



Housing Act 2004

1.0 Charging for certain enforcement action

1.1 Section 49 of the Housing Act 2004 gives councils the right to make such reasonable charges, as they consider appropriate as a means of recovering certain administrative and other expenses incurred by them in:

- Serving an improvement notice
- Making a prohibition order
- Serving a hazard awareness notice
- Taking emergency remedial action
- Making an emergency prohibition order
- Making a demolition order
- Declaring the area in which the premises are situated to be a clearance area

1.2 Administrative expenses that may be charged for include:

- Determining the appropriate course of action
- Identifying actions to be specified in a notice
- Serving the notice
- Reviewing suspended improvement notices and prohibition orders

1.3 Section 50 of the Act relates to recovery by the Council of a charge made by them under section 49.

1.4 From the time that the demand becomes operative until it is recovered the demand becomes a local land charge on the property.

1.5 The basis for charges requires approval by the Executive Councillor for Housing and will be detailed in the HHSRS enforcement policy. Currently the Council does not charge for the serve of enforcement notices.

2.0 AUTHORISATION

This policy was authorised by Executive Councillor for Housing on the 15th March 2012

The decision allows the charges to be increased annually in line with the retail prices index.

3.0 Policy for charging

- 3.1 Part 1 of the Housing Act 2004 introduced the Housing Health & Safety Rating System (HHSRS) as a way to inspect private housing. Following the inspection of a property if a category 1 hazards is identified, the Council is under a duty to take action. If a category 2 hazard is identified the Council has a power but not a duty to take action.
- 3.2 The Councils *Housing Health & Safety Rating System (HHSRS) enforcement procedure (January 2009)* requires that an informal approach to regulating private housing including the private rented sector must be followed before a formal enforcement notice is considered.
- 3.3 This policy applies to the service of enforcement notices where hazards have been identified which will require remedial action through the service of an improvement notice, prohibition order or taking emergency action.
- 3.4 The decision to serve an enforcement notice must be balanced and proportionate depending on the evidence gathered, the circumstances of the case and the risk presented by the hazard.
- 3.5 In the majority of cases following an inspection the property owner or manager will be advised informally in writing (informal notice) within 14 days that a hazard(s) has been identified that needs remedying and will be given an appropriate time period to undertake works as detailed in a written schedule or make written representations of an acceptable proposal which must be agreed by the Council.
- 3.6 The informal notice will advise that any works required to remedy a hazard that are not completed or an acceptable proposal received within the allotted time period will then be enforced by a formal notice. The owner or manager will be clearly advised that the service of a formal notice will attract a charge for cost recovery. Each unit of accommodation that attracts a notice will be charged separately.
- 3.7 On expiry of the allotted informal time period a revisit will be made to the house to assess if any works have been completed, and any full pocket book notes will be taken of any outstanding works.

- 3.8 In exceptional or emergency circumstances it may be necessary to serve an enforcement notice immediately without giving the landlord or manager an informal period of time to undertake remedial works. In the majority of cases these notices will attract a charge.
- 3.9 The statement of reasons that accompanies the formal notice will demonstrate that the presence of the most vulnerable age group for the hazard has been properly considered and that the views and wishes of the current occupants have been taken into account.
- 3.10 The demand for payment will be made in writing (not an invoice) at the same time as the notice or order is served. There is a 21-day appeal period against the notice before the demand becomes operable.
- 3.11 There will always be exceptional circumstances when officers may wish to use their discretion and not charge for enforcement notices. An example may be where a landlord verbally agrees to undertake emergency works however a notice is served for completeness. This decision will be taken on a case-by-case basis.

4.0 Cost calculation

- 4.1 The following average times are appropriate when considering what are reasonable charges to make.
- a) 45 minutes per property or unit of accommodation to undertake an inspection (including preparation and travel)
 - b) 60 minutes to undertake the HHSRS risk assessment in line with the report for each hazard including deciding the most appropriate course of action.
 - c) 30 minutes to determine whether to serve the notice.
 - d) 30 minutes for preparation of floor plans.
 - e) 60 minutes for preparation and service of the notices or orders.
- 4.2 The average estimated time for the service of a notice is 3 hours & 45 minutes.
- 4.3 A standard charge for a notice allows the council to recover all costs in order to ensure transparency.
- 4.4 The charge is currently calculated at an hourly officer rate of £40:00 per hour, which includes a charge to cover overheads.
- 4.5 A charge of £150:00 per notice will be charged from 1st April 2012.
- 4.6.1 The sum charged will be a local land charge on the premises and, if not paid within one month, will be recovered in accordance with the powers available under the Law of Property Act 1925 which include the power to appoint a receiver.