

Agenda item: 

**Decision maker:** Cabinet Member for Housing

**Subject:** Review of charges made for mandatory licensing, enforcement action and non-mandatory inspection undertaken by the Housing Standards Team.

**Date of decision:** 13<sup>th</sup> July 2010

**Report by:** Alan Cufley, Head of Community Housing and Regeneration.

**Wards affected:** All

**Key decision:** Yes

**Budget & policy framework decision:**

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## 1. Summary

- 1.1 To seek approval for an increase to the charges made for Homes in Multiple Occupation (HMO) mandatory licensing, instigating enforcement action under the Housing Act 2004 and non-mandatory inspections undertaken for immigration purposes.

## 2. Purpose of report

To seek approval from the Cabinet Member for Housing for

- 2.1 The increase to the HMO mandatory licence fee.
- 2.2 The new licensing fee for HMO mandatory licensing in relation to on line applications, variations and revocations of HMO licenses.
- 2.3 The new non compliance charges relating to HMO mandatory licensing.
- 2.4 An increase to the cost of instigating enforcement action under the Housing Act 2004.
- 2.5 An increase to the cost of inspecting and providing a detailed report for immigration purposes.

## 3. Background

- 3.1 Mandatory licence charging.
- 3.2 The Housing Act 2004 introduced mandatory licensing for certain high risk Houses in Multiple Occupation. Portsmouth City Council (The Council) has been, unlike some

other local authorities, progressive in meeting its obligations under this legislation and properties that require a licence continue to be actively sought through the pro-active work undertaken by the Housing Standards team.

The legislation allows a local authority to charge a reasonable fee for a licence that ensures the process of licensing certain HMOs does not provide any financial burden onto the council taxpayer. In addition, a local authority cannot make a profit from the fee charged.

The report provided to the Cabinet Member for Housing on 7<sup>th</sup> February 2006 outlined the basic principles of HMO licensing and the approach undertaken by the city council in determining the charges to be incurred by the applicant.

### 3.2 Enforcement costs

- 3.3 Section 49 of the Housing Act 2004 permits the Council to levy a reasonable charge for their expenses in relation to enforcement action undertaken under Part 1 of the Housing Act 2004.

The report provided to the Cabinet Member for Housing on 21<sup>st</sup> March 2006 outlined the basic principles, the charges to be made and areas of discretion for not charging.

### 3.4 Non-mandatory inspections.

- 3.5 The Housing Standards Team receives a sizeable number of service requests each year from sponsors of émigrés and temporary visitors for inspections to be undertaken of their properties to ensure that they are suitable for the visitor to reside in.

The Local Government Act 2004 allows the Council to recover reasonable expenses in carrying out this discretionary service. The report provided to the Cabinet Member for Housing on 21<sup>st</sup> March 2006 approved the basic principles, process and areas of discretion for not charging.

The report to the Cabinet Member for Housing on 3<sup>rd</sup> February 2009 approved the current charge made for non-mandatory inspections.

## 4. Recommendations

- 4.1 **The Cabinet Member for Housing agrees to the charges being levied as outlined in Appendix 1 to this report with effect from 13<sup>th</sup> July 2010.**

## 5. Reasons for recommendations

### 5.1 Mandatory licensing.

The way the current licensing fee is charged is a set figure applicable to all landlords. Following discussions with the Portsmouth and District Landlords Association, it is felt that charging in this way penalised good landlords who provide all the required information to the Council within set timescales and that they were in fact paying extra to compensate for landlords that failed to meet the necessary deadlines and standards.

Removing the presumptive charge from the fixed rate amount has allowed the fee to be kept at a reasonable level. However, levying a charge for non compliance will still ensure that work relating to HMO mandatory licensing remains cost neutral to the city council.

## 5.2 Non compliance areas include:

- 5.2.1 Condition 1 of the licence stated that the licence holder must send in relevant documentation within 14 days from the anniversary of the licence being issued. If they fail to do this a reminder letter will be sent, and they will be liable for a charge. This charge will be clearly identified and highlighted within future licensing letters and will be effective on all licences issued from the date the Cabinet Member for Housing Decision meeting.
- 5.2.2 If applicants do send in applications that are either incomplete or missing necessary documentation, a letter will be issued requesting the information or return the application requiring them to be returned within 28 days. Should the applicant fail to do so a reminder letter will be sent which will incur a charge.
- 5.2.3 In some instances landlords fail to meet officers despite a time and date having been agreed or a landlord fails to notify their tenants correctly of the visit and consequently a full verification inspection cannot be made, resulting in a further visit being made to carry out that inspection. If this occurs, a charge will be made. All landlords will be informed of this within their visit appointment letter.
- 5.3 The non compliances costs have been calculated using the same matrix as devised by the Housing Advisory Group, which comprises all of the local authorities within Hampshire.

The use of this matrix system has enabled the overall licensing fee to remain at a reasonable cost for landlords, with an increase of £48.88 from last year's cost for a 5 year licence.

## 5.5 EU Service Directive.

The EU Services Directive aims to make it easier for service providers to set up or offer their services anywhere in the EU. It is intended to develop the single market for services by breaking down barriers to cross-border trade.

The development of on-line licences has been sponsored by the Department for Business, Innovation and Skills (BIS) and these will be hosted through an electronic licence management system (ELMS), which as a Government run initiative, will not, at this time, involve any cost to the Council.

A revised cost has been calculated using the adopted matrix, to take into account the specific time spent by officers dealing with on-line applications.

## 5.7 Enforcement costs.

The use of enforcement powers is considered as the last resort to resolve poor housing conditions. In the current economic climate it can be a challenge for smaller landlords to

access the necessary funding to undertake major repairs works to properties the Housing Standards Team have, in the last year, allowed landlords a greater length of time to undertake the works, as long as this action does not compromise the health, safety and welfare of any occupant.

However, last year a total of 74 notices were served on landlords where they either did not work with the officers or they failed to undertake the works set within the agreed timescales.

#### 5.8 Non-mandatory inspections.

##### 5.8.1 The Housing Standards team has undertaken 16 immigration inspections since the introduction of the charge.

The increase charge of £42.00 for the cost of this service is down to the increase in officer costs, but still represents good value for money.

##### 5.8.2 The hourly rate for the cost of officers' time used within all the fee calculations have been approved by Financial Services.

### 6. Options considered and rejected

#### 6.1 Mandatory licensing.

##### 6.2 The Housing Act 2004 allows local authorities to charge a reasonable fee for a licence that ensures the process of mandatory licensing does not provide any financial burden on the council taxpayer however a local authority cannot make a profit from the fee charged.

#### 6.2 Enforcement costs.

The Housing Act 2004 allows the local authority to make a reasonable charge when initiating enforcement action against an individual.

Option 1 Do not charge for notices – Rejected.

The use of enforcement action is used as a last resort when individuals have refused to either work with the Council or have not undertaken necessary works to their properties. Not penalizing these landlords with a charge for the notice would send the wrong message to good landlords who comply with the legislation and provide safe and secure accommodation within the city.

#### 6.3 Non-mandatory inspections.

Option 1 – Provide the service for free – Rejected.

The Housing Standards Team is financed from the general fund and therefore, all council tax payers within Portsmouth, would be helping to finance this service, which they do not derive any direct benefit.

## **7. Duty to involve**

- 7.1 The initial fee matrix was fully consulted upon in 2006 and has not changed. The new non compliance fee has been generated using this matrix, with the concept of such being discussed with the Portsmouth and District Landlords Association at meetings held with their members.

## **8. Implications**

None.

## **9. Corporate priorities**

- 9.1 The main reason for mandatory licensing is to ensure that high risk HMO are managed effectively and the properties are suitable for use as a HMO.
- 9.2 Although used as a last resort, enforcement notices are an appropriate and proportionate tool to protect the health, safety and welfare of any occupant or visitor within the private rented sector.
- 9.3 This report contributes to the following Corporate Priorities:
- Reduce crime and the fear of crime
  - Increase availability and quality of housing
  - Protect and support our most vulnerable residents
  - Regenerate the city

## **10. Equality impact assessment (EIA)**

- 10.1 This is an annual review of the charges set and an Equalities Impact Assessment has been undertaken previously and no changes have been made.

## **11. Legal implications**

- 11.1 There are no immediate legal implications arising from this report.

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Signed by: Alan Cufley, Head of Community Housing and Regeneration.

## **Appendices:**

1. A breakdown of the actual costs to be charged.
2. The fee matrix.

**Background list of documents: Section 100D of the Local Government Act 1972**

NIL

The recommendation(s) set out above were approved/ approved as amended/ deferred/  
rejected by Cabinet Member for Housing on 13<sup>th</sup> July 2010.

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Signed by: Cabinet Member for Housing

Appendix 1.

**Mandatory Licensing Fees for Certain Houses In Multiple Occupation.**

**Basic property of 3 stories with 5 occupants:**

Single Application	<b>£523.50</b>
Multiple Application	<b>£465.68</b>

**Property of 3 stories or more with 6 to 10 occupants:**

Single Application	<b>£654.38</b>
Multiple Application	<b>£582.10</b>

**Property of 3 stories or more with 11 to 15 occupants:**

Single Application	<b>£785.26</b>
Multiple Application	<b>£698.52</b>

**Property of 3 stories or more with 16 to 20 occupants:**

Single Application	<b>£916.13</b>
Multiple Application	<b>£814.94</b>

**Property of 3 stories or more with 20 plus occupants:**

Single Application	<b>£1047.01</b>
Multiple Application	<b>£931.36</b>

**Mandatory Licensing Fees for Certain Houses In Multiple Occupation – On line applications.**

**Basic property of 3 stories with 5 occupants:**

Single Application	<b>£474.35</b>
Multiple Application	<b>£416.52</b>

**Property of 3 stories or more with 6 to 10 occupants:**

Single Application	<b>£592.94</b>
Multiple Application	<b>£520.66</b>

**Property of 3 stories or more with 11 to 15 occupants:**

Single Application	<b>£711.52</b>
Multiple Application	<b>£624.79</b>

**Property of 3 stories or more with 16 to 20 occupants:**

Single Application	<b>£830.11</b>
Multiple Application	<b>£728.92</b>

**Property of 3 stories or more with 20 plus occupants:**

Single Application	<b>£948.70</b>
Multiple Application	<b>£833.05</b>

Non compliance costs.

Failure to comply with Condition 1 – Reminder letter sent.	£95.00
Incomplete application forms – 2 <sup>nd</sup> reminder letter.	£65.00
Missed appointments or failure to provide full access.	£55.00
Charge for copies of licences.	£35.00

Other additional licensing costs:

To revoke a licence.	£85.00
To vary a licence.	£56.00

Enforcement Costs:

The service of an Improvement Notice (section 11 or 12)	£363.00
The service of a Hazard Awareness Notice	£363.00
The service of a Prohibition Order	£363.00
The service of an Emergency Prohibition Order	£379.00
The service to undertake Emergency Remedial Action	£295.00
To review an suspended Notice	£94.00

Non mandatory inspections:

To inspect a property and produce a full report	£174.00
To re inspect the property within 12 months and provide a report	£100.00
Re visit due to a missed appointment	£32.00

## Appendix 2.

**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	LO		£5.00	£0.00
Information pack sent out	15	LO			£5.00
Returned application form received	60	LO			£0.00
Enters details of application onto database, making new premises files as necessary	60	LO			£0.00
Check application form is correct including correct fee	60	HSO			£0.00
Verify particulars entered into date base relate to application	15	HSO			£0.00

Action (for perfect application)	Time in Minutes	Officer	Hr. Rate	Standard Cost	TOTAL
Send memo to Planning regarding HMO Details	15	HSO			£0.00
Examine application documentation and certificates or declarations submitted	60	HSO			£0.00
Make assessment of amenities and occupation	60	HSO			£0.00

Action (for perfect application)	Time in Minutes	Officer	Hr. Rate	Standard Cost	TOTAL
Verification inspection of the property (1 IN 5 ASSUMPTION)	120	HSO			£0.00

Action (for perfect application)	Time in Minutes	Officer	Hr. Rate	Standard Cost	TOTAL
Prepare license documents and certificates	60	HSO		£5.00	£0.00
Check and sign certificates / license as necessary, and serve by post	15	HSM			£5.00
Update data base register and public register	30	LO			£0.00



Number of HMO to be licensed (Assumption)

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	LO/HSO			£0.00
Carry out a fit and proper person check	15	HSO		£50.00	£50.00
Return incomplete application to applicant with letter (1 IN 3 ASSUMPTION)	15	LO		£5.00	£1.67
Cost for supplying existing plans to landlords	15	LO		£5.00	£5.00
Cost for officers to produce property plans	120	HSO			£0.00

Other additional costs	Time in Minutes	Officer	Hr. Rate	Standard Cost	TOTAL
Fixed cost of publicity and documentation	0	N/A		£1,000.00	#DIV/0!
Specific officer training	0	N/A		£600.00	#DIV/0!
Attendance to landlord forums to discuss licensing only	120	HSM			£0.00
Contingency sum	0	N/A	10%		#DIV/0!
Inflation cost over the 5 year period of the licence	0	N/A	3%		#DIV/0!
Review of licensing system / Inspections (Annual Cost)	0	assorted		£19.60	£98.00

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

Increased cost for licence	Property size	TOTAL
Increased cost due to property size	6 to 10	plus 25% #DIV/0!



# Portsmouth

CITY COUNCIL

11 to 15  
16 to 20  
20 Plus

*plus 50%*  
*Plus 75%*  
*Plus 100%*

#DIV/0!  
#DIV/0!  
#DIV/0!