



Please ask for Martin Elliott  
Direct Line: 01246 345236  
Email [committee.services@chesterfield.gov.uk](mailto:committee.services@chesterfield.gov.uk)

The Chair and Members of Cabinet

29 February 2016

Dear Councillor,

Please attend a meeting of the CABINET to be held on TUESDAY, 8 MARCH 2016 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 23 February, 2016.

4. Forward Plan (Pages 15 - 24)
5. Delegation Report (Pages 25 - 30)

Items Recommended to Cabinet via Cabinet Members

Cabinet Member for Health and Wellbeing

6. Review of Fees and Charges for Waste and Recycling 2016/17 (Pages 31 - 44)
7. Review of Cemeteries Fees and Charges for 2016/17 (Pages 45 - 54)

Cabinet Member for Housing

8. Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (Pages 55 - 94)

Yours sincerely,

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

Local Government and Regulatory Law Manager and Monitoring Officer

## CABINET

Tuesday, 23rd February, 2016

Present:-

Councillor Burrows (Chair)

Councillors T Gilby  
T Murphy  
Blank

Councillors Huckle  
Ludlow  
A Diouf

Non Voting Members Bagley  
J Innes  
Brown

Hollingworth  
Wall

\*Matters dealt with under the Delegation Scheme

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

No declarations of interest were received.

154 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor Serjeant.

155 **MINUTES**

**RESOLVED –**

That the minutes of the meeting of Cabinet held on 9 February, 2016 be approved as a correct record and signed by the Chair.

156 **FORWARD PLAN**

The Forward Plan for the four month period 1 March – 30 June, 2016 was reported for information.

**\*RESOLVED –**

That the Forward Plan be noted.

**157 2016/2017 BUDGET AND MEDIUM TERM FINANCIAL PLAN**

The Chief Executive and the Chief Finance Officer submitted a report on the draft General Fund budget, making recommendations to Council on the budget allocations and the Council Tax level for 2016/17.

The Chief Finance Officer advised that since the revised budget in December 2015 further work had been undertaken to identify other possible variances for inclusion in the final 2015/16 budget, and that the updated revised budget forecast for 2015/16 showed a surplus of £225,000. It was noted that the continuing late announcement of funding settlements and the complexities of the Business Rate Retention scheme had made the budget setting process very difficult again this year.

The report included proposals for maintaining a sustainable and affordable budget over the medium term, taking into account the effects of the economic climate on income streams, cuts in the revenue support grant, and changes in funding arrangements resulting from the Local Government Finance Review in 2013. Details of Government funding including the Revenue Support Grant and the New Homes Bonus were provided, and it was noted that while the £900,000 of New Homes Bonus that the council had received in 2015/16 was to be welcomed, there remained great uncertainty regarding the continuation of the scheme for future years. The other major funding sources for the General Fund were business rates growth, fees and charges (particularly car parking income), rental income from the Council's industrial and commercial property portfolio as well as council tax.

The Chief Finance Officer advised that for 2016/17 district councils were able to increase their council tax by a maximum of £5 or 2%, and that for Chesterfield a £5 increase would be equivalent to an increase of 3.45%. The report set out, and evaluated all of the council tax setting options available to the Council.

The report also provided details of the expenditure estimates for 2016/17 to 2020/21, and summarised the planned budget savings proposals over the same period. A review of the Council's reserves and priorities had been undertaken and the report also included a comprehensive risk and sensitivity analysis.

Alternative options were considered throughout the budget setting process.

**\*RESOLVED -**

That it be recommended to Full Council that:

1. The revised budget for 2015/16 be approved.
2. The Local Government Finance Settlement be noted.
3. That, subject to receiving a full report of the implications of the offer, the principle of receiving a four year Local Government Finance Settlement be approved.
4. The Collection Fund and the Tax Base forecasts be noted.
5. The Portfolio budgets and the overall revenue budget summary for 2016/17 be approved.
6. Authority be delegated to the Chief Finance Officer in consultation with the Leader, Deputy Leader and Chief Executive to review what is required to submit an Efficiency Strategy for the Council to ensure that maximum opportunity is taken from the proposed flexibility in relation to the future use of capital receipts.
7. The budget forecasts for 2016/17 and the medium term as well as the strategy for addressing the projected deficits be noted.
8. The estimates of reserves including:
  - I. maintaining the General Working Balance at £1.5m;
  - II. allocating £40k from the Invest to Save Reserve and £110k from the Service Improvement Reserve to finance the £150k budget growth request for support to deliver the Council's savings targets;
  - III. allocating £245k from the Property Repairs Fund to fund capital programme schemes;

be approved.

9. The budget risks and sensitivity analysis be noted.
10. The Local Business Rate Retail Relief schemes, for which the Government will no longer be providing funding, cease.
11. The recommended £5 increase in Council Tax for 2016/17 be approved.
12. The 2016/17 Council Tax Requirement and financing be approved.
13. The Chief Financial Officer's assurances be noted.

## **REASON FOR DECISIONS**

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

## **158 GENERAL FUND CAPITAL PROGRAMME**

The Chief Finance Officer submitted a report recommending for approval the updated General Fund Capital Strategy and Programme for 2015/16 to 2018/19.

The report provided details of:

- The updated Capital Strategy.
- Updated Capital Programme forecasts.
- Schemes added to the Programme during 2015/16.
- Progress made on current major schemes including Waterside Canal Infrastructure Works.
- Recurring schemes including expenditure on Disabled Facilities Grants, vehicle and plant maintenance, ICT and major property repairs.

The report also provided details of capital financing arrangements, capital receipts and the net financing position.

The Chief Finance Officer advised that based on current forecasts there would be no surplus resources available to fund new capital schemes until 2017/18. In this situation new schemes would only be able to be added to the Programme where they were aligned with a Corporate Plan

priority and that the additional funding required had been identified and secured. The Senior Leadership Team had reviewed the capital growth requests submitted by Service Managers had recommended four programmes to be added to the Capital Programme, which were:

- Reconfiguration of administration area to create usable space at the Healthy Living Centre;
- Increasing the budget for the Town Hall restack as part of the Great Place; Great Service, transformation programme;
- Replacing the lift at the Winding Wheel;
- Installing new pay on foot machines at the council's surface car parks.

The report also included recommendations on capital schemes which should be placed a waiting list, pending the availability of capital receipts, as well as schemes where a decision to add to the Capital Programme should be deferred.

#### **\*RESOLVED –**

That it be recommended to Full Council that:

1. The Capital Strategy be approved.
2. The updated General Fund Capital Programme expenditure and financing be approved.
3. The new schemes outlined in paragraph 8.4 of the Chief Finance Officer's report are added to the Capital Programme.
4. The prioritised list of "waiting list" schemes for the Capital Programme be approved.

#### **REASON FOR DECISIONS**

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

The Policy Manager attended to present the Corporate Management Team's report recommending for approval the Council Plan 2015-2019, updated for 2016/17.

In 2015/16 the Council had moved from the production of a one year plan to a four year strategic Council Plan following a recommendation from the Local Government Association's peer challenge in 2013. The updated plan had set out the Council's key priorities and aims, based on those identified by Cabinet Members and officers and taking account of a wide range of evidence. The plan was aimed at providing focus, and setting out priorities and projects that would require a collected corporate effort during the period.

The Council Plan had been revised to show the progress made during the first year of the plan, and also to highlight the progress expected by the half-way point of the plan which would be in April 2017. The refreshed plan provided continuity with the 2015/16 version of the plan, maintaining the same vision, three overarching priorities, four year aims and Council values. The Policy Manager also provided information on how the plan would be monitored and reviewed throughout the year in order to ensure that it delivered the council's planned objectives.

#### **\*RESOLVED -**

That it be recommended to Full Council that:

1. The Council Plan 2015-2019, updated for 2016/17 is adopted as the Council's strategic framework.
2. The Deputy Leader is delegated authority to approve any minor drafting changes that may be required in order to improve the readability of the plan.

#### **REASON FOR DECISIONS**

To provide the Council with a clear statement of its strategic priorities for 2015-2019 and a framework within which decisions can be made about the allocation of resources.



The interim Environmental Services Manager submitted a report recommending for approval the proposed fees and charges for Outdoor Recreation facilities to take effect from 1 April, 2016.

The fees and charges proposals had taken into account:

- The need for the Council to achieve a balanced budget.
- The fees and charges structures of other local public and private sector providers.
- The ability of all customers to pay in the current economic climate, and the demand for facilities.
- The need to address health inequalities across the borough, and to encourage young people to participate in sporting activities.

The option of introducing lower increases was ruled out as the proposed increases in the charges were required to deliver a balanced and sustainable budget. An option of introducing a significantly greater increase in the charges was ruled out as there would have been a risk in terms of putting off potential customers, harming the council's finances, as well as negatively impacting on local sports teams.

**\*RESOLVED –**

1. That the charges set out in Appendix A of the officer's report be approved and implemented for the financial year 2016/17.
2. That the Interim Environmental Services Manager, in consultation with the Cabinet Member for Health and Wellbeing be authorised to revise the approved Fees and Charges where threats to income generation emerge and/or opportunities to raise additional income arise, when they are in line with the Council's general principles for charging.

**161 HOUSING REVENUE ACCOUNT BUDGET 2016/17 - 2021/22**

The Housing Service Manager – Business Planning and Strategy and the Chief Finance Officer submitted a report on the probable outturn on the Housing Revenue Account for the current financial year and seeking approval for the budget estimates for 2016/17.

The rent and service charge levels agreed by Cabinet in January (Minute No.144 (2015/16)) had been incorporated into the 2016/17 budget forecast. The report also proposed a schedule of priority growth requests.

The Housing Manager noted that the financial strategy for the HRA was to deliver a balanced and sustainable budget which is self-financing in the longer term and which reflected both the requirements of tenants and the strategic vision and priorities of the Council. However the implications arising from the new Welfare Reform and Work Bill, Housing and Planning Bill and the announcements in the Comprehensive Spending Review, most notably the 1% per annum reduction in social rents would have a significant impact on the Housing Revenue Account creating large deficits in future years. The introduction of the 1% rent reduction over four years would mean a loss of £10 million in rental income in real terms, and over the life of the Business Plan the loss would be £172.4 million in rental income. This would mean that for the council to continue delivering services and investing in the housing stock as planned it would require borrowing up to the debt cap of £155.6 million by 2018/19, and that even with increased borrowing there would still be a significant shortfall for the Housing Capital Programme

The Housing Manager advised that as this situation was financially unsustainable work was continuing to make changes within the HRA Business Plan in order to reach a long term sustainable position, and that a report regarding these proposals would be brought Cabinet in March, 2016.

**\*RESOLVED -**

1. That the probable outturn for the current financial year be noted.
2. That the draft estimates for 2016/17 be noted.
3. That the "Growth Items" at Annexe 6 of Appendix A of the officers' report be approved.
4. That further work is undertaken to identify actions required which will return the working balance for 2017/18 onwards to acceptable levels, and that the findings are reported back as part of the Housing Revenue Account 30 Year Business Plan Report.

162 **HOUSING CAPITAL PROGRAMME - NEW PROGRAMME FOR 2016/17, 2017/18 AND 2018/19**

The Housing Service Manager – Business Planning and Strategy submitted a report on the Housing Capital Programme, outlining proposals for the New Programme for 2016/17, as well as for the provisional 2017/18 and 2018/19 programmes.

The report outlined the financial strategy to maintain the Decent Homes Standard for 100% of the council's properties, which had first been achieved in March 2015, as well for plans to improve the non-traditional housing stock and to deliver improvements to the estates environment in the immediate short term.

The Housing Service Manager advised that the proposed 2016/17 programme continued to broadly reflect the capital programme used in the Housing Revenue Account Business Plan in previous years and addressed needs arising due to the ageing housing stock, as identified in the Stock Condition Survey. The focus of the programme remained the modernisation of properties to maintain the 100% level of stock being maintained at the Decent Homes Standard, with the balance of activity over the next twelve months concentrating on building elements such as heating, roofs and rewires. It was noted that due to the large reduction of income to the Housing Revenue Account due to the annual 1% reduction in social rents over the next four years, a review of the way in which it would deliver future maintenance programmes would be carried out.

Information was provided on the commitment to use local contractors where possible, and tenant involvement in reviewing and prioritising the Capital Programme. The Housing Manager advised that the proposed programme broadly reflected tenants' priorities in particular the increased investment in environmental improvements. The allocation of work to the Housing Services' Operational Services Division was also outlined.

**\*RESOLVED -**

That Cabinet recommends to Full Council that:

1. The Housing (Public Sector) Capital Programme for 2016/17 be approved, and its procurement, as necessary, be authorised.

2. The provisional Housing (Public Sector) Capital Programme's for 2017/18 and 2018/19 be noted.
3. The Operational Services Division share of the Programme be approved.
4. The Housing Service Manager - Business Planning and Strategy be delegated authority to vire between programme heads and budgets in order to manage the Capital Programme as set out in the report.

### **REASONS FOR DECISIONS**

The Council will be able to maintain its 'Decent Homes Standard' targets in line with the Council's Vision and Corporate Plan.

The condition of the Public Sector housing stock and its environment will be maintained and improved.

### **163 HOUSING REPAIRS BUDGET 2016/17**

The Housing Services Manager – Operational Services Division submitted a report recommending for approval the Housing Repairs Budget for 2016/17.

It was noted that other than minor changes to reflect seasonal demands (such as storm damage and central heating break downs); there had been not been any major amendments required to the budget during 2015/16. The 2016/17 repairs budget proposed was otherwise consistent with that of 2015/16.

The Tenants Executive, the Tenant Challenge Panel and individual focus groups had been involved in reviews of the repairs policy to ensure continuous improvement.

#### **\*RESOLVED -**

1. That the Housing Repairs Budget for 2016/17 at Appendix 1 of the officer's report be approved.
2. That the Housing Services Manager - Operational Services, be authorised to vire between responsive repairs budget heads in order to effectively manage and respond to fluctuations in tenant-led or weather dependent repairs.

## REASONS FOR DECISIONS

To permit required maintenance of the Housing Stock.

To support working with tenants through the tenant participation Strategy.

To support the Council's Vision and Corporate Plan.

### 164 **LOCAL GOVERNMENT ACT 1972 - EXCLUSION OF THE PUBLIC**

#### **RESOLVED -**

That under Regulation 21(1)(b) of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000, the public be excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 3 of Part I of Schedule 12A to the Local Government Act 1972 (Information relating to the financial or business affairs of any particular person (including the authority holding that information))

### 165 **SHEFFIELD CITY REGION INVESTMENT FUND – FUNDING AGREEMENTS**

The Development and Growth Manager submitted a report to update members on the Sheffield City Region Investment Fund (SCRIF) and the requirements of the Sheffield City Region Combined Authority with regard to funding agreements with local authority sponsors of SCRIF schemes, and to consider the proposal that Chesterfield Borough Council entered into funding agreements with the Sheffield City Region Combined Authority for the delivery of infrastructure works on the Chesterfield Waterside and Peak Resort schemes, as well as the mechanism by which funding could be forwarded on to the developers of those schemes with minimum risk to the Council.

It was stated that funding would provide an opportunity to help enable the delivery of infrastructure, and to bring forward the delivery of Basin Square as part of the Waterside development as well as Phase 1 of Peak Resort. It was noted that both schemes were within the Council's Corporate Plan and that their implantation would bring benefits to the Chesterfield economy.

The report provided details and a full assessment of both the benefits and risks of entering into funding agreements with the Sheffield City Region Combined Authority.

**\*RESOLVED -**

That Cabinet recommends to Full Council that:

1. The Council enters into the Sheffield City Region Investment Fund (SCRIF) funding agreement with Sheffield City Region Combined Authority for the delivery of Chesterfield Waterside and Peak Resort, subject to a satisfactory business case being in place.
2. The Cabinet Member for Regeneration is delegated authority to approve back to back funding agreements with the final recipients of SCRIF funding – Chesterfield Waterside Ltd and Birchall Properties Ltd.

**REASON FOR DECISIONS**

To bring about the successful delivery of the Chesterfield Waterside and Peak Resort schemes, both of which are Council Corporate Plan objectives.

CHESTERFIELD BOROUGH COUNCIL FORWARD PLAN  
FOR THE FOUR MONTH PERIOD 1 APRIL 2016 TO 31 JULY 2016

**What is the Forward Plan?**

This is formal notice under The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 of key decisions to be made on behalf of the Council. This Forward Plan sets out the details of the 'key' and other major decisions which the Council expects to take during the next four month period. The Plan is available to the public 28 days before the beginning of each month.

**What is a Key Decision?**

Any executive decision which is likely to result in the Council incurring significant expenditure or the making of savings where there is:

- a decision to spend £50,000 or more from an approved budget, or
- a decision to vire more than £10,000 from one budget to another, or
- a decision which would result in a saving of £10,000 or more to any budget head, or
- a decision to dispose or acquire any interest in land or buildings with a value of £50,000 or more, or
- a decision to propose the closure of, or reduction by more than ten (10) percent in the level of service (for example in terms of funding, staffing or hours of operation) provided from any facility from which Council services are supplied.

Any executive decision which will have a significant impact in environmental, physical, social or economic terms on communities living or working in one or more electoral wards. This includes any plans or strategies which are not within the Council's Policy Framework set out in Article 4 of the Council's Constitution.

**Are any other decisions included on the plan?**

The Forward Plan also includes details of any significant issues to be considered by the Executive Cabinet, full Council and Overview and Scrutiny Committee. They are called "non-key decisions". Non-key decisions that will be made in private are also listed.

**How much notice is given of forthcoming decisions?**

As far as possible and in the interests of transparency, the Council will seek to provide at least 28 clear days' notice of new key decisions (and many new non-key decisions) that are listed on this document. Where this is not practicable, such key decisions will be taken under urgency procedures (in accordance with Rule 15 (General Exception) and Rule 16 (Special Urgency) of the Access to information Procedure Rules). This will be indicated in the final column and a separate notice is also published with additional details.

**What information is included in the plan?**

The plan will provide a description of the decision to be taken, who will make the decision and when the decision is to be made. The relevant Cabinet Member for each decision is listed. If you wish to make representations about the decision to be made, the contact details of the appropriate officer are also provided. Decisions which are expected to be taken in private (at a meeting of the Cabinet or by an individual Cabinet Member) are marked "private" and the reasons privacy is required will also be stated. Each issue is also listed separately on the website which will show more details including any Urgency Notices if issued.

## How is consultation and Community Engagement carried out?

We want all our communities to be given the opportunity to be involved in the decisions that affect them so before a decision is taken, where appropriate, community engagement activities are carried out. The Council's Community Engagement Strategy sets out a framework for how the Council engages with its customers and communities. Details of engagement activities may be found in reports when published. Alternatively you can contact the officer to whom representations may be made.

## Notice of Intention to Conduct Business in Private

Whilst the majority of the business at Cabinet meetings will be open to the public and media to attend, there will inevitably be some business to be considered that contains, for example, confidential, commercially sensitive or personal information. This is formal notice under The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 that the Cabinet meetings shown on this Forward Plan will be held partly in private because some of the reports for the meeting will contain either confidential information or exempt information under Part 1 of Schedule 12A to the Local Government (Access to Information) Act 1985 (as amended) and that the public interest in withholding the information outweighs the public interest in disclosing it.

A list of the reports which are expected to be considered at this meeting in private are set out in a list on this Forward Plan. They are marked "private", including a number indicating the reason why the decision will be taken in private under the categories set out below:

- (1) information relating to any individual
- (2) information which is likely to reveal the identity of an individual
- (3) information relating the financial or business affairs of any particular person (including the authority holding that information)
- (4) information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
- (5) Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- (6) Information which reveals that the authority proposes (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.
- (7) Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

If you would like to make representations about any particular decision to be conducted in private at this meeting then please email: [democratic.services@chesterfield.gov.uk](mailto:democratic.services@chesterfield.gov.uk). Such representations must be received in advance of 5 clear working days before the date Cabinet meeting itself, normally by the preceding Monday. The Council is required to consider any representations received as to why an item should not be taken in private and to publish its decision.

It is possible that other private reports may be added at shorter notice to the agenda for the Cabinet meeting or for a Cabinet Member decision.

**Huw Bowen**  
Chief Executive

Copies of the Council's Constitution and agenda and minutes for all meetings of the Council may be accessed on the Council's website: [www.chesterfield.gov.uk](http://www.chesterfield.gov.uk)



**CHESTERFIELD**  
BOROUGH COUNCIL



### Meeting Dates 2015/16

<u>Cabinet</u>	<u>Council</u>
2 June 2015* 16 June 2015 30 June 2015	
14 July 2015* 21 July 2015	22 July 2015
8 September 2015* 22 September 2015	
6 October 2015* 20 October 2015	14 October 2015
3 November 2015* 17 November 2015	
1 December 2015* 15 December 2015	16 December 2015
12 January 2016* 26 January 2016	
9 February 2016* 23 February 2016	25 February 2016
8 March 2016* 22 March 2016	
5 April 2016* 19 April 2016	27 April 2016 (ABM)
3 May 2016* 17 May 2016 31 May 2016	11 May 2016 (ACM)

### Cabinet members and their portfolios are as follows:

Leader and Cabinet Member for Regeneration	Councillor John Burrows	
Deputy Leader and Cabinet Member for Planning	Councillor Terry Gilby	
Cabinet Member for Business Transformation	Councillor Ken Huckle	Assistant Member Councillor Keith Brown
Cabinet Member for Governance	Councillor Sharon Blank	Assistant Member Councillor Mick Wall
Cabinet Member for Health and Wellbeing	Councillor Chris Ludlow	Assistant Member Councillor Helen Bagley
Cabinet Member for Housing	Councillor Tom Murphy	Assistant Member Councillor Sarah Hollingworth
Cabinet Member for Town Centre and Visitor Economy	Councillor Amanda Serjeant	Assistant Member Councillor Jean Innes

### In addition to the Cabinet Members above, the following Councillors are voting Members for Joint Cabinet and Employment and General Committee

Councillor Helen Elliott  
Councillor Gordon Simmons  
Councillor John Dickinson  
Councillor Jean Innes  
Councillor Maureen Davenport

\*From 2015/16, Joint Cabinet and Employment and General Committee meet immediately prior to the first meeting of Cabinet each month

(To view the dates for other meetings please click [here.](#))

Decision No	Details of the Decision to be Taken	Decision to be taken by	Relevant Portfolio Holder	Earliest Date Decision can be Taken	Documents to be considered by Decision taker	Representations may be made to the following officer by the date stated	Public or Private	Decision Under Urgency Provisions
<b>Key Decisions</b>								
Key Decision 337	<b>THI Scheme Project Evaluation</b> - to receive a final evaluation of the THI project for Chesterfield Town Centre.	Cabinet	Deputy Leader & Cabinet Member for Planning	19 Apr 2016	Report of Development Management and Conservation Manager	Paul Staniforth Tel: 01246 345781 paul.staniforth@chesterfield.gov.uk	Public	
Key Decision 398	<b>Sale of CBC Land/Property</b>	Deputy Leader & Cabinet Member for Planning	Deputy Leader & Cabinet Member for Planning	Not before 30th Mar 2016	Report of Head of Kier	Matthew Sorby Tel: 01246 345800 matthew.sorby@chesterfield.gov.uk	Exempt 3 Contains financial information	
Key Decision 495	<b>Local Government Pension Scheme</b> To approve the revised Discretions in accordance with the changes to the Local Government Pension Scheme Regulations	Cabinet  Council	Cabinet Member - Business Transformation	28 Jun 2016  27 Jul 2016	Report of HR and Payroll Lead	Jane Dackiewicz Tel: 01246 345257 jane.dackiewicz@chesterfield.gov.uk	Public	

Decision No	Details of the Decision to be Taken	Decision to be taken by	Relevant Portfolio Holder	Earliest Date Decision can be Taken	Documents to be considered by Decision taker	Representations may be made to the following officer by the date stated	Public or Private	Decision Under Urgency Provisions
Key Decision 558	<b>Review of Cemeteries Fees and Charges for 2016/17</b>	Cabinet	Cabinet Member - Health and Wellbeing	8 Mar 2016	Report of the Bereavement Services Manager	Angela Dunn Bereavement Services Manager Tel: 01246 345881 angela.dunn@chesterfield.gov.uk	Public	
Key Decision 559	<b>Review of Fees and Charges for Waste and Recycling 2016/17</b>	Cabinet	Cabinet Member - Health and Wellbeing	8 Mar 2016	Report of the Operations Manager	Dave Bennett Tel: 01246 345122 dave.bennett@chesterfield.gov.uk	Public	
Key Decision 577	<b>Risk Management Strategy and in year review</b>	Council	Deputy Leader & Cabinet Member for Planning	27 Apr 2016	Report of Chief Finance Officer	Barry Dawson Tel: 01246 345451 barry.dawson@chesterfield.gov.uk	Public	
Key Decision 583	<b>Housing Revenue Account Business Plan</b>	Cabinet	Cabinet Member - Housing	5 Apr 2016		Alison Craig Housing Tel: 01246 345156 alison.craig@chesterfield.gov.uk	Public	

Decision No	Details of the Decision to be Taken	Decision to be taken by	Relevant Portfolio Holder	Earliest Date Decision can be Taken	Documents to be considered by Decision taker	Representations may be made to the following officer by the date stated	Public or Private	Decision Under Urgency Provisions
Key Decision 584	<b>Purchase of Property under Strategic Acquisitions Policy</b>	Housing Services Manager - Business Planning and Strategy	Cabinet Member - Housing	Not before 30th Mar 2016			Exempt 3	
Key Decision 593	<b>Ratification of the October 2015 Sheffield City Region devolution agreement</b>	Council	Leader & Cabinet Member for Regeneration	3 Mar 2016	Report of the Chief Executive	Huw Bowen Chief Executive Tel: 01246 345308 huw.bowen@chesterfield.gov.uk	Public	
Key Decision 594	<b>Decision to become a member of the East Midlands Mayoral Combined Authority</b>	Council	Leader & Cabinet Member for Regeneration	3 Mar 2016	Report of the Chief Executive	Huw Bowen Chief Executive Tel: 01246 345308 huw.bowen@chesterfield.gov.uk	Public	
Key Decision Key Decision 598	<b>Workforce Strategy</b>	Joint Cabinet and Employment & General Committee	Cabinet Member - Business Transformation	5 Apr 2016		Kate Harley Kate.Harley@chesterfield.gov.uk	Public	

Decision No	Details of the Decision to be Taken	Decision to be taken by	Relevant Portfolio Holder	Earliest Date Decision can be Taken	Documents to be considered by Decision taker	Representations may be made to the following officer by the date stated	Public or Private	Decision Under Urgency Provisions
Key Decision 602	<b>Tenants Satisfaction Survey Results</b>	Cabinet	Cabinet Member - Housing	22 Mar 2016	Report of Housing Service Manager - Business Planning and Strategy	Alison Craig Housing Tel: 01246 345156 alison.craig@chesterfield.gov.uk	Public	
Key Decision 605	<b>A Joint Homelessness Strategy for North Derbyshire</b>	Cabinet	Cabinet Member - Housing	22 Mar 2016		Julie McGrogan Tel: 01246 345135 julie.mcrogan@chesterfield.gov.uk	Public	
Key Decision 607	<b>Statutory Review of Chesterfield Borough Council's Gambling Policy</b>	Council	Cabinet Member - Health and Wellbeing	27 Apr 2016	Report of the Licensing Manager	Trevor Durham Tel: 01246 345203 trevor.durham@chesterfield.gov.uk	Public	
Key Decision 608	<b>Solar PV Monitoring and Maintenance Arrangements</b> To seek an exemption to the Council's contract procedure rules	Cabinet	Cabinet Member - Housing	5 Apr 2016		Alison Craig Housing Tel: 01246 345156 alison.craig@chesterfield.gov.uk	Exempt 3 Information relating to financial affairs	

Decision No	Details of the Decision to be Taken	Decision to be taken by	Relevant Portfolio Holder	Earliest Date Decision can be Taken	Documents to be considered by Decision taker	Representations may be made to the following officer by the date stated	Public or Private	Decision Under Urgency Provisions
Key Decision 609	<b>Smoke and Carbon Monoxide Alarm (England) Regulations 2015</b> Approval to exercise enforcement powers and determine a penalty charge	Cabinet	Cabinet Member - Housing	8 Mar 2016	Report of Housing Service Manager - Business Planning & Strategy	Alison Craig Housing Tel: 01246 345156 alison.craig@chesterfield.gov.uk	Public	
Key Decision 610	<b>Right To Buy Social Mobility Fund Update</b> To update Cabinet Members on progress	Cabinet	Cabinet Member - Housing	5 Apr 2016	Report of Housing Service Manager - Business Planning & Strategy	Alison Craig Housing Tel: 01246 345156 alison.craig@chesterfield.gov.uk	Public	
Key Decision 611	<b>Report on the Council's Private Drain Cleaning Service</b>	Cabinet	Cabinet Member - Health and Wellbeing	22 Mar 2016		Angela Dunn Bereavement Services Manager Tel: 01246 345881 angela.dunn@chesterfield.gov.uk	Exempt 3	
Key Decision 612	<b>Changes to staffing in the Chesterfield Community Safety Partnership</b>	Joint Cabinet and Employment & General Committee	Cabinet Member - Health and Wellbeing	5 Apr 2016	Report of the Policy Manager	Donna Reddish Tel: 01246 345307 donna.reddish@chesterfield.gov.uk	Exempt 1	

Decision No	Details of the Decision to be Taken	Decision to be taken by	Relevant Portfolio Holder	Earliest Date Decision can be Taken	Documents to be considered by Decision taker	Representations may be made to the following officer by the date stated	Public or Private	Decision Under Urgency Provisions
Key Decision 614	<b>Review of Sports and Leisure Fees and Charges 2016/17</b>	Cabinet	Cabinet Member - Health and Wellbeing	22 Mar 2016	Report of Sports and Leisure Manager	Mick Blythe Tel: 01246 345101 mick.blythe@chesterfield.gov.uk	Exempt 3	
Key Decision 615	<b>Funding to Voluntary and Community Organisations 2016/17 - Service Level Agreements</b>	Cabinet	Cabinet Member - Health and Wellbeing	5 Apr 2016	Report of the Development and Growth Manager	Neil Johnson Tel: 01246 345241 neil.johnson@chesterfield.gov.uk	Public	
Key Decision 616	<b>Demolition of 9 and 9A Wensley Way, Middlecroft</b> Demolition of former Careline office, boiler room and attached property and permission to dispose of the land.	Cabinet	Cabinet Member - Housing	19 Apr 2016		Alison Craig Housing Tel: 01246 345156 alison.craig@chesterfield.gov.uk	Exempt 1,3 1) Information relating to an individual 3) Information relating to the financial affairs of a particular individual	
Key Decision 617	<b>Linacre Road, Ashgate - Project update</b>	Cabinet	Deputy Leader & Cabinet Member for Planning	22 Mar 2016	Report of the Head of Kier	Linda Martin Tel: 01246 345445 linda.martin@chesterfield.gov.uk	Exempt 3	

Decision No	Details of the Decision to be Taken	Decision to be taken by	Relevant Portfolio Holder	Earliest Date Decision can be Taken	Documents to be considered by Decision taker	Representations may be made to the following officer by the date stated	Public or Private	Decision Under Urgency Provisions
Key Decision 618	<b>Approval to Dispose of Miscellaneous Housing Stock</b>	Cabinet	Cabinet Member - Housing	5 Apr 2016	Report of the Housing Services Manager - Business Planning and Strategy	Alison Craig Housing Tel: 01246 345156 alison.craig@chesterfield.gov.uk	Exempt 3	
<b>Private Items (Non Key Decisions)</b>								
Non-Key 363	<b>Application for Home Repairs Assistance</b>	Cabinet Member - Housing	Cabinet Member - Housing	Not before 30th Mar 2016	Report of Business Planning and Strategy Manager - Housing Services	Jane Thomas jane.thomas@chesterfield.gov.uk	Exempt 1, 3 Information relating to an individual information relating to financial affairs	
Non-Key 367	<b>Lease of Commercial and Industrial Properties</b>	Deputy Leader & Cabinet Member for Planning	Deputy Leader & Cabinet Member for Planning	Not before 30th Mar 2016	Report of Kier Asset Management	Christopher Oakes Tel: 01246 345346 christopher.oakes@chesterfield.gov.uk	Exempt 3 Information relating to financial or business affairs	
<b>Non Key Decisions</b>								



## CABINET MEETING

8 March 2016

## DELEGATION REPORT

### DECISIONS TAKEN BY LEAD MEMBERS

#### Deputy Leader and Cabinet Member for Planning

Decision Record No.	Subject	Delegation Reference	Date of Decision
<b>29/15/16</b>	<b>Easement and Licence - Land adjacent the Coach Station, Chesterfield S40 1TH</b>	<b>J420L</b>	<b>12 February 2016</b>
<p>Decision</p> <p>(1) That an Easement and Licence be granted to the Council over a third parties' land to serve the Coach Station.</p> <p>(2) That the Property, Procurement and Contracts Law Manager be granted delegated authority to deal with any late amendments to the terms of the legal documentation.</p>			
<p>Reason for Decision</p> <p>The proposal formalises the Council's existing use of the land and prevents any future dispute, whilst mitigating against liabilities as far as reasonably possible.</p>			

Decision Record No.	Subject	Delegation Reference	Date of Decision
<b>30/15/16</b>	<b>Five year lease of Units 1, 2, 3 and 4, Warwick Street, Chesterfield</b>	<b>J420L</b>	<b>12 February 2016</b>
<p>Decision</p> <p>(1) That the five year lease on the terms outlined in the officer's report be granted.</p> <p>(2) The Property, Procurement and Contracts Law Manager be granted delegated authority to deal with any late amendments to the terms of the lease.</p>			
<p>Reason for Decision</p> <p>The new lease will secure an income stream.</p>			
<b>31/15/16</b>	<b>Deed of Rectification - Barrow Hill Medical Centre, Station Road, Chesterfield</b>	<b>J420L</b>	<b>12 February 2016</b>
<p>Decision</p> <p>(1) That the Deed of Rectification on the terms outlined in the officer's report be granted.</p> <p>(2) The Property, Procurement and Contracts Law Manager be granted delegated authority to deal with any late amendments to the terms of the legal documentation.</p>			
<p>Reason for Decision</p> <p>The proposal will mitigate against a potential future cost to the Council in the removal of rights to use their retained land.</p>			

Decision Record No.	Subject	Delegation Reference	Date of Decision
<b>32/15/16</b>	<b>Freehold disposal of land adjacent 3 Quantock Way, Loundsley Green</b>	<b>G260L</b>	<b>19 February 2016</b>
<p>Decision</p> <p>(1) That the freehold sale of land adjacent 3 Quantock Way, Loundsley Green on the terms set out in the officer's report be granted.</p> <p>(2) That the Property Procurement and Contracts Law Manager be granted delegated authority to deal with any late amendments to the sale.</p>			
<p>Reason for Decision</p> <p>The sale will secure a one off capital receipt plus fees for the Council.</p>			
<b>33/15/16</b>	<b>Sale of Housing shop and flat at 158 Keswick Drive, Newbold</b>	<b>J420L</b>	<b>19 February 2016</b>
<p>Decision</p> <p>(1) That the disposal of the shop and flat premises at 158 Keswick Drive, Newbold on the terms set out in the officer's report be granted.</p> <p>(2) That the Property Procurement and Contracts Law Manager be granted delegated authority to deal with any late amendments to the sale.</p>			
<p>Reason for Decision</p> <p>The sale will secure a one off capital receipt to the Housing Revenue Account.</p>			

Decision Record No.	Subject	Delegation Reference	Date of Decision
<b>34/15/16</b>	<b>821 Sheffield Road</b>	<b>J000</b>	<b>19 February 2016</b>
<p>Decision</p> <p>That legal proceedings are not pursued to enforce the charge but to leave the charge on the property.</p>			
<p>Reason for Decision</p> <p>To give the council in the future the opportunity to recoup the charge on the property in order to offset some of the costs already incurred.</p>			

### **Cabinet Member for Business Transformation**

Decision Record No.	Subject	Delegation Reference	Date of Decision
<b>35/15/16</b>	<b>Outstanding Insolvency Debts for Write Off</b>	<b>G100L</b>	<b>10 February 2016</b>
<p>Decision</p> <p>That the debts shown in the appendix to the officer's report be written off.</p>			
<p>Reason for Decision</p> <p>Payment of these debts was unlikely to be forthcoming and early write off had been recommended by the Council's external auditors.</p>			
<b>36/15/16</b>	<b>Outstanding Debts For Write off</b>	<b>G100L</b>	<b>10 February 2016</b>
<p>Decision</p> <p>That the debts shown in the appendix to the officer's report be written off.</p>			
<p>Reason for Decision</p> <ol style="list-style-type: none"> <li>1. There was little or no likelihood of obtaining payment of the debts.</li> <li>2. Any action which could have been taken to recover the debts would not have been cost effective.</li> </ol>			

Decision Record No.	Subject	Delegation Reference	Date of Decision
<b>37/15/16</b>	<b>Outstanding Debts For Write off</b>	<b>G100L</b>	<b>10 February 2016</b>
<p>Decision</p> <p>That the debts shown in the appendix to the officer's report be written off.</p>			
<p>Reasons for Decision</p> <ol style="list-style-type: none"> <li data-bbox="135 884 1420 965">1. Enforcement of the liabilities would have had a significant impact on the company's cash flow.</li> <li data-bbox="135 1014 1364 1137">2. The Economic Development department had expressed concerns of potential implications. There had been discussion with the company regarding the potential relocation of 120 staff to Chesterfield.</li> </ol>			

## **FOR PUBLICATION**

### **TRADE WASTE AND MISCELLANEOUS FEES AND CHARGES 2016/17**

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MEETING:	1. CABINET 2. CABINET MEMBER FOR HEALTH AND WELLBEING
DATE:	1. 8 MARCH 2016 2. 11 FEBRUARY 2016
REPORT BY:	WASTE AND STREET CLEANING MANAGER
WARD:	ALL
COMMUNITY FORUM:	ALL
KEY DECISION:	No 559

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### FOR PUBLICATION

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#### 1.0 **PURPOSE OF REPORT**

- 1.1 To determine the charges to be made for the collection and disposal of trade wastes and other miscellaneous environmental fees in 2016/17

#### 2.0 **RECOMMENDATIONS**

- 2.1 That Members approve the revised charges for trade wastes and other miscellaneous environmental fees for 2016/17 as detailed within the report and at Appendices A and B.

#### 3.0 **INTRODUCTION**

- 3.1 In accordance with the Council's Budget Strategy, this is the annual review of trade waste and other charges taking into consideration that charges should aim to recover at least the full cost of the service except where:

- (1) There is an opportunity to maximise income: or

(2) Members determine a reduction or subsidy should be made for a specific reason.

3.2 In preparing this report, we have had regard to The Council's Budget Strategy in that provision should be made for a minimum inflationary increase of 3% each year. Additionally, the collection and disposal charges applied to the larger bin sizes used for Commercial Waste require a larger increase of 4% in order to cover our current costs.

#### 4.0 **BACKGROUND**

##### 4.1 **Commercial Waste**

The Council has a duty under the Environmental Protection Act 1990 to arrange for the removal of Commercial Waste from shops, offices, hotels and similar businesses if requested to do so by the occupier. Businesses from which waste is removed must pay reasonable charges for the collection and disposal of such waste. Current charges for the collection and disposal (referred to as removal) are shown in Appendix A, Table 1.

4.2 However, producers of Commercial Waste may request the service from one of a number of private sector companies who operate in the Chesterfield area. Traditionally these have provided strong competition for the Council, normally focusing on the servicing of larger 1100 and 660 litre sized receptacles.

4.3 Our knowledge of the service and our stable share of the market indicates that the fees and charges recommended will remain competitive.

4.4 Benchmarking data is provided in Appendix C. This demonstrates that our current and proposed fees and charges are currently comparable to other local authorities; however larger increases may adversely affect this.

##### 4.5 **Industrial Waste**

Waste Collection Authorities (WCAs) such as CBC may if requested remove Industrial Waste from premises defined in Regulations made by the Secretary of State, but only with the consent of the Waste Disposal Authority (WDA). Derbyshire County Council, our WDA, does not permit any of the WCAs in Derbyshire



to collect and dispose of such waste so this is not a service CBC can offer.

#### 4.6 **Chargeable Household Waste**

4.6.1 Due to changes in legislation the way establishments such as schools, other educational premises, nursing homes, residential homes, registered charities and hospitals are charged has changed. These changes were agreed by Cabinet 14 July 2015 and a new non-profit making charging structure was set up. These charges to be reviewed at the same time as all other charges.

#### 4.7 **Hire Charges For Trade Waste Receptacles**

In addition to the removal charge mentioned in 4.1, a separate charge is itemised on the customers invoice for the hire of a receptacle. This is for administrative purposes and also in order to ensure that as a minimum the total cost of servicing each size of receptacle is recovered and preferably makes a positive contribution to the Trading Account profitability.

#### 4.8 **Healthcare Waste**

Some types of Healthcare Waste from domestic properties and Residential Homes (not Nursing Homes) also fall within the current definition of Household Waste for which a charge may be made. In the interests of public health and safety certain types of healthcare waste defined as offensive or infectious are collected free of charge from domestic properties. However, it is Council policy to charge Commercial Waste rates at Residential Homes who request the service.

#### 4.9 **One-off Collections**

The Council may be requested to make special journeys for one-off collections of Commercial or Chargeable Household Waste. These are charged at an hourly rate and are shown in Appendix A, Table 6. The annual number of such jobs is relatively small with current income estimated at £1,500 for this year.

#### 4.10 **Wheeled Bins**

In April 2001 the Council introduced a charge for the supply and delivery of wheeled bins to new domestic properties. The current

charges are shown in Appendix B, Table 1 and these charges include the cost of delivery.

#### 4.11 **Bulky Household Waste Collections**

A number of detailed reports have been presented to Members over the years on charging for Bulky Household Waste Collection. Charges are based on the over riding waste management principles of the waste hierarchy (Reduce, Re-use, Recycle) and the polluter pays. A concessionary rate of 50% is currently applied for those in receipt of Council Tax or Housing Benefit. However, further to a Scrutiny Project report concurrently under consideration the Council has decided to meet all costs and develop a consistent corporate strategy to concession levels by approving a reduced concessionary rate of 20%. The current and new charges proposed are shown in Appendix B, Table 2.

#### 4.12 **Sharps Boxes**

Occasionally we get requests from Residential Care Homes to collect sharps boxes. Current charges are shown in Appendix B, Table 3. The income is less than £50.

#### 4.13 **Mixed Hereditament**

These are premises with a mix of customer categories, i.e., a shop and public house or business. A reduced charge (allowance) is made if the customer enters into a contract for the collection of their trade waste and the occupier opts to dispose of the domestic element of their waste in their trade bin that is provided.

### 5.0 **TRADE WASTE ACCOUNT**

5.1 The charge made to customers consists of fees for collection and a charge for disposal including Landfill Tax at £82.60 per tonne (DCC estimate for 2016/17 is £83.50 per tonne, total disposal costs £124.94) where applicable. There is a separately itemised charge for the provision/hire of a bin.

5.2 A Trading Account reflects the total cost of providing the Trade Waste Service. This account currently trades in profit and is expected to achieve a turnover of £550k.

## 6.0 **COMPETITION IN TRADE WASTE**

- 6.1 Generally the private sector is interested in providing a service for Commercial Waste customers with 1100 and 660 litre sized receptacles, although occasionally they may provide a service for smaller sized receptacles, particularly where they may have won a nationally let contract, or where they are servicing a larger receptacle nearby.
- 6.2 The number of customers is fairly stable at around 850. Although we do lose some through the year we always sign up new customers. One of the main reasons for losing customers is still the fact that we cannot provide a recycling collection. Customers are not yet able to pay by Direct Debit and have to pay the full years charges before they have received the service.
- 6.3 The report considering Commercial Recycling was presented to cabinet 10<sup>th</sup> March 2015 recommending that it was not introduced due to the economic issues. However there was a commitment to review and consider the introduction of a commercial recycling service if future circumstances allow, and to seek to find a viable option for commercial recycling when the service is re-tendered in the autumn of 2018. The functionality of the corporate Agresso system in regard to processing Direct Debits has been raised with Credit Income and the Council's Client Officer and we are awaiting a corporate steer.

## 7.0 **RISK MANAGEMENT**

- 7.1 Details of risks associated with the recommended fees are given below:

Description of the Risk	Current Risk		Mitigating Action	Target Risk	
	Impact	Likelihood		Impact	Likelihood
Affordability to customers	High (4)	Possible (3)	Benchmarking Appropriate levels of charging	Medium (3)	Unlikely (2)
Competition	High (4)	Possible (3)	Benchmarking Provision of a good service at the right price Look into direct debits	Medium (3)	Possible (3)

Failure to implement recommended increase in charges	Unlikely (2)	Unlikely (2)	Early implementation of charges	Unlikely (2)	Unlikely (2)
Failure to achieve forecast level of income	Medium (3)	Possible (3)	Effective marketing of the service Good communication with customers Monitoring of budgets Reduction in payments to Veolia for collection and DCC for disposal. Continue to apply increases in charges to deliver Trading Account profit.	Low (2)	Possible (2)
Failure to meet changing legislation	High (4)	Possible (3)	Utilisation of the *TEEP argument Implementation of Option 3 from the Policy report	Low (2)	Unlikely (2)
Increase in fly tipping	Medium (3)	Possible (3)	Increases in charges for bulky waste kept to a minimal level, i.e. 3% (40p per item at full rate) Concessions retained either at 50% or 20%. Enforcement Activity. An increase in fly tipping is not anticipated	Low (2)	Unlikely (2)

\*TEEP: This is a technical, economic, environmental practical test.

## 8.0 **EQUALITIES**

8.1 A full Equality Impact Assessment has been undertaken with no disproportionate negative impacts being identified for the protected characteristics.

## 9.0 **OTHER FINANCIAL CONSIDERATIONS**

### 9.1 **Collection Costs**

Given increases in costs within the private sector collection charges might reasonably be expected to rise within the next twelve months. The rise in Veolia's cost is fixed at 2.5% per year.

## 9.2 Disposal Costs

The estimated Disposal cost for 2016/17 supplied by DCC is £124.94 per tonne, compared with £123.60 per tonne for 2015/16 a rise of 1.08%. Disposal costs constitute the main element of the charge to customers, varying according to the size of the receptacle.

## 9.3 Trade Waste Income/Trading Account Profit

9.3.1 Approving the recommended increases would (given the current customer base) bring in a projected income of around £570,000 (excluding one-off collections). It should be noted that our income trend has been stable over preceding years.

9.3.2 Assuming that there is no loss of customers we anticipate that the profitability of the trading account would remain in the region of £76,000, based on last year's surplus and projections using the recommended changes to fees and charges within this report.

9.3.3 Officers will continue to market the service in order to sustain current levels of customers and where possible increase these.

Our marketing initiative includes:

- Provision of leaflets to potential customers
- Marketing with other council publications
- Right service at right price
- High level of customer service
- Consideration of direct debit introduction

## 10.0 PROPOSED INCREASES

10.1 With all the factors contained in the report taken into consideration and the level of associated risk the report recommends the increases as shown in Appendix A and B for the following areas:

- **Trade Wastes** **+3%**  
**(Except collection & disposal charge for 660 and 1100 containers)** **+4%**
- **Mixed Hereditament allowance** **+2.5%**
- **One-Off Collections** **+3%**

- **Wheeled Bins at new properties** **+3%**
- **Bulky Household Waste Collections** **+3%**
- **Sharps Boxes** **+3%**

## 12.0 **ALTERNATIVE OPTIONS**

### 12.1 **Smaller Increases**

The increases recommended are as a minimum in accordance with The Council's Budget Strategy. Given the Council's financial position it is important to at least maintain trading account profitability and if possible improve it.

### 12.2 **Larger increases**

Trade waste charges to customers have increased significantly above the rate of inflation for many years largely due to increases in Landfill Tax for disposal and the annual inflation indexation applied to the old waste collection contract. Given the comments contained in section 6.0 regarding competition and the fact that the private sector are increasingly likely to have more ready access to disposal options which may include treatment and material recycling facilities outside the borough (that are cheaper than landfill) larger increases than those recommended are likely to have a negative impact on the Council's share of the market, trading account profitability and local businesses generally.

## 13.0 **RECOMMENDATIONS**


13.1 That Members approve the revised charges for trade wastes and other miscellaneous environmental fees for 2016/17 as detailed within the report and at Appendices A and B.

## 14.0 **REASONS FOR RECOMMENDATION**

14.1 To set the Council's trade waste charges and other miscellaneous fees for the financial year 2016/17 in accordance with the Council's Budget strategy.

Further information on this matter can be obtained from Dave Bennett (Tel:  
345122)

Officer recommendation supported:

Signed: 

Cabinet Member

Date: 11 FEBRUARY, 2016

**TABLE 1**

**COMMERCIAL AND CLINICAL WASTES**

2015/16 CHARGES				2016/17 PROPOSED (+3% or 4%**) rounded			
Receptacle Size	Hire (£)	Collection & Disposal (£)	Total (£)	Hire (£)	Collection & Disposal** (£)	Total (£)	Increase per week (£)
1100**	85.20	699.00	784.20	87.80	727.00	814.80	0.59
660**	69.70	489.00	558.70	71.80	508.60	580.40	0.42
360	29.40	326.50	355.90	30.30	336.30	366.60	0.21
240	19.10	250.70	269.80	19.70	258.20	277.90	0.16
140	11.20	178.70	189.90	11.50	184.10	195.60	0.11
Sack	NIL	140.10	140.10	NIL	144.30	144.30	0.08

**TABLE 2**

**CHARGEABLE HOUSEHOLD**

2015/16 CHARGES				2016/17 PROPOSED (+3%) rounded			
Receptacle Size	Hire (£)	Collection (£)	Total (£)	Hire (£)	Collection (£)	Total Charge (£)	Increase per week (£)
1100	85.20	278.00	363.20	87.80	286.30	374.10	0.21
660	69.70	211.60	281.30	71.80	217.90	289.70	0.16
360	29.40	147.70	177.10	30.30	152.10	182.40	0.10
240	19.10	112.60	131.70	19.70	116.00	135.70	0.08
Sack	NIL	92.20	92.20	NIL	95.00	95.00	0.05

**TABLE 3**

**CHARITY SHOP**

2015/16 CHARGES*				2016/17 PROPOSED (+2.5%) rounded			
Receptacle Size	Hire (£)	Collection (£)	Total (£)	Hire (£)	Collection (£)	Total (£)	Increase per week (£)
1100		113.50	113.50		116.30	116.30	0.05
660		101.80	101.80		104.30	104.30	0.05
360		48.00	48.00		49.20	49.20	0.02
240		35.70	35.70		36.60	36.60	0.02
Sack		18.10	18.10		18.50	18.50	0.01

\*these charges are for collection only and cover the cost to the council, no profit included



**TABLE 4****REGISTERED CHARITIES**

<b>2015/16 CHARGES**</b>				<b>2016/17 PROPOSED rounded</b>			
<b>Receptacle Size</b>	<b>Hire (£)</b>	<b>Collection (£)</b>	<b>Total (£)</b>	<b>Hire (£)</b>	<b>Collection (£)</b>	<b>Total (£)</b>	<b>Increase per week (£)</b>
1100	85.20	688.40	773.60	87.80	711.90	799.70	0.50
660	69.70	446.70	516.40	71.80	461.70	533.50	0.33
360	29.40	236.10	265.50	30.30	244.10	274.40	0.17
240	19.10	161.10	180.20	19.70	166.50	186.20	0.12

\*\* these charges cover the cost to the council only – no profit element included.

**TABLE 5**

	<b>2015/16 Charge (£)</b>	<b>2016/17 Proposed (£) (+2.5%) rounded</b>
<b>Mixed Hereditament Allowance</b>	46.90	48.10

**TABLE 6****ONE-OFF COLLECTIONS (+3%)**

<b>TYPE OF COLLECTION</b>	<b>2014/15 PER HOUR (£)</b>	<b>PROPOSED INCREASE</b>	<b>2015/16 PROPOSED (£)</b>
One-off Collection and Disposal of Chargeable Household Waste (Normal Time)	102.00	+3%	105.00
One-off Collection and Disposal of Chargeable Household Waste (Overtime)	121.00	+3%	125.00
One-off Collection and Disposal of Commercial Waste (Normal Time)	237.00	+3%	244.00
One-off Collection and Disposal of Commercial Waste (Overtime)	267.00	+3%	275.00

**TABLE 1****Purchase of Wheeled Bins at new domestic properties**

<b>No. of Bins</b>	<b>2015/16 Charge (£)</b>	<b>2016/17 Charge (£) (+3%)</b>
1 (Black)	38.00	39.00
2 (Black and green)	66.00	68.00
3 (Black, green and blue)	76.00	78.00

**TABLE 2****Bulky Waste**

<b>No. Of Items</b>	<b>2015/16 Charge (£)</b>		<b>2016/17 (+3%)</b>	
	<b>Previous Concessionary rate of 50%</b>		<b>Reduced Concessionary rate of 20%</b>	
	Full	Conc.	Full	Conc.
One Item	14.20	7.10	14.60	11.70
2-5 Items	21.60	10.80	22.20	17.80
6-10 Items	28.60	14.30	29.40	23.50
>10 items	POA	POA	POA	POA
Fridge	14.20	7.10	14.60	11.70

**TABLE 3****Sharps Boxes**

<b>No. of Boxes</b>	<b>2015/16 Charge (£)</b>	<b>2016/17 Charge (£) (+3%)</b>
1	25.00	26.00
Each Additional	12.00	12.50

## Appendix C

### Benchmarking data (Commercial) 2015/16

Amber Valley Borough Council			Derbyshire Dales District Council		
Bin size	Cost of collection & disposal of residual waste	Cost of collection of materials for recycling	Bin size	Cost of collection & disposal of residual waste	Cost of collection of materials for recycling
Sacks	102.15		Sacks	123.50	
240	318.71	189.88	240	252.20	None
360	412.82	219.59	360	367.80	none
660	634.85	261.49	660	587.60	none
1100	889.60	299.15	1100	858.00	none

#### Bolsover District Council

Bin size	Cost of collection & disposal of residual waste	Cost of collection of materials for recycling
Sack	226.72	none
240	254.28	none
360	310.44	none
660	485.68	none
1100	677.56	none

#### CBC current commercial prices

Size	Collection & disposal	hire	Total
140litre	178.70	11.20	189.90
240 litre	250.70	19.10	269.80
360 litre	326.50	29.40	355.90
660 litre	489.00	69.70	558.70
1100 litre	699.00	85.20	784.20

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## FOR PUBLICATION

### REVIEW OF CEMETERIES FEES AND CHARGES - 2016/17

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MEETINGS:	1. CABINET 2. CABINET MEMBER FOR HEALTH AND WELLBEING
DATES:	1. 8 MARCH 2016 2. 11 FEBRUARY 2016
REPORT BY:	INTERIM ENVIRONMENTAL SERVICES MANAGER
WARD:	ALL
COMMUNITY ASSEMBLY:	ALL
KEY DECISION REF:	558

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## FOR PUBLICATION

BACKGROUND PAPERS    Environment Budget Working Papers.

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### **1.0 PURPOSE OF REPORT**

To set the Council's cemeteries fees and charges for the financial year commencing 1 April 2016.

### **2.0 RECOMMENDATIONS**

2.1 It is recommended that:

- a) The 2016 / 17 fees and charges as detailed in Appendix A, be approved.

### **3.0 BACKGROUND**

- 3.1 Chesterfield Borough Council are responsible for the management of four Council cemeteries; Brimington, Staveley, Boythorpe and Spital. The cemeteries service is managed within the Bereavement Services Section who also manage the crematorium on behalf of the Chesterfield, North East Derbyshire and Bolsover Councils.
- 3.2 Cemeteries fees and charges are subject to annual review, with revised fees and charges implemented on 1<sup>st</sup> April each year.
- 3.3 In preparing this report, the Council's adopted general guidelines on charging for services have been taken into account, along with the Council's latest budget forecast for 2016-17.
- 3.4 In early 2014 Members agreed to increase fees for 2014 – 15 to better reflect the cost of providing the cemeteries service and to provide additional resources to enable management of the cemeteries to a higher standard. Amendments were made to the fee structure and a more strategic approach is being taken to the management of the cemeteries service.
- 3.5 The increase in fees in 2014 / 2015 had an effect on the numbers of burials. Whilst the numbers of burials was down nationally, the numbers of burials in Chesterfield was less than would have been expected if the national trend was applied locally. A smaller increase was implemented for 2015 / 2016 and burial numbers have increased this year..
- 3.6 In recommending fees and charges for 2016 / 2017, consideration has been given to the effect following larger increases implemented in 2014 / 2015 and the need to ensure charges are commensurate with both local and national averages.

### **4.0 ISSUES AND ANALYSIS**

#### **4.1 Introduction**

There is currently no strategy on how fees and charges relate to the future sustainability of the Council's cemetery service. A clear decision is required on whether the service should continue to be subsidised or whether it should seek to move towards being operated on a 'break even' basis. In 2013 / 14 controllable costs recovered were only 50%, as a direct result in the changes to fees and cost savings over the past two

years, this is likely to improve for 2016 / 17 to a recovery of around 80%. In setting the annual fees and charges for cemeteries, proposals in this report have taken into account:

- (a) The higher than average increase in fees for 2014 / 2015 resulting in a reduction in burial.
- (b) The current condition of the Borough Council's cemeteries and the need for standards to be developed in accordance with a defined strategy to protect future revenue and provide an appropriate service to the bereaved.
- (c) The need for the Council to achieve a balanced budget. Current fees and charges now recover approximately 73%.
- (d) The level of fees and charges levied by other authorities in our family group and local cemeteries providers.
- (e) Broader value for money considerations.

## 4.2 Price Comparison

4.2.1 A price comparison has been carried out, reviewing fees and charges made by other authorities in our family group (table1) as well as those made by surrounding authorities (table 2).

Table 1: Fees of "Family Group Comparator Authorities as at 1 April 2015

Authority	Interment Fee	Exclusive Right of Burial	Exclusive Right of burial (CR)	Interment of cremated remains
Mansfield	£530.00	£1224.00	£694.00	£164.00
<b>Chesterfield Borough Council</b>	<b>£735</b>	<b>£917.00</b>	<b>£325.00</b>	<b>£244.00</b>
Ipswich	£730	£1150.00	£1150.00	£160
Worcester	£825.00	£750.00	£380.00	£310.00
Gloucester	£945.00	£643.25	£254.25	£203.50
Carlisle	£675.00	£1075	£225.00	£205.00
Newcastle U Lyme	£784.00	£1056	£522.00	£343.00

Average Fee	£746.00	£973.00	£507.00	£233.00
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Table 2: Fees of “Local” Comparator Authorities as at 1 April 2015

Authority	Interment Fee	Exclusive Right of Burial	Exclusive Right of Burial (CR)	Interment of Cremated Remains
Amber Valley Borough Council	£595.00	£525.00	£195.00	£111.00
<b>Chesterfield Borough Council</b>	<b>£735.00</b>	<b>£917.00</b>	<b>£325.00</b>	<b>£244.00</b>
Sheffield City Council	£775.00	£1,230.00	£750.00	£205.00
Derby City Council	£830.00	£1005.00	£190.00	£112.00
Derbyshire Dales District Council	£641.75	£571.65	£184.00	£135.20
Erewash Borough Council	£700.00	£570.00	£175.00	£160.00
High Peak Borough Council	£670.00	£598.00	£268.00	£170.00
North East Derbyshire District Council	£534.00	£420.00	£210.50	£101.50
South Derbyshire District Council	£409.00	£470.00	£226.50	£110.00
Mansfield	£530.00	£1224.00	£694.00	£164.00
Average Fee	£642.00	£753.00	£322.00	£151.00

*\*Note to Tables:*

*“Interment fee” is the price for each burial in a grave and is payable in addition to the Exclusive Right of Burial Fee”*

*“Exclusive Right of Burial Fee” is the price to purchase the right of burial in a grave. The owner of this right must authorise each burial in the grave and has the automatic right to be buried in the grave at the time of his or her own death.*

*“CR” – cremated remains*

4.2.2 Members will note that the Council’s fees, whilst being above the local average, are still below the family group average. Comparator authorities will almost certainly increase their fees again in 2016-17.



### 4.3 **Cost Recovery**

4.3.1 Many authorities are moving towards the introduction of economic charges covering the cost of burials and the maintenance and running costs of all cemetery services. For 2015/16 the controllable cost of cemeteries is forecast to be around £298,240 and the income is expected to be approximately £239,010, meaning that there is a net subsidy of £59,230, and that income now covers around 80% of the controllable cost of the service.

4.3.2 The Council's general guidelines for charging include an aim to recover the full cost of the service except where:

- There is an opportunity to maximise income; or
- Members determine that a reduction or subsidy should be made for specific reasons

4.3.3 The proposed fees and charges for 2016-17 therefore aim to ensure that:

- the service continues to move towards cost recovery
- our fees remain competitive and affordable, helping to ensure we provide an affordable service and that burials continue to be an affordable option for the bereaved.

4.3.4 Pending the development of the cemeteries strategy, the following were implemented:

- A policy of excavating graves to maximum depth and removal of differential charging based on depth of graves.
- Exclusive Right of Burial and interment fees in respect of cremated remains remain unchanged but the subsidy for residents was removed. This means that fees and charges applicable for interment of cremated remains is now the same for residents and non-residents.
- Period for which Exclusive Right of Burial is purchased was restricted to 50 years but the charge in place during 2013 - 14 for purchase of Exclusive Right of Burial for 75 years was implemented.
- A fee was set for exhumation of cremated remains
- An additional charge for burials taking place after 3.15pm was implemented.

- A general fees increase to residents of 10% at the time of burial / purchasing Rights of Burial was implemented with the intention of allowing us to recover more of our controllable costs of providing the cemetery service.

## 5.0 **EQUALITIES IMPACT ASSESSMENT (EIA)**

- 5.1 A full equality impact assessment was undertaken and no disproportionate impacts were identified for protected characteristics. However it is recognised that people on low incomes could struggle with the fees and charges.
- 5.2 Funeral payments are normally the first costs to come out of the deceased's estate. Where there is a shortfall a DWP Funeral Payment, an element of the Social Fund, provides help to people receiving specified income-related benefits and tax credits. This can provide a contribution towards the costs of a simple, respectful, low cost funeral. The payment covers the full cost of specified expenses (i.e. cemetery fees and charges) plus up to £700 for Funeral Director expenses.
- 5.3 It is recognised that the future of the Social Fund is uncertain, it is therefore recommended that the impact of any changes to the Social Fund is considered when setting fees and charges in future years.

## 6.0 **RISK MANAGEMENT**

- 6.1 Details of the risks associated with fees and charges are given below.

<b>Description</b>	<b>Impact</b>	<b>Probability</b>	<b>Controls to be Implemented</b>
Below expected take up of services generally	Reduced income	Medium	Income from cemeteries is largely subject to fluctuations in the death rate rather than price sensitivities. Proposed fees will be comparable with neighboring authorities.
Users choosing to use facilities elsewhere	Reduced income	Low	Funeral directors prefer using Chesterfield's cemeteries and will influence the decisions of the bereaved. Families also have connection to local cemeteries and proposed increases still represent good value for money.
Adverse	Criticism of	Medium	Prepare good reasoning for the

publicity	authority		increase in fees and charges and that they remain below comparable authorities. Improve standards in cemeteries.
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## 7.0 **FINANCIAL CONSIDERATIONS**

- 7.1 This report proposes an appropriate and balanced approach to the provision of cemetery services and the potential impact on the local community.
- 7.2 The proposals contained in this report would increase the Council's income from the burial service by around £7,000
- 7.3 It should be noted that the average cost of a funeral in the UK is estimated to be around £3,600. Most of this cost will be the costs of the funeral director, coffin, hearses, headstone, etc. The cost of the actual interment is therefore only a modest element of this overall cost.

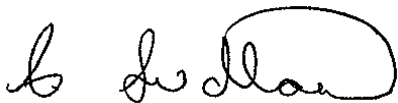
## 8.0 **ALTERNATIVE OPTIONS**

- 8.1 Generally, it is recommended that the cemetery fees and charges for 2016/17 be increased by 3% to take account of issues raised in this report. Members could resolve to apply a lower or higher increase than that recommended by officers.

## 9.0 **REASON FOR RECOMMENDATIONS**

- 9.1 To set the cemeteries fees and charges for 2016/17 and encourage increased use of the cemetery service.

Officer recommendation supported.



Signed:

Cabinet Member

Date: 11 February, 2016

Further information on this report can be obtained from Angela Dunn  
(Bereavement Services Manager Ext 345881).

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## Appendix

### Chesterfield Borough Council Cemetery Fees and Charges 2015 / 16

Fee/Charge	*Current Resident Fees	Officer Recommendation	
		General Fees	Reduced F Residents Fee
Interment of Stillborn	No Charge	No Charge	No Charge
Interment of Child	No Charge	No Charge	No Charge
Interment of Adult	£735	£1,520	£760
Interment of Cremated Remains	£244	£255	No reduction
Scattering of Cremated Remains	£48	£100	£50
<b>EXCLUSIVE RIGHT OF BURIAL</b>			
In Children's Corner	£74	£160	£80
Graves 9' x 4' - 50 years	£917	£1,890	£945
Cremated Remains	£325	£340	No reduction
<b>MEMORIALS (for a period of 30 years)</b>			
Headstones 3' and Footstones	£205	£215	No reduction
Kerbstones/Other Memorial	£110	£115	No reduction
Exceeding 3' Additional	£150	£155	No reduction
Additional Inscriptions	£39	£45	No reduction
Temporary Memorial Scheme	£95	£95	No reduction
Communal Headstone Inscription	At cost	At cost	No reduction
Headstone and Kerbs	£308	£320	No reduction
Plaque and Surrounds	£220	£230	No reduction
<b>OTHER CHARGES</b>			
Planting	£116	£116	No reduction
For Searching Burial Register (by name)	£6	£6	No reduction
Saturday Surcharge Burials	£176	£181	No reduction
Saturday Surcharge Cremated Remains	£100	£113	No reduction

NB All fees have been rounded for cash handling purposes

Exhumation of Cremated remains	£244	£255	No reduction
Funerals taking place after 3.30 - additional fee	£50	£50	No reduction

*\* Residents fees are half of those charged to non residents*

## FOR PUBLICATION

### SMOKE AND CARBON MONOXIDE ALARM (ENGLAND) REGULATIONS 2015

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MEETING: 1. CABINET  
2. CABINET MEMBER FOR HOUSING

DATE: 1. 8 MARCH 2016  
2. 29 FEBRUARY 2016

REPORT BY: HOUSING SERVICE MANAGER - BUSINESS  
PLANNING AND STRATEGY

WARD: ALL

COMMUNITY ASSEMBLY: ALL

KEY DECISION REFERENCE (IF APPLICABLE): 609

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#### FOR PUBLICATION

#### BACKGROUND PAPERS FOR PUBLIC REPORTS:

TITLE: The Smoke and Carbon Monoxide Alarm (England) Regulations 2015  
LOCATION: Business Planning and Strategy – Housing Services

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#### **1.0 PURPOSE OF REPORT**

- 1.1 To advise Cabinet of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 which came into force on the 1 October 2015 and to provide an update as to how these regulations will affect the Authority.
- 1.2 To seek approval to amend the Council's Constitution to authorise the Private Sector Housing Manager to exercise the Council's full enforcement powers under the "Smoke and Carbon Monoxide Alarm (England) Regulations 2015".

- 1.3 To seek approval for the Statement of Principles which the local authority will follow in determining the amount of a penalty charge related to a breach of the Smoke and Carbon Monoxide Alarm (England) Regulations.

## **2.0 RECOMMENDATIONS**

- 2.1 That Cabinet note the introduction of the new regulations and the duty these regulations now place on the Local Authority.
- 2.2 That Cabinet approve an amendment to the Councils Constitution to delegate authorisation to the Private Sector Housing Manager as from the 1 October 2015.
- 2.3 That Cabinet approve the fee structure the Authority proposes to introduce in relation to fixed penalty notices that can be served in accordance with the regulations.
- 2.4 That Cabinet approve the “Statement of Principles” that the Authority has a duty to produce in accordance with the new regulations.
- 2.5 That Cabinet approve the minor amendments to sections 4.4 and 4.5 of the existing licence conditions, relating to licences issued under Parts 2 or 3 of the Housing Act 2004.

## **3.0 BACKGROUND**

- 3.1 In March 2015, the Government laid before Parliament the ‘Smoke and Carbon Monoxide Alarm (England) Regulations 2015’ requiring all private sector landlords to ensure that working smoke alarms and in some cases carbon monoxide alarms are installed in privately rented properties from October 2015.
- 3.2 It is estimated that this will prevent 26 deaths and 670 fire related injuries each year across England, as it is noted that people are 4 times more likely to die in a fire in the home if there is no working smoke alarm. These Regulations come with strong support after a consultation into conditions in the private rented sector. The Regulations - made under section 150(1)-(6) and (10) of the Energy Act 2013 and paragraph 3(a) of Schedule 4 to the Housing Act 2004 – came into force on 1 October 2015.



- 3.3 Each of England's 46 Fire and Rescue Authorities are expected to support private landlords in their own areas to meet their new responsibilities with the provision of free alarms, with one off grant funding from Central Government. Derbyshire Fire and Rescue Authority have been given a limited supply of battery alarms by Central Government and landlords can at present apply for alarms to fit in up to ten rented properties. They have also made it clear that the issue of battery smoke detectors is an interim measure and that they should be replaced by hard wired detectors as soon as possible.
- 3.4 The principle legislation used for enforcing basic housing conditions within private sector housing is the Housing Act 2004, using an assessment tool called the Housing Health and Safety Rating System. The HHSRS requires that a property is assessed against 29 separate hazards. If Category 1 hazards are found the Authority has a **duty** to take action, whereas if category 2 hazards are found the Authority has a **power** to take action. Fire Safety is one of the 29 hazards. However, unlike the Smoke and Carbon Monoxide Alarm (England) Regulations 2015, where only provision of basic smoke detection can be enforced, with the Housing Act 2004, a broader suite of fire safety measures can be required which take into account the overall fire safety issues within the property including prevention and early warning of fire and means of escape in event of a fire.
- 3.5 The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 came into force on the 1 October 2015. From this date the regulations require Private Sector Landlords to ensure that at least one smoke alarm is installed on every storey of their rented property and that a carbon monoxide alarm is installed in any room containing a solid fuel burning appliance.
- 3.6 The Regulations also require landlords to ensure that such alarms are in proper working order at the start of each new tenancy.
- 3.7 The Regulations place a duty on local authorities to serve a remedial notice on the landlord or a property where they have reasonable grounds to believe that the landlord has breached one or more of the requirements of the Regulations.

- 3.8 Where a remedial notice is served on a landlord who is in breach of the requirements of the Regulations the landlord must take the remedial action specified within the period specified in the notice.
- 3.9 The Local Authority are under a duty to arrange remedial action themselves within 28 days of being satisfied that the landlord on whom a remedial notice was served has breached the terms of the notice, provided that the necessary consent is given by the occupier of the premises.
- 3.10 Where the Local Authority is satisfied that a landlord on whom it has served a remedial notice has breached the requirements of the notice, they may require the landlord to pay a penalty charge not exceeding £5,000.
- 3.11 The Local Authority must prepare and publish a statement of principles which it proposes to follow in determining the amount of a penalty charge.
- 3.12 In addition these Regulations amend the conditions which must be included in a licence under Parts 2 or 3 of the Housing Act 2004 (**Appendix 1**) in respect of smoke and carbon monoxide alarms. The amendments now place a requirement on landlords to provide and maintain smoke and carbon monoxide alarms in licenced premises.
- 3.13 The landlord has provision within the Regulations to appeal the Local Authorities decision to serve the remedial notice and/or the penalty charge issued at the First Tier Tribunal (Residential Property Tribunal).
- 3.14 The Regulations **do not** apply to registered providers of social housing, accommodation shared with a landlord, long leases, student halls of residence, hostels and refuges, care homes, hospitals and hospices and other accommodation relating to healthcare provision.

#### **4.0 PROPOSAL**

- 4.1 The enforcement of these Regulations will be carried out by existing members of the Private Sector Housing Team.
- 4.2 Enforcement of these Regulations will be upon notification to the Authority that a possible breach in the regulations has occurred. The regulations do not require the Authority to “proactively” survey their district.

4.3 Although an “Explanatory Booklet for Local Authorities” (**Appendix 2**) has been issued by the Department for Communities and Local Government (DCLG) with regard to the enforcement of the regulations, no specific guidance has been released on calculation of a fixed penalty fee structure or the Statement of Principles that the Authority must publish. As such the Authority has worked with other local authorities within Derbyshire to ensure a consistent approach is taken with regard to enforcement of the Regulations.

4.4 A fee structure has been prepared for the “fixed penalty” notices that can be issued in relation to a breach of an enforcement notice. The fee structure is in line with other authorities within the Derbyshire area.

4.5 A “statement of principles” (**Appendix 3**) has been prepared in relation to the fee structure, which is in line with other authorities within the Derbyshire area to ensure a consistent approach.

## 5.0 CONSIDERATIONS

5.1 In writing this report we have considered the following standard corporate issues;

- Risk Management
- Financial Implications

## 6.0 RISK MANAGEMENT

Description of the Risk	Impact	Likelihood	Mitigating Action	Impact	Likelihood
Within the existing resources of the Private Sector Housing Team it will not be possible to visit every property within the district to ensure that they are compliant with the new regulations.	M	H	Inspections will be made during day to day work such as requests for service from tenants, requests from landlords. Advice campaigns and events will also be held to advise landlords of their responsibilities and to advise tenants of their rights within the legislation.	M	M
There is a risk that there will still be properties within this	M	H	The Private Sector Housing Team will enforce the legislation	M	M

sector which do not have adequate protection and could lead to loss of life.			on a reactive basis through requests for service from tenants or private sector landlords. Marketing campaigns will be undertaken to mitigate this risk so landlords in the private rented sector are aware of their duties with regards to the new regulations. It is however, the landlords' responsibility to ensure adequate protection.		
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## 7.0 FINANCIAL CONSIDERATIONS

7.1 There are no major financial implications for the Council. All administration and enforcement of this legislation will be carried out within the existing resources of the Private Sector Housing Team. The penalty for non-compliance is issue of a penalty notice, as detailed in the “statement of principles” (**Appendix 3**). There is no provision within the legislation for further legal action such as prosecution.

7.2 For a limited period of time, landlords can apply to Derbyshire Fire and Rescue Service for free of charge smoke detectors for up to 10 rented properties per landlord.

7.3 If a landlord does not comply with a remedial notice, the Local Authority has a duty to undertake the work in default and normal cost recovery procedures will be used.

7.4 Where the Local Authority is satisfied that a landlord on whom it has served a remedial notice has breached the requirements of the notice, the local authority may require the landlord to pay a penalty charge of the following amount:

- The specified period for early payment is within 14 days beginning with the day on which the penalty charge notice was served.
- For a first offence the fine applied will be £2,500 and an early payment will attract a discount of 50% making it £1,250

- For subsequent offences the penalty will be £5,000 to deter continued non-compliance and an early payment will attract a discount of 50% making it £2,500

The penalty charges have been outlined in the attached Statement of Principles which will be published in accordance with the requirements of The Smoke and Carbon Monoxide Alarm (England) Regulations 2015.

7.5 It should be noted that whilst a fixed penalty notice can be issued in relation to a breach of an enforcement notice, there is not expected to be any significant income stream generated for the Authority through the use of fixed penalty notices in these circumstances.

## **8.0 EQUALITIES IMPACT ASSESSMENT (EIA)**

The new regulations would not discriminate against any residents within the borough under the protected characteristics listed below, as the regulations apply to all tenants living in a privately rented property. The equalities impacts of the proposals in this report for race, disability, gender, sexual orientation, age and religion have been considered and assessed (**Appendix 4**).

## **9.0 RECOMMENDATIONS**

- 9.1 That Cabinet note the introduction of the new regulations and the duty these regulations now place on the local authority.
- 9.2 That Cabinet approve an amendment to the Councils Constitution to delegate authorisation to the Private Sector Housing Manager as from the 1 October 2015.
- 9.3 That Cabinet approve the fee structure the authority proposes to introduce in relation to fixed penalty notices that can be served in accordance with the regulations.
- 9.4 That Cabinet approve the “Statement of Principles” that the Authority has a duty to produce in accordance with the new regulations.

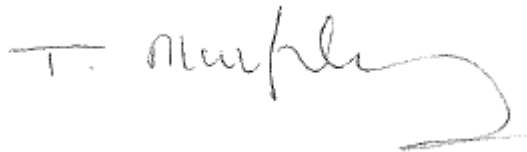
**10.0 REASON FOR RECOMMENDATIONS**

- 10.1 To ensure that the Private Sector Housing Manager is authorised to exercise all necessary operational enforcement powers in respect of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015.
  
- 10.2 To ensure that the Chesterfield Borough Council (the local housing authority) is able to undertake its statutory duty to serve remedial notices, to arrange remedial action and serve penalty charge notices.

ALISON CRAIG  
HOUSING SERVICES MANAGER – BUSINESS PLANNING AND  
STRATEGY

You can get more information about this report from Sarah Watts Tel: 01246  
345144

Officer recommendation supported.



Signed:

Date: 29 February, 2016

Cabinet Member

## **HMO Licensing Conditions – Chesterfield Borough Council**

### **Conditions which incorporate the mandatory requirements**

#### **Gas safety**

1. If gas is supplied to the house, the license holder shall ensure that the Gas Safety (Installation and Use) Regulations 1998 (or any Regulations which subsequently replace these) are complied with.

1.2 In particular the licence holder shall ensure that an annual safety check is carried out by a CORGI registered engineer on each gas appliance/flue in the house.

1.3 The licence holder shall submit to the Council a gas safety certificate obtained within the last 12 months in respect of the house before [insert date] and annually thereafter for their inspection.

#### **Safety of electrical appliances**

2. The license holder shall ensure that the Electrical Equipment (Safety) Regulations 1994 (or any Regulations which subsequently replace these) are complied with.

2.1 The license holder shall ensure that electrical appliances made available in the house by them are kept in a safe condition and proper working order.

2.2 The license holder shall ensure that all electrical appliances made available in the house by them are inspected visually for defects (e.g. frayed wiring, badly fitting plugs etc) at the beginning of each occupancy, regularly thereafter and in any event every two years.

2.3 The license holder shall ensure that earthed equipment (class 1) e.g. kettles and irons and the associated leads and plugs, made available by them are tested at the point of supply and at least every two years thereafter (more often if deemed necessary by a risk assessment undertaken by the licence holder). This test shall be undertaken by a person competent in the use of the testing equipment and who has the appropriate electrical knowledge and training (i.e. a competent electrician or other person in possession of a City and Guilds Certificate 2377).

2.3 The license holder shall ensure that unsafe electrical appliances are removed from the house.

2.4 The license holder shall ensure that a record of visual inspections and tests is maintained.

2.5 The licence holder shall submit to the Council on demand the record of visual inspections and tests.

2.5 The licence holder shall on demand submit a declaration, to the Council as to the safety of electrical appliances.

## **Furniture and Furnishings (Fire safety)**

3. The licence holder shall ensure that the Furniture and Furnishings (Fire Safety) Regulations 1988 (or any Regulations which subsequently replace these) in respect of any upholstered furniture supplied by them, including chairs, sofas, children's furniture, beds, upholstered head boards, mattresses, scatter cushions, seat pads, pillows and upholstered garden furniture are complied with.

3.1 The licence holder shall ensure that the furniture made available by them is kept in a safe condition.

3.2 The licence holder shall on demand, submit to the Council a declaration as to the safety of such furniture.

## **Smoke Alarms / Fire Detection Systems**

4. The licence holder shall ensure that at all times a smoke alarm / fire detection system designed in accordance with BS 5839-6:2004 (or any British Standard which subsequently replaces this) is installed in the house and is maintained in proper working order.

4.1 The license holder shall ensure that the fire alarm system in the house is inspected tested and serviced in accordance with BS 5839 - part 1:2002, sections 6 and 7 (or any British Standard which subsequently replaces this). In particular (where relevant) the following shall be carried out:-

every 6 months checks on the system shall be carried out in accordance with clause 45.3

every 12 months checks on the system shall be carried out in accordance with clause 45.4

Where provided independent smoke alarms shall be cleaned periodically in accordance with supplier's instructions.

4.2 Throughout the period of the licence, inspection and servicing certificates in the format recommended by BS 5839 - part 1:2002 (Annex G 6), [shall be submitted to the Council within 1 month of each check] [shall be submitted to the Council upon demand].

4.3 The above mentioned checks shall be carried out by a competent person. A competent person in this respect includes NICEIC enrolled contractors or ECA members who are familiar with all British Standards relating to automatic fire detection systems, regularly inspect fire detection systems, are qualified to inspect fire detection systems and whose work is subject to regular assessment.

Other contractors will be asked to demonstrate their competence to the Council before acceptance of the certificates.



4.4 The licence holder shall ensure that a carbon monoxide alarm is installed in any room in the house which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance. For these purposes a hall or landing, bathroom or lavatory is to be treated as a room used as “living accommodation”.

4.5 The licence holder shall keep any such carbon monoxide alarm in proper working order

4.6 The licence holder shall on demand, submit to the Council a declaration as to the condition and position of any smoke alarms /detectors in the property.

### **Written Agreements**

5. The licence holder shall supply to the occupiers of the house a written statement of the terms on which they occupy it.

5.1 The licence holder shall on demand submit a copy of the written statement to the Council.

### **Discretionary licence conditions to be applied on all licences**

### **HMO Management Regulations and Approved Codes of Practice**

1. The licence holder shall comply with the Management of HMOs (England) Regulations 2006 - or any Regulations which subsequently replace these - and any Approved Code of Practice issued under section 233 of the Housing Act 2004.

### **Safety of Electrical Installations**

2. The licence holder shall ensure that the electrical installation in the house is kept safe and in proper working order.

2.1 The licence holder shall ensure that a periodic inspection of the electrical installation in the house is undertaken in accordance with BS 7671 (or any British Standard which subsequently replaces this) at intervals of no more than 5 years.

2.2 The licence holder shall on demand submit the latest periodic inspection report in the format recommended in Appendix 6 of BS 7671 to the Council.

2.3 The licence holder shall ensure that this report is issued by a competent person. A competent person in this respect includes NICEIC enrolled contractors or ECA members who regularly inspect, and are qualified to inspect domestic electrical installation systems and whose work is subject to regular assessment.

### **Environmental Management/Amenity of the Neighbourhood**

3. The licence holder shall ensure that the exterior of the house is maintained in a reasonable decorative order and in reasonable repair.

4. The licence holder shall ensure that gardens and yards are maintained such that they are not considered to contravene the requirements of Section 215 of the Town and Country Planning Act 1990 and as such do not adversely affect the amenity of the neighbourhood. To that extent the licence holder shall ensure that at all times gardens, yards and other areas within the curtilage of the house are kept in a reasonably clean and tidy condition and free from rodent infestations.

5. The licence holder shall ensure that suitable and adequate provision for refuse storage and collection is made at the house. This shall include a closable bin(s) of suitable capacity as specified by the Council. Arrangements shall be immediately made for the proper collection and disposal of any rubbish additional to that within the dustbins and such rubbish shall be stored at the rear of and within the curtilage of the dwelling. The licence holder shall ensure that all refuse containers are returned within the curtilage of the property on the same day that they are emptied by the Council.

### **Landlord and Tenant issues**

6. The licence holder shall ensure that notification in writing is given to all occupants at the beginning of their occupancy of the arrangements in place to deal with emergency and other repairs.

7. The licence holder shall ensure that all relevant landlord and tenant legislation is complied with.

8. The licence holder shall ensure that all reasonable and practical steps are taken to prevent or reduce anti-social behaviour by persons occupying or visiting the house.

8.1 The licence holder shall ensure that each occupier is made aware of any conditions imposed by the Council relating to the behaviour of occupants, and that compliance with any such conditions is made a condition of occupancy. Those conditions are that occupants shall:-

- Not cause nuisance and annoyance to other occupants or to neighbouring residents.
- Comply with arrangements made by the manager for the storage and disposal of refuse.
- Not cause damage to fixtures, fittings, fire precautions or premises.
- Not use abusive or threatening behaviour.
- Allow access to the agents/landlord to maintain communal areas and with reasonable notice to carry out works within the occupant's own accommodation.

## **Discretionary licence conditions to be applied as appropriate in the circumstances**

### **Emergency Escape Lighting**

1. The license holder shall ensure that the escape lighting in the house is inspected, tested and serviced generally in accordance with clause 12 of BS 5266 – 1: 1999 (or any British Standard which subsequently replaces this). In particular the following shall be carried out:-

every six months checks on the system shall be carried out in accordance with clause 12.4.4

every three years checks on the system shall be carried out in accordance with clause 12.4.5

for self contained luminaires with sealed batteries, after the first three yearly test, the three yearly test shall be carried out annually in accordance with clause 12.4.6

2.1 Throughout the period of the license, periodic and test certificates in the format recommended by BS 5266 – part 1:1999 (Annex C) [shall be submitted to the Council within 1 month of each check] [shall be submitted to the Council upon demand].

2.2 The above mentioned checks shall be carried out by a competent person. A competent person in this respect includes NICEIC enrolled contractors or ECA members who are familiar with all British Standards relating to emergency escape lighting systems, regularly inspect emergency lighting systems, are qualified to inspect emergency lighting systems and whose work is subject to regular assessment.

Other contractors will be asked to demonstrate their competence to the Council before acceptance of the certificates.

### **Restrictions or prohibitions on the use or occupation of particular parts of the house by persons occupying it.**

3. The licence holder shall ensure that the (following) (attached) schedule of (restrictions) (and/or) (prohibitions) on the use or occupation of the house (and/or) (particular parts of the house) by persons occupying it is complied with.

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Department for  
Communities and  
Local Government

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

Explanatory Booklet for Local Authorities



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September 2015

ISBN: 978-1-4098-4675-8

# Contents

Introduction	4
Requirements	5
Definitions	6
Exclusions	8
Enforcement process	10
FAQs	13

# Introduction

This booklet is not an authoritative interpretation of the law, but intended as a general guide for the enforcement of the regulations.

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 have been approved by parliament and will come into force as planned on 1 October 2015. Private sector landlords will be required from 1 October 2015 to ensure that at least one smoke alarm is installed on every storey of their rented property and that a carbon monoxide alarm is installed in any room containing a solid fuel burning appliance. They also require landlords to ensure that such alarms are in proper working order at the start of each new tenancy. In addition, the regulations amend the conditions which must be included in a licence under Part 2 or 3 of the Housing Act 2004 ("the 2004 Act") in respect of smoke and carbon monoxide alarms.

The requirement will be enforced by local authorities and this booklet acts as guidance for local authorities on the requirements and how to enforce them. It is designed to cover the most common situations but it cannot cover every scenario and is not a substitute for reading *The Smoke and Carbon Monoxide Alarm (England) Regulations 2015* which can be found at: <http://www.legislation.gov.uk/id/uksi/2015/1693>

Enforcement authorities (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. The landlord must comply with the notice within 28 days. If they do not, the local authority must carry out the remedial action (where the occupier consents) to ensure the requirements in the regulations are met and can issue a civil penalty of up to £5,000.

Separate general guidance on the requirement of the regulations is available at: [www.gov.uk/government/publications/smoke-and-carbon-monoxide-alarms-explanatory-booklet-for-landlords](http://www.gov.uk/government/publications/smoke-and-carbon-monoxide-alarms-explanatory-booklet-for-landlords).



# Requirements

A “relevant landlord” of a “specified tenancy” of residential premises must ensure that during any period, on or after 1 October 2015, when the premises are occupied under the tenancy:

- a smoke alarm is installed on each storey of the premises on which there is a room used wholly or partly as living accommodation; and
- a carbon monoxide alarm is installed in any room which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance.

The landlord must ensure the alarms are in proper working order at the start of any new tenancy.

# Definitions

## **Relevant landlord**

A 'relevant landlord' is the immediate landlord in respect of the tenancy.

## **Specified tenancy**

A 'specified tenancy' is a tenancy, licence, lease, sub-lease or sub-tenancy of residential premises that gives somebody the right to occupy all or part of the premises as their only or main residence in return for rent.

There are some exemptions (such as for long leases) which are explained in the next section.

## **New tenancy**

A 'new tenancy' is a tenancy agreement that begins on or after 1 October 2015 and is not a renewal of a previous tenancy agreement.

There is a specific definition of "new tenancy" in regulation 4(4).

## **Solid fuel burning combustion appliance**

Carbon monoxide alarms must be installed in rooms containing an appliance that burns some type of solid fuel, such as a coal fire, log burning stove, etc.

In the Department's view, a non-functioning purely decorative fireplace would not constitute a solid fuel burning combustion appliance.

## **Living accommodation**

The regulations require at least one smoke alarm to be installed on every storey of the premises on which there is a room used wholly or partly as living accommodation. A carbon monoxide alarm must be installed in any room which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance. In general, a room is classed as "living accommodation" if it is used for the primary purposes of living, or is a room in which a person spends a significant amount of time. The regulations specifically stipulate that a bathroom or lavatory would be classed as living accommodation.

## **Storey**

A smoke alarm must be installed on every storey on which there is a room used wholly or partly as living accommodation. "Storey" is not defined in the regulations. It should be given its ordinary meaning. In the Department's view, for the purpose of these regulations, a mezzanine floor would not be considered a storey.

# Exclusions from the Requirements

## **1. Social housing**

Registered providers of social housing are excluded from the requirements. At present, private rented sector properties have fewer alarms installed than other types of housing tenures – these regulations are designed to ensure all privately rented homes are equipped with working smoke alarms at the start of each new tenancy, and where necessary, working carbon monoxide alarms.

## **2. Houses in multiple occupation (HMOs)**

Licensed HMOs are exempt from the regulations; however, these regulations will apply to unlicensed HMOs. This is because the regulations also amend the HMO licensing requirements in the Housing Act 2004, imposing similar requirements through the HMO licensing scheme.

Part 6 will amend the conditions in Schedule 4 to the Housing Act 2004 which must be included in a licence granted or renewed on or after 1 October 2015. The amendments will mean landlords of licensed HMOs will have to ensure at least one smoke alarm is installed on every storey of their properties and a carbon monoxide alarm in any room containing a solid fuel burning appliance. A landlord of a licensed HMO will be required to keep the alarms in proper working order.

## **3. Live-in landlords**

An agreement under which the occupier shares accommodation with the landlord or landlord's family is excluded. For the purposes of the regulations, a landlord is considered to share accommodation with the tenant if they share an amenity such as a kitchen or living room. This is likely to arise where an owner occupier rents out a room in their own home.

## **4. Long leases**

Leases which grant a right of occupation for 7 years or more without a break clause for either party are excluded. This type of arrangement is closer to one of home ownership than the traditional landlord / tenant relationship.

## **5. Student halls of residence**

Student halls of residence are excluded from the requirements (please see number 7 for details).

## **6. Hostels and refuges**

Hostels and refuges are excluded from the requirements (please see number 7 for details).

## **7. Care homes, hospitals, hospices and other NHS accommodation**

Agreements which grant a right of occupation in a student hall of residence, hostel, refuge, care home, hospital, hospice, or other accommodation provided in relation to healthcare by a relevant National Health Service Body are also excluded.

The occupants of such accommodation generally benefit from existing protections under the Regulatory Reform (Fire Safety) Order 2005. Under the Order, certain premises must be equipped with appropriate fire-fighting equipment and with fire detectors and alarms. Fire and rescue authorities enforce the duties and, if there is a very serious risk to life, have powers to issue a notice preventing the premises being used as accommodation.

In addition, for student halls of residence, the three Government approved codes of practice for student accommodation stipulate requirements in respect of smoke alarms which go beyond the duties imposed by these regulations.

# Enforcement Process

In order for the regulations to be effective there needs to be a process for ensuring compliance. The enforcement body for these regulations is the local authority.

## **Step 1: Issue a remedial notice**

If a local authority has reasonable grounds to believe a landlord is in breach of the requirements in regulation 4, the authority must serve a remedial notice on the relevant landlord. The remedial notice must contain the information set out in regulation 5(2). It must inform the landlord which property it relates to, the reason it is being issued and what action the landlord needs to take next.

In the Department's view, 'reasonable grounds' would include being informed by a tenant, letting agent or housing officer that the required alarms are not installed.

The regulations do not require the enforcing authority to enter the property or prove non-compliance to issue a remedial notice. This is intelligence led enforcement.

## **Step 2: Landlord must comply with the notice**

The landlord has 28 days beginning with the day on which the remedial notice is served to comply with the notice.

If a landlord can show they have taken all reasonable steps, other than legal proceedings, to comply with the notice, they will not be in breach of the duty to comply with the remedial notice in regulation 6.

If a landlord does not prove they have taken all reasonable steps, it is then up to the local authority to decide if they are in breach, by judging on a balance of probabilities. Whether any evidence provided confirms compliance is for the local authority to determine. Some examples of evidence could be dated photographs, confirmations by the tenant or installation records. Local authorities could also issue guidance on supplying evidence when the remedial notice is issued.

In the Department's view, if a tenant informs the local authority that no remedial action has been taken is it reasonable for the local authority to be satisfied, on the balance of probabilities, that the landlord is in breach.

## **Step 3: Remedial action and civil penalty**

If the local authority is satisfied, on the balance of probabilities, that a landlord has breached the duty to comply with the remedial notice within 28 days, the authority must arrange for remedial action to be taken (where the occupier consents). This is to ensure

that tenants are protected by working alarms and may involve installing a required alarm, repairing an installed alarm or checking an installed alarm is in proper working order. The enforcing authority can impose a civil penalty of up to £5,000 on landlords who do not comply with the remedial notice. Local authorities should be open and transparent regarding the civil penalty and publish a statement of principles which they will follow when determining the amount of a penalty charge. These principles are to be determined by the local authority. The Department recommends that the statement is published on the local authority's website.

Where a local housing authority intends to impose a penalty, it must give written notice of its intention to do so – a 'penalty charge notice'. This must set out certain required information including the reasons for the penalty, the amount of the penalty, and that the landlord is required, within the specified period, to pay the penalty charge or request a review.

The calculation of the penalty should be in line with the statement of principles, mentioned above. There is no other provision made in the regulations for enforcement authorities to redeem costs for any remedial works carried out. Collection of the civil penalty fine is the only method.

#### **Step 4: Review**

If a landlord does not agree with a penalty charge notice, they can make a request to the relevant local authority for it to be reviewed. This request must be made in writing and within the time period specified in the penalty charge notice.

If a local authority receives a request for a review, the authority must consider any representations made by the landlord, decide whether to confirm, vary or withdraw the notice, and serve a notice of its decision on the landlord. Where an authority decides to confirm or vary a penalty charge notice, it must inform the landlord that they can appeal to First-tier Tribunal.

#### **Step 5: Appeals**

To ensure that the enforcement process is administered fairly, landlords are provided with a means of appeal against penalties. A landlord may appeal to the First-tier Tribunal if the penalty charge notice is confirmed or varied by a local authority after a review. If an appeal is lodged, the penalty cannot be enforced until the appeal is disposed of.

Appeals can be made on the grounds that the decision of the local authority to vary or confirm the penalty charge notice was based on a factual error, was wrong in law, or was unreasonable for any other reason. Appeals can also be made on the grounds that the amount of the penalty is unreasonable.

## **Suspension / revocation of a notice**

Any notice served on a landlord under the regulations may be amended, suspended, or revoked in writing at any time. If a remedial notice is suspended and the local authority decides to re-instate this once the compliance period has run out or is shortly about to, the Department would expect the authority to act reasonably and reissue the notice to start a new 28 day compliance period.



# Frequently asked questions

## **Who is responsible for checking the required alarms are in working order?**

The regulations require landlords to ensure alarms are installed in their properties with effect from 1 October 2015, and after that the landlord (or someone acting on behalf of the landlord) must ensure all alarms are in working order at the start of each new tenancy. Tenants should then take responsibility for their own safety by testing all alarms regularly after that. Testing monthly is generally considered an appropriate frequency for smoke alarms.

## **Do the regulations apply to existing tenancies?**

Yes. The regulations require private sector landlords to install at least one smoke alarm on each storey of the property, and a carbon monoxide alarm in any room containing a solid fuel burning appliance, with effect from 1 October 2015.

## **What type of alarm should be installed?**

The regulations do not stipulate the type of alarms (hard wired or battery powered) to be installed. Landlords should make an informed decision and choose the best alarms for their property and tenants.

## **Are carbon monoxide alarms required in rooms with gas appliances?**

No. Carbon monoxide alarms are only required in rooms containing a solid fuel burning appliance (such as a coal fire, log burning stove, etc.).

## **How does a landlord prove they tested the required alarms at the beginning of the tenancy?**

It is for the local authority to determine whether any evidence provided meets the requirements of the regulations. In separate guidance, available at <https://www.gov.uk/government/publications/smoke-and-carbon-monoxide-alarms-explanatory-booklet-for-landlords> the Department has suggested to landlords this could be achieved by tenants signing the inventory form, agreeing that they are aware of the location(s) of the alarm(s) and the landlord has tested that they are in working order on the first day of the tenancy.

**What if a landlord does not check the alarms are in working order on the first day of the tenancy?**

The legislation requires that all alarms are tested on the first day of the tenancy and so in this situation the landlord would be in breach of the regulations. This is essential to achieve the objective of the regulations. If tested before the first day of the tenancy, alarms could be damaged in the interim. If tested after, tenants are at risk as they are living with alarms that may not be working.

**How do the regulations relate to non licensed HMOs?**

The regulations apply to unlicensed HMOs. Smoke alarms are expected to be installed on every storey of the premises on which there is a room used wholly or partly as living accommodation. If there are separate premises on the same storey of a building, the Department would expect smoke alarms to be installed in each individual premise. A carbon monoxide alarm must be installed in any room that is used wholly or partly as living accommodation and contains a solid fuel burning appliance.

**The regulations require the consent of the occupier before remedial action is taken. In the case of a shared tenancy, is consent required from all occupiers?**

No, consent would be required from any occupier.

**We are working with our local fire and rescue authority to distribute the alarms – is there any guidance on this?**

No. The Government has provided limited funding to local fire and rescue authorities to purchase the alarms. It is up to the local fire and rescue authorities to decide, at their discretion, how to distribute these among landlords.

LACORS guidance contains information about the 'Protocol between local housing authorities and fire and rescue authorities to improve fire safety' (Appendix 2 page 63).

This can be viewed at:

[http://www.cieh.org/library/Knowledge/Housing/National\\_fire\\_safety\\_guidance\\_08.pdf](http://www.cieh.org/library/Knowledge/Housing/National_fire_safety_guidance_08.pdf)

# Chesterfield Borough Council

## The Smoke and Carbon Monoxide Alarm (England) Regulations

2015

### Statement of principles

December 2015

## **Contents**

1. Background	Page 3
2. Explanatory Note	Page 4
3. Criteria the Council will use when determining whether to impose a penalty charge	Page 5
4. How the Council will determine the amount of financial penalty.	Page 6
5. Procedural matters	Page 7

## **1. Background**

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (“the Regulations”) impose duties on certain landlords of residential premises in respect of smoke and carbon monoxide alarms.

Regulation 8 of (the regulations) provides that the Council may require the landlord to pay a penalty charge if the Council is satisfied on the balance of probabilities that the landlord on whom it has served a remedial notice (the notice) under regulation 5 has failed to take the remedial action specified in the notice within the period specified.

Regulation 13 of the regulations requires the Council to prepare and publish statement of principles which it proposes to follow in determining the amount of a penalty charge.

The Council may revise its statement of principles and, where it does so, it must publish the revised statement.

Where a penalty charge is made, the Council must have regard to the statement of principles published and in place at the time when the breach in question occurred, when determining the amount of the penalty charge.

In particular the Council will have regard to:

- Satisfying the balance of probabilities that the landlord has failed to take the remedial action required in the notice.

This document sets out the principles which the Council will apply and will have regard to when exercising its powers under regulation 8 of the regulations.

## **2. Explanatory Note**

The primary purpose of the Council's exercise of its regulatory powers is to protect the interests of the public, although they may have a punitive effect.

The primary aims of financial penalties will be to:

- change the behaviour of the landlord.
- eliminate any financial gain or benefit from non-compliance with the regulations.
- be proportionate to the nature of the breach of the regulations and the potential harm outcomes.
- aim to deter future non-compliance.
- reimburse the costs incurred by the Council in undertaking work in default.

### **3. Criteria the Council will use when determining whether to impose a penalty charge**

By virtue of regulation 8, a failure to comply with the requirements of a remedial notice allows the authority to require payment of a penalty charge. In considering the imposition of a penalty the authority has regard to:

- the evidence of a breach of the requirement of the notice.

In deciding whether it would be appropriate to impose a penalty, the authority will take full account of the particular facts and circumstances of the breach under consideration. Factors which the authority will take into consideration are:

- the Council is satisfied on the balance of probabilities that the landlord on whom it has served a remedial notice (the notice) under regulation 5 has failed to take the remedial action specified in the notice within the period specified.

A financial penalty allows the Council, amongst other things, to eliminate financial gain or benefit from non-compliance. A financial penalty charge will be considered appropriate in the following circumstances:

- The landlord has failed to comply with the requirements of a remedial notice.

#### **4. How the Council will determine the amount of financial penalty.**

Regulation 8(2) states the amount of the penalty charge must not exceed £5,000. The penalty charge comprises two parts, a punitive element for failure to comply with the absolute requirement to comply with a remedial notice (subject to any representation made by a landlord to the Council) and a cost element relating to the works carried out by the Council.

The period within which the penalty charge is payable is 30 days beginning with the day on which the penalty charge notice is served.

The Council has discretion to specify that if a landlord pays the penalty charge within a specified earlier period a reduction in the penalty charge may be applied.

The Council may also exercise a similar discretion where the landlord gives written notice to the Council that the landlord wishes the authority to review the penalty charge notice.

Of these two discretions, the Council will, as a matter of course, exercise the discretion to reduce the penalty charge in relation to payment within a specified “early payment” period.

- **The specified period for early payment is within 14 days beginning with the day on which the penalty charge notice was served.**
- **For a first offence the fine applied will be £2,500 and an early payment will attract a discount of 50% making it £1,250.**
- **For subsequent offences the penalty will be £5,000 to deter continued non-compliance and an early payment will attract a discount of 50% making it £2,500.**



## 5. Procedural matters

The regulations impose a number of procedural steps which must be taken before the Council can impose a financial penalty. Before imposing a requirement on a landlord to pay a penalty charge the Council must, within a period of six weeks from the point at which it is satisfied that the landlord has failed to comply with the requirements of the Remedial Notice, serve a penalty charge notice setting-out:

- the reasons for imposing the penalty charge;
- the premises to which the penalty charge relates;
- the number and type of prescribed alarms (if any) installed at the premises;
- the amount of the penalty charge;
- the obligation to pay that penalty charge or to give written notice of a request to review the penalty charge;
- how payment of the charge must be made; and
- the name and address of the person to whom a notice requesting a review may be sent.

Where the Council is satisfied on the balance of probabilities that the landlord on whom it has served a remedial notice (the notice) under regulation 5 has failed to take the remedial action specified in the notice within the period specified the Council will, on written notice from the landlord served with a penalty charge notice, review the penalty charge imposed. In conducting the review, the Council will consider any representations made by the landlord, and serve notice of its decision whether to confirm, vary or withdraw the penalty charge to the landlord.

A landlord who, having requested a review of a penalty charge notice, is served with a notice confirming or varying the penalty charge may appeal to the First-tier Tribunal against the Council's decision.

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## 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: Business Planning and Strategy – Housing Services

Section: Private Sector Housing

Lead Officer: Head of Housing

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

“The smoke and carbon monoxide alarm (England) regulations 2015”.

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

Existing

Changed

New/Proposed

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

The aim of the new policy is to authorise the Private Sector Housing Manager to exercise full enforcement powers in respect of “The smoke and carbon monoxide alarm (England) regulations 2015”. Under section 150(9) of the Energy Act 2013 and section 250(6) (f) of the Housing Act 2004, which came into force on the 1<sup>st</sup> October 2015. This legislation places a statutory duty on local housing authorities to apply the regulations.

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

The legislation applies specifically to tenants living in the private rented sector and is designed to ensure minimum provision of smoke detection is provided within all privately rented properties.

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.

<b>Group or Protected Characteristics</b>	<b>Potentially positive impact</b>	<b>Potentially negative impact</b>	<b>No impact</b>
Age – including older people and younger people.	Advanced warning of fire and carbon monoxide within the home if requiring more time to escape.	None	Additional safety measures
Disabled people – physical, mental and sensory including learning disabled people and people living with HIV/Aids and cancer.	Advanced warning of fire and carbon monoxide within the home if requiring more time to escape.	None	Additional safety measures.
Gender – men, women and transgender.	None	None	Additional safety measures
Marital status including civil partnership.	None	None	Additional safety measures
Pregnant women and people on maternity/paternity. Also consider breastfeeding mothers.	Advanced warning of fire or carbon monoxide if requiring longer to escape.	None	Additional safety measures.
Sexual Orientation – Heterosexual, Lesbian, gay men and bi-sexual people.	None	None	Additional safety measures
Ethnic Groups	None	None	Additional safety measures
Religions and Beliefs including those with no religion and/or beliefs.	None	None	Additional safety measures
Other groups e.g. those experiencing deprivation and/or health inequalities.	Groups experiencing deprivation/ health	None	Additional safety measures

	<p>inequalities are more likely to live in the private sector and potentially in poorer quality accommodation. The provision of advanced warning of fire or carbon monoxide is more likely to ensure those groups exit a property safely in event of a fire.</p>		
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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:

The smoke and carbon monoxide alarm (England) regulations 2015 will not 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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