

APPENDIX 5 - COMMUNITY PROTECTION CHARGES 2017/18

A table summary of the proposed fees and charges to be levied by Community Protection is contained at 1.8

1.1 Housing Act 2004

1.1.1 Selective Licensing

At the introduction of the Selective Licensing scheme in May 2015 the licence fee was calculated to account for the costs of the scheme over the full five year life of the designations. Adjustments to the fee structure were made in 2016/17 to account for changes to the way the Council have to charge for certain services. This fee is still applicable. It is recommended that the fee remains the same as in 2017/18.

1.1.2 Houses in Multiple Occupation (HMO)

It is proposed that the fee is increased in line with salary cost increases of 1%. The application fee accounts for the likely inspection cost of the property plus the administrative costs involved in reviewing the license application.

The fee is for new applications or renewal (every five years) and, with only 18 mandatory licensable HMOs in the Borough, the revenue stream will not realise any significant income.

This will increase the fee charged in Rotherham from £800 to £816. For comparison, within South Yorkshire, Sheffield City Council levy a charge of £750, Doncaster MBC £800 to £480 and Barnsley MBC £335

1.1.3 Housing Act 2004 Legal Notices

The Housing Act 2004 allows Councils to charge for the service of Housing Act legal notices. The charges cover the service of the following statutory notices:

- Improvement and Suspended Improvement Notices (sections 11, 12 and 14).
- Prohibition and Suspended Prohibition Orders (sections 20, 21 and 23).
- Emergency Remedial action (section 40).
- Emergency Prohibition orders (section 43)

The charge made is variable according to the specific circumstances and details of the case; this includes the officer(s) time engaged on the case and the circumstances of those involved. The charge should be reasonable and auditable. Consequently an actual fixed charge cannot be levied; although an indicative level is likely to be in the region of £400. It is highly unlikely that these charges will raise any significant income, as it is found that, when warned about the risk of financial charges, landlords tend to respond more quickly to avoid the need to serve a statutory notice.

1.2 Pollution Control

Under Local Air Pollution Control (LAPC) certain industrial processes are regulated by, in effect, conditioned permits to control emissions of pollutants to air. Fees for these specific industrial processes are set annually in accordance with statutorily prescribed Department for Environment, Food and Rural Affairs (DEFRA) guidance and national fees. This national

approach ensures a consistency of fees and charges to business across the country.

The fees prescribed by DEFRA primarily relate to the application, processing and granting of permits, together with subsistence fees to reflect the delivery of the statutory function to regulate compliance relating to industrial emissions and consequent air pollution.

DEFRA have not set the level of the fees for 2017/18 but it is expected that the freeze on these fees and charges will continue in order to reduce the financial burden on industry. Although, there have been a number of reviews which have taken place in relation to simplified processes, the fees set by Government have mainly remained static since 2011, however, some fees for less polluting processes have been reduced.

Whilst reduced fees and the freezing of fees positively impact on the costs for industry, they consequently reduce the income of Councils. For Rotherham, the reduction in fees has resulted, over the period 2013 to 2016, in a fall in income for the Council by around £15,000, or 30%. Consequently, income received does not currently cover the cost of the delivery of the statutory function. This has been factored into service budgeting.

1.3 Works in Default

The Council can carry out Works in Default to address the non-compliance of a range of enforcement notices that have been served to protect the health and safety of the public such as statutory nuisance abatement, private sector housing enforcement, local area amenity and filthy/ verminous premises. If a notice is not complied with then the Council can prosecute and/or carry out works in default. Works in Default are undertaken where there is a medium or high risk sustained by non-compliance and the works are needed to stop the impact on neighbours or a vulnerable individual. The Council recharge the cost of these works to the person responsible.

The cost recharged must be reasonable and includes, where necessary, the cost of both internal or contractor services to carry out the works and Council officer time in commissioning and supervision of the works. Consequently, the costs recharged are variable on the type, extent and time taken. It is standard practice to calculate these costs in line with advice from Legal Services and by reference to the Council's Standing Orders and Financial Regulations.

Carrying out works in default brings with it a significant financial risk where re-payments are no made. Consequently work is underway to strengthen the Council's debt recovery processes around works in default, with particular focus on using enforced sale provisions to recover debts.

1.4 Consultation Fees

Continuing the position in 2016/17 and following Local Government Association guidance on charging for services, the charges levied in 2017/18 will be the appropriate hourly rate for the officer carrying out the work. Consequently, the costs recharged are variable in type, extent and time taken. Associated staff costs are calculated as an hourly rate advised by Human Resources and Financial Services from the applicable salary scale of the officer(s) involved.

As illustration, the hourly rate for the Scientific Officer that undertakes the majority of the consultation work has reduced from £19.71 in 2016/17 to the current rate of £19.68

1.5 High Hedges

Part 8 of the Anti-social Behaviour Act 2003 allows the Council to intervene in disputes in

relation to high hedges. Residents can complain to the Council about the height of a hedge and an investigation can follow. There is national guidance issued regarding such circumstances.

On making a service request to the service, customers are advised to speak with their neighbours about their concerns, to utilise mediation, and to warn their neighbours that they will be complaining to the Council if the matter is not rectified. Should this fail to reach a solution and the resident wishes to make a formal complaint to the Council, the above legislation allows the Council to charge the customer making the complaint.

Currently the Council charges £307 for the investigation (previous 50% discounting for Rothercard holders was withdrawn in 2015/16). The Council is able to determine its fee for the service locally. Sheffield City Council currently charge a fee of £400, while Barnsley MBC charge £300. Nationally charges vary but are between £300 and £500.

It is proposed that this charge is frozen at its current rate. It is extremely unlikely that these charges will generate any significant income, with only one or two each year reaching the threshold for charging.

1.6 Fixed Penalty Notices

The service issues Fixed Penalty Notices (FPNs) for a range of offences to enable the offender to discharge their liability for an offence. The power to issue a FPN is contained within a range of legislation and the Council is legally able to reinvest the income in related services. The setting of the level of the FPNs has taken full consideration of both national legislative frameworks and the local context. The level of penalty available for each offence together with the available range for each is detailed in the table below.

Many of these fines are at the statutory maximum or have only recently been set due to changes in legislation and recent reports to Cabinet (Cabinet and Commissioners' Decision Making Meeting, 12th September 2016 [minute 68])

Primarily these FPNs relate to enviro-crime offences. Such offences are taken seriously by the Council and are reflected in Corporate priorities. Consequently, to support the importance given to enviro-crime, it is proposed to increase the fixed penalty charge for dog fouling and fly posting/graffiti offences to the maximum available fines. For dog fouling offences this will be £100, and for fly posting/graffiti offences the fine will be £75.

There is a risk however, that as the charge is raised to its maximum there might be a subsequent reduction in payment rate.

1.7 Monetary Penalties

Monetary penalties were recently introduced by government and are specified as civil debt and recoverable through the County Court, rather than the similar and more familiar fixed penalty notice used by the Council, which discharges an offence through the criminal courts.

The value of the penalties contained within legislation described in this report, can be set by statute or may require the Council to set an appropriate rate for the sanction within statutory parameters.

Specifically, the Council is able to issue monetary penalties in relation to offences under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 and the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014. Both pieces of legislation relate to private sector housing

enforcement and present useful tools in order to ensure compliance.

In addition amendments to section 46 of the Environmental Protection Act 1990, has decriminalised the offence relating to household waste receptacles. Previously a fixed penalty fine of £80 was in place for the offence, which has now been replaced by a monetary penalty, again set at £80.

The levels of penalties were approved at Cabinet and Commissioners' Decision Making Meeting, 12th September 2016 (minute 68)

APPENDIX 5 – COMMUNITY PROTECTION CHARGES - 1.8 Summary of Safer Neighbourhoods/Community Protection Fees and Charges 2017/18 (excluding VAT)

Service	2016/17(£)	2017/18 (£)	
CONSULTATION FEES			
Consultation Enquiry	£19.71	£19.68/hour	
HOUSING LICENSING			
House in Multiple Occupation (HMO) - New Application	£800	£816 Made up of £177 fee on application and £639 paid 1 st Notice of intention to grant a licence*	
HMO License renewal (available for renewing applications which have not expired)	£557	£569 Made up of £41 fee on application and £528 paid on minded to grant a licence decision*	
Selective Licence of other houses in designated areas	£592 (+£13 invoice fee if requested to pay by instalments)	£592 Made up of £154 fee on application and £438 paid 1 st Notice of intention to grant a licence* (+£13 invoice fee if requested to pay by instalments)	
Selective License renewal for remaining 4 year licence when the 1 year licence has not expired (only available to properties which obtained a 1 year licence before 1 st April 2016,	£393.60 (+£13 invoice fee if requested to pay by instalments)	£393.60 (+£13 invoice fee if requested to pay by instalments)	
*The process of consulting on granting each license will not begin until full payment has been received.			
HOUSING ACT – Legal Notices			
Charge for the service of Enforcement Notices under the Housing Act 2004 re; • Improvement and Suspended Improvement Notices (sections 11, 12 and 14) • Prohibition and Suspended Prohibition Orders (sections 20, 21 and 23) • Emergency Remedial action (section 40). • Emergency Prohibition orders (section 43) and • Housing Act 1985 (section 265) Demolition Orders	£400 illustrative charge levied per notice is variable dependant on case specifics, including but not exclusively; • Officer time for preparation of notice • Personal circumstances of the recipient The charge must be “reasonable” and may be appealed against	£400 illustrative charge levied per notice is variable dependant on case specifics, including but not exclusively; • Officer time for preparation of notice • Personal circumstances of the recipient The charge must be “reasonable” and may be appealed against	
WORKS IN DEFAULT			
Calculation of costs per job is carried out in compliance with Standing & Financial Regulations relating to the contracted aspects of the works with, in addition, an administrative element to cover arrangements around the carrying out of the works. These administrative costs include hourly staffing costs and travelling expenses associated in the arrangement, and supervision of the works. The recharge will be reasonable to the works carried out.			
HIGH HEDGES			
Formal Investigation	£307	£307	
FIXED PENALTY NOTICES			
Offence	Range Available	Current level	2017/18
Leaving Litter	£50 - £80	£80	£80
Not removing dog fouling forthwith	£75 - £100	£80	£100
Domestic waste receptacles notice	£60 - £80	£80	£80
Graffiti and Fly Posting	£50 - £80	£75	£80
Failure to comply with a Community Protection Notice	Up to £100	£100	£100
Failure to comply with nondomestic waste receptacles notice	£60 - £100	£100	£100
Failure to produce authority	£300	£300	£300

to transport controlled waste			
Failure to produce waste disposal documentation	£200 - £300	£300 (reduced to £225 if paid within 14 days)	£300 (reduced to £225 if paid within 14 days)
Illegal disposal of waste (Fly Tipping)	£200 - £400	Not applicable	£400 (reduced to £300 if paid within 10 days)

MONETARY PENALTIES

Non-compliance with the Smoke and Carbon Monoxide Alarm (England) Regulations 2015	Must not exceed £5000	See Offence detail below	See Offence detail below
First Offence		Not applicable	£1500 (£1000 reduced charge if paid within 14 days)
Second Offence		Not applicable	£3000
Further Offences		Not applicable	£5000 for each offence
Non-compliance with the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014	Up to £5000	Not applicable	£5000
Non-compliance with section 46 Environmental Protection Act 1990	£60 - £80	£80 fixed penalty	£80

Service	2016/17(£)	2017/18 (£)
---------	------------	-------------

POLLUTION CONTROL – ENVIRONMENTAL PROTECTION ACT PROCESSES

Application Fee

Standard process	£1,579	£1,579
Additional fee for operating without a permit	£1,137	£1,137
PVR I, SWOBs and Dry Cleaners Reduced fee activities (1)	£148	£148
PVR I & II Combined	£246	£246
Vehicle Refinishers (VRs) and other Reduced Fee activities (2)	£346	£346
Reduced fee activities additional fee for operating without a permit	£68	£68
Mobile screening and crushing plant for the third to seventh applications	£1,579 £943	£1,579 £943
for the eighth and subsequent applications	£477	£477

1. Reduced fee activities are: Service Stations, Dry Cleaners and Small Waste Oil Burners under 0.4MW
2. Other Reduced Fee activities are Vehicle Refinishers, Powder Coating, Bitumen, Pet Food, Maggot Breeding, Polymerisation, Natural Sausage Casing, Fish Meal, Hide and Skin, Tobacco, and Mushroom Substrate process from January 2015. Where an application for any of the above is for a combined Part B and waste application, add an extra £297 to the above amounts

Annual Subsistence Charge

Standard process LOW	£739 (+99)*	£739 (+99)*
Standard process MEDIUM	£1,111(+149)*	£1,111(+149)*
Standard process HIGH	£1,672 (+198)*	£1,672 (+198)*
Reduced fee activities Low/Medium/High	£76 £151 £227	£76 £151 £227
PVR I & II Combined Medium Component	£108 216 326	£108 £216 £326
Vehicle Refinishers Low/Medium/High	£218 £349 £524	£218 £349 £524
Odourising of natural gas Low/Medium/High	£76 £151 £227	£76 £151 £227
Mobile screening and crushing plant Low/Medium/High	£618 £989 £1,484	£618 £989 £1,484
for the third to seventh authorisations	£368 £590 £884	£368 £590 £884

Low/Medium/High		
for the eighth and subsequent authorisations Low/Medium/High	£189 £302 £453	£189 £302 £453
Late Payment Fee	£50	£50
* the additional amounts in brackets must be charged where a permit is for a combined Part B and waste installation Where a Part B installation is subject to reporting under the EPRTR Regulation, add an extra £99 to the above amounts		
Transfer and Surrender		
Standard process transfer	£162	£162
Standard process partial transfer	£476	£476
New operator at low risk reduced fee activity	£75	£75
Surrender: all Part B activities	£0	£0
Reduced fee activities*: transfer	£30	£0
Reduced fee activities*: partial transfer	£45	£45
Temporary Transfer for Mobiles		
First Transfer	£51	£51
Repeat Transfer	£10	
Repeat Following enforcement or warning	£51	£51
Substantial change s10 and s11		
Standard process	£1,005	£1,005
Standard process where the substantial change results in a new PPC activity	£1,579	£1,579
Reduced fee activities*	£98	£98
* Reduced fee activities are: Service Stations, Vehicle Refinishers, Dry Cleaners, Small Waste Oil Burners under 0.4MW, Roadstone Coating, Timber, Cement, Quarry Processes, and from 1st January 2015, Powder Coating, Bitumen, Pet Food, Maggot Breeding, Polymerisation, Natural Sausage Casing, Fish Meal, Hide and Skin, Tobacco, and Mushroom Substrate process.		
Part A2		
Application	£3,218	£3,218
Additional fee for operating without a permit	£1,137	£1,137
Annual Subsistence LOW	£1,384	£1,384
Annual Subsistence MEDIUM	£1,541	£1,541
Annual Subsistence HIGH	£2,233	£2,233
Late Payment Fee		£50
Substantial Variation	£1,309	£1,309
Transfer	£225	£225
Partial Transfer	£668	£668
Surrender	£668	£668