-	-	-	-	-	-	-
Time period (45/60 minutes)		40min	-	40mins	40mins	45mins	-	40mins		40mins		-	40mins

Gymnastics courses

Gymnastics	Price 1	£4.40	N/A	N/A	N/A	£26.00	£26.00	see note	N/A	£20.00	£4.85	£15.99	N/A
Trampolining	Price 2	£5.30	N/A	N/A		£19.00	£22.00	N/A	N/A	£20.00	£4.85	N/A	N/A
Tots/Tumblers	Price 3	£4.40	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	£4.10	N/A	N/A

			£9.99		£33.00	£35.70	
					£26.00	£15.75	
						£20.48	
	from £7.50				£14.00	£15.75	
	-£19.00						
	from £28.00		£12.79				
	-£32.00						
						£99.00	

CLIMBING WALL COMPARISONS

HLC		Leicester		Wirkswth			Fndry			Awesm		Works	
												Boul drg	
£5.15		£5.70 adult £4.30 chld		£5.80 adult			adult £7.50 pk off pk £6.50 pk			adult £8.50		adult £7.50	
				£4.05			£4.50			£7.50		####	
Koala £5.10							£4						
5.55 (1hr 30m)		8yr - 17yr 90min £60 - 6wk bkd as block		4.85 (2hrs) per sessn / (x 13 wks block)			£12 / 2hr sessn			£10.50 / 2hrs		####	1hr 30 min
£9 (2hrs)				£5.30/ 1hr sessn bkd per trm			£12 / 2hrs			£10 / 2hrs			
5.55 (1hr 30m)							£12 / 2hrs						
£4.15 (45min)										£19.50 adult £15.50 chld			
£45.00		1 1/2 hrs grp 10 / £33 ins £7.20 adlt / £5.50 chld		1hr £54.10 x 6 children; £64.30 x 6 adlt			£12 / clmbr / (1hr 30min)			10.50 /per 1hr min 6			
£20 1 x 2hr session		4 x 90min / £60		Adult £40 child £27 2x 2hr session			£16 / 2hr crse						
£15.42				£19.50						£30 per hr			
£46.22				£66.30			£12 (min 5) (£60)	1hr 30 min					
£28.90 single £ 57.80 family				36.4 per mnth								famil y £66 per	

				5.75 adult 4.70 conssn									
inc		£2.00		£1.90			£2			2.5			
inc		£2.00		£1.90			£1						
inc		£3.00		£1.90			£1			£3			

For publication

Introduction of Fixed Penalty Notice for Householder Duty of Care (Section 34 and 34(2A) Environmental Protection Act 1990 (as amended))

Meeting: Cabinet

Date: 19th March 2019

Cabinet portfolio: Health and Wellbeing

Report by: Senior Environmental Health Officer

1.0 Purpose of report

- 1.1 To inform Members of the changes to the Environmental Protection Act 1990 (sections 34 and 34(2A)) in relation to updated guidance on waste (known as 'householder duty of care') and new guidance for local authorities on issuing proposed fixed penalty notices.
- 1.2 To seek approval from Members to introduce a fixed penalty notice for the amount of £250.

2.0 Recommendations

- 2.1 Members approve the proposals set out within the report to enable enforcement of the provisions of sections 34 and 34(2A) of the Environmental Protection Act 1990.
- 2.2 Members adopt the fixed penalty level of £250.

2.3 Members approve the necessary amendments to the constitution to delegate authority to the Assistant Director for Health & Wellbeing to introduce and carry out the new powers and to authorise the appropriate officers to issue fixed penalty notices under the Environmental Protection Act 1990.

3.0 Background

3.1 Nationally there has been a year on year increase in fly tipping offences. Over a third of the waste involved in illegal fly-tipping is from households, resulting in waste crime costing the UK economy around £600 million every year, according to the Environment Agency.

3.2 The householders duty of care, section 34(2A) of the Environmental Protection Act 1990 requires occupiers of a domestic property to take all reasonable measures available to them to ensure that they only transfer household waste to an authorised person. These measures includes:

- Details of the business and of any vehicle used which can be linked to an authorised operator;
- A record of the operators registration or permit;
- A receipt for the transaction which includes the business details of a registered operator; or
- A copy of the carrier's waste licence or site permit.

3.3 If waste is fly tipped and can be directly linked back to the householder, the householder has committed an offence under the householder duty of care if the householder cannot demonstrate that they took the above mentioned reasonable measures.

3.4 For the purposes of applying the householder duty of care requirements, household waste is generally considered to be any waste produced within a domestic property.

3.5 If a tradesperson carries out work on a domestic property, generally they are responsible for the waste they produce and must comply with their own waste duty of care obligations in relation to that waste.

4.0 Background – legal framework

4.1 Householders are required, by law, to dispose of their waste in an appropriate manner. This means that waste should be either disposed of

- in the appropriate wheelie bin,
- at the waste collection site (e.g. Sheffield Road),
- by using the Council's 'bulky collection service', or
- by employing a registered waste collector (i.e. with a licence to carry and dispose of waste).

4.2 At the start of 2018 the Department for the Environment, Food and Rural Affairs (DEFRA) published a consultation document on proposals to tackle crime and poor performance in the waste sector and introduced a fixed penalty notice for the 'householder duty of care'.

4.3 In July 2018, the Environmental Protection Act 1990 was amended to include the option for local authorities to issue a fixed penalty notice to householders for failure to dispose of their waste in the correct manner.

4.4 Changes in the law mean that householders are being held more accountable for their household waste and where it ends up. If householders are found to have disposed of waste with someone who then illegally disposes of that waste, they

can be prosecuted or now be offered with a fixed penalty notice.

4.5 Prior to 2019 the only options available to the Council were to prosecute or offer formal cautions for householder duty of care offences. Since 2016 we have issued 20 formal warnings and 6 cautions to householders for failure to meet their duty of care requirements. Two householders have been involved with prosecution cases for incidents of flytipping.

4.6 However, prosecutions are costly for the Council and for the Courts, and also result in householders being left with a criminal record. Having the option of a fixed penalty notice can avoid unnecessary criminal prosecutions, reduce costs and be more effective at changing behaviour. It is hoped that these changes will encourage householders to think about who is collecting their waste and where it will end up.

4.7 Flytipping investigations of household waste have identified an increasing trend amongst unlicensed waste operators who are now advertising via social media. They tempt householders with cheap prices for the removal of large items of waste, including furniture, building waste and white goods which will inevitably end up dumped in laybys, on the highways or on streets.

5.0 Financial Implications – setting the FPN

5.1 The legislation makes provision for the maximum fixed penalty level to be set at a minimum of £150 to a maximum of £400 (default is set at £200).

5.2 Guidance for local authorities for issuing fixed penalty notices is available here

<https://www.gov.uk/government/publications/household-waste-duty-of-care-fixed-penalty-notice-guidance/guidance->

[for-local-authorities-on-household-waste-duty-of-care-fixed-penalty-notices](#)

- 5.3 Discussions with neighbouring local authorities in Derbyshire have confirmed that as yet none have set an amount for the fixed penalty notice.
- 5.4 Discussions have extended to local authorities in the Yorkshire and Humberside regions and they have collectively agreed to set the amount for the fixed penalty notice at £250.
- 5.1 It is recommended that the level of fixed penalty notice is set at £250; this is to reflect the seriousness of the offence, local demographics and to encourage householders to dispose of their waste legitimately.
- 5.2 Guidance from the government recommends that local authorities take into consideration factors affecting the local population when setting fixed penalty levels, including consideration of the local economy and affordability when setting fixed penalty levels – if the level is too high, the payment may not be made resulting in more cases for prosecution (i.e. for non-payment of the fixed penalty notice).
- 6.0 **Legal implications**
- 6.1 The legal implications are referred to in this report.
- 6.2 The Council's Corporate Enforcement Policy and Fixed Penalty Notice Policy will need updating.
- 7.0 **Enforcement**
- 7.1 Enforcement is carried out primarily by the officers within the Environmental Protection Team.

7.2 The fixed penalty notice can be used when a householder appears to have failed to comply with their duty of care and relates to the point where the transfer of waste took place, not the final disposal point of the waste. Reciprocal arrangements will need to be put in place with neighbouring local authorities for investigation of cross-boundary cases of fly-tipped waste and failure to meet duty of care obligations.

7.3 This intervention would need to be supported with an educational campaign including updates via social media, news articles in publications and magazines as well as circulation of printed information to residents.

8.0 Equalities Impact Assessment (EIA)

8.1 DEFRA and their Regulatory Policy Committee carried out an impact assessment and determined that there would be no costs to businesses that carry out their waste activities legitimately or householders that dispose of their waste in the correct manner.

8.2 Introducing the fixed penalty notice in an attempt to deter the illegal disposal of waste is reinforcing a level playing field for all residents who dispose of their waste legitimately as well as registered waste carriers.

8.3 Local authorities that choose to issue fixed penalty notices for 'householder duty of care' may incur small set-up costs for staff training and developing a suitable enforcement notice form. However, since local authorities already have the ability to issue fixed penalty notices for a range of issues it is envisaged that implementing the new powers will be at a limited additional cost.

8.4 The DEFRA impact assessment states that the new powers will reduce enforcement costs for local authorities by allowing

them to recover some of the enforcement and clearance costs without having to take a case to court.

- 8.5 The DEFRA impact assessment states that any subsequent reduction in illegal deposits of waste as well as reduction in illegal waste businesses, resulting from the introduction of fixed penalty notices would increase the quality of the local environment and generate associated improvements in public perception, health and civil pride.
- 8.6 The government has impact assessed this change in legislation and no specific equality considerations were identified. This has also been considered from a local perspective, no negative impacts have been identified.

9.0 Risk Management

9.1 Details of the risks associated with the legislation

Table 1 – risks for the implementation of this amendment

Risk	Likelihood	Impact	Mitigation Action	Revised Likelihood	Residual Impact
Non-compliance with the legislation	High	Low	Support from PR team and regulatory law team.	Low	Low
Not having sufficient resources to issue the FPNs	High	High	Enforcement staff already issue FPNs. Seek support from other teams.	Medium	Low
Offenders contest the fixed penalty notice	Medium	High	Support required from regulatory law team and lead enforcement officer	Medium	Medium

10.0 Recommendations

- 10.1 Members approve the proposals set out within the report to enable enforcement of the provisions of sections 34 and 34(2A) of the Environmental Protection Act 1990.
- 10.2 Members adopt the fixed penalty level of £250.
- 10.3 Members approve the necessary amendments to the constitution to delegate authority to the Assistant Director for Health & Wellbeing to introduce and carry out the new powers and to authorise the appropriate officers to issue fixed penalty notices under the Environmental Protection Act 1990.

11.0 Reasons for recommendations

- 11.1 Illegally disposed waste is a significant blight on local environments; a source of pollution, a potential danger to public health and a hazard to wildlife.
- 11.2 Illegally disposed of waste has wider links with criminal activities, imposes avoidable costs on the public purse and draws money away from other priorities.
- 11.3 The intention is that the level £250 of the new fixed penalty will act as a deterrent to residents using unauthorised/unregulated waste carriers.

Decision information

Key decision number	Non-key 127
Wards affected	All wards
Links to Council Plan priorities	To provide value for money services.

Document information

Report author	Contact number/email
Esther Thelwell, Senior Environmental Health Officer	01246 345767 esther.thelwell@chesterfield.gov.uk
Background documents These are unpublished works which have been relied on to a material extent when the report was prepared.	
This must be made available to the public for up to 4 years.	

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For publication

Private Sector Housing Enforcement and Fees and Charges Policies

Meeting: Cabinet

Date: 19th March 2019

Cabinet portfolio: Health and Wellbeing

Report by: Assistant Director – Health and Wellbeing

For publication

1.0 Purpose of report

- 1.1 Private sector housing has not previously had its own enforcement policy. However, Private Sector Housing Enforcement has changed significantly in recent years and therefore now requires its own bespoke enforcement policy. This policy will be in line with the Councils overarching Enforcement Policy.
- 1.2 The new Private Sector Housing Fees and Charges policy will also be introduced alongside the new Private Sector Housing Enforcement Policy.
- 1.3 The purpose of this report is to seek approval for the above listed reports.

2.0 Recommendations

- 2.1 Cabinet approves the Private Sector Housing Enforcement Policy.
- 2.2 Cabinet approves the Private Sector Housing Fees and Charges Policy.

3.0 Report details

- 3.1 The Private Sector Housing Team underwent a mini restructure in 2017. As a result of this restructure there has been a greater emphasis on improving standards within privately rented properties within the borough. This work is especially pertinent as private sector housing now accounts for approximately 78% of the Housing Stock within the borough. Although Chesterfield has many responsible landlords and letting agents, there are a number of criminal, rogue and irresponsible landlords operating within the borough who knowingly rent out accommodation that is unsafe, substandard or unlicensed.
- 3.2 Government has pledged to crack down on rogue landlords and has introduced a number of measures over the last two years to help local authorities deal more robustly with criminal, rogue and irresponsible landlords:
 - Civil Penalties of up to £30,000 as an alternative to prosecution for certain offenses.
 - Extension of rent repayment orders, to cover illegal eviction, breach of a banning order, failure to comply with an Improvement Notice and certain other specified offences.
 - Database of Rogue Landlords and Property Agents who have been convicted of certain offences or received multiple civil penalties.
 - Banning Orders for the most serious and prolific offenders.
 - Extension to the Mandatory HMO licensing scheme.

3.3 The approach taken by Chesterfield Borough Council is based on the principle that no one who breaks the law should gain financial advantage over someone who does not.

3.4 **Private Sector Housing Enforcement policy**

3.4.1 The policy has been designed to provide an overview of the legislation and administrative processes with which the council will follow when taking action to ensure private sector housing in the borough is well maintained and safe.

3.4.2 The purpose of the policy is to ensure that:

- Tenants of private landlords and registered social landlords live in homes that are free of unacceptable hazards and risks to health and safety
- All Houses in Multiple Occupation are safe and well managed.
- All licensable Houses in Multiple Occupation are licensed and that all licensing conditions are met.
- Private housing is not left empty for an unreasonable amount of time or allowed to become a nuisance to the neighbourhood.
- Privately owned property and land does not present a statutory nuisance to other land owners and does not directly or indirectly present an unacceptable risk to public health and safety.
- The Council meets its statutory duties in relation to Private Sector Housing.

3.4.3 The Enforcement Policy confirms that decisions on the appropriate course of action will be made on a case by case basis, it explain what action the Council can take and describes the reasons why it may take that action. It also confirms that the Private Sector Housing Teams enforcement activity will be, proportionate, transparent, fair and objective.

3.5 **Private Sector Housing Fees and Charges Policy**

- 3.5.1 Section 49 of the Housing Act 2004 provides local authorities with the power to charge as a means of recovering certain administrative and other expenses incurred when undertaking the following enforcement actions under the Housing Act 2004:
- serving an improvement notice under section 11 or 12;
 - making a prohibition order under section 20 or 21;
 - serving a hazard awareness notice under section 28 or 29;
 - taking emergency remedial action under section 40;
 - making an emergency prohibition order under section 43; or
 - making a demolition order under section 265 of the Housing Act 1985.
- 3.5.2 In order to support and compliment the Councils Private Sector Housing Enforcement Policy, the Council has decided that it is appropriate to implement a fee for taking the above listed enforcement actions. The fees and charges policy is designed to encourage good responsible behaviour and ensure that where possible the cost of enforcement is borne by the offender, rather than by the residents and responsible landlords of Chesterfield.
- 3.5.3 The Fees and Charges Policy also introduces a revised HMO licensing Fee, now a true reflection of the costs incurred in the HMO licensing process and also introduces the two stage HMO licensing fee, in accordance with the Provision of Services Regulations 2009.
- 3.5.4 The Council has a power to carry out Work in Default, where the perpetrator fails to comply with enforcement action undertaken by the Council. Previously the perpetrator has been required to pay the actual cost of the work in default and a 10% administrative charge to cover officer costs. Work in default can be a complex administrative and legal function to undertake and as such a 10% administrative charge does not usually cover the true cost of the officer time spent arranging and supervising the work. As such the new Fees and Charges Policy requires the perpetrator to pay the actual cost for the

officer time spent arranging the work in default of a legal notice. The Council will endeavour to recover any work in default costs at the earliest opportunity.

3.5.5 Whilst the Council have a duty to carry out certain functions, other functions that the Council carry out are discretionary, such as Immigration Compliance visits and reports. Whilst the Council is still prepared to carry out such inspections it will now implement a fee to cover the true cost of this area of work, including visiting the property and producing the report.

3.5.6 An annual review of the Fees and Charges Policy will take place, to adjust the fees already in place where necessary. However, given that the implementation of fees and charges for Private Sector Housing Services is a new requirement, the first review will take place in financial year 2020/21.

4.0 Human resources/people management implications

4.1 There will be no immediate additional cost to the Council in carrying out the enforcement duties as these are currently being met with existing resources within the Private Sector Housing Team. However, as the success of the service continues to grow alongside the continuing expansion of the private rented sector within the borough, so will the workload pressures on the team. A review of the needs of this service is due to take place shortly.

5.0 Financial implications

5.1 There are no additional financial implications outside existing budget provision associated with this report.

5.2 Any fees and charges received by Chesterfield Borough Council, will be received directly by the Private Sector Housing Team and will be used to offset some of the ongoing costs of running the service.

6.0 Legal and data protection implications

- 6.1 Both the Private Sector Housing Enforcement Policy and the Fees and Charges Policy are in line with powers delegated from government and are enforceable by law and are in accordance with the overarching Chesterfield Borough Council Enforcement Policy.
- 6.2 When the Local Authority has a statutory duty to provide a service, any charge to be imposed must be within any statutory fee range outlines in related legislation.
- 6.3 When the Local Authority has the “discretion” to provide a service any charge to be imposed must be made up of the reasonable costs of providing the service. The Local Authority is not entitled to make a profit from these charges

7.0 Consultation

- 7.1 No consultation has taken place in relation to either the Private Sector Housing Enforcement Policy or the Fees and Charges Policy.

8.0 Risk management

- 8.1 No potential risks associated with the proposed course of action.

9.0 Equalities Impact Assessment (EIA)

- 9.1 **Equalities Implications** – Initial equalities impact assessment has been carried out on Private Sector Housing Enforcement Policy 2019 and the Fees and Charges Policy 2019/20, and a full equalities impact assessment (EIA) is not considered to be needed. The preliminary EIA is attached in Appendix D.

10.0 Alternative options and reasons for rejection

- 10.1 Not to approve the Private Sector Housing Enforcement Policy or the Private Sector Housing Fees and Charges Policy. This may attract criticism and have an adverse effect on the reputation of the Council. It may also undermine the Council's efforts to prosecute or to defend appeals against statutory enforcement action.

11.0 Recommendations

- 11.1 Cabinet approves the Private Sector Housing Enforcement Policy.
- 11.2 Cabinet approves the Private Sector Housing Fees and Charges Policy.

12.0 Reasons for recommendations

- 12.1 To ensure that the Council is able to recover legitimately incurred costs for housing enforcement as set out in Housing Act 2004.
- 12.2 To ensure that the Council can meet its obligations that all properties let as residential dwellings and those in private ownership throughout the Borough are of good quality and are well managed.
- 12.3 The Private Sector Housing Enforcement Policy is designed to help deliver the Council's priorities identified in the Corporate Plan.

Decision information

Key decision number	857
Wards affected	All Wards
Links to Council Plan priorities	Priority – Improving quality of life for local people By 2023 we will: <ul style="list-style-type: none">• Improve the quality of private sector housing

Document information

Report author	Contact number/email
Sarah Watts	345144
Background documents These are unpublished works which have been relied on to a material extent when the report was prepared.	
<i>This must be made available to the public for up to 4 years.</i>	
Appendices to the report	
Appendix A	Private Sector Housing Enforcement Policy and Officer Authorisations
Appendix B	Banning Order Offences
Appendix C	Private Sector Housing Fees and Charges Policy
Appendix D	Equalities Impact Assessment

Chesterfield Borough Council



Private Sector Housing Enforcement Policy 2019

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1.0 Introduction

This Private Sector Housing Enforcement Policy relates specifically to the enforcement activity of the Council's Private Sector Housing Team.

Chesterfield Borough Council is committed to improving standards in private sector housing within the borough. It is therefore important for the Council to have an enforcement policy that ensures consistency of approach among Council Officers and for members of the public to know what to expect from the service. An enforcement policy also provides clarity if the Council takes enforcement action or legal proceedings.

The Council has statutory powers and duties to regulate private sector housing. To do this we will request information, carry out inspections, process licence applications, assist in bringing empty properties back into use, encourage and promote good practice, provide owners and landlords with advice and information, investigate possible offences and, where appropriate, take enforcement action and prosecute offenders.

2.0 Scope of the Policy

This policy provides the framework within which the Private Sector Housing Team will operate in relation to private sector housing and details the Council's approach to regulating private sector housing in Chesterfield.

3.0 Aims of Policy

The aim of this policy is to set out the Council's approach to enforcement within private sector housing and the regulation of housing standards. We aim to ensure that:

- Tenants of private landlords or a Registered Provider of social housing live in homes that are free of hazards which affect their health and safety.
- Privately rented houses, including Houses in Multiple Occupation (HMO) are managed in accordance with any relevant statutory regulations or other legal requirements.
- All licensable Houses in Multiple Occupation are licensed and all licensing conditions are met.
- Private housing is not left empty for an unreasonable amount of time, to ensure the amenity of the area is not affected, the property is safe and secure and not causing a statutory nuisance.
- Letting professionals meet the legal requirements that apply to their business including registering with a Government Redress Scheme; advertising fees appropriately; and complying with any other legislation that regulates services they provide.
- Privately owned property and land does not present a statutory nuisance and does not directly or indirectly present an unacceptable risk to public health, safety or the environment; and
- The Private Sector Housing Team meets the Council's statutory duties for which it is responsible and to carry out the powers it has adopted.

4.0 Principles of Good Enforcement

When exercising its enforcement powers the Private Sector Housing Team will have regard to **Chesterfield Borough Council's Corporate Enforcement Policy**, the Councils overarching enforcement policy.

The Private Sector Housing Team will also have regard to the Regulators Code. This is a statutory Code of Practice introduced under Section 23 of the Legislative and Regulatory Reform Act 2006. The Regulators' Code came into effect on 6 April 2014 under the [Legislative and Regulatory Reform Act 2006](#) and provides a clear, flexible and principles-based framework for how regulators including Local Authorities should engage with those they regulate.

Chesterfield Borough Council will have regard to the principles of good regulation when exercising its enforcement duties including:

Proportionate

Our activities will reflect the level of risk to the public and enforcement action taken will relate to the seriousness of the offence. We will, as far as the law allows, work with business and individuals so that they can meet their legal obligations.

Accountable

We recognise the importance of the public services we provide and the impact they have on protecting the safety and health of the public. Our activities will therefore be open to public scrutiny, with clear and accessible policies, together with a fair and efficient complaints procedure.

Consistent

We will carry out our duties in a fair, equitable and consistent manner. Our advice to those we regulate will be robust and reliable and we will take into account published guidance and good practice. We will also aim to share good practice with other Local Authorities.

Transparent

We will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return. We will ensure that through our interventions and inspections, where regulatory noncompliance is found, our officers make clear the form of action and next steps they propose to take. They will also make it clear what are legal requirements and what are recommendations.

Targeted

We will focus our resources on higher risk situations. We will take enforcement action against those duty holders who are responsible for the risk and who are best placed to control it.

5.0 Investigation

Investigations will be carried out in accordance with all associated guidance or codes of practice and the following legislation:

- Police and Criminal Evidence Act 1984
- Criminal Procedure and Investigations Act 1996
- Regulation of Investigatory Powers Act 2000
- Criminal Justice and Police Act 2001
- Regulatory Enforcement and Sanctions Act 2008
- Human Rights Act 1998

These Acts and associated guidance control how evidence is collected and used and give a range of protections to citizens and potential defendants.

The authorised officers will also comply with the requirements of the particular legislation under which they are acting and with any associated guidance or codes of practice.

6.0 Shared Enforcement and Primary Authority

Officers may work with other services within the authority, such as the Planning Department and Building Control, Welfare Rights, Benefits and Council Tax, Housing Options and Anti-Social Behaviour Teams, as well as other enforcing authorities who have the power to take enforcement action. These authorities may include:

- Derbyshire Fire and Rescue Service;
- Derbyshire Police;
- UK Visas and Immigration;
- Health and Safety Executive;
- Trading Standards
- Other Local Authorities.

In circumstances where shared enforcement or joint working is required, officers will ensure that:

- Investigations are undertaken by the most appropriate enforcing authority;
- Enforcement action is undertaken in accordance with agreed protocols and will involve the relevant authority or service in the investigations, information gathering and sharing to ensure it is carried out effectively.

Officers will have regard to the General Data Protection Act 2018 (GDPA) when handling all manual and computerised personal data. Any requests for access to information to the Council will be executed in accordance with the Freedom of Information Act 2000 and the GDPA.

Primary Authority Status

Where a business has registered with a Primary Authority under the Regulatory Enforcement and Sanctions Act 2008 for legislation which this service is enforcing, the Council will comply with these Primary Authority requirements.

7.0 Authority to Investigate or Enforce

The legislation enforced by Chesterfield Borough Council sets out the duties and powers that the authority has in relation to the investigation and enforcement of the legal powers available to it. The Housing Act 2004 and associated regulations are the principal pieces of legislation available to the Private Sector Housing Team, however other legislation is enforced by the Team such as the Housing Act 1985 (as amended), Environmental Protection Act 1990, the Town and Country Planning Act 1990, the Public Health Acts 1936 and 1961, the Building Act 1984, the Mobile Home Act 2013 and the Housing and Planning Act 2016, Protection from Eviction Act 1977, Anti-social Behavior, Crime and Policing Act 2014, Proceeds of Crime Act 2002. Please note that this is not an exhaustive list of the powers available to the Private Sector Housing Team.

Authorisation of Officers

Decisions on enforcement action are a matter of professional judgement and officers will need to exercise discretion. Only Officers who are competent by training, qualification and/or experience will be authorised to undertake enforcement action. Authorisation of officers will be made under delegated powers to a level that is considered appropriate to the competence of the individual officer. **Appendix A** sets out the powers delegated to officers in the Private Sector Housing Team.

8.0 Tenure

The Private Sector Housing Service has investigative and enforcement powers relating to all private housing regardless of tenure. However the approach may vary depending on the tenure of the household.

Owner Occupiers

Owner occupiers, including long leaseholders, are usually in a position to make informed decisions about maintenance or safety issues in their homes. Officers would always aim to provide owner occupiers with appropriate advice and recommendations as to how they can mitigate any hazards identified. Formal enforcement action against this tenure group, therefore, would usually be limited to exceptional circumstances.

Such cases may involve:

- Vulnerable people who are unable to make informed decisions about their own welfare.
- Vulnerable individuals who require the intervention of the Council to ensure their welfare is best protected
- Hazards that might reasonably affect persons other than the occupants
- Serious risk of life-threatening harm such as electrocution or fire.

Unless an identified hazard is judged to pose an imminent risk of serious harm, the Council will contact the owner to confirm its involvement, explain the nature of the hazard and confirm the action it is intending to take. The Council will take account of any proposals or representations made by or on behalf of the owner. The Council will solicit and take account of the opinion of the relevant Welfare Authority in considering both the vulnerability and capability of such persons as well as in determining what action it will then take.

Private Tenants

Tenants within privately rented accommodation have less control of their homes than other tenures. They are reliant on landlords or their agents to adequately maintain their homes in accordance with legal requirements. They can also be the subject of harassment and illegal eviction from landlords/agents which occupiers of other tenures will not experience.

The Council will take enforcement action where required against landlords or agents who are putting the health and safety of their tenants at risk, where the stability of the tenancy is threatened, or in circumstances where conditions are causing serious issues to neighbouring property.

Registered Provider Properties

These are usually housing associations, being private, non-profit making organisations that provide low cost “social housing” for people in need. Their performance is scrutinised by Homes England and the [Regulator of Social Housing](#). Registered Providers have written arrangements for reporting problems and clear response times for addressing these issues, in addition to having systems for registering any complaints about service failure. The Council will therefore not normally consider action against registered providers unless:

- They are satisfied that the problem in question has been properly reported by the tenant to the registered provider; and
- The registered provider has then failed to take appropriate action within a reasonable timescale, taking into account its published or other realistic response targets.

If the Council determines that it is appropriate to take action it will then normally notify the registered provider that a complaint has been received and /or a hazard identified and seek their comments and proposals. Only in cases where it judges that an unsatisfactory response has been received will the Council take further action, and will then determine which of the available enforcement options is the most appropriate, taking into account the facts of the case.

9.0 What to expect from The Private Sector Housing Team

Landlords

- We will advise of the legislation and how to comply with it.
- We will advise of any action needed in order to comply with the legislation.
- Where landlords have been served with a legal notice we provide the option of proposing an alternative method of compliance to that suggested in the notice where appropriate.
- If we are satisfied with the proposal, we will work with the landlord to agree acceptable timescales.
- If we are not satisfied with the proposal or how the work is progressing, we will initiate formal action in a proportionate manner as appropriate to the circumstances.
- In making any decision to proceed to work in default/prosecution/formal caution/civil penalty we will have regard to how serious the offence is, the

benefit of enforcement action and whether some other action would be appropriate.

- A charge will be made for the service of a notice under the Housing Act 2004.

Tenants

- We will expect tenants to advise their landlord of any issues within the property, preferably in writing, before contacting us.
- We will advise them as to what action we can take and advise them of the expected timescales.
- We will expect them to cooperate with the landlord to get the works carried out and to advise us of any action taken by the landlord.

Owners

- We will expect owners to maintain the properties they live in.
- Enforcement action will be considered if there is an imminent risk of serious harm or other exceptional circumstances as described in section 8 above.

Owners of Empty Homes

- We will work proactively with owners of empty homes to encourage and assist in bringing their empty homes back into use.
- Where an empty property is having a detrimental impact on the neighbouring area enforcement action will be taken if appropriate.
- If owners fail to take responsibility for their properties, are not willing to engage with the Council or negotiations have failed, and where there is little prospect of a property being brought back into use voluntarily, enforcement action (Compulsory Purchase Order, Empty Dwelling Management Order, and Enforced Sale) will be considered

10 Situations where service may not be provided

Where any of the following situations arise, consideration will be given to not providing or to cease to provide a service:

- Where the tenant(s) unreasonably refuse access to the landlord, managing agent or landlord's contractor, to arrange or carry out works.
- Where the tenant(s) have requested a service and then failed to keep an appointment and not responded to a follow-up correspondence.
- Where the tenant(s) have been aggressive, threatening, verbally or physically abusive towards Officers.
- Where there is found to be no justification for the complaint after visiting the property.
- Where hazards are found but deemed not to be significant and of a minor nature such as a low scoring Category 2 hazard.

11 Advice and Guidance

The Private Sector Housing Team will provide authoritative, accessible advice regarding Private Sector Housing. The Council's website is used to provide general information, advice and guidance to make it easier for landlords, agents, home owners and tenants to understand their obligations. It is provided in clear, concise and accessible language, using a range of appropriate formats and media. When offering compliance advice, the Private Sector Housing Team will distinguish between statutory requirements and advice or guidance aimed at improvements above minimum standards. Advice will be confirmed in writing, if requested.

The Private Sector Housing Team welcomes enquiries from home owners and landlords about complying with minimum standards and ensuring homes are safe and warm. However, the team cannot act as consultant for home owners or landlords and reserve the right to decline or to charge a fee as detailed in appendix A to complete non-statutory, detailed assessments for specific properties such as fire safety risk assessments, confirming in detail the work that would be required to let a property in multiple occupation, or detail the work required to reduce the risk from significant hazards in a property to an acceptable level.

12 Our approach to enforcement

Informal action

If possible the Private Sector Housing Team aims to resolve issues informally. Circumstances when informal action as described above will be deemed appropriate include:

- The act or omission is not serious enough to warrant formal action
- The individual or company's past history of compliance is good
- Confidence in the management's/owner's ability to correct a defect is high
- Standards are generally good suggesting a high level of awareness of statutory responsibilities
- The consequences of non-compliance are acceptable, e.g. minor matters, or the time period allowed to seek compliance does not present a risk to public health.

In such circumstances the Private Sector Housing team will:

- Discuss compliance failures or problems with anyone experiencing difficulties
- Arrange appointments, within office hours, at times convenient to people using the service.
- Comply with the Council's Customer Service Standards
- Perform inspections on an advisory basis
- Supply literature and information.
- Provide advice and assistance through the DASH (Decent and Safe Homes) Landlord Accreditation Scheme.
- Persons in receipt of an informal notice (verbal or written) will be given every opportunity to discuss the requirements with the inspecting officer to agree an appropriate programme and timetable. Encouragement will be given to recipients to seek advice at each stage of the process.

Formal action

When a housing law contravention has been identified and informal action is either inappropriate or has been unsuccessful, the Private Sector Housing Team will tackle the issue through formal action. The choices available for enforcement are:

- Power to require Information
- Powers of Entry
- Service of Statutory Notices
- Works in default of a Statutory Notice
- Management Orders
- Rent Repayment Orders
- Financial penalties
- Prosecution
- Simple Caution

When considering which of these actions is appropriate the Private Sector Housing Team will consider the following:

- The number of hazards and their significance ie whether they are Category one or Category two hazards.
- Whether the Council is under a duty or has a power to take formal action in respect of the hazard(s) identified.
- The level of risk posed to the current occupiers, including whether there is an imminent risk of serious harm
- The views and intentions of the occupier(s) (or occupiers representative(s)) and landlord
- The risk of social exclusion of a vulnerable group or individual)
- The compliance record of the person(s) in control of the premises
- Whether the chosen option is practical, reasonable and proportionate in reducing the hazard(s) to an acceptable level
- The building is listed or located within a conservation area
- The potential for alternative use of the premises or site
- The physical impact on adjoining buildings
- The longer term viability of the premises and area
- The impact on the local community and on the appearance of the local area
- Availability of alternative housing for current occupants
- Likely demand for accommodation if the hazards were remedied

Reactive Inspections

Officers will normally carry out reactive inspections following a complaint from a tenant or owner occupier or a referral from a partner agency concerning unsatisfactory housing or overcrowded conditions.

Where an inspection is undertaken officers will assess compliance with all enforceable legal requirements principally with regard to the Housing Act 2004. This will include a risk assessment under the Housing Health and Safety Rating System (HHSRS) and also HMO licence conditions and HMO Management Regulations, where applicable. This may involve referrals to other agencies or local authority service areas. It is the Council's aim to action requests for service within appropriate timescales.

Requests for service can be received from:

- Tenants/occupiers;
- The general public;
- Property letting and managing agents;
- Referrals from other Council services, and
- Referrals from external agencies.

The Private Sector Housing Team will be unable to act on anonymous complaints, unless the risk posed is serious. Relevant information will, however, be recorded in case of any future complaints.

Proactive Inspections

The Council may decide that it is appropriate to carry out inspections in properties where no complaints have been made. In such circumstances we will adopt an intelligence led approach to our compliance interventions and enforcement actions. This will normally be in relation to:

Inspections of all rented homes within a targeted geographical area, including properties owned by Registered Providers, in which all owners will be notified in advance of the start of the initiative. Through a combination of property inspections, liaising with owner occupiers and working with partners, this proactive approach will aim to improve housing and the standard of housing management.

Inspections of property owned or managed by landlords or agents who have a poor history of compliance with legal requirements for housing conditions and /or management practices. This may include identifying those with a previous history of enforcement action, lack of engagement with the authority or where there is intelligence about breaches in legal requirements from partner agencies. The aim of this proactive intervention is to target resources for improvements to housing conditions and tenancy management, as well as creating more sustainable tenancies, particularly for vulnerable tenants.

Inspections to identify properties that may require a license under Part 2 of the Housing Act 2004, breaches of HMO Management Regulations and or breaches of HMO licence conditions.

Inspections to identify empty homes, to establish the condition of the empty home and the risk it poses to neighbouring properties and the general locality.

13 Retaliatory Evictions

Retaliatory eviction is where a tenant makes a legitimate complaint to their landlord about the condition of their property and, in response, instead of or as well as making the repair, their landlord serves them with an eviction notice. On 1st October 2015 a number of provisions in the Deregulation Act 2015 came into force. These provisions are designed to protect tenants against unfair eviction.

In order to rely on the protection against retaliatory eviction that the Deregulation Act 2015 provides, a tenant must approach the landlord in writing in the first instance, if they know the landlord's postal address or email address. If, after 14 days from the tenant making a complaint, the landlord does not reply, that reply is inadequate, or

they respond by issuing a Section 21 eviction notice, the tenant can approach the Private Sector Housing Team.

Where a tenant makes a genuine complaint about the condition of their property that has not been addressed by their landlord, their complaint has been verified by a local authority inspection, and the local authority has served either an improvement notice or a notice of emergency remedial action, a landlord cannot evict that tenant for 6 months using the 'no fault' eviction procedure (a section 21 eviction). The landlord is also required to ensure that the repairs are completed.

The Private Sector Housing Team will work with landlords to understand their obligations and the implications of this legislation and will work alongside the Housing Solutions Team to provide support, advice and guidance to the tenant in these circumstances.

14. Intervention where there is harassment, illegal eviction and poor tenancy management

The Council expect landlords and agents to behave in a professional and respectful way towards their tenants.

Landlords and tenants should expect the Council to challenge poor tenancy management practices, and seek improvements in approach.

The Private Sector Housing Team is responsible for enforcing various offences to do with the behaviour of landlords towards tenants.

The principle piece of legislation used to enforce offences to do with the harassment and illegal eviction of tenants is the Protection from Eviction Act 1977. We take these offences very seriously as we have a strong commitment to:

- protecting the interests of vulnerable people
- promoting respect for the individual's home
- preventing homelessness
- promoting the health and well-being of people living in private rented accommodation

The law provides a process for landlords to lawfully regain possession of their properties and these legal requirements must be followed when a landlord wants a tenant (or licensee) to leave.

If a resident claims that they have been made to leave without the proper legal procedures being followed, this may give reason to suspect that an offence has been committed under the Protection from Eviction Act 1977. In these cases, we will investigate with a view to:

- informing the landlord and resident of their rights and responsibilities where appropriate
- prosecuting offences where there is enough evidence for there to be a reasonable prospect of conviction and where it is in the public interest to do so.

15 Housing Act 2004

The Housing Act 2004 is the principal Act in relation to enforcement of housing standards within Private Sector Housing..

Part 1

If a Category 1 Hazard is identified the Council must take one of the following courses of action in relation to the hazard:

- Serve an improvement notice under section 11;
- Make a prohibition order under section 20;
- Serve a hazard awareness notice under section 28;
- Take emergency remedial action under section 40;
- Make an emergency prohibition order under section 43;
- Make a demolition order under subsection (1) or (2) of section 265 of the Housing Act 1985 (c. 68);
- Declare the area in which the premises concerned are situated to be a clearance area by virtue of section 289(2) of that Act.

The Council has a power to deal with Category 2 hazards and can take one of the following courses of action:

- serve an improvement notice under section 12,
- make a prohibition order under section 21
- serve a hazard awareness notice under section 29
- Make a demolition order under subsection (1) or (2) of section 265 of the Housing Act 1985 (c. 68);
- Declare the area in which the premises concerned are situated to be a clearance area by virtue of section 289(2) of that Act.

The most appropriate course of action will be decided on a case-by-case basis.

Courses of Action Available

Hazard Awareness Notice (*Sections 28 & 29 of the Housing Act 2004*): this is used where a hazard has been identified but it is not necessarily serious enough to take formal action, or where works of improvement, or prohibition of the use of the whole or part of the premises, are not practicable or reasonable

Improvement Notice (*Sections 11 & 12 of the Housing Act 2004*): this is used where reasonable remedial works can be carried out.

Prohibition Order (*Sections 20 & 21 of the Housing Act 2004*): this order may prohibit the use of part or all of premises for some or all purposes of occupation or by a particular number or description of people. An order may be appropriate where conditions present a risk but remedial action is unreasonable or impractical. It may also be used to limit the number of persons occupying the dwelling, or prohibit the use of the dwelling by specific groups.

Suspended Notice/Order (*Sections 14 & 23 of the Housing Act 2004*): Notices/Orders may be suspended where enforcement action can safely be postponed

until a specified event or time (such as a change in occupancy or programmed maintenance).

Emergency Remedial Action (*Section 40 of the Housing Act 2004*): when the Council is satisfied that a Category 1 hazard exists on any residential premises and is further satisfied that the hazard involves imminent risk of serious harm to the health and safety of any occupiers or visitors.

Emergency Prohibition Orders (*Section 43 of the Housing Act 2004*): If the Council are satisfied that a category 1 hazard exists on any residential premises, that involves an imminent risk of serious harm to the health or safety of any of the occupiers and imposes, with immediate effect, such prohibition or prohibitions on the use of any premises as are specified in the order.

Demolition Orders (*Section 46 of the Housing Act 2004 and Part 9 of the Housing Act 1985*): A demolition order may be an appropriate course of action where a category 1 hazard exists on residential premises, where no management order is in place under Part 4 of the Act and the property in question is not a listed building.

Clearance Areas (*Section 47 of the Housing Act 2004, and Part 9 of the Housing Act 1985*): This may be declared when the Council is satisfied that each of the residential buildings in the area contains a Category 1 hazard and that the other buildings (if any) in the area are dangerous or harmful to the health and safety of the inhabitants of the area as a result of their bad arrangement or the narrowness or bad arrangement of the street and that the other buildings (if any) in the area are dangerous or harmful to the health or safety of the inhabitants of the area.

Emergency situations

In emergency situations, where it is not possible to contact the relevant person and gain their cooperation, enforcement action may be taken immediately where there is a category one hazard and there is an imminent risk of serious harm to the health and safety of occupiers or others. Emergency action includes Emergency Remedial Action and Emergency Prohibition Orders under the Housing Act 2004.

Power of Entry

The Council has the power of entry to properties at any reasonable time to carry out its duties under Section 239 of the Housing Act 2004 provided that:

- The Officer has written authority from an appropriate Officer stating the particular purpose for which entry is authorised.
- The Officer has given 24 hours' Notice to the owner (if known) and the occupier (if any) of the premises they intend to enter.

Notice under S239 is not required where entry is to ascertain whether an offence has been committed under Section 72 (offences in relation to licensing of HMOs under Part 2 of the Housing Act 2004), Section 95 (offences in relation to licensing of houses under Part 3 of the Housing Act 2004) or 234(3) (offences in relation to HMO Management Regulations).

If admission is refused, premises are unoccupied or prior warning of entry is likely to defeat the purpose of the entry, then a warrant may be granted by a Justice of the

Peace on written application (Section 240). A warrant under this section includes power to enter by force, if necessary.

Power to require Information

The Council also has power under Section 235 of the Housing Act 2004 to require documentation to be produced in connection with:

- Any purpose connected with the exercise of its functions under Parts 1-4 of the Housing Act 2004
- Investigating whether any offence has been committed under Parts 1-4 of the Housing Act 2004

The Council also has powers under Section 237 of the Housing Act 2004 to obtain and use the information from Housing Benefit and Council Tax departments to enable the authority to carry out its functions in relation the Housing Act as defined above.

Revocation and Variation of Notices / Orders

The Council must revoke an Improvement Notice or Prohibition Order once complied with.

If part of the work required within the Notice or Order is carried out, then the Notice or Order may be varied if considered appropriate.

Houses in Multiple Occupation

The definition of an HMO is contained in sections 254-259 of the Housing Act 2004. A building, or part of a building, is an HMO if it satisfies HMO definition:

- The standard test;
- The self-contained flat test;
- The converted building test; or
- If an HMO declaration is in force under section 255 of the 2004 Act; or
- It is a converted block of flats to which section 257 applies.

Mandatory HMO Licensing

The Housing Act 2004 introduced a mandatory licensing system for certain types of Houses in Multiple Occupation (HMO). The aim of licensing is to ensure that every licensable HMO is safe for the occupants and visitors and is properly managed. The responsibility for applying for a licence rests with the person having control of or the person managing the property.

HMO Licensing Reform

In April 2018, Parliament approved secondary legislation which reformed the mandatory HMO licensing regime.

The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018 ('the Prescribed Description Order 2018') has the effect of extending the scope of section 55(2)(a) of the Housing Act 2004.

The Prescribed Description Order 2018 also deals with the pass porting of licences granted under additional and selective licensing schemes into the mandatory licensing regime.

Fit and Proper Person

In granting a licence the Council must be satisfied that the proposed licence holder, manager and any person involved in the management of the property are fit and proper persons. A person's fit and proper status may be reviewed at any time if circumstances change. A finding that the person does not satisfy this standard may result in refusal of an application or revocation of existing licence(s).

Duration of HMO Licence

Licences will normally be granted for the full five year period. We may reduce the length of the licence from five years to an appropriate lesser period:

- to remove any advantage over those licence holders who applied at the appropriate time; or
- where the property has not been satisfactorily managed; or
- where we are concerned the proposed management arrangements may not be satisfactory and want to see evidence that they are before allowing a longer licence period to be granted.

HMO Licence Mandatory conditions

Section 67(1) of the 2004 Act provides that a local housing authority may impose conditions relating to the management, use and occupation of a licensed HMO. Under section 67(3) it is mandatory for the local housing authority to include certain conditions in HMO licences. The mandatory conditions are specified in Schedule 4 of the 2004 Act and relate to the provision of smoke and carbon monoxide alarms; gas safety, safety of electrical appliances and furniture and to supply to the occupiers of the house a written statement of the terms on which they occupy it. Schedule 4 conditions apply to all licensed HMOs (under both mandatory and additional schemes).

HMO Licence Conditions Introduced October 2018

A second statutory instrument, the Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018 ('the Mandatory Conditions Regulations 2018') amends Schedule 4 of the Act, introducing new conditions that must be included in licences that have been granted under Part 2 of the Act after October 2018. These are:

- Mandatory national minimum sleeping room sizes; and
- Waste disposal provision requirements.

Licensing Offences

The Housing Act 2004 sets out a number of licensing related offences all of which carry an unlimited fine, including:

- Operating an unlicensed HMO or allowing an HMO to be occupied by more persons than a licence allows
- Breach of a licence condition
- Supplying incorrect information in a licence application

Unlicensed HMO's

Where an unlicensed HMO is identified, the landlord will be invited to apply for a licence. The Council will also assess the reasons why an application has not been received. The Council will then consider taking formal proceedings with a view to prosecution or Civil Penalty.

A landlord who operates an unlicensed HMO can be subject to a Rent Repayment Order (RRO) by a First-tier Tribunal (Property Chamber) under sections 96 and 97 of the Housing Act 2004.

Where a landlord of an unlicensed HMO approaches the Council for licensing and the landlord fully cooperates with the Council, including addressing any management,

safety or amenity issue within an agreed timescale, the Council will take a view on a case by case basis as to whether further enforcement action is appropriate.

Landlords who fail to renew an HMO licence or fail to provide the required information or the appropriate fee within 28 days will also be investigated and consideration will be given to whether further legal action is appropriate for failing to licence a licensable property.

Breach of Licence Conditions

Breach of licence conditions will be considered on a case by case basis. However, breach of licence conditions can potentially have serious health and safety impacts on the occupiers of the HMO, Chesterfield Borough Council will treat such breaches very seriously. If convicted for such an offence the licence holder is liable to an unlimited fine. Alternatively the local housing authority may impose a financial penalty of up to £30,000 as an alternative to prosecution.

Breach of Minimum Room Size Condition

The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018 ('the Mandatory Conditions Regulations 2018') means that a licence holder commits an offence if, without reasonable excuse, the licence holder breaches the licence by:

- Knowingly permitting the HMO to be occupied by more persons or households than is authorised by the licence;
- Failing to comply with a condition of the licence such as restrictions against occupation as sleeping accommodation.

Temporary Exemption Notices

Where a landlord is, or shortly will be taking steps to make a licensable HMO non-licensable, a Temporary Exemption application must be submitted to the Council. The Council will consider all applications made and may serve a Temporary Exemption Notice (TEN).

A TEN can only be granted for a maximum period of three months. In exceptional circumstances a second TEN can be served for a further three-month period. A TEN may be served where the owner of the HMO states in writing that steps are being taken to make the HMO non- licensable within 3 months.

Management Regulations

The Management of Houses in Multiple Occupation (England) Regulations 2006 (SI 2006/372) and The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007 (SI 1903), are the means through which poor day to day management is tackled. The regulations impose certain duties on managers and occupiers of HMOs. Broadly these duties include a requirement that:

The manager:

The 'manager' in these Regulations includes the landlord or a person responsible for the management of the HMO.

- provides his or her contact details to the occupiers;
- keeps means of escape from fire free from obstruction and in repair and maintains firefighting equipment and alarms;
- takes reasonable measures to ensure that the occupiers of the HMO are not injured on account of its design and structural condition;
- ensures there is adequate drainage from the HMO and an adequate water supply and such supply is not unreasonably interrupted;
- supplies annual gas safety certificates (if gas is supplied) to the council when requested and carries out safety checks on electrical installations every five years and ensures the supply of gas (if any) and electricity is not unreasonably interrupted;
- keeps in repair (including decorative repair) and good order the common parts (including any fixtures and fittings within it);
- maintains any shared garden and keeps in repair any structures belonging to the HMO;
- keeps in repair the occupiers' living accommodation within the HMO, including fixtures and fittings; and
- provides suitable facilities for the disposal of rubbish.

The occupiers:

- do nothing to hinder or prevent the manager from carrying out his or her duties under the regulations;
- take reasonable care not to damage anything for which the manager has a duty to repair, maintain, keep in good order or supply under the regulations;
- dispose of rubbish in accordance with the arrangements made by the manager; and
- comply with all reasonable instructions from the manager relating to fire safety.

Breaches of Management Regulations

Badly managed HMOs put residents at risk, encourage anti-social behavior and can have a negative impact on an entire neighbourhood. font change

Failure to comply with the Regulations without reasonable excuse can result in the owner or manager of the HMO being prosecuted. If convicted of breaching management regulations, they may be fined for each separate offence which may result in substantial financial penalties. font change

Alternatively the local housing authority may impose a financial penalty of up to £30,000 as an alternative to prosecution.

Management Orders

Part 4 of the Housing Act 2004 enables local housing authorities to take over the management of privately rented property through a management order in certain circumstances such as where a privately rented property is unlicensed and/or no suitable licence holder can be found.

Section 26 and Schedule 3 of the Housing and Planning Act 2016 provides that a local housing authority can also make a management order in circumstances where a banning order has been made and where a privately rented property is being let in breach of a banning order.

A management order enables a local housing authority to take over the management of a privately rented property in place of the landlord. The aim is to ensure that the health and safety of occupiers of the property and persons living or owning property nearby are protected, and to ensure that a property is still available to rent, particularly in areas of high demand.

Interim Management Orders (IMO)

A Local Authority is under a statutory duty to make an IMO under s.102 Housing Act 2004 where:

- The property is a House in Multiple Occupation (HMO) or other licensable property and the relevant person has failed to obtain a licence and the Local Housing Authority considers that there is no reasonable prospect of it being licensed in the near future;
- It is necessary for the purposes of protecting the health, safety or welfare of persons occupying the property as defined by s.104 of the 2004 Act

An IMO can be in place for up to a period of 12 months after which it ceases to have effect unless it is revoked at some time before the end of the period. The general effect of an IMO allows the Local Authority to:

- Have the right to possession of the property
- Have the right to do, in relation to the property, anything which a person having an estate or interest in the property would be entitled to do such as repairs and collection of rent etc.
- To spend monies received through the collection of rent for carrying out its responsibilities of management and administration;
- To create new tenancies (with the consent of the landlord).

Final Management Orders (FMO)

Upon the expiry of an Interim Management Order a Local Authority has the power to make a Final Management Order under s.113 Housing Act 2004 by application to the First tier Tribunal. Once an FMO is made it takes effect for a period of up to 5 years. This means that the landlord does not have control of the property for duration of that period.

The Local Authority should manage the property in accordance with its management scheme which is a requirement under the legislation. The management scheme is divided into two parts:

- Part 1 of the scheme is to contain a plan giving details of how the Local Authority proposes to manage the property. It should also include: details of any

required works, an estimate of the capital and other expenditure, the amount of rent and other payment the Local Authority will seek to obtain, the amount of compensation payable to any third party and provisions of payment for compensation or other payments to the landlord or others.

- Part 2 of the scheme is to describe in general terms how the Local Authority is to address the matters which caused them to make the FMO. Should the Local Authority fail to follow their own management scheme then an application can be made to the RPT seeking an order for them to do so.

Through the duration of the FMO the LA must periodically review the operation of the order and the management scheme and consider whether keeping the order in force is the best alternative available to it. The general effects of an FMO are similar to those of an IMO.

Special Interim Management Orders

Where the Council Local Authority is satisfied that a significant and persistent problem of anti-social behaviour in an area is attributable, in full or in part, to the anti-social behaviour of an occupier of an HMO or other dwelling and that the landlord is failing to take action to combat the problem, it can make a Special Interim Management Order.

A Special Interim Management Order – which operates in the same way as an Interim Management Order - may also be applied where it is necessary for protecting the health and safety or welfare of persons occupying, visiting or otherwise engaging in lawful activities in the vicinity of the house.

16.0 Review of Enforcement Action

If there is a change in the occupation of a premises (leading to either an increase or decrease in the apparent risk to occupiers) the current state of any outstanding enforcement action will be reviewed by the investigating officer, in consultation with his or her line manager, to ensure that it is still appropriate and proportionate to the risk posed from the identified hazard(s).

17.0 Failure to Comply with Notices

If a Notice is complied with, no further action will be taken. However, if the Notice is not complied with, the Council will consider the following options:

- Prosecution
- a Simple Caution
- Injunctive Actions
- Carrying out the works in default
- a Civil Penalty
- a Rent Repayment Order
- a Banning Order
- making an entry in the Database of Rogue Landlords and Property Agents

Prosecution

Failure to comply with an Improvement Notice or a Prohibition Order is an offence punishable by an unlimited fine. Following conviction, it is an offence to carry on using the premises in breach of the Prohibition Order, attracting a daily fine.

Simple Caution

Officers may use Simple Cautions where someone has committed a less serious offence. Simple Cautions warn people that their behaviour has been unacceptable and makes them aware of the legal consequences should they commit further offences. Simple cautions can only be issued where:

- There is evidence an offender is guilty
- The offender is eighteen years of age or over
- The offender admits they have committed the crime
- The offender agrees to be given a caution – if the offender does not agree to receive a caution then they are likely to be prosecuted instead

Simple cautions are normally not appropriate where the offence is deemed too serious, where there is history of offending within the last 2 years or where the same type of offence has been committed before. In these circumstances prosecution is more appropriate.

If the defendant agrees to receive a Simple Caution, the Council will seek to recover the costs of the investigation as part of the Simple Caution process. If they do not agree to receive a Simple Caution, they will be prosecuted.

Works in default of a statutory notice

Section 31 and Schedule 3 of the Housing Act 2004 gives local authorities power to

take action to resolve housing defects where a notice has not been complied with or without the owner's agreement. Where the owner's agreement is given the works are carried out at the owner's cost and the Council will expect payment in advance before starting work. The Council can recover the costs of action taken without agreement from the relevant person.

The Council will consider undertaking Works in Default of a statutory notice, either with or without agreement, subject to the following conditions:

- The person responsible for undertaking the works has not complied with the enforcement notice to which the works relate; and
- Works in default powers are provided by the specific legislation being used in relation to the case; and
- Whether the Council can register a charge against the premises for the costs incurred in undertaking the works.
- The effects of not carrying out the work on the health and safety of the occupant of the property concerned
- The wishes of the tenant where the Notice has been served in respect of a rented property
- The reason for the work not being carried out in the first place
- Any other factors that are specific to individual properties
- The Council will normally seek to recover all of the costs associated with undertaking work in default.

In most instances, a person will be given notice of the Council's intention to carry out works in default. As soon as the Council has commenced the works, it is an offence for any person to obstruct the Council or any of the contractors or agents that have been employed to carry out the works.

The Council is not obliged to carry out works in default of a notice and reserves the right not to do so. Where the cost of the works is likely to be high or there may be difficulties in recovering the costs the Council may choose to remove serious hazards only.

In the majority of cases the Council will seek to recover the full costs incurred in undertaking works in accordance with the relevant statutory provisions. This will include the cost of carrying out the work in default and the cost of administering the work in default (at the appropriate officer's hourly rate).

Civil Penalties

The Housing & Planning Act 2016 introduced a range of measures including the power for Councils to issue Civil Penalties of up to £30,000 as an alternative to prosecution for certain specified offences.

This power came into force on 6 April 2017 and was introduced by section 126 and Schedule 9 of the Housing and Planning Act 2016.

Rent Repayment Orders (RRO)

The Housing Act 2004 introduced Rent Repayment Orders to cover situations where the landlord of a licensable HMO failed to obtain a licence. Rent Repayment Orders

have been extended through the Housing and Planning Act 2016 to cover a wider range of offences, as detailed below:

- Failure to comply with an Improvement Notice under Section 30 of the Housing Act 2004
- Failure to comply with a Prohibition Order under Section 32 of the Housing Act 2004
- Breach of a banning order made under Section 21 of the Housing and Planning Act 2016
- Using violence to secure entry to a property under Section 6 of the Criminal Law Act 1977
- Illegal eviction or harassment of the occupiers of a property under Section 1 of the Protection from Eviction Act 1977

An RRO is an order made by the First-tier Tribunal requiring a landlord to repay a specified amount of rent. A rent repayment order can be applied for when the landlord has committed an offence, whether or not a landlord has been convicted of one of the offences listed above. A criminal standard of proof is required. This means that the First-tier Tribunal must be satisfied beyond reasonable doubt that the landlord has committed the offence or the landlord has been convicted in the courts of the offence for which the rent repayment order application is being made.

The maximum amount of rent that can be recovered is capped at 12 months.

Rent repayment orders can be granted to either the tenant or the local housing authority. If the tenant paid their rent themselves, then the rent must be repaid to the tenant. If rent was paid through Housing Benefit or through the housing element of Universal Credit, then the rent must be repaid to the local housing authority. If the rent was paid partially by the tenant with the remainder paid through Housing Benefit/Universal Credit, then the rent should be repaid on an equivalent basis

A local housing authority can impose a civil penalty and apply for a rent repayment order for certain offences. Both sanctions are available for the following offences under the Housing Act 2004:

- Failure to comply with an Improvement Notice (section 30);
- Offences in relation to licensing of Houses of Multiple Occupation (section 72(1));
- Offences in relation to licensing of houses under Part 3 of the Act (section 95(1)).

The Council will consider whether to make an application for a Rent Repayment Order on a case by case basis in order to recover monies paid through Housing Benefit or through the housing element of Universal Credit. The Council will offer advice and guidance to assist tenants to apply for a Rent Repayment Order in cases where the tenant paid the rent themselves.

Banning Orders

Banning Orders are aimed at rogue landlords who flout their legal obligations and rent out accommodation which is substandard. Banning orders are aimed at the most serious offenders.

A banning order may be made by the First-tier Tribunal following an application made by a local housing authority.

A banning order must be for a minimum period of 12 months. There is no statutory maximum period for a banning order

A banning order bans a landlord from:

- Letting housing in England;
- Engaging in English letting agency work;
- Engaging in English property management work; or
- Doing two or more of those things.

A landlord subject to a banning order is also unable to hold a licence for a House in Multiple Occupation (HMO) and their property may also be subject to a management order.

There may be circumstances where, following a banning order, the management of the property is taken over by the local housing authority. In such circumstances the tenant would pay their rent to the local housing authority.

Breaching a banning order is a criminal offence and a person found guilty of a breach of a banning order is liable on summary conviction to imprisonment for a period not exceeding 51 weeks or to a fine or to both.

What is a banning order offence?

A banning order offence is an offence of a description specified in The Housing and Planning Act 2016 (Banning Order Offences) Regulations 2017. **(A list of banning order offences is at Appendix B).**

Database of rogue landlords and property agents

The Housing and Planning Act 2016 introduced the database as a new tool for local housing authorities in England to keep track of rogue landlords and property agents. Database users will be able to view all entries on the database, including those made by other local housing authorities. The database can be searched to help keep track of known rogue, landlords especially those operating across council boundaries and will help authorities target their enforcement activities.

- **Mandatory duty to make an entry**

A local authority must make an entry when it has obtained a Banning Order against a landlord or agent.

- **Discretionary power to make an entry**

An authority can make an entry when a landlord or agent is not subject to a banning order but has at a time when s/he was a landlord or agent committed

- at least one Banning Order offence for which s/he has been convicted, or
- two or more banning order offences within a 12 month period for which s/he has received a Civil Penalty.

In deciding whether to use this power, local authorities must have regard to Government guidance on the database. The guidance stresses that the more

comprehensive the database is the more useful it will be. However, the guidance suggests that an authority should consider:

- the severity of the offence
- any mitigating factors, such as a landlord or agent's personal issues
- culpability of the landlord or agent and previous offences
- deterrence of the landlord or agent and others

Before an authority can make an entry under its discretionary powers it must give the landlord or agent at least 21 days' notice stating it has decided to place her/him on the database. The notice must be given within 6 months of the conviction or receipt of the second civil penalty.

18.0 Fees and Charges

Power to Charge for Enforcement Action

The Local Authority may make such reasonable charge as they consider appropriate as a means of recovering certain administrative and other expenses incurred by them in:

- serving an improvement notice under section 11 or 12;
- making a prohibition order under section 20 or 21;
- serving a hazard awareness notice under section 28 or 29;
- taking emergency remedial action under section 40;
- making an emergency prohibition order under section 43; or
- making a demolition order under section 265 of the Housing Act 1985 (c. 68).

Land charge

When the charge demand becomes operative, the sum recoverable will be a local land charge, until such time as the debt is repaid in full.

As a charge on the property, the costs give the Authority the same powers and remedies as a Mortgagee under the Law of Property Act 1925.

Work In Default

Costs incurred in carrying out Work in Default or Emergency Remedial Action will be charged separately to the demand.

The costs incurred will include the full costs incurred by the Council in undertaking work in default plus the officer costs incurred in arranging and coordinating the work.

Non Statutory Inspection Charges

The Private Sector Housing Team will charge for inspections that are non-statutory. These include inspections relating to fitness of dwellings for the purposes of immigration requests.

(Please refer to the Private Sector Housing Fees and Charges Policy.)

19.0 Recovery of Expenses

Where charges for enforcement action are levied, they will be registered as a local land charge against the owner's property. This means that when the property is sold

the debt has to be repaid including any interest accrued on the initial charge. The Council will vigorously pursue all debts owed to it as a result of enforcement charges or charges for carrying out works in default (as well as any other charges). This includes smaller debts where the cost of recovery is greater than the debt owed.

To recover debts the Council will use some of the following means;

- The enforced sale procedure under the Law and Property Act 1925. This allows the Council to force the owner to sell their property in order to recover its costs
- Invoice for the applicable amount and County Court action if the invoice is not settled in full.
- A charge put on the property. The charge remains in place until the debt is cleared.

20.0 The Redress Schemes for Letting Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014

This Order makes it a legal requirement for all lettings agents and property managers in England to join a Government-approved redress scheme by 1 October 2014.

This now means that tenants, prospective tenants, landlords dealing with letting agents in the private rented sector, as well as leaseholders and freeholders dealing with property managers in the residential sector can complain to an independent person about the service received. The intention of the scheme is to make it easier for tenants and landlords to complain about bad service and prevent disputes escalating.

The requirement will be enforced by local housing authorities. The Council can impose a fine of up to £5,000 where it is satisfied, on the balance of probability, that someone is engaged in letting or property management work and is required to be a member of a redress scheme, but has not joined.

The expectation is that a £5,000 fine will be considered the norm and that a lower fine will only be charged if the local authority is satisfied that there are extenuating circumstances. The Council will decide what those circumstances might be, taking into account any representations the lettings agent or property manager makes during the 28 day period following the authority's notice of intention to issue a fine.

The Council can impose further penalties if a letting agent or property manager continues to fail to join a redress scheme despite having previously had a penalty imposed.

There is no limit to the number of penalties that may be imposed on an individual lettings agent or property manager, so further penalties can be applied if they continue to be in breach of the legislation.

21.0 The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

Under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015, premises occupied under a tenancy must have:

- A smoke alarm equipped on each storey of the premises on which there is a room used wholly or partly as living accommodation
- A carbon monoxide alarm is equipped in any room of which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance; and
- Checks are made by or on behalf of the landlord to ensure that each alarm is in proper working order on the day the tenancy begins if it is a new tenancy.

Under the Regulations, local authorities are 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 of the regulations. 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 of the regulations are met and can issue a civil penalty of up to £5,000. Landlords can request a review of the Council's decision to serve a penalty notice.

The Council's Statement of Principles sets out the principles that the Council will apply in exercising its powers to require a relevant landlord to pay a financial penalty.

22.0 The Energy Efficiency (Private Rented Property)(England and Wales) Regulations 2015

The Energy Efficiency (Private Rented Property)(England and Wales) Regulations 2015 establish a minimum level of energy efficiency for privately rented property in England and Wales. This means that, from April 2018, landlords of privately rented domestic and non-domestic property in England or Wales must ensure that their properties reach at least an Energy Performance Certificate (EPC) rating of E before granting a new tenancy to new or existing tenants. These requirements will then apply to all private rented properties in England and Wales – even where there has been no change in tenancy arrangements – from 1 April 2020 for domestic properties, and from 1 April 2023 for non-domestic properties.

If a landlord believes that an EPC F or G rated property they let qualifies for an exemption from the minimum energy efficiency standard, that exemption must be registered on the PRS Exemptions Register – a self-certification database.

23.0 Empty Homes

Empty homes can be a blight on our community as well as a wasted housing resource. Our approach will be to work alongside owners of empty homes with a solution-based approach to support and encourage voluntary action.

However, we are also committed to using appropriate enforcement action where owners fail to take responsibility for their properties, reasonable negotiations fail or there is little prospect of the property being bought back into use voluntarily. Please refer to Chesterfield Borough Council's Empty Homes Policy for further detail.

Enforcement options may include the following:

Empty Dwelling Management Orders (EDMO)

Where a property has been left empty for over two years and is attracting anti-social behaviour, the Council may seek an EDMO, the provisions for which are contained in the Housing Act 2004.

An EDMO allows the Council to take over full management of the property for up to seven years, reclaiming any management and refurbishment costs from the rental income.

Compulsory Purchase Orders

CPOs can be made under section 17 of the Housing Act 1985 or section 226 of the Town & Country Planning Act 1990. They allow local authorities to purchase properties in specific circumstances without the owner's consent.

Enforced sale procedure

The Law of Property Act 1925 allows the recovery of debt secured by a registered charge by forcing the sale of a property. In situations where the Council has incurred costs in relation to the property, the Council will register a charge against the property and should the owner still not pay this debt, the Council can commence legal proceedings to sell the property to recover the costs. An enforced sale under a different procedure can also be used to recover Council Tax arrears.

Statutory nuisance provisions

If a property is unsafe, causing or is likely to cause a nuisance to the locality, the Council can take action to ensure that the condition of the property is improved. A full list of these enforcement powers is available in the Chesterfield Borough Council Empty Homes Strategy.

24.0 Caravan Sites

Caravan and camping sites provide accommodation both for residential, holiday and touring purposes. It is a requirement that all sites are registered with the Council and that owners apply for a caravan site licence.

Licences are issued with conditions attached in accordance with their planning permissions and Model Caravan Standards.

The requirement to apply for a caravan site licence refers to all sites including park home sites. However, it does not apply to Council managed traveller sites, nor to unauthorised sites without the appropriate planning permissions as these cases would require investigation from other enforcement bodies.

Caravan sites will be inspected on a cyclical basis or as a result of a complaint made to the service. This is to ensure that there is compliance with the conditions listed on the site licence and also, where appropriate, with other legislative requirements.

Where there is non-compliance with licence conditions or legal requirements, these deficiencies will be notified to the licence holder, owner or manager. Formal action will be taken where there is insufficient progress, limited co-operation or, in the first instance, where serious issues are identified.

The Council has the power to charge annual fees for residential caravan sites and mobile home parks under the Mobiles Homes Act 2013. All charges are set out in the Chesterfield Borough Councils Residential Caravan Site Fee Policy Council Fee Structure.

25.0 Monitoring and Review

The Service will keep its regulatory activities and interventions under review.

Changes will be introduced into this document where necessary to accommodate new legislation, guidance and local needs.

26. Complaints about our service

We are committed to providing an excellent service. But we understand that sometimes things may not go to plan. If someone is dissatisfied by how we have dealt with their case, they should contact us straight away. Our aim is to listen to their concerns and resolve the issue, as soon as possible. We aim to put things right informally. However, if we cannot do that, a complaint may be made and considered under Chesterfield Borough Council's complaint procedure.

27.0 Application of the Policy

All Officers must have regard to this policy when making enforcement decisions.

If you have any comments or queries on this policy, please contact:
Chesterfield Borough Council Private Sector Housing Manager
By Email: privatesectorhousing@chesterfield.gov.uk
By telephone: 01246 345748

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CHESTERFIELD BOROUGH COUNCIL

AUTHORISATION TO OFFICERS

PRIVATE SECTOR HOUSING AND TRAVELLERS

- Public Health Act 1936
- Public Health Act 1961
- Prevention of Damage by Pests Act 1949
- Caravan Sites Act 1968
- Local Government (Miscellaneous Provisions) Act 1976 and 1982
- Protection from Eviction Act 1977
- Building Act 1984
- Environmental Protection Act 1990
- The Water Act 1989
- Housing Act 1985
- Criminal Justice and Public Order Act 1994
- Housing Act 2004
- Mobile Homes Act 2013
- Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014
- Smoke and Carbon Monoxide Alarm (England) Regulations 2015
- Anti-social Behaviour, Crime and Policing Act 2014
- Housing and Planning Act 2016

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The Housing and Planning Act 2016 (Banning Order Offences) Regulations 2018

<i>Item</i>	<i>Statute</i>	<i>Provision</i>	<i>Offence</i>
1.	Protection from Eviction Act 1977(4)	Section 1(2), (3) and (3A)	Unlawful eviction and harassment of occupier
2.	Criminal Law Act 1977(5)	Section 6(1)	Violence for securing entry
3.	Housing Act 2004(6)	Section 30(1)	Failing to comply with an improvement notice
		Section 32(1)	Failing to comply with a prohibition order
		Section 72(1), (2) and (3)	Offences in relation to licensing of Houses in Multiple Occupation
		Section 95(1) and (2)	Offences in relation to licensing of houses under Part 3
		Section 139(7)	Contravention of an overcrowding notice
		Section 234(3)	Failure to comply with management regulations in respect of Houses in Multiple Occupation
4.	Regulatory Reform (Fire Safety) Order 2005(7)	Section 238(1)	False or misleading information
		Article 32(1) and (2)	Fire safety offences

<i>Item</i>	<i>Statute</i>	<i>Provision</i>	<i>Offence</i>
5.	Health and Safety at Work etc. Act 1974(8)	Section 33(1)(c) where a person contravenes any requirement specified in regulation 36 of the Gas Safety (Installation and Use) Regulations 1998(9)	Gas safety offences - duties on landlords
6.	Immigration Act 2014(10)	Section 33A(1) and (10)	Residential tenancies – landlord offences
		Section 33B(2) and (4)	Residential tenancies – agent offences
7.	Fraud Act 2006(11)	Section 1(1)	Fraud
		Section 6(1)	Possession etc. of articles for use in frauds
		Section 7(1)	Making or supplying articles for use in frauds
		Section 9(1)	Participating in fraudulent business carried on by sole trader etc.
		Section 11(1)	Obtaining services dishonestly
		Section 12(2)	Liability of company officers for offences by company
8.	Criminal Justice Act 2003(12)	Schedule 15	Specified violent and sexual offences
9.	Misuse of Drugs Act 1971(13)	Section 8	Occupiers etc. of premises to be punishable for permitting certain activities to take place there

<i>Item</i>	<i>Statute</i>	<i>Provision</i>	<i>Offence</i>
		Section 9	Prohibition of certain activities relating to opium
		Section 9A(1) and (3)	Prohibition of supply etc. of articles for administering or preparing controlled drugs
		Section 18(1), (2), (3) and (4)	Miscellaneous offences
		Section 19	Attempts etc. to commit offences
		Section 20	Assisting in or inducing commission outside United Kingdom of offence punishable under a corresponding law
		Section 21	Offences by corporations
10.	Proceeds of Crime Act 2002(14)	Section 327	Concealing etc. criminal property
		Section 328	Arrangements
		Section 329	Acquisition, use and possession
11.	Protection from Harassment Act 1997(15)	Section 2	Offence of harassment
		Section 2A	Offence of stalking
12.	Anti-social Behaviour, Crime and Policing Act 2014(16)	Section 30	Breach of criminal behaviour order

<i>Item</i>	<i>Statute</i>	<i>Provision</i>	<i>Offence</i>
		Section 48	Failure to comply with a community protection notice
13.	Criminal Damage Act 1971(17)	Section 1(1)	Destroying or damaging property
		Section 2	Threats to destroy or damage property
		Section 3	Possessing anything with intent to destroy or damage property
14.	Theft Act 1968(18)	Section 7	Theft
		Section 9	Burglary
		Section 21	Blackmail
		Section 22	Handling stolen goods

Chesterfield Borough Council

Private Sector Housing

Fees and Charges Policy

2019/20

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1. Introduction

Chesterfield Borough Council is committed to improving standards in private sector housing and ensuring that all private rented accommodation is well managed, properly maintained safe and habitable. It will also ensure that all Houses in Multiple Occupation (HMOs) that require a licence are licensed and comply with the relevant conditions. It is also committed to bringing empty properties back into use.

Although Chesterfield has some excellent landlords and letting agents, the Council has a vital role to play in tackling criminal, rogue and irresponsible landlords and preventing them from profiting from their non-compliance.

In order to regulate private sector housing, the Council's Private Sector Housing Team will request information, carry out inspections, process licence applications, provide owners and landlords with advice and information, investigate possible offences and, where appropriate, take enforcement action and prosecute offenders.

The Housing Act 2004 allows Councils to charge for the cost of the enforcement action it takes in relation to private sector housing and the licensing of Houses in Multiple Occupation.

This Policy reflects the current cost of enforcement actions and processes, and it sets out an approach that is designed to ensure transparency, consistency and fairness in how fees and charges are applied.

The Fees & Charges Policy should be read in conjunction with other policies including, Chesterfield Borough Council, Private Housing Enforcement Policy 2018 and Chesterfield Borough Council Civil Penalties Policy.

2. Overview

Until 2018 Chesterfield Borough Council only charged for processing and issuing Mandatory HMO licences and Mobile Home Site Licences. It did not charge for any other enforcement action or discretionary services undertaken by the Council.

During a review of the Private Sector Housing Service, the Council became aware that it was the only Council within Derbyshire that did not make a charge for certain types of enforcement action.

This policy sets out the actual cost of undertaking the certain types of enforcement action that the Housing Act 2004 allows local authorities to charge for, the processing and issuing of Mandatory HMO licences and also the cost of non statutory work that the council undertakes.

This policy will be reviewed on an annual basis.

Owners and landlords (including the owners of long-term and problematic empty properties) who are served with formal Notice(s) by the Council will be required to bear the full cost of enforcement in line with this Policy. Where it is necessary for the Council to carry out works in default, the Council will seek to recover all of its costs (including the cost of the works) from the owner or landlord at the earliest opportunity.

3. Enforcement Action Taken Under Part 1 Housing Act 2004

Section 49 of the Housing Act 2004 allows the Council to make a charge for undertaking enforcement action under Part 1 of the Housing Act 2004. Chesterfield Borough Council propose to charge for the following enforcement actions:

- serving an improvement notice under section 11 or 12;
- making a prohibition order under section 20 or 21;
- serving a hazard awareness notice under section 28 or 29;
- taking emergency remedial action under section 40;
- making an emergency prohibition order under section 43; or
- making a demolition order under section 265 of the Housing Act 1985 (c. 68).

A notice served under S49 of the Housing Act 2004 will be served on:

- In the case of an Improvement Notice, Suspended Improvement notice, Emergency redial action, the person on whom the notice is served
- In the case of an Emergency Prohibition Order, Prohibition or Suspended Prohibition Order or Demolition order, any person on whom a copy of the order is served as an owner of the premises.

A charge will also be made where a second enforcement action is taken at the same dwelling at the same time, for example where a PO is made to limit numbers occupying, or to prohibit use of part of the building and an Improvement Notice is also served in relation to different hazards.

In exceptional circumstances the Council may exercise its discretion and decide not to make a charge in relation to the above listed enforcement action. Such decisions will be made by the Private Sector Housing Team Manager and will be based on the individual circumstances and merits of the case.

4. Mandatory HMO Licensing Scheme

Until 2018 the cost of an HMO licence was £400 for an initial application and £300 for renewal of a licence. This fee has been amended as a result of the review of Private Sector Housing.

A licence will normally be issued for a five year period. However, if we have significant concerns about the management arrangements currently in place in a property, or a license holder's ability to hold a licence we may decide to issue a licence for a period of time. If a licence is issued for a period shorter than 5 years, the applicant will be charged the full initial processing fee. The second element of the licence fee will be charged pro rata in relation to the period of time the licence has been issued for.

Services Directive.

Prior to 2018 Chesterfield Borough Council, required landlords to submit full payment at the time the HMO licence application was submitted.

In July 2018 the High Court ruled in *Gaskin v LB Richmond Upon Thames* that the EU Directive 2006/123/EC (the Services Directive) was applicable to HMO licensing. As such the local authority can only demand an initial fee that covers the cost of processing the licence application. The remainder of the fee must be collected at a later date. As a result of this decision, Chesterfield Borough Council have adopted a two stage fee structure in relation to Mandatory HMO licensing.

Stage 1 fee payment will be payable at the time that the licence application is submitted to Chesterfield Borough Council. The Council will not process an application until this payment has been made.

Stage 2 fee payment will be payable at the point where the Council has decided that it intends to issue a licence, but before the decision to grant a licence notice has been served.

Applicants who are refused a licence because the Council considers them not to be 'fit and proper' will only be charged for the processing work undertaken to the point of refusal.

Other HMO Licensing Fees

The Council will also charge for the following services:

- Request for officer to complete the application form or create a plan of the building as required on HMO licence application form.
- Request for an additional copy of licence and conditions.
- Request for a full copy of public register.
- Failure to attend a pre arranged inspection relating to HMO licence.

5. Work in Default

The full cost of any work carried out in default of a statutory notice will be recovered in accordance with the relevant statutory provisions.

The council will also charge a fee for arranging the work in default, based on the officer time taken to arrange the work in default. These costs must also be met by the person upon whom the notice/order was served.

Where access to the property in order to carry out work in default is continually denied, the Council may decide to apply to the Courts for a warrant to gain entry to the property to enable the works to be completed. Any charges incurred in relation to obtaining the warrant, will be added to the work in default costs.

6. Discretionary Services

The council will charge for the following discretionary services:

- Housing immigration inspections

7. Debt Recovery

Where a charge is made for enforcement action, the debt will be registered as a local land charge against the owner's property. This means that, when the property is sold, the whole debt (including any interest that has accrued) will have to be repaid.

The Council will not allow a charge to sit against a property until it is sold as a matter of course but will vigorously pursue all debts that are owed to it in relation to its enforcement activity, works in default and other charges.

In order to recover outstanding debts, the Council may:

- Use databases and tracing agencies to track down debtors with a view to securing money judgments against them and appointing court bailiffs to recover the debt.
- Consider the use of the enforced sale procedure under the Law of Property Act 1925, where appropriate, to force the sale of the property in order to recover the money that is owed.

8. Smoke and Carbon Monoxide Alarms (England) Regulation 2015

Please refer to the Smoke and Carbon Monoxide Alarms (England) Regulation 2015 Statement of Principles for a full breakdown of Fees in relation to this legislation.

9. Mobile Home Licence

Please refer to Chesterfield Borough Council's Mobile Homes Fees and Charges Policy for a full breakdown of Fees in relation to this legislation.

10. Civil Penalties.

Please refer to Chesterfield Borough Council's Civil Penalty Policy for a full breakdown of Fees in relation to this legislation.

11. Fees and Charges

Activity		Amount
Service of notice under Part 1 Housing Act 2004		
Improvement Notice or Suspended Improvement Notice		£418.00
Prohibition Order or Suspended Prohibition Order		£418.00
Hazard Awareness Notice		£418.00
Emergency Prohibition Order		£418.00
Emergency Remedial Action		£418.00 (plus work in default costs)
Demolition Order		£418.00
Second Enforcement Action Charge		£229.00
Mandatory HMO Licence Fees		
HMO Licence New Licence Fee	Stage 1 Fee	£488.00
	Stage 2 Fee	£399.00
	Total Fee	£887.00
HMO Licence Renewal Fee	Stage 1 Fee	£401.00
	Stage 2 Fee	£394.00
	Total Fee	£795.00
Request for officer to complete licence application form		£ 50.00
Request for officer to complete floor plan element of licence application form only		£ 20.00
Request for additional copy of HMO licence and conditions		£ 20.00
Request for copy of full HMO licence register		£ 50.00
Failure to attend pre-arranged HMO Licence inspection		£ 50.00

Work In Default	
Work In Default	<ul style="list-style-type: none"> • Cost of work • Officer Costs • Warrant of Entry Costs (where applicable)
Discretionary Work	
Immigration Inspection – Standard (within 4 weeks)	£100.00
Immigration Inspection – Fast Track (within 5 days)	£150.00

Chesterfield Borough Council

Equality Impact Assessment - Preliminary Assessment Form

The preliminary impact assessment is a quick and easy screening process. It should identify those policies, projects, services, functions or strategies which require a full EIA by looking at negative, positive or no impact on any of the equality groups.

Service Area: Health and Wellbeing

Section: Private Sector Housing

Lead Officer: Assistant Director Health and Wellbeing

Title of the policy, project, service, function or strategy the preliminary EIA is being produced for:

Private Sector Housing Enforcement Policy and Fees and Charges Policy

Is the policy, project, service, function or strategy:

Existing ☐

Changed ☐

New/Proposed X

Q1 - What is the aim of your policy or new service?

To help the Council tackle criminal, rogue landlords and improve standards within Private Sector Housing.

Q2 - Who is the policy or service going to benefit?

These policies apply to all private sector housing stakeholders, such as tenants, homeowners, landlords, registered providers and communities within which private sector housing may coexist.

Q3 - Thinking about each group below, does, or could the policy, project, service, function or strategy have an impact on protected characteristics below? You may also need to think about sub groups within each characteristic e.g. older women, younger men, disabled women etc.

Please tick the appropriate columns for each group.

Group or Protected Characteristics	Potentially positive impact	Potentially negative impact	No impact
Age – including older people and younger people.	Policies specifically designed to protect most vulnerable in society.	None	None
Disabled people – physical, mental and sensory including learning disabled people and people living with HIV/Aids and cancer.	Policies specifically designed to protect most vulnerable in society.	None	None
Gender – men, women and transgender.	None	None	None
Marital status including civil partnership.	None	None	None
Pregnant women and people on maternity/paternity. Also consider breastfeeding mothers.	Policies specifically designed to protect most vulnerable in society.	None	None
Sexual Orientation – Heterosexual, Lesbian, gay men and bi-sexual people.	None	None	None
Ethnic Groups	None	None	None
Religions and Beliefs including those with no religion and/or beliefs.	None	None	None
Other groups e.g. those experiencing deprivation and/or health inequalities.	Groups experiencing deprivation/ health inequalities are more likely to live in the private sector and potentially in	None	None

	poorer quality accommodation.		
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If you have answered that the policy, project, service, function or strategy could potentially have a negative impact on any of the above characteristics then a full EIA will be required.

Q4 - Should a full EIA be completed for this policy, project, service, function or strategy?

Yes ☐

No ☒

Q5 - Reasons for this decision:

Neither the Private Sector Housing Enforcement Policy or the Fees and Charges Policy will have a negative impact on any of the protected characteristics listed in question 3 above.

Please e-mail this form to the Policy Service before moving this work forward so that we can confirm that either a full EIA is not needed or offer you further advice and support should a full EIA be necessary.

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