

CABINET – 1 MARCH 2006

MANDATORY LICENSING OF HOUSES IN MULTIPLE OCCUPATION - DELEGATED AUTHORITY TO SIGN AND ISSUE LICENCES AND SETTING THE LICENCE FEE

1. Introduction

- 1.1 The there are two reasons for this report. The first is to recommend that the Head of Housing Services and the Housing Improvements Manager are delegated authority for a number of matters relating to the new mandatory licensing scheme for prescribed Houses in Multiple Occupation (HMO). The second is to set the fee that will be charged by the New Forest District Council to people making a licence application.

2. Background Information

- 2.1 The Housing Act 2004 introduced some significant changes to the way housing authorities deal with standards in private sector housing. Among the new provisions are the Housing Health and Safety Rating Standard, which will replace the current standard of fitness for human habitation, new enforcement powers for housing standards and mandatory licensing of HMOs.
- 2.2 As from April 2006 all HMOs that come within the prescribed definition must be licensed with the local housing authority. The Housing Act has clarified the definition for all HMOs but the scope of licensing will only apply to HMOs that are at least three storeys and with at least 5 people who form more than one household.
- 2.3 Currently there is only one property known to be within the New Forest boundary that will come within this definition. However there is a publicity drive both locally and nationally with may lead to more dwellings coming to the attention of the District Council.

3. HMO Licensing

- 3.1 The aim of HMO licensing is to ensure that vulnerable tenants in high risk HMOs are protected. Statistically it has been established that tenants in HMOs are in a greater risk if the dwelling is three storeys or more. Lack of adequate fire precautions and poor management often add to the risk.
- 3.2 The licence process will ensure there are no health and safety risks within the dwelling and will introduce improved minimum management standards. .

- 3.3 The local authority will also have to establish that the person making the application, which may be the owner or the manager, is a fit and proper person. This will involve Criminal Records check and consultation with other authorities.
- 3.4 When the licence has been issued it may have a maximum lifespan of five years. However it may be revoked if there is a reduction in the standard of management or conditions are breached. We also have a duty to maintain a register of licenses, which would be available to the public.
- 3.5 The sanctions against a person operating without a licence are that it is a criminal offence, and the local authority could issue a Rent Repayment Order. Such an Order would result in rent payments being made to the New Forest District Council who would effectively take over the management of the property until the standard of management has improved to the point that it could be handed back to the landlord.

4. The Licensing Process

- 4.1 Work is currently being undertaken to promote the licensing scheme locally and increase general awareness. A presentation has been made to the local Landlords Forum, information has been sent direct to landlords and agents and a press release is planned for the near future.
- 4.2 Officers are working in partnership with the other Hampshire authorities to produce the application form, guidance notes and fee structure. The ODPM expect partnership working at local level to ensure a consistent approach and to ensure that landlords who have properties in different areas will be presented with forms and procedures that are broadly similar.
- 4.3 The ODPM also expect to collect data electronically from each local authority relating to the licensing scheme and each authority has to have a register for inspection. Currently officers are working to ensure everything in place to achieve this by April 2006.
- 4.4 When the application for a licence has been received with the fee it will be checked, and officers will have to establish the applicant is a fit and proper person and is suitable to manage the property, the property achieves all the relevant standards for health and safety and there are satisfactory management arrangements. It is possible that we may need to serve a temporary exemption notice if the owner decides not to obtain a licence and make the changes necessary to take it out of licensing criteria. Delegated authority is requested to enable the temporary exemption notice to be issued.

Conditions that have to be met will include production of a gas safety certificate, evidence that electrical appliances and furniture are safe, there are adequate fire precautions and suitable tenancy arrangements. The Housing Act lists a number of conditions that could be set by the authority and delegated authority is requested for officers to set conditions appropriate to the needs of the housing stock locally.

- 4.5 Once this has been established the licence will be granted which will last a maximum of five years. There will be a number of conditions attached to the licence which if not maintained could lead to the licence being revoked. One of the conditions may relate to the owner/manager taking steps to reduce anti-social behaviour. Delegated authority is being requested to vary or revoke the licence
- 4.6 The Licence will come to an end after the passage of time, the death of the licence holder, sale of the property or if it is revoked.
- 4.7 Finally delegated authority is required for officers to prosecute for offences committed for non-licensed HMOs and to appeal to apply to the Residential Property Tribunal for a rent repayment order which enable the authority to take control of rents to carry out essential work at non-licensed HMOs.

5. The Licence fee

- 5.1 There are two main criteria for setting the licence fee. The fee must justify the cost to the authority of processing the application and the level of fee can be set locally. As with all aspects of setting up the licensing scheme New Forest District Council officers have been working with officers from the other Hampshire authorities to ensure that a consistent approach to setting the fee. Attached as Appendix 1 is the fee setting structure as agreed with the Hampshire authorities. On this basis we have calculated the fee to be £270 for an HMO with up to six bedrooms or letting units. This will include the cost of the Criminal Records Bureau check to help establish that the landlord is a fit and proper person. In line with the other Hampshire authorities we would increase the fee by 25% for properties of 6 to 10 rooms, 50% for 11 to 15 rooms, 75% for 16 to 20 rooms and 100% for 20 plus rooms.
- 5.2 We believe that to encourage landlords who manage their properties in a proper and professional manner we should offer discounts to the fee. A discount of 10% where the HMO is known to the Council and is already up to the required standard, 5% if multiple applications (more than one property) and a further 5% if the landlord is a member of a recognised landlord group such as the Southern Private Landlords Group or achieves the status of accredited landlord.

6. Financial Implications

- 6.1 There are no financial implications for the maintaining of the licensing system as the licence fee is expected to cover the revenue costs.

7. Environmental Implications

- 7.1. Nationally it is expected that there will be an improvement in the condition of the dwellings involved in the scheme.

8. Crime and Disorder Implications

- 8.1 One of the conditions attached to the licence will related to anti-social behaviour so pressure could be applied by the local authority on the owner/manager where there is evidence that the tenants are behaving in such a manner as to be a nuisance to neighbours.

9. Portfolio Holder Comments

The Portfolio Holder for Housing supports the delegation of authority to issue the licence to officer level and the setting the basic licence fee at £270. Our policy of offering discounts to landlords who are a member of a recognised landlord group demonstrates our commitment to encouraging good landlords who take the management of their properties seriously.

10. Recommendations

- 10.1 The Cabinet is asked to approve the delegation of authority the Head of Housing Services and the Housing Improvements Manager for the issue of Temporary Exemption Notices, power to include conditions in the licence, power to issue the licence, power to vary or revoke the licence, power to prosecute for offences for non-licensed HMOs and power to apply to the residential property tribunal for a rent repayment order.
- 10.2 The Cabinet is asked to approve the fee of £270 for the licence application with the additions and deductions as listed in Part 5 above.

For Further Information Please Contact:

Rob Easton
Senior Building Surveyor
Tel No: 023 8028 5155
E-mail rob.easton@nfdc.gov.uk

Background Documents:

Housing Act 2004 and related guidance from the ODPM see WWW.ODPM.gov.uk

LICENCE FEE - COST FORMULATION AND CALCULATION

Action (for perfect application)	Time in Minutes	Officer	Hr. Rate	Standard Cost	TOTAL
Enquiry received and service request entered on to data base	30	Admin	£21.08		£10.54
Information pack sent out	15	Admin	£21.08		£5.27
Returned application form received	30	Admin	£21.08		£10.54
Enters details of application onto database, making new premises files as necessary	30	Admin	£21.08		£10.54
Check application form is correct including correct fee	30	Admin	£21.08		£10.54
Verify particulars entered into date base relate to application	15	Admin	£21.08		£5.27

Action (for perfect application)	Time in Minutes	Officer	Hr. Rate	Standard Cost	TOTAL
Send memo to Planning regarding HMO Details	15	Admin	£21.08		£5.27
Examine application documentation and certificates or declarations submitted	30	Admin	£21.08		£10.54
Make assessment of amenities and occupation	30	Surveyor	£36.51		£18.26

Action (for perfect application)	Time in Minutes	Officer	Hr. Rate	Standard Cost	TOTAL
Verification inspection of the property	120	Surveyor	£36.51		£73.02

Action (for perfect application)	Time in Minutes	Officer	Hr. Rate	Standard Cost	TOTAL
Prepare license documents and certificates	30	Admin	£21.08		£10.54
Check and sign certificates / license as necessary, and serve by post	15	Admin	£21.08		£5.27
Update data base register and public register	15	Admin	£21.08		£5.27

COST

£180.87

Number of HMO to be licenced (Assumption)

4

Additional services	Time in Minutes	Officer	Hr. Rate	Standard Cost	TOTAL
Assist with application by phone or person in office (1 IN 3 ASSUMPTION)	15	Admin	£21.08		£5.27
Carry out a fit and proper person check	15	Admin	£21.08		£5.27
Return incomplete application to applicant with letter (1 IN 3 ASSUMPTION)	15	Admin	£21.08		£5.27
Cost for supplying existing plans to landlords	15	Admin	£21.08		£5.27
Cost for officers to produce property plans	60	Surveyor	£36.51		£36.51

Other additional costs	Time in Minutes	Officer	Hr. Rate	Standard Cost	TOTAL
Fixed cost of publicity and documentation				£10.00	£2.50
Specific officer training					£0.00
Attendance to landlord forums to discuss licensing only	120	Surveyor	£36.51		£3.65
Contingency sum			10%		
Inflation cost over the 5 year period of the licence			3%		
Review of licensing system	120	Surveyor	£36.51		£2.19

Reductions of fee		Standard Reduction	TOTAL
Member of recognised landlord association			£0.00
Applicant making multiple applications			£0.00

Increased cost for licence	Property size	TOTAL
Increased cost due to property size	6 to 10 11 to 15 16 to 20 20 Plus	<i>plus 25%</i> <i>plus 50%</i> <i>Plus 75%</i> <i>Plus 100%</i>
		£246.80

Cost of CRB check £25.00

Total £271.80

Reduction of 10% if property known to be up to NFDC standards for HMOs