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# NOTICE OF MEETING

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## **CABINET MEMBER FOR HOUSING**

**MONDAY, 10 OCTOBER 2016 AT 5.30 PM**

## **EXECUTIVE MEETING ROOM - THE GUILDHALL, FLOOR 3**

Telephone enquiries to Joanne Wildsmith, Democratic Services Tel: 9283 4057

Email: [joanne.wildsmith@portsmouthcc.gov.uk](mailto:joanne.wildsmith@portsmouthcc.gov.uk)

If any member of the public wishing to attend the meeting has access requirements, please notify the contact named above.

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## **CABINET MEMBER FOR HOUSING**

Councillor Steve Wemyss (Conservative)

### **Group Spokespersons**

Councillor Stephen Morgan, Labour

Councillor Stuart Potter, UK Independence Party

Councillor Tom Wood, Liberal Democrat

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(NB This Agenda should be retained for future reference with the minutes of this meeting.)

Please note that the agenda, minutes and non-exempt reports are available to view online on the Portsmouth City Council website: [www.portsmouth.gov.uk](http://www.portsmouth.gov.uk)

**Deputations by members of the public may be made on any item where a decision is going to be taken. The request should be made in writing to the contact officer (above) by 12 noon of the working day before the meeting, and must include the purpose of the deputation (for example, for or against the recommendations). Email requests are accepted.**

## **A G E N D A**

- 1 Apologies for Absence**
- 2 Declaration of Interests**
- 3 Additional and Mandatory licensing costs and the revised costs for enforcement action (Pages 1 - 16)**

The purpose of the report by the Director of Property & Housing is to formally review the current changes imposed by the Private Sector Housing Team for the mandatory and additional licensing schemes operating for Houses in Multiple Occupation (HMOs); to review the current charges imposed due to enforcement action undertaken under Part 1, Housing Act 2004.

(A copy of the Preliminary Equality Impact Assessment will be made available)

**RECOMMENDED that the Cabinet Member for Housing approve the new fees for the Additional and Mandatory Licensing programs within Portsmouth and approve the new enforcement fees relating to Part 1, Housing Act 2004 as set out in appendix 1 and 2 of the report.**

**4 Dates of Future Housing Cabinet Meetings (Information Item)**

To note the following dates of decision meetings:

Tuesday 8<sup>th</sup> November  
Tuesday 24 January 2017  
Monday 13<sup>th</sup> March

Members of the public are now permitted to use both audio visual recording devices and social media during this meeting, on the understanding that it neither disrupts the meeting or records those stating explicitly that they do not wish to be recorded. Guidance on the use of devices at meetings open to the public is available on the Council's website and posters on the wall of the meeting's venue.

# Agenda Item 3

Agenda item:

**Title of meeting:** Cabinet Member for Housing Decision meeting

**Date of meeting:** 10<sup>th</sup> October 2016

**Subject:** Review of the Fees charged for HMO licencing and Enforcement costs under Housing Act 2004.

**Report by:** Owen Buckwell, Director of Property and Housing

**Wards affected:** All

**Key decision:** Yes

**Full Council decision:** No

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## 1 Purpose of report

- 1.1 To formally review the current charges imposed by the Private Sector Housing Team for the mandatory and additional licensing schemes operating for Houses in Multiple Occupation (HMOs); to review the current charges imposed due to enforcement action undertaken under Part 1, Housing Act 2004.

## 2. Recommendations

**That the Cabinet Member for Housing;**

- 2.1 **approve the new fees for the Additional and Mandatory Licensing programs within Portsmouth and approve the new enforcement fees relating to Part 1, Housing Act 2004 as set out in appendix 1 and 2.**

## 3. Background

- 3.1 The Housing Act 2004 introduced mandatory licensing of Houses in Multiple Occupation. 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 local authority but no local authority can make a profit from the fee charged.
- 3.2 An Additional Licensing (AL) scheme was introduced by the city council into three post code areas, PO1, PO4 and PO5 from the 27<sup>th</sup> August 2013, again the legislation allows for the local authority to charge a reasonable fee for undertaking this function.
- 3.2 Section 49 of the Housing Act 2004 permits the City Council to levy a reasonable fee for their expenses in relation to enforcement action under Part 1 Housing Act 2004.

#### **4. Overview of HMO Licensing.**

- 4.1 There are currently 2950 properties that are subject to a HMO licence with just over 150 applications still waiting to be reviewed and, on average over the last 12 months about 16 new applications per month are being received.
- 4.2 These licences ensure that 12,800 people are living in HMO's that the city council have some control over and are working with the licence holder to improve the living conditions and the impact HMO's can have on the local community.
- 4.3 There are currently 1800 licensed landlords or companies, of which 23% have a single licence only. 53% of the landlords live in Hampshire and the largest single landlord has been licenced for 87 properties.

#### **5 Overview of Enforcement Action**

- 5.2 In 2015/16 the Private Sector Housing Team has served over 120 assorted Notices and Order on landlords and owner occupiers throughout the city. As an authority we will always try to work with the property owner before taking any enforcement action. However, we have to be mindful that the occupants are living in a property that could be affecting their health, safety and welfare.
- 5.3 The number of Notices or Orders served has increased, which is in part due to landlords not being as proactive in undertaking repair, but also the Private Sector Housing Team are more proactive in the service of a Notice or Order, which is a result of the recent changes in legislation.
- 5.4 Below is a list of the Notices/Orders where a charge can be made:
  - serving an improvement notice under Section 11 or 12 (includes suspended notices)
  - making a prohibition order under Section 20 or 21 (includes suspended orders)
  - serving a hazard awareness notice under Section 28 or 29
  - taking emergency remedial action under Section 40
  - making an emergency prohibition order under Section 43
  - making a demolition order under Section 265 of the Housing Act 1985 (c. 68)
  - review of suspended improvement notices (Section 17) and suspended prohibition orders (Section 26)

#### **6. Best Practice for charges.**

- 6.1 The matrix breaks down the process into specific selected areas that can be charged for as allowed within the legislation. This format has been adopted so the system is transparent and complies with the requirements of the Housing Act 2004.
- 6.2 The hourly rate for staff used within the fee calculation is approved by financial services and takes into account normal additional cost and overheads associated with staff employment.
- 6.3 Any person who has been served with any type of enforcement notice or order has the right to appeal to the First-tier Tribunal service. Over the last 2 years, we have

been involved with 4 appeals where the person on whom the enforcement action has been taken against, has not only appealed the notice or order, but has also appealed against the charge.

- 6.4 In all cases, the fee matrixes in particular the functions charged for and the time set have been scrutinised by the Tribunal and they have deemed in all cases that the costs are reasonable.

## **7 Future Charges - HMO Licencing.**

- 7.1 The revised HMO licensing fees must be set at a level that will cover all the costs of providing the scheme, based on estimated officer time and associated costs involved in processing the applications, inspections, monitoring and enforcement as well as all appropriate overheads.
- 7.2 The Additional Licencing scheme must end on the 27<sup>th</sup> August 2018, unless a further consultation is undertaken as the main aims and objectives have not been achieved throughout the 5 years of the scheme.
- 7.4 The proposed fees set for a Mandatory or an Additional Licence can be found Appendix 1.
- 7.5 The fee for all licences must be paid at the time an application is made.
- 7.6 The new charging structure will continue the discount given to Landlords and Agents who are members of the City Council's Landlord Accreditation Scheme (LAS).

## **8 Future Charges - Enforcement.**

- 8.1 The proposed fees set for all types of enforcement action under Part 1, Housing Act 2004 can be found in Appendix 2.
- 8.2 If any additional costs are incurred in determining of whether to serve a Notice/Order must be included on top of the total charge figure.
- 8.3 Appropriate additional charges on top of the total charge can include the following:
- If a valuation has been required to determine a course of action, the cost of the valuation report and the time to produce the report can be recovered.
  - If an expert opinion has been sought, e.g. electrical, drainage or structural the cost of doing this can be recovered.
  - If a contractor has been used to gain access to a property as part of exercising a warrant which results directly in the service of a notice/order, the cost of this action can be recovered.
  - If we have to arrange for emergency rehousing or temporary relocation of occupants. The cost of the housing can be fully recovered.
  - Additional officer time to facilitate service of the Notice/Order for emergency action.
- 8.4 No charge is to be made for copies of notices/orders that we are statutorily obliged to send out, e.g. to occupiers, mortgagees.

- 8.5 For buildings converted into flats where there are various leaseholders and a freeholder, a charge is to be made for each notice/order served, if there are varying responsibilities for works.
- 8.6 Only one charge is to be made for works that could have been placed on one notice, but the officer has decided to serve multiple notices to deal with the hazards present at the property. e.g. Combined Section 11 and 12 Improvement Notice.
- 8.7 Where there are several owners associated with a single property, i.e. where a group has come together to purchase a property, then only one charge is to be made, apportioned between the owners.
- 8.8 The Council may have regard to the personal circumstances of the recipient before exercising its power to make such a reasonable charge under Section 49 of the Housing Act 2004. If a change in the charge is made, this must be made by the Private Sector Housing Manager, who will have regard to the following:
- Income derived from the property.
  - Service of a Notice/Order due to tenant refusing access.
  - Officers and Landlord unable to agree on the works, but landlord willing to undertake works.

## **9 Equality Impact Assessment (EIA)**

- 9.1 A preliminary EIA was undertaken prior to the full consultation process. The information sourced from the respondents has not indicated that a full EIA is required.

## **10 City Solicitor's comments**

The report identifies the legal basis for service of notices under the 2004 act, that being section 49(1) in addition there is power to appeal to the appropriate Tribunal which has the power to quash, reduce and order repayment in respect to any notice or order under section 49(1), that power being pursuant to section 49(7)- the report identifies in line with the correct statutory provisions the basis for cost recovery and how such cost is computed.

## **11 Director of Finance comments**

- 11.1 This review is in line with previous recommendations, which approved the annual revision of fees and charges. The proposed fees set out within this report and the attached appendices are anticipated to cover the costs of carrying out the Licensing and Enforcement duties, and as a result the schemes will be delivered from within existing cash limits.

.....  
Signed by:

Owen Buckwell, Director of Property and Housing.

## **Appendices:**

Appendix 1 - Full list of the licence fee charges.

Appendix 2 - Full list of enforcement fees.

Appendix 3 - Overview of the current position of Additional Licencing.

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

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

<b>Title of document</b>	<b>Location</b>
None	

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by ..... on .....

.....

Signed by:

Councillor Steve Wemyss

Cabinet Member for Housing

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## Appendix 1.

Cost for a renewal of a Mandatory HMO licence – 2016.

<b>Renewal Application for a Mandatory licence</b>		
<b>Basic property of 3 storeys with 5 occupants:</b>	<b>Non LAS* Member</b>	<b>LAS* Member</b>
Single Application	£730	£670
Multiple Application	£640	£580
<b>Property of 3 storeys or more with 6 to 10 occupants:</b>		
Single Application	£860	£800
Multiple Application	£775	£715
<b>Property of 3 storeys or more with 11 to 15 occupants:</b>		
Single Application	£1010	£950
Multiple Application	£920	£860
<b>Property of 3 storeys or more with 16 to 20 occupants:</b>		
Single Application	£1170	£1110
Multiple Application	£1090	£1030
<b>Property of 3 storeys or more with 20 plus occupants:</b>		
Single Application	£1330	£1270
Multiple Application	£1150	£1090

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Cost for a new mandatory HMO licence – 2016.

<b>Basic property of 3 storeys with 5 occupants:</b>	<b>Non LAS* Member</b>	<b>LAS* Member</b>
Single Application	£790	£730
Multiple Application	£700	£640
<b>Property of 3 storeys or more with 6 to 10 occupants:</b>		
Single Application	£920	£860
Multiple Application	£835	£775
<b>Property of 3 storeys or more with 11 to 15 occupants:</b>		
Single Application	£1070	£1010
Multiple Application	£980	£920
<b>Property of 3 storeys or more with 16 to 20 occupants:</b>		
Single Application	£1230	£1170
Multiple Application	£1180	£1090
<b>Property of 3 storeys or more with 20 plus occupants:</b>		
Single Application	£1390	£1330
Multiple Application	£1230	£1150

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## Additional Licence Fee 2016-17.

Property Type	Per application.	Per application for properties operating on the designation date#
All HMOs	£430	£700
Second and subsequent application with the same licence holder	£370	N/A
Section 257 properties	£450	£640
Second and subsequent applications	£390	
Section 257 – no common area	£100	N/A
LAS discount per application	£100	

LAS discount is only available to those members who have been with the scheme since 1<sup>st</sup> January 2013.

The payment for the licence must be made in full with the application.

#The Designation date is the 27<sup>th</sup> August 2013.

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## Appendix 2.

## Enforcement Fee 2016-17.

Notice Type	Per Notice / Order.
serving an improvement notice under Section 11 or 12 (includes suspended notices)	£587
making a prohibition order under Section 20 or 21 (includes suspended orders)	£657
serving a hazard awareness notice under Section 28 or 29	£587
taking emergency remedial action under Section 40	£657
making an emergency prohibition order under Section 43	£622
making a demolition order under Section 265 of the Housing Act 1985 (c. 68)	£630
review of suspended improvement notices (Section 17) and suspended prohibition orders (Section 26)	£160

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### Appendix 3 - Overview of the Additional Licencing program to date.

- Over 2,700 licences have been issued under the project.
- Providing extra protection to more than 12,000 people living in the city.

<b>Aims set to achieve by Additional Licencing</b>	<b>Current Position</b>
To improve housing standards and maintenance within HMOs, with particular emphasis on amenity levels, fire safety and thermal comfort	A total of 1109 proactive inspections have been undertaken. The main areas of concern found within the HMOs have been fire safety issues, amenity, falls on stairs and dampness. Currently all works requested to be undertaken have been without the recourse to legal action by the landlords. Complaints from tenants about licenced properties have reduced since the Additional Licencing program started in 2013, by 14% - Could be due to the inspections being undertaken by the PSHT, but landlords are maintaining their properties better as fewer risks are being found during inspections.
To allow tenants to live in safe and effectively managed HMOs.	The complaints have decreased over the Additional Licensing project by 9%. We still get tenants being evicted, but landlords are undertaking the process correctly and currently we have had no cases of any retaliatory eviction.
Landlords to exercise appropriate management and supervision of the buildings to help reduce any adverse impact of HMOs on the neighbourhood.	The main issue from residents is about rubbish to the front of properties, not putting bins out etc. and ASB from tenants. We are working closely with the landlords about both of these issues to find a resolution to the problem. The local communities are better informed about what a landlord's responsibility is and through better community engagement we are in the process of bring landlords and residents together to discuss the best way forward. We have 10 residents' focus groups and 1 landlord group, all working together to help reduce the impact of HMOs on the community.
To expand existing partnerships with landlords, letting agents, tenants, the University, and partner agencies.	A large amount of work has undertaken with Portsmouth University, Hampshire Police and Fire service to enable a more rounded approach in dealing with problem properties and tenants. This has also enabled a wider more proactive approach to be taken by all partners around problems such as ASB, drugs and immigration.
To support owners and managing agents of HMOs to work proactively with the Council in achieving clearly defined standards and enhanced management of HMOs.	Since the project started in 2013, there have been a number of significant legislation changes. Through the landlord newsletter, all the licence holders have been informed of changes and the legislation has been broken down to enable them to understand their legal responsibilities. We have also looked at areas of legislation that landlords can find confusing, such as the HHSRS and again have provided them documentation to enhance their understanding.

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# Equality Impact Assessment

Preliminary assessment form v5 / 2013

[www.portsmouth.gov.uk](http://www.portsmouth.gov.uk)

The preliminary impact assessment is a quick and easy screening process. It should:

- identify those policies, projects, services, functions or strategies which require a full EIA by looking at:
  - negative, positive or no impact on any of the equality groups
  - opportunity to promote equality for the equality groups
  - data / feedback
- prioritise if and when a full EIA should be completed
- justify reasons for why a full EIA is not going to be completed

**Directorate:**

Director of Property

**Function e.g. HR,  
IS, carers:**

Private Sector Housing

**Title of policy, service, function, project or strategy (new or old) :**

Review of the fees charges to landlords for the HMO licencing programs and enforcement under Housing Act 2004

**Type of policy, service, function, project or strategy:**

- ☒ Existing
- ☐ New / proposed
- ☐ Changed

**Q1 - What is the aim of your policy, service, function, project or strategy?**

To ensure that PCC continues to undertake full cost recovery as required by Housing Act 2004

**Q2 - Who is this policy, service, function, project or strategy going to benefit or have a detrimental effect on and how?**

This is an ongoing project and the cost for the service are reviewed on an annual bases.

**Q3 - Thinking about each group below, does, or could the policy, service, function, project or strategy have a negative impact on members of the equality groups below?**

Group	Negative	Positive / no impact	Unclear
Age	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Disability	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Race	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gender	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Transgender	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sexual orientation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Religion or belief	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Pregnancy and maternity	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other excluded groups	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

If the answer is "negative" or "unclear" consider doing a full EIA

**Q4 - Does, or could the policy, service, function, project or strategy help to promote equality for members of the equality groups?**

Group	Yes	No	Unclear
Age	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Disability	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Race	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Gender	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Transgender	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sexual orientation	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Religion or belief	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pregnancy or maternity	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other excluded groups	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

**If the answer is "no" or "unclear" consider doing a full EIA**

**Q5 - Do you have any feedback data from the equality groups that influences, affects or shapes this policy, service, function, project or strategy?**

Group	Yes	No	Unclear
Age	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Disability	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Race	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Gender	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Transgender	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Sexual orientation	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Religion or belief	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Pregnancy and maternity

☐☒☐

Other excluded groups

☐☐☐

If the answer is "no" or "unclear" consider doing a full EIA

**Q6 - Using the assessments in questions 3, 4 and 5 should a full assessment be carried out on this policy, service, function or strategy?**

☐

yes

☒

No

**Q7 - How have you come to this decision?**

This is a change only to the fees charged for a HMO license or for enforcement work undertaken under the Housing Act 2004

If you have to complete a full EIA please contact the Equalities and diversity team if you require help  
Tel: 023 9283 4789 or email:equalities@portsmouthcc.gov.uk

**Q8 - Who was involved in the EIA?**

Bruce Lomax

**This EIA has been approved by:**

**Contact number:**

**Date:**

Please email a copy of your completed EIA to the Equality and diversity team. We will contact you with any comments or queries about your preliminary EIA.

Telephone: 023 9283 4789

Email: equalities@portsmouthcc.gov.uk