



North Warwickshire Borough Council

Private Sector Housing Fees and Charges

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Private Sector Housing
The Council House
South Street
Atherstone
Warwickshire
CV9 1DE

privatesectorhousing@northwarks.gov.uk

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Summary

The Private Sector Housing Team is able to levy fees and charges. This policy details the way they are calculated. Such fees include;

- Licensing of Houses in Multiple Occupation (HMOs)
- Licensing of protected mobile homes sites.
- Fit and Proper Person Test registration and annual fee
- Serving statutory notices
- Work in default
- Immigration inspections

The Council is required to have a policy which is transparent and fair to levy a fee for its services.

The fees are detailed in the schedule which can be found at Appendix 1 and will be reviewed annually or when there is a change to the legislation.

1. Introduction

For some licenses the Council can charge a fee to cover its costs of administering and enforcing a licensing scheme and maintaining public registers.

Private Sector Housing process and issue licenses for

- Mobile Homes (Protected Sites) and
- Houses in Multiple Occupation

The fees charged for licensing should reflect running the schemes and any surpluses or deficits should be carried over year on year. The Local Government Association (LGA)¹ guidance states that all councils should ensure that they have individual, discrete cost-calculations for each of the licensing regimes that they operate.

The Council is also able to charge a fee for some of its discretionary services. This policy includes details of the charges for an inspection as to the suitability of accommodation for immigration purposes.

Fees and charges will be revised annually, alongside reviews of the Council's other regulatory fees and charges. Any changes will be publicised.

2. Fee Setting Principles

The Provision of Services (Amendment etc) (EU Exit) Regulations 2018 Regulation 18(4) states that -

Fees charged by a competent authority under an authorisation scheme must be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities.

In setting Private Sector Housing fees the Council will take into account the guidance produced by LGA as well as Government Guidance related to specific fees

The case of R v Tower Hamlets LBC (1994) the High Court indicated that;

“a council has a duty to administer its funds so as to protect the interests of what is now the body of council tax payers”

The fees have been calculated to ensure that housing business or licensing schemes are not a burden to taxpayers and where possible will fully recover the costs. The schedule of fees can be found at Appendix 1 and will be reviewed annually or when there is a change to the legislation.

1

https://www.local.gov.uk/sites/default/files/documents/5%2013%20%20OpenForBusiness_02_web.pdf

3. How the licence fee will be calculated

The licence fees will take into account the following;

	Includes
Officer Hourly Rate The hourly rate is used to calculate fees and charges that include officer time.	<ul style="list-style-type: none"> • Salaries • Management • Equipment • Facilities • IT • Administration
Average time per activity An average time is applied to each step of the licence application process	<ul style="list-style-type: none"> • Updating records • Preparing and sending out official documentation • Inspections • Liaison • Administration • Larger premises will attract a higher fee.
Managing the Scheme	<ul style="list-style-type: none"> • Maintaining public registers, • Responding to requests for information • Identifying any noncompliance
Adding Unit fees Additional fees are added to the basic fee.	Where the legislation allows additional fees will be added to the basic fee so that larger premises or sites pay for the extra time taken to process the application.

4. HMO Licensing Fee Policy

4.1. Introduction

Section 63, Housing Act 2004² gives powers to a local authority to require an application for a mandatory licence for a house in multiple occupation (HMO) to be accompanied by a fee fixed by the local authority.

Fees are set to cover costs incurred in administering and enforcing the scheme and have been set in accordance with the legislation and case law.

4.2. Application Fee

When fixing fees under this section, the local housing authority may take into account—

- all costs incurred by the authority in carrying out their functions under this Part, and

² <https://www.legislation.gov.uk/ukpga/2004/34/contents>

- all costs incurred by them in carrying out their functions under Chapter 1 of Part 4 in relation to HMOs

The application fee is calculated in two elements in line with the judgement R (Gaskin) v Richmond-upon-Thames LBC [2018] EWHC 1996. This ruling requires the council to charge these two elements separately.

The Administration Element: Due at the time of the application the administration fee includes;

- Fit and proper person checks
- Pre licence inspection
- Background checks to confirm ownership and suitability
- Updating the database
- Liaison with applicants
- Statutory consultation
- Preparing the required documentation and services of notices

The Enforcement Element: This element of the licence fee becomes due when the licence is ready to be issued and includes:

- Checking gas certificates annually;
- Inspection to ensure that the conditions are met and that there are no part 1 hazards present;
- Identifying unlicensed premises;
- Maintaining information resources on the Councils website and promotion activities
- Data Retrieval, information sharing and responding to FOIs
- Dealing with complaints and enquiries.

4.3. Renewal Fee

Renewing an HMO licence requires less administration time because if there have been no material changes since the licence was issued the Council can only ask for limited information on the renewal form. This means it will take less time to process the renewal and so the administration element of the fee will be less to reflect this. The enforcement element will remain the same.

4.4. Exemptions and Variations

Where we issue temporary exemption notices or variations of licenses, we cannot make a charge.

4.5. Transfer of an HMO Licence

A licence is not transferable. New licenses should be applied for in accordance with the relevant legislation. No repayment of the licence fee will be made to the existing licence holder for any unexpired period of the licence.

4.6. Refunds

We will refund the fees if an application was made by mistake. Situations considered to be a mistake are if:

- The property is not licensable
- A duplicate application has been made
- An application was made for an exempted property

We will not give a refund if:

- We refuse an application
- An application is withdrawn by the applicant
- We revoke a licence
- The applicant has been refused planning permission for works required to the property

4.7. Reduced Licence Term

The enforcement element of the HMO licence fee is normally charged at the fixed rate for a 5-year licence, however there are occasions, detailed in the Enforcement Policy, where a licence is issued with a shorter term.

Where shorter licenses are issued the enforcement element of the fee will be charged at 1/5 of the full fee for each year on the licence. The administration element remains payable in full.

5. Mobile Homes Licence Fee Policy for Relevant Protected Sites

5.1. Introduction

PSH Team is responsible for the licensing of

- Campsites
- Caravan Sites
- Relevant Protected Sites

The Council has had regard to Department for Communities and Local Government guidance³ 'Mobile Homes Act 2013: a Guide for Local Authorities on Setting Licensing Fees', when setting these fees.

Any fees charged must fairly cover the costs (or part of the costs) incurred by the local authority in performing its functions under Part 1 of the 2013 Act, (excluding the costs of enforcement action or any functions relating to prohibiting caravans on commons or provision of sites by the local authority itself).

The Council will make charge for the following:

- New Application for a site licence
- Annual site licence fees ('bands')
- Transfer of a site Licence
- Application fee for the Fit and Proper Registration: Managers of relevant protected sites

³ [Mobile Homes Act 2013: a guide for local authorities on setting licence fees - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/274812/mobile_homes_act_2013_a_guide_for_local_authorities_on_setting_licence_fees.pdf)

- Annual Fee for Fit and Proper Registration: Managers of Relevant Protected Sites
- Deposit, variation or deletion of site rules
- Varying of conditions attached to existing licence
- Charges for Works in Default

Sites which are not relevant protected sites are still subject to licensing under the 1960 Act but no fee is required to be paid.

5.2. New Application for a Protected Site Licence Fee

Section 3 (2A) of the Caravan Sites Control of Development Act 1960 allows the Council to set a fee for licensing a relevant protected site.

The Authority has set the licence fee for a new application based on a fixed fee plus an additional charge which is dependent on the number of units. This reflects the higher costs to the Council of processing applications for larger sites. The fees have been calculated based on the estimated average time and costs involved in undertaking the following activities;

- all administrative costs incurred in the licensing process
- officer visits to sites,
- travel costs,
- consultations,
- meetings,
- monitoring of sites / investigation of complaints
- giving of informal advice.

5.3. Annual Fee for Protected Sites

By virtue of paragraph 5A Caravan Sites Control of Development Act 1960⁴ the Council is able to charge Relevant Protected sites an annual fee. When setting this fee the Council has taken into account the following activities

- Arranging inspection and reviewing previous history
- Inspection including travel time
- Write up notes
- Downloading photographs;
- Letter / report to owner
- Update database

The annual fee is based on a fixed amount plus an additional charge which is dependent on the number of units to reflect the additional costs to the Council of inspecting and reviewing larger sites.

An invoice will be sent annually to collect this charge.

⁴ <https://www.legislation.gov.uk/ukpga/Eliz2/8-9/62>

The Council considers it appropriate to make single pitch sites exempt from annual licence fees (but not other fees) as there will be no reason to carry out an annual inspection.

5.4. Transfer of licence

There will be small fee for a licence holder to transfer a licence. This will include the administration costs of preparing a new licence and updating any public registers. However there may need to be a fit and proper person test which will incur a separate cost.

- Receive application for transfer
- Set up new record and attach documents
- Carry out FPP checks
- Review documentation
- Send out new licence and conditions
- Update public register

5.5. Variation of Licence Conditions

- Receive variation request
- Set up new record and attach documents
- Notification to site owner of interim decision
- Consider any representations
- Send out new conditions

6. Deposit, Variation and Deletion of Site Rules

Where an owner has decided to implement new site rules or the variation or deletion of site rules The Mobile Homes (Site Rules) (England) Regulations 2014 ⁵states that they must deposit the site rules or deletion notice with the local authority. The legislation allows the Council to charge a fee for this work. However, the Council will not make a charge for this because there is little work involved and it would not be cost effective to collect a small fee.

7. Fit and Proper Person Fee Policy

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020⁶ (SI No.1034) ('the 2020 Regs'), require that a local authority must be satisfied that the owner of a mobile home relevant protected site is a fit and proper person to manage the site, or that a person appointed by the owner to manage the site is a fit and proper person to do so.

- A registration application must be accompanied by such fee as the local authority may fix.

⁵ <https://www.legislation.gov.uk/ukxi/2014/5/contents/made>

⁶ <https://www.legislation.gov.uk/ukdsi/2020/9780348209556/contents>

- The local authority may decide the amount and frequency of any additional payments required by way of annual fee

By virtue of paragraph 1 of the Mobile Homes Act 2013 the Council is able to charge a fee. In the setting the fee the Council has had regard to the ⁷[Guide for Local Authorities on Setting Fees for the Fit and Proper Person Test](https://www.gov.uk/government/publications/mobile-homes-fit-and-proper-person-test-guidance-for-local-authorities/mobile-homes-a-guide-for-local-authorities-on-setting-fees-for-the-fit-and-proper-person-test)

7.1. Fit and Proper Registration Fee

The fee has been calculated to reflect the cost of carrying out the following activities.

- Pre-application discussion and send form
- Generate and send acknowledgement letter
- Process payment
- Check application valid and correct fee received
- Review application and associated documents
- Update computer system with details
- Conduct F&PP assessment
- Meetings/discussion/advice
- Preparing and issuing acceptance/refusal documentation and conditions
- Manager reviews and authorises
- Amending conditions attached to an entry on a register
- Enforcement up to the service of a Compliance Notice
- Identity and suitability checks

7.2. Annual Fee for Fit and Proper Registration

The conditions which may be imposed by virtue of regulation 6(2)(b) of the 2020 Regulations may include conditions requiring additional payments to be made to the local authority by way of annual fee.

In setting the level of the annual fee which may be imposed by way of a condition, local authorities may take into account the following matters on which costs are incurred.

- letter writing/ telephone calls etc to make appointments and requesting any documents or other information from the site owner or from any third party in connection with the fit and proper process;
- handling enquiries and complaints;
- updating files/ computer systems and website if appropriate;
- processing the annual fee;
- time for reviewing necessary documents and certificates;
- review any representations from an applicant or third parties, including reviews carried out by manager or lawyers

⁷ <https://www.gov.uk/government/publications/mobile-homes-fit-and-proper-person-test-guidance-for-local-authorities/mobile-homes-a-guide-for-local-authorities-on-setting-fees-for-the-fit-and-proper-person-test>

- carrying out risk assessment where considered necessary
- time spent on consulting the site owner and third parties
- time spent on meetings/discussions and in giving informal advice and assistance to site owner
- monitoring and enforcement of fit and proper person requirements

The Guidance states that;

A local authority must not make a profit and can only pass on to the site owner their costs incurred in carrying out the fit and proper function. Equally, a local authority is not expected to make a loss in carrying out its fit and proper functions. Overall, the fit and proper test can be a self-financing function which local taxpayers are not required to subsidise.

Councils are advised to review their costs annually and any surpluses used to reduce the annual fee for the following year. Likewise, any deficits can result in a fee increase.

7.3. Appointing a Person to Manage a Protected Site

Where the authority has, with the occupier's consent, appointed a person to manage a site, the authority will recover from the occupier the reasonable costs incurred or to be incurred in making the appointment in accordance with Regulation 10 of the 2020 Regulations.

Costs that can be recovered will depend on the agreement made between the local authority and the site owner. Before entering into any discussions or agreements relating to the appointment of the manager, the Officer will consult with the Authority's legal team before making any arrangements.

These costs will be charged at the hourly rate in addition to any other costs associated with this function that are allowed for in the legislation.

8. Serving of Notices

Section 49 of the Housing Act 2004 states that A local housing authority may make such reasonable charge as they consider appropriate as a means of recovering certain administrative and other expenses incurred by them in—

- i. serving an improvement notice under section 11 or 12; that is costs incurred from;
 - determining whether to serve the notice,
 - identifying any action to be specified in the notice, and
 - serving the notice.
- ii. Making a prohibition order under section 20 or 21;
 - determining whether to make the order, and
 - serving copies of the order on persons as owners of premises.

- iii. Serving a hazard awareness notice under section 28 or 29;
 - determining whether to serve the notice,
 - identifying any action to be specified in the notice, and
 - serving the notice.
- iv. taking emergency remedial action under section 40;
 - determining whether to take such action, and
 - serving the notice required by subsection (7) of that section.
 - making an emergency prohibition order under section 43;
 - determining whether to make the order, and
 - serving copies of the order on persons as owners of premises.
- v. making a demolition order under section 265 of the Housing Act 1985 (c. 68).
 - determining whether to make the order, and
 - serving copies of the order on persons as owners of premises.

These charges are based on the officer hourly rate and average time taken in taking such enforcement action and are reviewed annually.

8.1. Part 4 Housing Act 2004

Part 4⁸ of the Housing Act 2004 allows Councils to take control and or management of a property under certain circumstances. These relate to:

- Interim and final management orders
- Interim and final empty dwelling management orders

There is no charge for serving these Orders, however there is provision in the legislation to recover costs. The Private Sector Housing Service will ensure that all costs are recovered in accordance with the legislation.

8.2. Annual Review of Suspended Notices.

The Housing Act 2004 also provides for local authorities to make a charge to cover the costs of the annual review to ensure suspended notices are being complied with, whether they should be revoked or varied and whether offences have been committed and the recipient is failing to comply with the Notice.

9. Works In Default of a Statutory Notice and Other Chargeable Actions

The Council has been given powers to carry out works in default (where Officers are authorised to do so) under the following legislation:

- Building Act 1984
- Housing Act 2004
- Environmental Protection Act 1990
- Town and Country Planning Act 1990
- Prevention of Damage by Pests Act 1949

⁸ <https://www.legislation.gov.uk/ukpga/2004/34/part/4>

- Public Health Act 1961
- Public Health Act 1936
- Local Government (Miscellaneous Provisions) Act 1982 Section 29
- Caravan Sites and Control of Development Act 1960 (as amended by the Mobile Homes Act 2013)
- Smoke Alarms and Carbon Monoxide Regulations 2015
- Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

Where it has been necessary for the Council to carry out work in default the full cost of the works will be recovered in accordance with the relevant statutory provisions.

Where WID is carried out in respect of an occupier as an enforcement activity, a sundry debt invoice must be raised and any non-payment pursued through the county court as a civil debt.

In most cases, interest is chargeable on the outstanding debt from the point at which the debt becomes effective until payment.

Where the Council is working with the owner / occupier and requested to carry out works due to circumstances the additional costs will be considered against the cost of the request not being made and thus may be waived if more cost effective.

10. Interest Charges

Interest will usually be charged from the date of service of the recovery or charging notice or invoice date, whichever is the earliest.

Interest will be charged at the appropriate rate applicable at the time debt is accrued. In the case of interim payments, these will be paid against accrued interest before capital. Any request to waive the right to apply interest must be authorised by a Head of Service or Director.

In all cases, where statute allows an unpaid debt should be registered as a local land charge as soon as possible after the charging notice or invoice is served.

11. Costs of expert advice

Where an expert/ specialist is needed to give an opinion to assist the Officer when considering what action to take, their full costs will be recovered where allowed for in the legislation.

12. Debt Recovery

When costs are incurred by the Council we will take such action contained in the legislation to recover those costs.

For the purpose of enforcing the charge (where the legislation allows), the local housing authority have the same powers and remedies, under the Law of Property Act 1925 (c. 20)⁹ and otherwise, as if they were mortgagees by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.

The actions available to the Council includes;

- Civil debt recovery procedures
- Placing a legal charge on the property until the debt is paid
- Recover expenses from the occupier requiring all future payments by the tenant or licensee of rent or sums in the nature of rent (whether already accrued due or not) to be made direct to the authority until the expenses recoverable by the authority, together with any accrued interest on them, have been duly paid
- Recover expenses and interest from other persons profiting from taking of action
- Enforced sale

13. Immigration Inspections

This is a non-statutory function and there is no requirement to offer this service for less than a commercial rate. The charge is based on the following activities.

- Receive application and set up database records
- Telephone call to discuss property conditions and make appointment
- Inspection
- Write up notes
- Print and post letter
- Maintain web site

⁹ <https://www.legislation.gov.uk/ukpga/Geo5/15-16/20/contents>

Appendix 1: Table of Fees and Charges**Table 1: Officer Hourly Rate**

Job Title	Hourly rate £s
Director/Head of Service	60
Senior EHO/Senior PSH Officer	50
PSH Officer	35

Table 2:HMO Application Fee

Households	Fee on Application Admin Costs	Grant of a licence Enforcement	Total Fee Including Admin Costs
	£s	£s	£s
2-4	535	290	825
5-9	535	336	871
10-14	535	382	917
15- 19	535	427	963
20+	535	473	1,008

Table 3:HMO Licence Renewal Fee

Households	Admin Costs £s	Enforcement Costs* £s	Total Fee £s
2-4	478.27	290	768
5-9	478.27	325	803
10-14	478.27	360	839
15- 19	478.27	396	874
20+	478.27	431	909

- Shorter licences will be charged at one fifth of the enforcement cost fees per year.

Table 4: Mobile Homes Protected Site Licence Application Fees and Annual Fee

Units	Application Costs £s	Annual Fee £s
2-10	360	297
11-20	395	333
21-30	430	368
31-40	466	403
41-50	501	438
51+	536	474

Table 5: Other Mobile Homes Fees

Variation of Licence Conditions	£210
Transfer of a Licence	£280

Table 6: Applications for inclusion in a fit and proper register

Fit and Proper Registration Fee	Fit and Proper Annual Review Fee
270	190

Table 7: Other Charges

Activity	Charge £s
Expenses in the case of the service of an improvement notice or a hazard awareness notice incurred in a) determining whether to serve the notice, (b) identifying any action to be specified in the notice, and (c) serving the notice	450
Expenses in the case of emergency remedial action under section 40, a) determining whether to take such action, and (b) serving the notice required by subsection (7) of that section Plus any costs incurred carrying out any repairs	500
Expenses in the case of a prohibition order under section 20 or 21 of this Act, an emergency prohibition order under section 43 or a demolition order under section 265 of the Housing Act 1985, the expenses incurred in (a) determining whether to	520

make the order, and (b) serving copies of the order on persons as owners of premises	
Expenses to review of suspended improvement notices (Sect 17) Annual Charge incurred in a) carrying out any review or b) serving copies of the authority's decision on such a review	370
Expenses to review of suspended prohibition orders (Sect 26) Annual Charge incurred in (a) carrying out any review or (b)serving copies of the authority's decision on such a review	370
Work in Default	Hourly rate plus expenses
Appointing a Person to Manage a Protected Site	Hourly RATE plus expenses
Immigration Inspections.	Cost per Inspection £280