

Fee and Charging Structure Policy for the Licensing of Houses in Multiple Occupation

Private Housing Standards

February 2024



1 Background

- 1.1 Sheffield City Council has a statutory duty as local housing authority under Part 2 of the Housing Act 2004 to administer and enforce a licensing scheme for mandatorily licensable Houses in Multiple Occupation (HMO's) and discretionary powers to implement Additional Licensing Schemes for other HMOs.
- 1.2 Part 2 of the Housing Act allows the local housing authority to charge a fee for the licensing of HMOs to cover the actual costs in delivering the scheme. Sheffield City Council has exercised its powers to charge a licence fee under Section 63(3) and (7) of the Housing Act 2004 to cover the costs incurred in carrying out its Part 2 functions.
- 1.3 Fees are set to cover all costs incurred by the local authority in the running of the HMO licensing scheme, other than the costs of enforcement action under Part 1 of the Housing Act 2004.
- 1.4 The fees are charged in accordance with the Hemming and Gaskin judgements in relation to the European Provision of Services Directive, which is implemented in the UK Provision of Services Regulations 2009. They require the overall licence fee to be charged in two parts. The costs of processing the licence application (Part 1) are charged separately to the costs associated with the ongoing administration of the licensing scheme (Part 2).
- 1.5 Local authorities are not allowed to demand fees in the Part 1 charge for anything other than the costs of administering and processing the licence application. The Part 1 fee is non-refundable should the application be unsuccessful.
- 1.6 Local authorities are not permitted to make a profit from the licensing scheme and any surplus will be ring-fenced for use on the scheme. Fees and charges will be reviewed periodically and adjusted to reflect changes in operating costs.

2 Purpose and scope

- 2.1 This policy details Sheffield City Council's licence fees and charges made during the determination process under Part 2 of the Housing Act 2004 and applies to all HMOs requiring a licence in relation to Mandatory Licensing.
- 2.2 HMOs are properties occupied by three or more persons, living in two or more separate households, as defined in Section 254 of the Housing Act 2004. The occupiers must share one or more basic amenities such as a W.C, bathing or cooking facilities.
- 2.3 Mandatory Licensing applies to all HMO properties occupied by five or more persons who form two or more separate households that meet the standard tests under section 254 (2) (3) and (4) of the Housing Act 2004.
- 2.4 The policy is designed to ensure transparency, consistency, and fairness in the way in which fees and charges are calculated and applied. In determining its fees and charges Sheffield City Council will act in accordance with this fee and charging policy. In certain cases, it may determine that no fee is required.

3 General principles in fee calculation

- 3.1 Licence fees are calculated based on the size of HMO for which a licence application has been made and an estimation of the average time taken to administer the licensing scheme for that size of property. Larger properties require a greater amount of officer time to determine the application and administer the scheme. Size is measured by the number of bedrooms within the HMO.

- 3.2 Fees are set to cover all the administrative and associated costs of the licence, taking account of salary and overhead costs.
- 3.3 Our estimation of administration costs assumes that applicants submit valid applications on time, provide access to their properties for the purpose of assessment, and comply with the conditions of their licence within agreed timeframes. Where possible, we will seek to pass on the additional costs of managing non-compliance to those landlords in the form of additional charges.
- 3.4 The duration or term of the licence will not have a direct bearing on the cost of the licence fee.
- 3.5 Applications must be submitted with the correct fees paid, including any additional charges where applied, for the licence application to be considered 'duly made'. If applications are incomplete or charges remain outstanding, the Council will not grant a licence and the application will be cancelled. In the case of renewal applications, the application and correct Part 1 fee must be submitted prior to the expiry of the previous licence, failing which a new application, which attracts a higher fee, will be required.

4 HMO licence fee charging structure

- 4.1 Fees are charged in two Parts, in bands to reflect the size of property measured by the number of licensable bedrooms. Adjustments for other applicable fees and discounts may also apply.
- 4.2 First Payment (Part 1 Standard Application Fee and other applicable fees)
 - 4.2.1 This is required for processing and determining the licence application. It must be paid when the application is submitted and is non-refundable in the event the Council cancels or refuses the application.
 - 4.2.2 If the applicant does not pay, the application will be deemed withdrawn, returned as incomplete and will not be processed.
- 4.3 Second Payment (Part 2 Standard Management Fee and other applicable fees or discounts)
 - 4.3.1 This payment is required for ongoing regulation and enforcement of the licensing scheme. It must be paid when the notice of intention to grant a licence (draft licence) is received.
 - 4.3.2 Applicants will be required to make the second payment within 14 days of receiving the draft licence. The final licence will not be issued until this payment is made. If the applicant does not pay the second payment within the required period, the Council will deem the application withdrawn and the application will be cancelled.
 - 4.3.3 Any property that continues to operate as a licensable HMO after an application has been cancelled or refused, will require a licence. A new licence application will need to be submitted and a new licence application payment made.
- 4.4 Other applicable fees
 - 4.4.1 Where additional costs are incurred by the Council in the processing of a licence, other applicable fees become payable. These fees will be added to either the Part 1 or Part 2 payments due. All fees due must be paid in full for a licence application to be considered valid and duly made.

4.4.2 Part 1 other applicable fees are to be paid in addition to the Standard Application Fee when the application is submitted for processing.

- Invalid Application fee – Applied when the applicant has failed to submit a valid application for the purpose of determining the granting of a licence.

4.4.3 Part 2 other applicable fees are to be paid in addition to the Standard Management Fee within 14 days of receiving the draft licence.

- Additional Compliance Monitoring fee – Applied when a licence application is submitted to the Council after the Council have determined the property is being operated illegally, as a licensable HMO.
- Missed Inspection fee – Applied where the applicant fails to attend an agreed appointment time or provide access to the whole property for the purpose of inspection and assessment during the application process.
- Cancelled Appointment fee - Where inspection visits are cancelled at short notice, within 24 hours of the agreed appointment time, during of the application process.

4.5 Discounts

4.5.1 Discounts may be applied where cost savings to the licensing scheme or local authority are achieved.

4.5.2 Discounts will be applied to Part 2 Standard Management Fees and are at the discretion of the Council. Licence applicants will not be eligible for discounts where the Council has served a warning letter for failure to licence the property, Council debt is owed, reminders for outstanding application documents have been issued or additional licence processing costs have been incurred and charges payable. Applicants who have been subject to formal action in the previous five years or have a history of poor management of their properties may also be refused a discount.

4.5.3 Where false or misleading information is found to have been submitted to obtain licence discounts, the discount will be refused.

5 Renewal of Licence

5.1 Renewal licence fees will only apply when a valid renewal application is made in accordance with Section 87 of the Housing Act 2004, before the expiry of the current licence. Any application for renewal, received on or after expiry of the current licence will be rejected and a new application and new licence application payments will apply.

6 Optional Services

6.1 Optional services may be accessible providing enhanced assistance to licence applicants. Where accessed, service charges must be paid prior to service delivery. Optional services are subject to resource availability and may be suspended or withdrawn by the local authority at any time.

6.2 Charges made for optional services fall outside of the provisions of the Housing Act 2004. Charges are calculated to cover officer time in administering the service and generate fee income for the Council.

7 Payment of Licence Fees

- 7.1 Payments must be submitted online and paid in full. Payment by instalments will not be accepted.
- 7.2 For the application to be considered valid, the Council requires Part 1 payment to be paid electronically at the point of submitting the application. For the application to be considered duly made, Part 2 payment must be paid electronically prior to the granting of a licence.

8 Overpayment of Fees

- 8.1 If an applicant overpays the amount due for their Part 1 payment, the Council will reimburse the excess paid as an off-set payment against the amount owed for their Part 2 payment.

9 Licence Term

- 9.1 Licences can be granted for a period up to a maximum of five years. Once a licence is granted no further fees attributable to licensing are payable during the life of the licence.
- 9.2 Where the Council determines a licence should be granted, it may decide a five-year licence is not appropriate. Shorter term licences may be granted where the Council has concerns about the management, use, condition, or occupation of the property. In such cases the Council would normally grant a one-year licence but charge the full standard licence application and management fees.
- 9.3 A new application and licence application payment will be required to continue to operate the property as a licensed HMO once the shorter-term licence expires.

10 Shorter-term Licences

- 10.1 The Council may issue a shorter-term licence where the applicant has applied for a licence for an HMO without the appropriate class of planning use or consent, or where the outcome of a planning application is yet to be determined.
- 10.2 The Council may issue a shorter-term licence where notwithstanding that an individual has been found to be a fit and proper person, concerns exist regarding past compliance with the relevant HMO property standards, or the tenancy management practices of the licence holder or manager.
- 10.3 Where the Council have issued a licence for less than five years and subsequently all relevant concerns are addressed, the licence may be varied, on the agreement of the licensee, to extend the period it remains operationally valid, up to a consecutive maximum period of five years.

11 Licence Variation

- 11.1 Once a licence has been granted the licence holder may apply to vary their licence. Variations may be applied for, for which no additional fee will be applied.
- 11.2 If the Council vary a licence and reduce the period the licence is valid operationally, licence holders will not receive a refund.

12 Licence Revocation

- 12.1 Once a licence has been granted the licence holder may apply to revoke their licence. Revocations may be applied for, for which no additional fee will be applied. Licence holders applying to revoke a licence, before it expires, will not be subject to a refund.
- 12.2 If the Council revoke a licence and the property continues to be rented out as a licensable HMO, a new application must be submitted, and new licence fees paid.

13 Transfer of Licence

- 13.1 Under sections 68 (6) and 91 (6) of the Housing Act 2004, HMO licences are not transferable. The local authority will require a new licence application where there is a change in ownership or change in licence holder of a licensed property.
- 13.2 If a person wants to become the new licence holder for a property, then they must apply for a new licence and pay the new licence fees.

14 Fee Refunds

- 14.1 Licence fee refunds will be administered where a duplicate licence application or an application for an exempt (non-licensable) property has been made by mistake.
- 14.2 Where an applicant requests to withdraw a licence application prior to the granting of a licence, the applicant may be eligible for a partial refund. Partial refunds will be calculated in accordance with the amount of work carried out to process the licence up to the point when the request is made.
- 14.3 No refunds will be available in respect of applications which have been processed and draft licence issued.
- 14.4 Refunds will not be provided where the application is refused.
- 14.5 Fees are not connected to the length of the licence and refunds will not be granted for any unused time on a licence. This includes situations where a licence is revoked (cancelled) before it expires, or where the Council varies a licence.
- 14.6 Refunds will be administered electronically to the original payee.

15 Appealing decisions

- 15.1 Any decisions made will be in accordance with the terms of this Fee and Charging Structure Policy.
- 15.2 If an applicant feels the Council has made a decision in applying additional charges or refusing a discount that is unfair, they should contact the Council at hmo@sheffield.gov.uk to ask for our decision to be explained.
- 15.3 If an applicant feels the Council has acted unfairly either by refusing to grant a licence, imposing certain conditions on a licence, or taken the decision to vary or revoke a licence, they may appeal to the Property Chamber of the First Tier Tribunal (FTT) Service. Appeals must be submitted within 28 days from the date the decision notice (draft licence) is granted.

Schedule of Fees, Charges and Discounts for HMO Mandatory Licensing

New application fees

| Bedrooms | Part 1* | Part 2** | Total |
|----------|---------|----------|--------|
| Up to 5 | £725 | £460 | £1,185 |
| 6-9 | £850 | £540 | £1,390 |
| 10-14 | £1,030 | £660 | £1,690 |
| 15-19 | £1,275 | £815 | £2,090 |
| 20-24 | £1,580 | £1010 | £2,590 |
| 25-49 | £1,945 | £1,245 | £3,190 |
| 50+ | £2,375 | £1,515 | £3,890 |

Renewal application fees

| Bedrooms | Part 1* | Part 2** | Total |
|----------|---------|----------|--------|
| 5 | £675 | £460 | £1,135 |
| 6-9 | £800 | £540 | £1,340 |
| 10-14 | £980 | £660 | £1,640 |
| 15-19 | £1,225 | £815 | £2,040 |
| 20-24 | £1,530 | £1,010 | £2,540 |
| 25-49 | £1,895 | £1,245 | £3,140 |
| 50+ | £2,325 | £1,515 | £3,840 |

Other applicable fees

| | | |
|---------------------------------------|------|--|
| Invalid application | £150 | <i>where a valid application is not submitted at point of application, added to Part 1 fee</i> |
| Additional compliance monitoring fee | £500 | <i>following failure to apply to the local authority for a licence, added to Part 2 fee</i> |
| Missed appointment | £100 | <i>per instance, added to Part 2 fee</i> |
| Appointment cancelled within 24 hours | £100 | <i>per instance, added to Part 2 fee</i> |

Discounts

| | | |
|---|-----|------------------------------|
| Discretionary discount for EPC rating C and above | £50 | <i>applied to Part 2 fee</i> |
|---|-----|------------------------------|

Optional Services

(subject to resource availability)

| | | |
|---|------|---------------------|
| Pre-application advice visit with floorplan | £350 | |
| Officer assistance with online application | £40 | per hour/ part hour |
| Copy of paper licence | £50 | |

Refunds

- Full refund if duplicate fee paid in error or property falls outside of mandatory licensing.

- Refund of 82% of Part 1 fee for new applications or 86% for renewals if application withdrawn prior to property assessment.
- Part 2 fee not charged if application withdrawn prior to issue of draft licence, with Part 1 payment being retained in full.