

Decision Maker: PUBLIC PROTECTION AND ENFORCEMENT PORTFOLIO HOLDER

For Pre-Decision Scrutiny by the Public Protection & Enforcement PDS Committee on

Date: Tuesday 3rd July 2018

Decision Type: Urgent Non-Executive Key

Title: SETTING OF STATUTORY FEES FOR LICENSING HOUSES IN MULTIPLE OCCUPATION

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Chief Officer: Executive Director of Environment & Community Services

Ward: (All Wards);

1. Reason for report

The existing House in Multiple Occupation (HMO) mandatory licence fee has not been reviewed since 2009 and currently it does not cover the cost of inspecting the property and issuing the licence. The cost of regulating the HMO sector under HMO licensing should be borne by the sector itself, and the Council has the opportunity to recover the associated costs in delivering the mandatory scheme. The report therefore recommends a fee increase which requires Portfolio Holder approval.

2. **RECOMMENDATION(S)**

- 2.1 The Public Protection and Enforcement Policy Development and Scrutiny Committee comments on the proposed revision of fees.
- 2.2 The Public Protection and Enforcement Portfolio Holder approves the schedule of fees in 3.13 (Table 2), subject to any comments received at the meeting.

Impact on Vulnerable Adults and Children

1. Summary of Impact: Vulnerable households invariably rely on the Private Rented Sector, many within a House of Multiple Occupation (HMO) for accommodation, and the purpose of licensing is to improve housing conditions, and the management of rented accommodation within that sector.
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Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Children and Young People Excellent Council Quality Environment Safe Bromley Supporting Independence Healthy Bromley:
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Financial

1. Cost of proposal: Potential additional income of up to £5.2k per annum
 2. Ongoing costs: Potential additional income of up to £5.2k per annum
 3. Budget head/performance centre: Housing Enforcement
 4. Total current budget for this head: £233.5k
 5. Source of funding: Existing revenue budget 2018/19
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Personnel

1. Number of staff (current and additional): 4 FTE
 2. If from existing staff resources, number of staff hours: Not Applicable
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Legal

1. Legal Requirement: Statutory : The Council has a statutory duty to mandatory licence certain types of HMO as set out in the body of the report below, and has the ability to determine the necessary fees in accordance with the requirements of the Housing Act 2004 sec 63.
 2. Call-in: Applicable:
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Procurement

1. Summary of Procurement Implications: Not Applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Borough Wide
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3. COMMENTARY

BACKGROUND AND ISSUES

- 3.1 The current level of mandatory HMO fee income does not cover the full cost of managing and operating the Licensing scheme. The recommendation within this report seeks to address that.
- 3.2 The Housing Act 2004 introduced a national licensing scheme which is mandatory for all three storey HMOs occupied by five or more unrelated persons. The legislation became operative on 6 April 2006 and required landlords to apply for a licence in respect of any HMO that they own and operate.
- 3.3 An HMO is a property occupied by three or more unrelated people in two or more households and is fully defined under sections 254 & 257 of the Housing Act 2004.
- 3.4 The Act permitted councils to charge a fee that covered the costs incurred in carrying out the function of licensing HMOs, including the cost of promoting and effectively implementing the scheme.
- 3.5 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.
- 3.6 The purpose of the mandatory licensing regime was to ensure that those HMOs likely to present the most significant health and safety risks are known to the local authority, with evidence provided that appropriate management arrangements have been made for the property, and that internal conditions were satisfactory.
- 3.7 In February 2018, new regulations were laid before Parliament that will come into force on 1 October 2018. In essence, the government have removed the 'three or more storeys' criteria throughout England. In doing so they have effectively extended the mandatory scheme to include most houses and flats occupied by five or more people in two or more households who share a kitchen, bathroom and/or toilet facilities, regardless of the number of storeys. In addition, 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.
- 3.8 The current HMO licence fee is £1,000 and licenses are granted for a period of 5 Years, the level has not been reviewed since 2009, and it no longer covers the cost of the necessary actions required to review the application, inspect the premises, process the application and issue the licence.
- 3.9 Nationally, approximately 60,000 HMOs fall within the current mandatory scheme, and it is estimated that under the extended regime an extra 160,000 HMOs will need to be licensed¹. Bromley currently has 82 HMOs registered under the current mandatory scheme, and 16 are due for renewal in 2018.
- 3.10 If the anticipated national increase is applied, with a similar extrapolation for Bromley (using the national figures), this would suggest an increase in the number of licensable HMOs from 82 to 219 (167%). The proposed fee increases take into account the new and extended HMO property categories covered in the forthcoming changes in legislation, and associated work.

¹ Department for Communities and Local Government; English Housing Survey 2015 – 2016: Headline Report

- 3.11 Further work is required to understand exactly how many properties in the Borough of Bromley will require a mandatory licence under the new regulations.
- 3.12 The current HMO Licensing Fees are detailed in Table 1 below:

Table 1: Current HMO Licensing Fees

Mandatory licence	Current fee
Basic licence fee (covering premises of up to 5 persons maximum permitted occupancy)	£1,000 (i.e. £200 per let)
For each additional person (maximum permitted occupancy)	£200 (the fee is charged per unit of accommodation rather than per person)
Basic License Renewal (up to 5 persons)	£675 (i.e. £135 per let)
Renewal charge for each additional person	£135

- 3.13 Section 63(3) of Part 2 of the Housing Act 2004 provides that a Local Housing Authority (LHA) may require an application for a HMO licence to be accompanied by a fee. This fee is at the discretion of the LHA but should, according to section 63(7), reflect the following:
- a) all costs incurred by the LHA in carrying out their functions under this part of the Act, and;
 - b) all costs incurred by them in carrying out their functions under Chapter 1 of Part 4 of the Housing Act 2004 in relation to HMO's (in so far as they are not recoverable under, or by virtue of, any provision of that chapter)
- 3.14 In addition to the legislation affording LHAs to set an appropriate fee, The Local Government Association (LGA) has recognised 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.”*
- 3.15 Table 2 identifies the proposed fee from 1 October 2018 (£1,300) and reflects the actual cost of licensing and inspection.

Table 2: Proposed Licensing Fee from 1 October 2018

Mandatory licence	Proposed Fee
New Licence fee (for premises with 5 bedsits available to let)	£1,300
Fee for each bedsit available to let. (The fee is charged per unit of accommodation rather than per person)	£260
Renewal License fee (for premises with 5 bedsits available to let)	£1,000
Fee for each bedsit available to let. (The fee is charged per unit of accommodation rather than per person)	£200

3.16 A benchmarking exercise was carried out comparing the fees charged by Bromley's nearest neighbours (Table 3); in addition an analysis of officer time dedicated to administering the scheme for an average application was undertaken. Table 3 below demonstrates that all 6 nearest neighbouring authorities have increased their fees incrementally since 2014/15; Bromley is the exception. When considering the average over time, it can be seen that from 2016/17 the fee charged by Bromley was 21.5% lower than the average, and last year it was 30.65% lower. Assuming the neighbouring boroughs do not change their fees for 18/19, the proposed fee for Bromley is 9.84% lower than the average for these boroughs. Analysis of applications received and the cost of administering the scheme is now ongoing, and a further review will be undertaken in October 2019 to ensure that the fee remains commensurate with the cost of administration.

Table 3: Current comparable fees charged by nearest neighbouring boroughs

Council	2014/15 Mandatory Licencing Fees (5 Units)	2015/16 Mandatory Licencing Fees (5 Units)	2016/17 Mandatory Licencing Fees (5 Units)	2017/18 Mandatory Licencing Fees (5 Units)
Bromley	£1,000	£1,000	£1,000	£1,000
Lewisham	£900	£900	£2,500	£2,500
Greenwich	£700	£714	£721	£1,737
Lambeth	£1,250	£1,250	£1,250	£1,335
Southwark	£900	£1,250	£1,250	£1,275
Croydon	£1,200	£1,200	£1,200	£1,250
Bexley	£400	£400	£1,000	£1,000
Average	£907	£959	£1,274	£1,442

4. IMPACT ON VULNERABLE ADULTS AND CHILDREN

4.1 Vulnerable households invariably rely on the Private Rented Sector, many within Houses of Multiple Occupation (HMOs) for accommodation, and the purpose of licensing is to improve housing conditions and the management of rented accommodation within that sector.

5. POLICY IMPLICATIONS

5.1 The work on HMOs supports the ambitions within Building a Better Bromley 2020. Specifically, the recommendations in this report will contribute towards both a stronger economy and a stronger community. Providing healthy and safer homes will enable residents to enjoy improved health and well-being.

5.2 Moreover, as the current level of HMO fee income does not cover the full cost of managing and operating the Licensing scheme. The recommendation seeks to end that subsidy, so improving the value for money of our services within the constraints of reduced resources.

6. FINANCIAL IMPLICATIONS

- 6.1 The proposed fee increase has been set at a level that fully recovers the costs incurred in providing the licences. The charges should be reviewed every year to ensure that costs continue to be recovered and to reflect further legislative changes to the potential extension of HMOs to include all properties with 5 or more tenants.
- 6.2 The proposed fees will result in additional income of £5.2k based on current HMO numbers.
- 6.3 Further work will be undertaken by officers in the next few months to determine exactly how many properties within the Borough will require a mandatory licence under the new regulations. A report will be brought back to Members later in the year with details of the estimated increase, the impact of the additional work and the anticipated income that may be generated from the expected increase in HMO's.

7. PERSONNEL IMPLICATIONS

- 7.1 The recommendations in this report do not have HR implications. However it is anticipated, with the Government mandatory expansion of the current mandatory licensing scheme to include all single and two storey buildings with 5 or more tenants as HMO's, the potential impact on workload will need to be considered as part of the regulatory review exercise

8. LEGAL IMPLICATIONS

- 8.1 The Council has a statutory duty to mandatory licence certain types of HMO as set out in the body of the report above, and has the ability to determine the necessary fees in accordance with the requirements of the Housing Act 2004 sec 63.

Non-Applicable Sections:	Procurement
Background Documents: (Access via Contact Officer)	