

Chesterfield Borough Council

Private Sector Housing

Fees and Charges Policy

2019/20

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1. Introduction

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

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

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

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

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

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

2. Overview

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

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

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

This policy will be reviewed on an annual basis.

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

3. Enforcement Action Taken Under Part 1 Housing Act 2004

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

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

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

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

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

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

4. Mandatory HMO Licensing Scheme

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

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

Services Directive.

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

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

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

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

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

Other HMO Licensing Fees

The Council will also charge for the following services:

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

5. Work in Default

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

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

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

6. Discretionary Services

The council will charge for the following discretionary services:

- Housing immigration inspections

7. Debt Recovery

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

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

In order to recover outstanding debts, the Council may:

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

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

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

9. Mobile Home Licence

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

10. Civil Penalties.

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

11. Fees and Charges

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

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