

Title	Revised Fee Structure for HMO Licensing
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Service Area	Housing Strategy
Wards of the District directly affected	All
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006	No
Date and meeting when issue was last considered and relevant minute number	27 th March 2006 Executive Minute No.996
Background Papers	Executive Report (27.3.06) Housing Act 2004 – Licensing of Houses in Multiple Occupation

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	Yes
Included within the Forward Plan? (If yes include reference number)	No

Officer/Councillor Approval

With regard to officer approval all reports must be approved by the report authors relevant director, Finance, Legal Services and the relevant Portfolio Holder(s).

Officer Approval	Date	Name
Relevant Director	24.9.08	Bill Hunt
Chief Executive		
CMT	25.9.08	
Section 151 Officer		
Legal	19.9.08	Simon Best
Finance	19.8.08	Mike Snow
Portfolio Holder(s)	26.9.08	Moir – Ann Grainger

Consultation Undertaken

Coventry City Council and all Warwickshire District/Borough Councils (30.6.08)

Final Decision?	Yes
Suggested next steps (if not final decision please set out below)	

1. SUMMARY

- 1.1 Licence fees for certain Houses in Multiple Occupation (HMO) were set in April 2006 when HMO Licensing was introduced by the Housing Act 2004 (HA 2004). Licensing fees are intended to fully cover the cost of the licensing process, and it is necessary to make adjustments and additions to certain cost components to ensure that the service continues to cover its costs and keeps pace with inflation. No inflationary increases have been made since HMO Licensing commenced. HMO Licences are issued on a 5 yearly basis, with the vast majority falling due for renewal in 2012.

2. RECOMMENDATION

- 2.1 To approve, with immediate effect, the revised fee structure for HMO Licensing under Part 2 of the Housing Act 2004, as set out in Appendix 1, and
- 2.2 To approve HMO Licensing fees being included within the Council's annual review of fees and charges.

3. REASONS FOR THE RECOMMENDATION

- 3.1 Section 63 HA 2004 allows Local Authorities to charge a fixed fee for an HMO Licence application. When fixing fees, Local Authorities can take into account all costs incurred in carrying out their functions under HMO Licensing legislation.
- 3.2 The Executive considered a report from Housing Strategy on HMO Licensing in March 2006. A recent review of the fee structure set by the Council at that time has identified certain areas where the Council has under-estimated the time allocation in some components of the licensing process and some areas where components have not been fully accounted for, such as inspection and enforcement work.
- 3.3 It is felt that to be truly cost neutral, and to ensure long term retention of the existing staff dedicated to HMO Licensing, fees must be increased. Fees were not increased in 2007 to account for inflation. To stand up to scrutiny, fees must be seen to be transparent and justifiable and this is what the revised fee structure intends to demonstrate. It is proposed to increase the fees by £40 for a licence renewal and by £175 for a new application. Fees will need to be reviewed annually to take into consideration salary and overhead increases which, following review will be applied to new applications and renewals.
- 3.4 Consultations have been held with Coventry City Council and other Warwickshire authorities to ensure that Warwick District Council's fees are proportionate and justifiable when benchmarked. Coventry City, whose current fees are similar to Warwick's, is considering a 'substantial' increase in fees. The new fee in Coventry is likely to be between £720 and £800 (5-7 persons). Coventry tend to be influenced by Birmingham City Council who increased their fees from £500 to £800 (5-7 persons) in May 2008. The main reason for the increase in Birmingham is due to the time being spent in HMO Licensing enforcement work. Birmingham offer a £100 discount for new applications provided the application is received within 12 weeks of the HMO changing hands. The discounted Birmingham fee of £700 (5-7 persons) is therefore broadly comparable to the proposed new Warwick application fee of £675 (5 persons) and £765 (6-10 persons).
- 3.5 The Warwickshire authorities all set their fees broadly in line with Warwick District in 2006, i.e. £470-500 (5 persons). Rugby Borough Council was the exception, charging £300, which is well below the national average. Stratford District and Nuneaton & Bedworth Borough have indicated that they are likely to be reviewing their fees and will take account of the Warwick District fees.
- 3.6 Fees for Renewal and Variation of Licences were not considered by the Council when HMO Licensing came into effect in 2006. Appendix 1 to this report details the existing and proposed revision of the fee structure designed to cover the cost of Licensing. Fees are set

in bands according to the size of the property. It is not proposed to alter the bandings. Appendix 2 gives a breakdown of how the fees are determined. This is based on a model method of calculation issued by the Local Government Association in consultation with the Chartered Institute of Public Finance, designed to ensure that fees are transparent and justifiable.

- 3.7 In 2006, it was anticipated that £141,610 would be raised by the issuing of Licences and that this, over a five year period should be sufficient to pay for the additional resources required. This has been shown to be an accurate estimate, with fee income currently standing at £147,849. The projected income based upon the revised fees over the period 2012-2017 is £171,492. Details are shown in Appendix 3.

4. ALTERNATIVE OPTION CONSIDERED

- 4.1 Licensing fees could remain at the levels set in 2006. However, this would lead to an increasing shortfall in income when taken in context of man hours dedicated to the Licensing process. Ultimately, this would lead to budgetary difficulties in retention of the part time Technical Officer and the part time Administrative Assistant and a consequent negative impact on the level of service. Alternatively, to maintain the service, funding would need to come from another source such as other general service fund budgets or from Council Tax.
- 4.2 Fees could be set at a higher level than that proposed. However, it may be difficult to substantiate these fees, given that the Government advice is for Licensing to be cost neutral. An appeal could therefore result in the Residential Property Tribunal ruling that fees were excessive with the consequence of having to make refunds.

5. BUDGETARY FRAMEWORK

- 5.1 The HMO Licensing service is self –financing. Income received through applications covers the full cost of providing the service. It is anticipated that the changes to the fee structure proposed will allow the service to continue at its present level.
- 5.2 Calculations from Finance indicate that the projected direct expenditure on salaries taking account of incremental increases and pay deals, National Insurance, Superannuation and Car Allowance/Mileage is £143,000 for the 5 year period 2012-2017. Printing and training costs are expected to be in the region of £10,000-15,000. This leaves £13,500 to cover central support costs such as ICT. The expenditure will be funded from the anticipated fee income of £171,500.
- 5.3 It is difficult to accurately predict the level of fee income when Licenses fall due for renewal from 2012. It is possible that some will not be renewed if there are changes in the letting market, although equally there will inevitably be some new applications. In the event that there is a surplus of income over expenditure, the intention would be to make a consequent reduction in the next round of fees when they are set. This would satisfy the Government's directive for Councils to use fee income only as a means of operating the HMO Licensing service and not for profiteering. Consequently, HMO Licensing income is ring-fenced for that purpose.

6. POLICY FRAMEWORK

- 6.1 HMO Licensing has without doubt, had a positive effect on the Council's Strategy of improving housing services efficiency to meet the housing need of the district by improving the safety and quality of HMO's.

7. BACKGROUND

- 7.1 HMO's in the Private Rented Sector provide valuable, affordable housing to many people who would otherwise be homeless. However, the sector is perceived to be associated with anti-social behaviour and poor living conditions, and houses some of the most vulnerable members of society. As a result, mandatory licensing was introduced to tackle those properties deemed to present the highest risk.
- 7.2 Part 2 Housing Act 2004 ('the Act') was enacted on 18 November 2004 and came into effect on 6 April 2006. It introduced mandatory Licensing of certain types of HMO and placed a statutory duty on the District Council to introduce and administer a Licensing scheme.
- 7.3 The aim of Licensing HMO's is to improve controls and to raise the standards of some of the highest risk properties often occupied by some of the most vulnerable people, whilst seeking to ensure that an adequate supply of rented accommodation is maintained.

8. LICENSING OF HMO'S

- 8.1 HMO Licensing consists of two parts: mandatory HMO Licensing and discretionary HMO ('additional') Licensing. Warwick District Council has not adopted an additional Licensing scheme at this time.
- 8.2 Mandatory HMO Licensing requires that all prescribed HMO's within the local housing authority must be Licensed, namely those comprising three storeys or more, occupied by five or more persons living in two or more households'. The Licence relates to one property and one person (the Licence holder).
- 8.3 The Act allows Local Authorities to charge a fee for an HMO Licence. The fee structure set by the District Council must be justified to withstand scrutiny by the Residential Property Tribunal. The District Council will be fully accountable for the fees it charges. Fees must be reasonable and reflect the work the District Council carries out in order to cover the administration costs of the Licence procedure.
- 8.4 In considering the application, the following has to be determined:
 - i) That the house is reasonably suitable for occupation by not more than the maximum number of households or persons as specified in the application or as decided by the District Council;
 - ii) The proposed Licence holder is a fit and proper person and the most appropriate person to be the Licence holder; and
 - iii) The proposed manager is a fit and proper person; and satisfactory management arrangements are in place.
- 8.5 There is no statutory time limit relating to the processing of Licensing applications. The Licence runs for a maximum of five years and must state when it comes into force and when it expires. It must also state the maximum number of households or persons that can occupy the HMO. Licence conditions can be attached to the Licence.
- 8.6 The Licence cannot be transferred. The Licence ends as a result of the passage of time, the death of the Licence holder, the sale of the property, or the revocation of the Licence by the District Council. The Licence is held on a public register maintained by the District Council.

9. PRACTICAL IMPLEMENTATION OF LICENSING

- 9.1 HMO Licensing was a new concept for Local Authorities, who were required to bear the cost of the new regime, by setting their own fee structures with the intention of being 'cost neutral'. This was a difficult task since there was no experience of operating a Licence

regime previously, and most authorities could only estimate the number of HMO's in their area which would require Licensing. There were also fears that HMO landlords would sell their properties or reduce the number of occupiers to avoid Licensing. In the main, these fears have not materialised. In March 2006, the Government recommended that Local Authorities make use of a new 'fees toolkit' designed to assist local authorities in identifying the various cost components of the Licensing process. Unfortunately, the fees toolkit was published so late that the Council had already committed to a fee structure following a consultation with other Warwickshire Authorities.

- 9.2 We estimated that there would be up to 290 HMO's in the Warwick District that would require Licensing in April 2006. Landlords of HMO's which were already approved under the Council's Accreditation Scheme enjoyed a 40% discount on Licensing fees. The vast majority of applications were received within the first 6 months of HMO Licensing coming into force.
- 9.3 To date we have received 320 applications, although 23 have since been returned as they were deemed to fall outside of the requirement to have 3 or more storeys. Whilst a few new Licence applications are likely to be received over the next 4 years, there is unlikely to be further significant fee income until 2012 when the bulk of Licences are due for renewal.
- 9.4 The processing of HMO Licence applications were originally handled by one full time Environmental Health Officer with some assistance from one part time Administrative Assistant. It was apparent that this was inadequate to process the volume of applications sufficiently quickly, and in October 2007, a part time Technical Officer was appointed, followed in January 2008, by a part time Administrative Assistant, both dedicated to HMO Licensing. These additional resources have enabled real progress to be made in undertaking inspections and issuing Licences. It is anticipated that all Licence applicants will have received an inspection and had their Licences issued by the end of July 2009.

10. HMO LICENSE RENEWALS, VARIATIONS & COPYING CHARGES

- 10.1 As Licences remain in force for up to 5 years, it was not thought necessary to set renewal fees in the original fee structure. However, although the bulk of licence renewals will not fall due until 2012, there are 2 properties which have only been licensed for 1 year because doubts existed over the suitability of the licence holder in regard to his management credentials. It will therefore be necessary to consider renewal of the first licences in May 2009. Beyond this, it would be helpful to be able to advise landlords what renewal fees are likely to be as we draw closer to the expiry of existing licences.
- 10.2 Licences can be varied at any time during the life of the Licence. When Licence fees were set in 2006, no fee provision was made for varying a Licence.
- 10.3 Section 69 allows Licences to be varied if there has been a change of circumstances. These would be considered to be either a material change to the layout of the HMO (often associated with an increase in the number of occupants), or a change of, or appointment, of a manager. Material changes to the layout of the property are proposed to be charged at £210, and change of, or appointment of a manager would be charged at £52 (or £28 where the proposed manager has already been the subject of a fit and proper person check within the last 5 years).
- 10.4 Licences are not transferable and can be revoked with the agreement of the Licence holder, or where there have been serious breaches of the Licence conditions, or where the Licence holder is considered to no longer be a fit and proper person. Where there is proposed to be a change of Licence holder, this would be considered to warrant a new application.
- 10.5 Although landlords receive 2 copies of their Licence, and original copies of other documents are returned to them, the Council still receives requests from landlords for additional copies when they become lost. It is therefore proposed to introduce a charge to

cover the Council's costs. It is proposed to charge £5 for a further copy of the HMO Licence and £1.50 each for additional copies of gas safety, fire alarm, emergency lighting and mains wiring certificates.