

Report To:	CABINET	Date:	9 JULY 2018
Heading:	HOUSING IN MULTIPLE OCCUPATION (HMO) LICENSING CHANGES		
Portfolio Holder:	COUNCILLOR CHRISTIAN CHAPMAN – CABINET MEMBER (JOINT FOCUS)		
Ward/s:	ALL		
Key Decision:	YES		
Subject to Call-In:	YES		

1. Purpose of Report

To advise of the changes to the mandatory licensing of Houses in Multiple Occupation (HMO's) under the provisions of the Housing Act 2004 and to obtain approval for the setting of a new licence fee and resources to deliver the Council's statutory obligations.

Recommendation(s)

- **That Cabinet notes the changes to the HMO regulations under Part 2 of the Housing Act 2004**
- **That Cabinet approve the proposed new fee structure for the mandatory licensing of HMO's, as set out in section 4 of the report.**
- **That Cabinet approve the recruitment of additional staffing resources to implement and administer the new HMO regulations. The costs associated with this will be met through the proposed revised licence fee.**

2. Reasons for Recommendation(s)

Part 2 of the Housing Act 2004 includes a statutory requirement to licence larger HMOs. The regulations have been recently revised, resulting in a greater number of properties needing to be licenced.

The government extended the scope of mandatory HMO licensing in April 2018 and it will come into force in October 2018. It will apply where HMOs are occupied by five persons or more and in two or more households. However, this will be extended to cover all buildings not just those of 3 or more storeys.

Any building or a converted flat where such householders lack or share basic amenities such as a toilet, personal washing facilities or cooking facilities will be included. The extended scheme will also apply to purpose built flats where there are up to two flats in the block and one or both are occupied as an HMO. The proposed fee increases include the proposed future changes in legislation. It is anticipated that this could increase the number of HMOs in Ashfield requiring a licence to approximately 200 additional properties.

The current fee structure for the licensing HMOs was approved by Cabinet on the 26th April 2006. The small number of HMOs meant that the work associated with licensing each property was absorbed into the Private Sector Enforcement Team without the need for additional resources. The new regulations and the increase in the number of properties needing to be licenced means that additional resources will be needed to administer and manage the licensing process and enable the Council to meet its statutory obligations, hence the need for a revised fee structure.

3. Alternative Options Considered

(with reasons why not adopted)

The Council is legally obliged to implement the new HMO regulations and so no alternative to this was considered.

In respect of the fee structure, the option of leaving the licence fee unchanged (£350 for a 5 year licence) was not considered as the income would not cover the costs associated with administering the licensing process and would result in additional costs to the Council's General Fund.

4. Detailed Information

HMOs in the private rented sector provide valuable, low cost housing to many people who may otherwise be homeless. However, the sector is perceived to be associated with anti-social behaviour, poor living conditions and it houses some of the most vulnerable members of our society. Mandatory licensing tackles those properties deemed to present the highest risks.

Mandatory Licensing of HMOs has been a legal requirement since the Housing Act 2004 came into force in 2006. Under the original regulations a HMO would need to be licensed if;

- the property contains 3 storeys or more, and
- houses 5 or more persons who form more than 1 household, and
- has shared facilities (bathrooms/kitchens)

There are currently 26 Licensable HMOs within Ashfield.

The new regulations, that are enforceable from October 2018, extend the definition of a licensable HMO to include all properties occupied by 5 persons or more within 2 or more households. The principle change is that the regulations now relate to all buildings not just those of 3 or more storeys.

The extended regulations also apply to purpose built flats where there are up to two flats in the block and one or both are occupied as an HMO.

It is difficult to say with accuracy the number of properties within the Ashfield District that will require a licence under the new regulations, we anticipate that there will be at least an additional 200 units.

The work associated with licensing each property is considerable. Typically each HMO is visited at least 5 times by officers from the Private Sector Enforcement Team as it makes its way through the licensing process. The regulations and the standards expected in respect of HMO's is high and above those expected in other private rented properties including those in selective licencing areas. Fire detection is a good example of where standards are raised. In addition to visits officers will request, collect and check a host of supporting documents for each unit within the property, this includes a Gas Safety Certificate and Electrical Inspection Report.

HMO's often have multiple owners and third party investors, each of whom has to be contacted and consulted with. Each will also need to undergo a fit and proper check.

We estimate that each HMO takes between 20 – 50 officer hours to licence depending upon the size and complexity of the case. Licensing a small number of units, as has been the case up until now, has been manageable without the need for additional resources, this will not be the case under the new regulations.

Once granted a licence lasts for 5 years. During this period an additional fee is charged to replace or vary the licence. The current HMO Licensing Fee structure is as follows;

Basic licence fee	£350
For each additional person (maximum permitted occupancy)	NIL
Basic License Renewal (up to 6 persons)	£ 350
Renewal charge for each additional person	NIL
Variation to a licence	£350
Replacement licence	£350
Issue of first Temporary Exemption Notice	NIL
Issue of second Temporary Exemption Notice	NIL

Section 63(3) of Part 2 of the Housing Act 2004 confirms the Council can charge a fee to licence a HMO. The fee is at the discretion of the Council but should be reasonable and proportionate and should reflect the costs the Council incur in carrying out their functions (sec 63:7). These costs typically include;

- Set up costs.
- Actual processing of applications.
- Overheads.
- Monitoring licence holders.
- Enforcing against unlicensed landlords. This is regarded as being of benefit for licence holders to avoid unlicensed operators undercutting those with licences.

In an attempt to help Council's the Local Government Association (LGA) in collaboration with the Improvement and Development Agency (IDeA), Chartered Institute of Public Finance and Accountancy (CIPFA) and the office of the Deputy Prime Minister (ODPM) developed a licensing fees toolkit. This states that:

“It is important for authorities to remember that if they set licensing application fees at a level that do not cover the costs of delivering the licensing scheme the shortfall in funding the scheme will need to come from another source, such as other general fund service budgets or from council tax.

This is a decision that local authority members need to take, so the financial implications of what is or is not included in the proposed fees needs to be explained to them.”

Assuming an additional 200 properties will need to be licenced under the new regulations, if the existing HMO licence fee of £350 was retained this would generate additional income of £70,000 in year 1 & 2 and a smaller amount of income in years 3-5 as new HMOs are developed and existing licences are varied and replaced. The final figure for expected HMO's will be clarified after some detailed searches of the councils database information as we have learnt from selective licensing this type of search is far more accurate.

A basic licence fee of £650 is being recommended for HMOs. This will ensure that the Council can cover the costs associated with delivering the statutory service. On top of a basic fee, there is a recommendation to levy an extra charge for each additional resident when the number of occupants exceeds 6. This reflects the additional time and cost associated with licensing larger HMOs.

The proposed fee structure is as follows;

Initial Basic licence fee (covering premises of up to 6 persons maximum permitted occupancy)	£700
For each additional person (maximum permitted occupancy)	£50
Basic License Renewal (up to 6 persons)	£450
Renewal charge for each additional person	£50
Variation to a licence (simple)	£100
Replacement licence	£100
Issue of first Temporary Exemption Notice	£250
Issue of second Temporary Exemption Notice	£100

By comparison, Nottingham City currently charge a basic licence fee of £910, rising to £1310 whereas Derby City Council charge £757. Through discussions with our Nottinghamshire District colleagues we are aware that our proposed charge is in keeping with their anticipated charges.

It should be noted that Selective Licenses which are set at the same previous fee level as HMO's (£350) are unaffected by this proposed fee increase.

5. Implications

Corporate Plan

The report and the recommendations support the Council's values of being

- Enterprising, ambitious and innovative
- Community and customer focused
- Positive, proactive and successful

It also fits with the Council's priorities relating to health and well-being and ensuring we have affordable, warm and safe housing.

Legal

The Council has a statutory duty to mandatory licence certain types of HMOs as set out in the body of the report above. Any landlord failing to apply for a mandatory licence could be prosecuted. The licence fee is not fixed by legislation but must be reasonable and proportionate to the service costs incurred.

Finance

The current fee structure was approved by Cabinet in 2006. The new fee structure covers the cost of preparing and issuing a licence. This includes fit and proper searches for all relevant parties, property inspections (including pre works, part works and completion/sign off), processing of the licences and issuing of draft and full licences with all the relevant representations and periods of responses in association to all these activities.

The proposed fee increase is intended to remove financial subsidy from the licensing of HMOs such that landlords bear the full costs of the scheme. It is advised that fee levels are reviewed regularly to ensure that costs are being met and to include the new legislative changes and extension of HMOs to include all properties with 5 or more tenants which came in April 2018 and will be Enforceable in October 2018.

Budget Area	Implication
General Fund – Revenue Budget	It is expected that the net impact on the General Fund will be zero. The cost of staff engaged to undertake this work will be fully met by the income generated from this increase in licence fee. This will be clarified in detail in the subsequent Staffing Report.
General Fund – Capital Programme	N/A
Housing Revenue Account – Revenue Budget	N/A
Housing Revenue Account – Capital Programme	N/A

Risk

Risk	Mitigation
The existing fee of £350 means that the Council is not covering the true costs involved in issuing and administering HMO licences. The new fee of £650 accounts for officer time and on-costs .	To increase the current HMO licence fee
The Council has an opportunity to recover costs for delivering the mandatory scheme and therefore should use the available means to recoup costs.	Any additional Income generation will be ring-fenced to fund costs associated with current or future levels of private sector enforcement activity.

<p>Potential reputational risk to the Council of a £300 increase in fee. (86% increase)</p>	<p>Mitigated by the national changes in HMO regulations and licensing which accepts that Local Councils will need to consider their current fee structures set locally to cover the costs incurred by this statutory change. The current fee structure for Ashfield is significantly lower than many authorities who in view of the revised legislation are also revisiting their fees. Some authorities already charge in the region of £800 currently (pre legislative change).</p>
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Human Resources

The intention is to provide a later report in relation to staffing recruitments once the full HMO scoping has been completed and we have a clearer picture of the number of HMO’s needed and therefore an assessment of the staffing required and the recruitment concerns and challenges with full HR and Finance input recruit temporary officers on a fixed term basis to assist with the implementation and assessment of the new HMO regulations.

Equalities

There would be inequity in the amount paid by current or imminent customers compared with those required to pay the new fee (if approved) from the date of approval. The existing HMO equality impact assessment will need updating to ensure it captures all tenure groups that may be affected by the statutory changes.

Other Implications

The recommendations in this report affect all the wards in this borough.

Reason(s) for Urgency

The legal changes to HMO licensing come into force in October 2018

Reason(s) for Exemption

None

Background Papers

None (covered in body of the report)

Report Author and Contact Officer

Paul Parkinson
DIRECTOR OF HOUSING AND ASSETS
p.parkinson@ashfield.gov.uk
01623 457009

Jacqui Harvey
Senior Environmental Health Officer/Team leader
j.harvey@ashfield.gov.uk
01623 457261