

REGULATION AND ENFORCEMENT CHARGES 2018/19

A table summary of the proposed fees and charges to be levied by Regulation and Enforcement is contained at 1.12

1.1 General Information: Fees and Charges 2018/19

Regulation and Enforcement administers / determines a number of licences and permits that are relevant to the commercial activities of local businesses. In addition, the Council also provides services to businesses to assist them in their compliance with regulatory requirements.

Where fees are not prescribed by legislation, the Council has certain powers to make charges for specific services. The Council must set fees for licences / permits / services on a cost recovery basis only; therefore there must be no increase in fees unless there has been a corresponding increase in the cost to the Council in administering / determining the application for such a licence / permit. As officer / staff costs make up the majority of the fee that is charged, it is proposed that the fees for 2018/19, where appropriate, are increased by 3% from 2017/2018.

Fees in relation to taxi and premises licensing, and associated licences, are set separately through the Council's Licensing Board.

Proposals are as follows:

1.2 Animal Health

The Council licences riding, animal boarding and breeding establishments, pet shops, dangerous wild animals, performing animals and zoos primarily to ensure animal welfare conditions are met. The Regulations for certain premises incorporates inspection undertaken by a veterinary surgeon, the costs of which are charged in addition to the licence fees. A veterinary surgeon attends annually to riding establishments, and premises keeping dangerous wild animals. The initial inspection of an animal breeding establishment includes a veterinary inspection and zoos require specialist zoo veterinary surgeons to attend periodically.

It is proposed that fees are increased by 3% from 2017/2018.

1.3 Food, Health & Safety

The Council registers premises for activities such as ear piercing, electrolysis, tattooing and acupuncture primarily to check and maintain appropriate health & safety standards.

The Food Standards Agency has made provisions for local authorities to introduce charges for revisits made as part of the Food Hygiene Rating Scheme. A fee of £150 has been set which will commence in 1 February 2018, this was agreed by Cabinet on 15 January 2018.

The Authority will recover the cost of issuing Export Certificates; the fee covers recording the information and processing the certificates. Export Certificates are requested by companies who wish to export foods to other countries which demand certification. Whilst the Council does not have a statutory obligation to provide Export Certificates to businesses, the work contributes to trade by satisfying certain countries demands for certification. The Council is allowed by the Localism Act 2011 to charge for provision of services that are not part of their statutory duties where that service is requested by the recipient of the service.

The fees for the water samples are set to cover the costs associated with the examination, courier charges, interpretation, recording and provision of advice following the undertaken of water samples. This service is available to commercial leisure facilities, schools, recreational waters etc. In certain instances such as outbreak situations the fees are covered by Public Health England and are not recharged.

Some ad hoc samples may be submitted to the Public Analyst, these would be charged at the rate of analysis plus £10 fee to interpret and provide advice about the result.

Private water sampling fees are prescribed in the Private Water Supplies (England) Regulations 2016.

1.4 Weights & Measures

Fees are charged for the testing and stamping (verification) of weights and measures used for trade. The fee reflects the hourly cost based on the provision of a single weights and measure inspector. The hourly cost has been calculated based on average salary levels, plus all necessary on-cost for the delivery of the service. Guidance is available that sets out the methodology used to calculate the amount to be recovered. An additional fee may be charged to cover the cost of hiring specialist equipment (such as the heavy test unit).

1.5 Housing Act 2004

1.5.1 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 as salary cost increases were built into the fee at the outset.

Consideration has also been given to whether the fee should be reduced for new licences, given that there are only two years of the current licensing designation remaining. There are almost 400 houses which have not yet licensed, and any general reduction in the fee would present a risk that those who have avoided licensing so far would achieve a financial advantage. However, there is the potential for a licensed property to be sold to another landlord. In such circumstances the vendor may be able to achieve a refund of part of the licence fee for the remaining months of the scheme, but the purchasing landlord would have to pay the full fee. This may be unfair and as such it is proposed that the licence fee for licensed properties which change ownership should pay a reduced maintenance fee based on the number of months remaining in the licensing scheme. This option should also be made available to landlords of properties built and completed after 1st January 2018 (not conversions or redeveloped existing houses) which are placed on the rental market by way of recognising the additionality they represent to the housing in the area and the likely higher standard of accommodation.

It is also considered to not be appropriate that the option for large portfolio holders (owning 10 or more houses/flats) to purchase a 1 year licence and then renew for the final years of the scheme. If properties remain unlicensed now, there should not be a financial advantage in having avoided licensing for a period. In addition if these properties are sold and re-licensed or are new build properties a reduced fee is also proposed above which will serve as an alternative to large investors.

1.5.2 Houses in Multiple Occupation (HMO)

It is proposed that the fee is increased by 3%. 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). Currently there are only 18 mandatory licensable HMOs in the Borough and thus the licence scheme does not realise a significant revenue stream or income. In April 2018, it is expected that the statutory licence scheme will be extended. At present it is not possible to predict the number of additional licences that will result from these changes. As this becomes clearer, a further review of the licence fee may be required.

The proposed licence fee increase is based on the current Statutory Licence Scheme. This will increase the fee charged in Rotherham from £800 to £824 for initial applications and from £557 to £586 for renewal. For comparison, within South Yorkshire, a licence for a 5 bedroom HMO in Sheffield City Council is charged at £750 for initial licences and £430 for renewals, Doncaster MBC, £800 initial licence and £480 for renewals and Barnsley MBC at £505

1.5.3 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.

1.6 Pollution Control

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.

Previously, reduced fees that have been prescribed have ensured a 30% income pressure in relation to recoverable fees. It is anticipated that despite slight increases in the level of fees for the first time in a number of years, that the pressure will remain on the income target.

1.7 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 not 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.

1.8 Consultation Fees

The fees set for consultation are in accordance with Local Government Association guidance on charging for services, the charges levied in 2018/19 will be the appropriate hourly rate for the officer carrying out the work. Consequently, the costs recharged vary, depending on the type of work 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 an illustration, the hourly rate for the Scientific Officer that undertakes the majority of the consultation work has increased from £19.68 in 2017/18 to the current rate of £20.74.

1.9 High Hedges

Currently the Council charges £307 for the investigation of high hedge complaints in accordance with Part 8 of the Anti-Social Behaviour Act 2003. The Council is able to determine its fee for the service locally. Sheffield City Council currently charge a fee of £450, while Barnsley MBC charge £300. Nationally charges vary but are between £300 and £500.

It is proposed that this charge is increased to £500 to be at the upper level of charges levied by other local councils and also account for the additional enforcement the Council may be required to take over the life of any enforcement notices it becomes duty bound to serve. It is extremely unlikely that these charges will generate any significant income with only one or two each year reaching the threshold for charging.

1.10 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.

Primarily these FPNs relate to enviro-crime offences. Such offences are taken seriously by the Council and are reflected in Corporate priorities. Consequently, all of these fines are at the statutory maximum with the fees for dog fouling raised to £100 in the last financial year and the maximum fine for Fly Tipping Offences of £400 (with an early payment discount to £300) being introduced. There is a risk that with higher fines comes a reduced payment rate. However the Government are currently planning to increase the fixed

penalty for littering to £150 due to the importance of the issue and broadening powers for Councils to tackle littering from vehicles by making the vehicle keeper responsible for the offence where the individual who dropped the litter cannot be identified. The maximum £150 has been suggested, with a reduction of £100 for early payment.

In 2017 the Fixed Penalty amounts for fly tipping (£400) and business waste offences (£300) were adjusted to allow an early payment discount of 25% due to the large amount of the penalty notice. This was to be under review in its first year. Of the 21 such fixed penalty notices issued in the preceding 12 months to this report, only 38% were paid, and all of those were paid within the discount period. The remainder were not convinced by the warnings or further prosecution to pay the higher level of penalty in order to avoid Court. Therefore it can be assumed that those who did pay the fixed penalty would still pay the standard fee. In the interests of consistency and the maximum fixed penalty levels the Council have recently put in place for other offences, and those which the Government are likely to increase, it would be appropriate to remove this discount fee and return the fee to the maximum level.

The Dog Control Order which the Council introduced in 2010 under the Clean Neighbourhoods and Environment Act 2005 to increase the maximum fine for dog fouling from £50 to £80, has been converted automatically into a Public Space Protection Order by virtue of the provisions of the Anti-social behaviour Crime and Policing Act 2014. In 2017 the maximum fine for failing to remove dog faeces was increased to £100 to both be set at the maximum allowed and to be consistent with any of the new Public Space Protection Orders, ready for its conversion in the following October. The Public Space Protection Order is also detailed in this report with the maximum current fixed penalty of £100 having been previously set.

1.11 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 notices used by the Council.

The value of the penalties is subject to either statutory determination or a requirement that the Council sets an appropriate rate for the sanction within statutory parameters.

Monetary penalties are prescribed in relation to offences under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015; the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014; and 46 of the Environmental Protection Act 1990 relating to household waste receptacles.

The Housing and Planning Act 2016 extended Civil Penalties to a range of offences under the Housing Act 2004. The method for calculating an appropriate level of penalty is the subject of a separate report on this agenda. The penalties are based on the culpability and harm associated with an offence and can range from £25 to the statutory maximum of £30,000. Should the report be accepted by Cabinet, the level of income which may result from adopting these powers is therefore uncertain and will certainly vary according to offences committed.

1.12 Summary of Regulation and Enforcement Fees and Charges 2018/19 (excluding VAT)

Service	2017/18(£)	2018/19 (£)
ANIMAL HEALTH		
Animal Boarding Establishments	242	249
Animal Boarding Establishments (Home Boarding)	169	174
Riding Establishments	242	249
Performing Animals	149	153
Dog Breeding Establishments	149	153
Dangerous Wild Animals	149	153
Pet Shops	149	153
Zoos (First licence 4 years)	1061	1093
Zoos (Renewal licence 6 years)	1569	1616
FOOD, HEALTH & SAFETY		
Ear-piercing – PREMISES	125	129
Ear piercing - person carrying on the business	27	28
Tattooing – PREMISES	183	188
Tattooing - person carrying on the business	27	28
Acupuncture – PREMISES	154	159
Acupuncture – person carrying on the practice	27	28
Electrolysis – PREMISES	154	159
Electrolysis – person carrying on the business	27	28
Food Hygiene Revisit	£150 introduced 1 February 2018	150
Export Certificate	No charge previously.	28
Water Samples: Standard Microbiological sample Recreational Water sample Legionella water sample Ad Hoc Water Samples	£8 in addition to fee from the laboratory.	34 43 60 Cost of analysis and courier in addition to £10 admin fee.
Private Water Supply Samples		
Risk assessment (for each assessment)	500	500
Sampling (for each visit)	100	100
Investigation (for each investigation)	100	100
Granting an authorisation (for each authorisation)	100	100
Analysing a sample		
- taken under regulation 10 (for parameters referred to in paragraph (1)(a) to (e) of that regulation)	25	25
- taken during check monitoring	100	100
- taken during audit monitoring and monitoring under regulation 11	500	500
TRADING STANDARDS		
Weights and Measures Inspector (hourly rate)	60	62
Weights and Measures Technical Assistant (hourly rate)	37	38

Service	2017/18 (£)	2018/19 (£)	
CONSULTATION FEES			
Consultation Enquiry	£19.68/hour	£20.74/hour	
HOUSING LICENSING			
House in Multiple Occupation (HMO) - New Application	£800	£824 Made up of £178 fee on application and £646 paid 1 st Notice of intention to grant a licence*	
HMO License renewal (available for renewing applications which have not expired)	£557	£586 Made up of £41 fee on application and £545 paid on minded to grant a licence decision*	
Selective Licence of other houses in designated areas	£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)	£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 Licence of other houses in designated areas ONLY APPLICABLE where a licensed house is sold and relicensed by a different owner mid-scheme	N/a	Variable fee based on £592 for a 5 year licence. £154 Application fee £7.30 per full month of the remaining term of the licence scheme or £87.60 for each full year	
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)	N/A)	
*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	£400	£500	
FIXED PENALTY NOTICES			
Offence	Range Available	2017/18	2018/19
Leaving Litter	£65 - £150	£80	£150 (£100 for early repayment)
Failing to Comply with a Public Space Protection Order (Including the Dog Control Order)	Up to £100	£100	£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 non-domestic waste receptacles notice	£60 - £100	£100	£100
Failure to produce authority to transport controlled waste	£300	£300	£300
Failure to produce waste disposal documentation	£200 - £300	£300 (reduced to £225 if paid within 14 days)	£300
Illegal disposal of waste (Fly Tipping)	£200 - £400	£400 (reduced to £300 if paid within 10 days)	£400
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	2017/18 (£)	2018/19 (£)	
POLLUTION CONTROL – ENVIRONMENTAL PROTECTION ACT PROCESSES			
Application Fee			
Standard process	£1,579	£1,650	
Additional fee for operating without a permit	£1,137	£1,188	
PVR I, SWOBs and Dry Cleaners Reduced fee activities (1)	£148	£155	
PVR I & II Combined	£246	£257	
Vehicle Refinishers (VRs) and other Reduced Fee activities (2)	£346	£362	
Reduced fee activities additional fee for operating without a permit	£68	£71	
Mobile screening and crushing plant for the third to seventh applications	£1,579 £943	£1,650 £985	
for the eighth and subsequent applications	£477	£498	
<p>1. Reduced fee activities are: Service Stations, Dry Cleaners and Small Waste Oil Burners under 0.4MW</p> <p>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</p>			
Annual Subsistence Charge			
Standard process LOW	£739 (+99)*	£772 (+104)*	
Standard process MEDIUM	£1,111(+149)*	£1,161(+156)*	
Standard process HIGH	£1,672 (+198)*	£1,747 (+207)*	
Reduced fee activities Low/Medium/High	£76 £151 £227	£79 £158 £237	
PVR I & II Combined Medium Component	£108 216 326	£113 £226 £341	

Vehicle Refinishers Low/Medium/High	£218 £349 £524	£288 £365 £548
Mobile screening and crushing plant Low/Medium/High	£618 £989 £1,484	£626 £1034 £1,551
for the third to seventh authorisations Low/Medium/High	£368 £590 £884	£385 £617 £924
for the eighth and subsequent authorisations Low/Medium/High	£189 £302 £453	£198 £316 £473
Late Payment Fee	£50	£52
* 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	£169
Standard process partial transfer	£476	£497
New operator at low risk reduced fee activity	£75	£78
Surrender: all Part B activities	£0	£0
Reduced fee activities*: transfer	£30	£0
Reduced fee activities*: partial transfer	£45	£47
Temporary Transfer for Mobiles		
First Transfer	£51	£53
Repeat Following enforcement or warning	£51	£53
Substantial change s10 and s11		
Standard process	£1,005	£1,050
Standard process where the substantial change results in a new PPC activity	£1,579	£1,650
Reduced fee activities*	£98	£102
* 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	£3,363
Additional fee for operating without a permit	£1,137	£1,188
Annual Subsistence LOW	£1,384	£1,447
Annual Subsistence MEDIUM	£1,541	£1,611
Annual Subsistence HIGH	£2,233	£2,334
Late Payment Fee		£52
Substantial Variation	£1,309	£1,368
Transfer	£225	£235
Partial Transfer	£668	£698
Surrender	£668	£698