

## **NEW HOUSES IN MULTIPLE OCCUPATION LICENCE APPLICATION FEE**

### **1. INTRODUCTION**

- 1.1 Under the Housing Act 2004 (“the Act”), the Council has a statutory duty to licence certain Houses in Multiple Occupation (HMOs).
- 1.2 Landlords of HMOs which meet the criteria to be licensed must apply to the Council for a licence. It is a criminal offence to operate a licensable HMO without a licence.
- 1.3 The Act permits the Council to charge a fee to cover the costs of issuing a HMO licence; the fee can include the ongoing delivery and operational costs associated with issuing the HMO licence. However, the fee should not generate a profit and is intended to be an accurate reflection of the costs incurred by the Council in issuing and managing HMO licences.
- 1.4 The current HMO licence application fee is £900 and includes both the Council’s costs for processing the HMO licence application and the operational costs incurred in managing the HMO licensing regime. An applicant must pay the fee in full when submitting their application. If an application is refused the applicant is refunded the amount that reflects the Council’s costs for managing the HMO licenses.
- 1.5 The Courts have recently determined that an applicant for a HMO licence cannot be asked to pay towards the operational costs of the HMO licensing regime before the applicant has been granted a HMO licence. The Courts have determined that it is not appropriate to request a payment that reflects these costs when the application is made; even if a refund is made to the applicant if their application is unsuccessful. The HMO licence application fee should be made payable in two instalments: The first instalment, relating to the costs of processing the application should be paid when the application is made. The second instalment of the application fee that relates to the operational costs of managing the HMO licensing regime should be paid when the HMO licence is granted.
- 1.5 As a consequence of this recent legal development, the Council has undertaken a review of the application fee it charges for a HMO licence. This is to implement the development in the law, but also to ensure that the current HMO licence application fee adequately reflects the costs incurred by the Council in issuing and managing the HMO licensing regime.
- 1.6 This report sets out the proposed new HMO licence application fee following the review.

### **2. BACKGROUND**

#### **Dwellings which are an HMO**

- 2.1 The Act states that a dwelling will be an HMO if it satisfies one of the following tests.

- 2.2 “Standard Test”
- It consists of 1 or more units of living accommodation;
  - That are occupied by persons who do not form a single household;
  - The only use of the units is an living accommodation;
  - Rent is paid or other consideration given by at least one of them; and
  - Two or more households occupying the units share one of more basic amenities or it is lacking on or more basic amenities.
- 2.3 “Self-Contained Flat Test”
- It satisfies all of the above conditions of the “Standard Test” except for living accommodation, it relates to a self-contained flat occupied by persons who not form a single household and where two or more households occupying the self-contained flat share one or more basic amenities or it is lacking one or more basic amenities.
- 2.4 “Converted Building Test”
- It is a converted building, it contains one or more units of living accommodation that do not consist of a self-contained flat or flats, and all the conditions of the “Standard Test” apply to the living accommodation in the converted building.
- 2.5 The Council is also able to declare a building a HMO if it satisfies one of the above tests, but the use as living accommodation constitutes a significant rather than the sole use. Certain converted flats where the conversions do not comply with the building standards applicable at the time the conversion was made and where less than 2/3 of the flats are occupied by owner-occupiers are also classified as HMOs.

### **The Mandatory HMO Licensing Regime**

- 2.6 When the Act came into force in 2006, mandatory licensing of certain HMOs became a legal requirement. The purpose of the licensing regime was to monitor larger HMO properties which were deemed to present the highest risk to vulnerable low income households. Originally, an HMO which was 3 storeys or more and was occupied by 5 or more persons consisting of 2 or more households sharing or lacking basic amenities had to be licensed. On 1<sup>st</sup> October 2018, the Licensing of Houses in Multiple Occupation (Prescribed Description)(England) Order 2018 (“the Order”) came into force and widened the definition of those HMOs which need a licence. The Order extends the mandatory licensing regime by removing the requirement that the HMO has to be 3 or more storeys.

### **HMO Licence Application Fee**

- 2.7 Under s.63(3) of Part 2 of the Act, the Council is able to require that an application for an HMO licence is accompanied by a fee. The fee is at the discretion of the Council, but according to s.63(7) it can reflect all costs incurred by the Council in carrying out its functions under the Act (in relation to HMOs).

## **3. PROPOSED LICENCE FEE**

- 3.1 Following a review of the costs of processing and administering the HMO mandatory licensing regime, it is proposed that the new HMO licence application fee is set at £976.00. A breakdown of how the HMO licence application fee has been calculated can be found at Appendix 1.

3.2 The application fee will be payable in two instalments with the first instalment of £317.00 due when the application is made and the second instalment of £658.00 being due when the HMO licence is granted.

3.3 The Council is aware that other local authorities have a differential charging scheme depending on the size of the HMO. However, having regard to the likely nature of HMO properties within the District, it is considered appropriate to apply the same application fee for all HMOs. The Council will continue to monitor the HMO licence application fee to ensure that it reflects the true costs of it discharging its statutory functions in relation to licensable HMOs.

#### **4. CONCLUSIONS**

4.1 The HMO licence application fee needs to adequately reflect the costs incurred by the Council in administering and delivering the HMO mandatory licensing regime to avoid the need to find additional funding from alternative budgets. Accordingly, the proposed new HMO licence application fee has been set to assist the Council in operating a self-funding licensing regime.

#### **5. FINANCIAL IMPLICATIONS**

5.1 The staffing resources are already in place to carry out the requirements of the scheme. The new proposed charge will generate an additional £76 per application, but the numbers of applications are unknown.

#### **6. CRIME & DISORDER IMPLICATIONS**

6.1 HMOs are often perceived to be associated with anti-social behaviour. Under the Act when the Council issues a HMO licence, it is able to set conditions which can include those relating to tackling anti-social behaviour. The proposed new HMO licence application fee allows the Council to take into consideration the costs of inspections to monitor compliance with any such conditions and can assist the Council in tackling anti-social behaviour within the Council's area.

#### **7. ENVIRONMENTAL IMPLICATIONS**

7.1 The Act requires that all HMO licences that are issued have a condition requiring the licence holder to comply with any scheme which is provided by the Council for the storage and disposal of household waste at the HMO. The proposed new HMO licence application fee allows the Council to take into consideration the costs of inspections to monitor compliance with this condition and can provide assistance in maintaining the amenity of areas in which a HMO is located.

#### **8. EQUALITY & DIVERSITY IMPLICATIONS**

8.1 There are no equality and diversity implications.

#### **9. RECOMMENDATIONS**

9.1 That the proposed new HMO licence application fee is approved.

**10. PORTFOLIO HOLDER ENDORSEMENT**

**I have agreed to the recommendation of this report.**

**Sign: CLLR J L CLEARY**

**Date: 19 March 2019**

**For further information contact:**

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**Background Papers**

Published documents

Date on which notice of this Decision given - 19 March 2019

Last date for call-in - 26 March 2019

**2019-20 Costings for 200 licences****Appendix 1****Grade Cost**

<b>Team Assistant</b>			21.77
<b>HSO/EHO /SEHO</b>			34.35
<b>Team manager</b>			38.44
<b>Service manager</b>			56.01

**Processing Application**

	<b>Tasks</b>	<b>Minutes</b>	<b>Cost</b>
Team Assistant	Enquiry received & info provided	20	7.26
	Application received - basic work	20	7.26
	Ownership details checked	20	7.26
	Check correct fee	10	3.63
	Generate acknowledgement letter	10	3.63
	Enter data from application form	20	7.26
	Email other services for fit & proper info	5	1.81
	Prep lic docs discuss w officer and update pub register	60	21.77

**Total for Team Assistant****59.87****Case Officer Actions**

	<b>Tasks</b>	<b>Minutes</b>	<b>Cost</b>
HSO/EHO/SEHO	Discuss application with Team Assistant	15	8.59
	Check application in detail	60	34.35
	Check file history & review	20	11.45
	Review management and financial arrangements	60	34.35
	Examine in detail gas and other certificates	40	22.90
	Prepare for inspection - Service of S239 Notices etc	30	17.18
	Site inspection	60	34.35
	Prepare report of site inspection & update APP	60	34.35
	Assess adequacy of amenities & space for occupiers	30	17.18
	Determine who is most appropriate licence holder	15	8.59
	Check & arrange peer check of draft licence etc	20	11.45
	Enter licnse condns & proof of serv details on comp'ter	15	8.59
	Arrange for service of final documents	20	11.45
	Arrange w Team Assistant for update of public register	5	2.86

**Total for Case Officer****257.63****Total cost of processing licence****317.49**

**Annual operating costs - ongoing costs associated with the administration of the scheme**

	<b>Tasks</b>	<b>Minutes</b>	<b>Cost</b>	<b>Cost per licence per year</b>	<b>Cost per licence (5 years)</b>
Team Assistant	Chasing up llds for gas certs & others not with appn	3,600	1,306.20	6.53	32.66
	Searching activities for non licensed HMOs	1,320	478.94	2.39	11.97
	General advice over the phone etc	5,200	1,886.73	9.43	47.17
	Publicising the scheme	960	348.32	1.74	8.71
<b>Total - Team Assistant</b>			<b>4,020.19</b>	<b>20.10</b>	<b>100.50</b>

	<b>Tasks</b>	<b>Minutes</b>	<b>Cost</b>	<b>Cost per licence per year</b>	<b>Cost per licence (5 years)</b>
EHO/SEHO/HSO	Enquiries and follow ups - fit & proper checks	380	217.55	1.09	5.44
	Examining gas safety certs etc and follow up work	3000	1,717.50	8.59	42.94
	Inspecting properties during licence period	7,200	4,122.00	20.61	103.05
	Inspecting props during licence period - complaints	0	0.00	0.00	0.00
	Dealing with incomplete applications	600	343.50	1.72	8.59
	Considering & responding to reps against proposal	360	206.10	1.03	5.15
	Dealing with applications to vary licence	30	17.18	0.09	0.43
	Dealing with applications to revoke licence	0	0.00	0.00	0.00
	Providing advice - phone email etc	1,800	1,030.50	5.15	25.76
	Searching activities for unlicemced HMOs	12,000	6,870.00	34.35	171.75
	Specialist licensing training	1,800	1,030.50	5.15	25.76
	Publicising the scheme at student groups or similar	360	206.10	1.03	5.15
<b>Total - Case Officer</b>			<b>26,007.30</b>	<b>78.80</b>	<b>394.02</b>

	Tasks	Minutes	Cost	Cost per licence per year	Cost per licence (5 years)
Team Manager	Providing advice over phone & by email etc	1,500	961.00	4.81	24.03
	Prep of article to go in landlord news letter	120	76.88	0.38	1.92
	IT development work ie maintaining on line applications	300	192.20	0.96	4.81
	Revision of guidance notes for landlords	90	57.66	0.29	1.44
	Searching activities for unlicensed HMOs	1440	922.56	4.61	23.06
	Specific consultations with customers & staff	1800	1,153.20	5.77	28.83
	Assisting with specialist licensing training	360	230.64	1.15	5.77
	Updating guidance notes & checklists for staff	840	538.16	2.69	13.45

**Total - Senior Officer** **4,132.30** **20.66** **103.31**

	Tasks	Minutes	Cost	Cost per licence per year	Cost per licence (5 years)
Service Manager	Calculation of licence fee for 2019 - 20	1500	1,400.25	7.00	35.01
	Specific consultations & case discussions w staff	360	336.06	1.68	8.40
	Providing advice - phone and email	130	121.36	0.61	3.03
	Publicising scheme - arranging adverts etc	120	112.02	0.56	2.80
	Prep and delivery of specialist training	360	336.06	1.68	8.40
	Revision of HMO licensing enforcement guidance etc	120	112.02	0.56	2.80

**Total - Team Leader** **2,417.77** **12.09** **60.44**

**36,577.56** **131.66** **658.28**

**Cost of Licence for 2019-20**

Using Average 200 licences for Calculations

200 Licences  
**2019-20**

Cost of processing licence  
Operating costs per licence

317  
658

**Total**

**976**