

## APPENDIX C



# Private Sector Housing Fees & Charges Policy

for the Regulation of Housing Standards

Updated 1 August 2017

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## **1. Introduction**

- 1.1 Northampton Borough Council is committed to improving standards in private sector housing, bringing empty properties back into use and ensuring that all private rented accommodation is well managed, properly maintained and safe and habitable.
- 1.2 It is also committed to ensuring that all Houses in Multiple Occupation (HMOs) that require a licence are licensed on time and comply with the licence conditions.
- 1.3 Although Northampton 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.
- 1.4 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.

## **2. Purpose of the Fees & Charges Policy**

- 2.1 The law allows Councils to charge for the licensing of Houses in Multiple Occupation and the cost of the enforcement action it takes in relation to private sector housing.
- 2.2 Although the Council values the very important role that the private rented sector plays in meeting the high demand for housing in Northampton, it also recognises the need to take robust action against those landlords whose selfish, anti-social and unlawful behaviour is putting tenants' health and wellbeing at risk, spoiling local neighbourhoods and placing an additional financial burden on public services.
- 2.3 In order to support and complement Northampton's Private Sector Housing Enforcement Policy, this Fees & Charges Policy is designed to encourage good and responsible behaviour and ensure that, where possible, the cost of enforcement is borne by the offender, rather than by the taxpayer and responsible landlords.
- 2.4 To this end, the Council will offer a reduction in the HMO licence fee where a completed application (for a new licence or the renewal of a licence) is made on time. It will also shorten the term of an HMO licence where the licence application is submitted very late and/or the Council has reason to believe that its Officers will need to spend a lot of time monitoring and enforcing standards in that HMO.
- 2.5 As it has been a number of years since the Council last reviewed its fees and charges for Private Sector Housing, 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.
- 2.6 The Fees & Charges Policy should be read in conjunction with other policies and strategies including, for example, the Private Sector Housing Enforcement Policy, the HHSRS Procedure and the Empty Property Strategy.

### 3. Principles underpinning the Policy

3.1 Northampton's Fees & Charges Policy is based on the following principles:

- The Council will enforce the law efficiently and effectively without imposing unnecessary burdens on responsible owners, landlords and occupiers;
- All fees and charges will be calculated on the basis of what it costs the Council to license HMOs, take enforcement action, carry out works in default and provide advice and written reports;
- All licensable HMOs will be subject to the same fees and charges arrangements, irrespective of whether they are affected by the Mandatory HMO Licensing regime or the Additional HMO Licensing regime;
- Owners and landlords who fail to license their HMOs on time will be required to pay more for their HMO licence and, when they are eventually issued with an HMO licence, the Council is likely to issue them with a shorter licence that lasts less than the standard term;
- 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; and
- The Council will ensure its fees and charges are as low as possible by improving efficiency and making effective use of information technology;

### 4. Calculating the Fees & Charges

4.1 In 2015, a review of the fees and charges for Private Sector Housing revealed that the Council has been charging less than what it has cost to undertake the work.

4.2 The revised fees and charges – set out in **Appendix A** – take into account the true cost of the work involved and have been calculated by determining the average number of hours taken to complete a range of licensing and enforcement tasks, the hourly rate of the Officers involved and the service on-costs.

4.3 Since February 2017, the Council has been carrying out an annual review of its fees and charges for Private Sector Housing, to ensure that they reflect the true cost of the work involved. Any changes will come into effect in the following financial year.

## **5. Licensing of Houses in Multiple Occupation**

- 5.1 Since introducing its Additional HMO Licensing Scheme on 3 November 2014, Northampton Borough Council has licensed approximately one third of the estimated number of licensable HMOs operating in the designated area.
- 5.2 Although a bigger proportion of licensable Mandatory HMOs are licensed, the Council is continually uncovering Mandatory and Additional HMOs that are being operated, unlawfully, without an HMO licence.
- 5.3 It is a criminal offence if a person controlling or managing an HMO does not have the required licence. Failure to comply with any condition attached to a licence is also an offence. The Council will consider all available enforcement options when dealing with unlicensed HMOs and breaches of the licence conditions.
- 5.4 If a licensable HMO does not have a licence, any Section 21 Notice (a notice seeking possession) that the landlord serves on the tenants is likely to be invalid. Identifying and targeting licensable HMOs that are operating without a licence, therefore, will not only help the Council to tackle criminal, rogue and irresponsible landlords, but it will also prevent homelessness.
- 5.5 Although enforcement action has an important role to play in ensuring that HMOs are properly managed and meet the required standards – and the Council is firmly committed to ensuring that the cost of such action is borne by the offenders – this Fees & Charges Policy includes a number of incentives and penalties that are designed to encourage good practice and the timely licensing of HMOs:
- All licensable HMOs (Mandatory and Additional) will be subject to the same fees and charges arrangements, including incentives and penalties;
  - Owners and landlords who submit their completed licence application (for the initial HMO licence or the renewal of their HMO licence) in a timely manner will receive a 5 year HMO licence and an ‘Early Bird Discount’ that will reduce the size of the licence fee they are required to pay; and
  - Owners and landlords who fail to submit their completed licence application (for the initial HMO licence or the renewal of their HMO licence) in a timely manner will not receive an ‘Early Bird Discount’ and, when they are issued with an HMO licence, they may be issued with a shorter licence lasting less than 5 years.

### **Cost of the initial HMO Licence**

- 5.6 The cost of the initial licence fee will depend on the number of people that the HMO can accommodate, and when the licence application is received by the Council.
- 5.7 A bigger licence fee will be charged if the HMO is able to accommodate more than 5 persons, and an ‘Early Bird Discount’ will be allowed if the completed licence application is received by the Council within the required timescales.

- 5.8 Up until 31 March 2018 [see **Appendix A**], a licence fee of £714 will be payable for an HMO that can accommodate up to 5 persons and, if the HMO can accommodate more than 5 persons, an extra £30.60 will be payable for each additional person. If an 'Early Bird Discount' is appropriate, the HMO licence fee will be reduced by £153.

Thereafter the fees and charges will be reviewed and updated on an annual basis and increased in accordance with increased costs to the Council for providing this service

### **Award of an 'Early Bird Discount' for initial Licences**

- 5.9 An 'Early Bird Discount' will be awarded, at the discretion of the Council, where the completed HMO licence application (including the licence fee) is received:

- within 8 weeks of the HMO becoming licensable; or
- within 8 weeks of the owner completing the purchase of an existing, licensable HMO

- 5.10 In order to determine whether or not an 'Early Bird Discount' should be awarded, the Council may ask the applicant to provide evidence to confirm the date of purchase or support their claim that the HMO has only recently become licensable.

- 5.11 Where the Council is satisfied that the applicant has withheld relevant information or provided misleading information – especially in relation to the way in which the HMO is being (or has been) occupied – it will not award an 'Early Bird Discount'.

### **Length of the initial HMO Licence**

- 5.12 The length of the initial licence will depend on when the completed licence application (including the licence fee) is received by the Council.

- 5.13 A 5 year licence will be issued if the completed licence application is received:

- within 13 weeks of the HMO becoming licensable; or
- within 13 weeks of the owner completing the purchase of an existing, licensable HMO

- 5.14 A 3 year licence will be issued if the completed licence application is received:

- 13 to 26 weeks of the HMO becoming licensable; or
- 13 to 26 weeks of the owner completing the purchase of an existing, licensable HMO

- 5.15 A 2 year licence will be issued if the completed licence application is received:

- more than 26 weeks after the HMO became licensable; or
- more than 26 weeks after the owner completed the purchase of an existing, licensable HMO

- 5.16 Where a 2 year licence is issued – because the completed licence application is received by the Council more than 26 weeks after it should have been – the licence will be reduced to 1 year if the Council’s inspection of the HMO results in Category 1 hazards, breach of licence conditions and/or offences under the HMO Management Regulations being identified and a Notice being served on the owner or landlord.

The Council also reserve the right to reduce a licence term of any licence if the Council’s inspection of the HMO results in Category 1 hazards, breach of licence conditions and/or offences under the HMO Management Regulations being identified and a Notice being served on the owner or landlord.

### **Cost of renewing an HMO Licence**

- 5.17 The cost of renewing an HMO licence will depend on the number of people that the HMO can accommodate, and when the licence application is submitted.
- 5.18 Up until 31 March 2018 [see **Appendix A**], £714 will be payable for an HMO that can accommodate up to 5 persons and, if the HMO can accommodate more than 5 persons, an extra £30.60 will be payable for each additional person. This is the amount that will need to be paid when the existing HMO licence expires.

### **Award of an ‘Early Bird Discount’ for the renewal of Licences**

- 5.19 An ‘Early Bird Discount’ will be awarded, at the discretion of the Council, if a duly completed renewal application (including the licence fee) is received by the Council at least 28 days before the existing HMO licence expires.
- 5.20 Up until 31 March 2018 [see **Appendix A**], the ‘Early Bird Discount’ will reduce, by £204, the cost of renewing an HMO licence.

### **Purchase of an existing licensed HMO**

- 5.21 Although an existing HMO licence cannot be transferred to the new owner when the HMO is sold, the fee that is charged for the new HMO licence may, at the Council’s discretion, be treated as a licence renewal and qualify for an ‘Early Bird Discount’.
- 5.22 To be treated as a licence renewal and qualify for an ‘Early Bird Discount’, the HMO that has been sold must have had a valid HMO licence at the time the sale was completed, the new owner must already be operating a licensed HMO in Northampton and a completed licence application (including the licence fee) must have been received by the Council within 8 weeks of the purchase being completed.

### **Additional charges**

- 5.23 In order to improve efficiency and keep its HMO fees and charges as low as possible, the Council is planning to introduce online HMO licensing in 2017 and, when the new system is up and running, the Council will require all HMO licence applications (including licence renewals) and payments to be made online.
- 5.24 Where it is necessary for an Officer to sit with the applicant to complete their licence application online, the Council will normally charge them £51 for this.

- 5.25 A charge of £76.50 will normally be made if the applicant requires urgent pre-application advice and/or a written report with accompanying plans.
- 5.26 A charge of £61.20 will normally be made if the applicant fails to attend a pre-arranged HMO inspection or cancels a pre-arranged inspection with less than 24 hours' notice.

## **6. Housing Enforcement**

- 6.1 The Council's Private Sector Housing Team will respond to complaints from tenants and other residents about private housing and it will prioritise the complaints on the basis of an assessment of the risk and seriousness.
- 6.2 The Housing, Health and Safety Rating System (HHSRS), set out in Part 1 of the Housing Act 2004, is a method of assessing how likely it is that the condition of a property will cause an unacceptable hazard to the health of the occupant(s) of the property or neighbouring properties.
- 6.3 The HMO licensing regime includes arrangements for assessing the suitability of the premises for the number of occupants, including the adequacy of the amenities. It also provides for the assessment of the fitness of a person to be the licence holder and the potential management arrangements of the premises.

### **The pre-formal process**

- 6.4 In many instances, the Council will follow a pre-formal process in which it will seek to work with landlords to reduce hazards. This will provide owners and landlords with the opportunity to quickly resolve any problems, to the Council's satisfaction, without incurring any of the charges that will be made for any formal enforcement action.
- 6.5 The Council will avoid any actions, however, that may encourage owners, landlords and agents to be non-compliant.

### **The formal process**

- 6.6 Where enforcement action is necessary, the Council will use a variety of regulatory powers and will normally charge offenders for the cost of preparing and serving Statutory Notices. The amount charged [see **Appendix A**] reflects the true cost of the work and takes into account the average number of hours taken to complete the task, the hourly rate of the Officers involved and the service on-costs.
- 6.7 In exceptional circumstances, the Council may exercise its discretion and decide not to charge an offender for the cost of enforcement. Such decisions will be made by the Council's Head of Housing and Wellbeing or Private Sector Housing Manager and will be based on the individual circumstances and merits of each case.

### **Carrying out Works in Default**

- 6.8 The Council has been given powers under the Housing Act 2004 and other legislation to carry out works in default where a person has been required to do works but has failed to do so.



- 6.9 In most instances, a person will be given notice of the Council's intention to carry out works in default. As soon as the Council has commenced the works, it is an offence for any person to obstruct the Council or any of the contractors or agents that have been employed to carry out the works.
- 6.10 The full cost of the works will be recovered in accordance with the relevant statutory provisions. A Charge will be placed on the property and the debt will be pursued. If interest can be charged while the debt remains unpaid, this will be added to the debt.
- 6.11 In order to encourage owners and landlords to undertake the work themselves, the Council's charges for arranging works in default [see **Appendix A**] reflect the true cost of organising and paying for the work. These costs must be met by the offender.
- 6.12 The Council is not obliged to carry out the works and reserves the right not to do so where the cost of the works is likely to be high or there may be difficulties recovering the costs. Works may be considered to remove serious hazards only.

### **Empty Properties**

- 6.13 There is a high demand for accommodation in Northampton. As well as being a wasted source of housing, empty properties can be an eyesore, damage adjoining properties, blight neighbourhoods and attract anti-social behaviour.
- 6.14 The Council will identify, risk assess and prioritise long-term, problematic and nuisance empty properties, using the full range of informal and formal action (including works in default, enforced sales and, where appropriate, compulsory purchase) in order to bring them back into use.

## **7. Discretionary Services**

- 7.1 Where the Council is asked to provide a discretionary service in relation to private sector housing – such as an Immigration Compliance Visit & Report – it will make a reasonable charge that reflects the true cost of the work.
- 7.2 Although the Private Sector Housing Team will continue to provide owners and landlords with advice and guidance, this will be provided mainly through the Council's website. Site visits will continue to be undertaken but, if customers require written reports or scaled drawings, the Council will normally charge for these.

## **8. Debt Recovery**

- 8.1 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 the interest that has accrued) will have to be repaid.
- 8.2 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.
- 8.3 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.

- Demand that rents are paid to the Council, rather than the landlord, where the law allows and it is appropriate to do so
- Use 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.

## **9. Guidance**

- 9.1 A wide range of guidance on licensing and enforcement has been issued by the Government and other agencies, and the Council will continue to have regard to all relevant guidance when formulating its policies and procedures.

## APPENDIX A – PRIVATE SECTOR HOUSING FEES & CHARGES

From 1 April 2017 until 31 March 2018, Northampton Borough Council's Private Sector Housing Fees & Charges will be as follows:

ELEMENT	DESCRIPTION	AMOUNT
<b>Standard HMO Licence Fee</b> (for up to 5 persons)	The fee charged for a new HMO licence (or the late renewal of an HMO licence that has already expired) in relation to an HMO that is able to accommodate up to 5 persons.	£714
<b>Standard HMO Licence Fee</b> (for 6 or more persons)	The fee charged for a new HMO licence (or the late renewal of an HMO licence that has already expired) in relation to an HMO that is able to accommodate 6 or more persons.	£744.60 for 6 persons  plus £30.60 per person if more than 6 persons
<b>Early Bird Discount for a new HMO Licence</b>	The discount that is allowed (at the discretion of the Council) to reduce the Standard HMO Licence Fee for new HMO licences.  (An Early Bird Discount will <u>not</u> be allowed if the new HMO licence is required because the previous HMO licence was not renewed on time and has already expired).	£153
<b>Standard HMO Licence Renewal Fee</b> (for up to 5 persons)	The fee charged for the renewal of an existing HMO licence in relation to an HMO that is able to accommodate up to 5 persons.	£714
<b>Standard HMO Licence Renewal Fee</b> (for 6 or more persons)	The fee charged for the renewal of an existing HMO licence in relation to an HMO that is able to accommodate 6 or more persons.	£744.60 for 6 persons  plus £30.60 per person if more than 6 persons
<b>Early Bird Discount for the Renewal of an existing HMO Licence</b>	The discount that is allowed (at the discretion of the Council) to reduce the Standard HMO Licence Renewal Fee where the completed renewal application (including the licence fee) is received by the Council at least 28 days <u>before</u> the existing HMO licence expires.  (Under certain circumstances, this Early Bird Discount will be allowed where an existing licensed HMO is purchased by a person who is already operating, and responsible for, another licensed HMO in Northampton).	£204

<b>ELEMENT</b>	<b>DESCRIPTION</b>	<b>AMOUNT</b>
<b>Practical help and support in completing an online licence application</b>	The charge made when it is necessary for an Officer to sit with the applicant to help them complete their licence application online.	£51
<b>Request for written report and plans</b>	The charge made when a written report and/or plan is requested in connection with pre-application advice about an HMO.	£76.50
<b>Variation to an existing HMO Licence</b>	The charge made when any material changes are required to an existing HMO licence	£100
<b>Missed or cancelled visit or inspection</b>	The charge made when a licence applicant fails to attend a pre-arranged HMO inspection or cancels a pre-arranged inspection with less than 24 hours' notice.	£61.20
<b>Service of an Improvement Notice or a Suspended Improvement Notice</b>		
<b>Service of an Improvement Notice or a Suspended Improvement Notice</b>	The charge made when it is necessary for the Council to serve an Improvement Notice or Suspended Improvement Notice because the owner or landlord has failed to engage with the Council or it is unlikely that a pre-formal process will result in a satisfactory resolution.	£408
<b>Service of a Prohibition Order</b>	The charge made when it is necessary for the Council to serve a Prohibition Order because all or part of the property cannot be occupied safely and resolution cannot be achieved by way of an informal agreement.	£408
<b>Service of an Emergency Prohibition Order</b>	The charge made when it is necessary for the Council to serve an Emergency Prohibition Order because there is an imminent risk of serious harm to the health and safety of the occupier(s) in all or part of the property.	£459
<b>Request to remove or revoke a Prohibition or Emergency Prohibition Order</b>	The charge made when the Council is requested to revoke or remove prohibition / emergency prohibition orders – this will always entail a visit to the premises.	£204
<b>Emergency Remedial Action</b>	The charge made when it is necessary for the Council to undertake Emergency Remedial Action because there is an immediate risk of serious harm to the health and safety of occupier(s) in all or part of the property.	£408 <u>plus</u> the cost of the works

<b>Works in Default</b>	<p>The charge made when it is necessary for the Council to carry out works because the owner or landlord of the property has failed to comply with a statutory notice and, on its own, prosecution would not ensure the health and safety of the occupier(s).</p> <p>The full cost of the works will be recovered in line with the relevant statutory provisions, a land charge will be placed on the property and the debt will be pursued. If interest can be charged while the debt remains unpaid, this will be added to the debt.</p>	<p>Cost of the works</p> <p><u>plus</u> a charge of £255 + VAT or 15% of the cost of the works + VAT (whichever is the greater)</p>
<b>Immigration Compliance Visit &amp; Report</b>	<p>The charge made when the Council is asked to provide a report on the suitability of a home to accommodate someone from abroad who is applying to reside in the UK.</p>	<p>£204</p>