



**Title of meeting:** Cabinet

**Date of meeting:** 27<sup>th</sup> June 2023

**Subject:** Fee Structure for Additional Licensing Scheme for Houses in Multiple Occupation in Portsmouth

**Report by:** James Hill - Director for Housing, Neighbourhoods and Building Services

**Report Author:** Clare Hardwick - Head of Private Sector Housing

**Wards affected:** All

**Key decision:** No

**Full Council decision:** No

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**1. Purpose of report**

1.1. The purpose of the report is to present the finalised fee structure for the Additional Licensing Scheme for Houses in Multiple Occupation in Portsmouth.

**2. Recommendations**

2.1. That the Cabinet approves the proposed fee structure for the city council's Additional HMO licensing fees as outlined in Appendix 1, to apply to all HMO licences granted through the Councils additional licensing scheme designation which will commence on 1<sup>st</sup> September 2023.

2.2. That the Cabinet instructs officers to conduct an annual review of the fee structure for the additional licensing scheme throughout the designation period, and present proposals for any required fee adjustments accordingly to the cabinet member of Community Safety for approval.

**3. Background**

3.1. On 22<sup>nd</sup> November 2022 Cabinet considered a report titled "Additional Licensing of Houses in Multiple Occupation". This report was produced as an action identified in the Portsmouth City Council Private Rental Sector Strategy 2021-2026, and following a statutory 10 week consultation process. Through this report Cabinet made the decision to make a city wide designation for additional licencing, which will commence on 1<sup>st</sup> September 2023.

- 3.2. Whilst making this decision to designate for Additional Licensing; Cabinet also approved an indicative fee structure for the scheme and instructed officers to return to Cabinet before September 2023 with a report outlining a finalised fee structure.
- 3.3 The Housing Act 2004 makes provision for local authorities to recover their costs associated with operating HMO licensing schemes. There is no upper limit on the maximum fee that can be charged but local authorities are not allowed to make a profit, and the fees charged must be reasonable and proportionate.
- 3.4 The High Court has indicated that local authorities have a duty to administer funds so as to protect the interests of council tax payers in accordance with the accepted principal that licensed activities should be funded by those benefitting from them, rather than council tax payers.
- 3.5 Recoverable costs can include set-up costs, processing applications, third party costs, overheads, management costs, setting and reviewing fees, policies and procedures, monitoring licence holders, service development and improvement, and identifying unlicensed landlords (this is regarded as being of benefit to HMO licence holders as it helps avoid unlicensed operators undercutting those with HMO licences).
- 4. Financial appraisal of an additional licensing scheme**
- 4.1. Any HMO licensing scheme, including a designation of additional licensing, requires a fee payable by the licence holder to cover the city council's costs for operating the scheme. This fee should take into account all costs incurred by the authority in carrying out their functions, as outlined in The Housing Act 2004.
- 4.2. When cabinet made the decision to designate additional licensing, they also instructed officers to review the proposed fee structure before the commencement of the scheme; to take into account a number of variable factors which could affect the scheme being cost neutral for the local authority, before September 2023. Examples include changes to the national rate of inflation, changes to staffing costs, or further information on the number of HMOs in the city. For this reason the fee structure should also be subject to regular review throughout the scheme.
- 4.3. When setting the fees and charges structure for the licensing scheme the Council must consider the costs incurred in adequately resourcing and administering such a scheme, including staff costs for administration, inspections and enforcement, training, and publicity and other costs such as office requirements and management support.
- 4.4 The fee structure has been developed to provide incentives for compliant landlords whilst providing sufficient resources to ensure that the scheme can be delivered effectively, and every property can be inspected at least once during the individual licence term.

4.5 The proposed licence fee ranges from £1,076 for a 1 year licence, £803 for a 2.5 year licence, and £776 for a 5 year licence (£12.93 per month), depending on the applicant meeting the criteria for the different terms of licences (detailed in Appendix 2). This differs to the provisional fee structure outlined in the cabinet report of 22 November 2022 by 4% as outlined in the following table.

Licence Fee Income	Original Fee	Revised Fee
New 5 Year Licence	£746	£776
New 2.5 year Licence	£772	£803
New 1 year Licence	£1,035	£1,076
Renewal 2.5 Year Licence	£623	£648
Renewal 1 Year Licence	£597	£621

4.6 Based on estimated numbers of HMOs across the city, to deliver the licensing scheme the city council are required to employ more staff resource. Estimated requirements based on a city-wide designation, with a tiered system of licence terms based on the eligibility of the applicant, indicates that as many as 40FTE additional officers will be required to deliver the scheme. The licensing model is complex, and the resources required to properly administer it depends on the number of licences issued for each category of licence term. Most notably each property will be inspected at least once during their licence term, so licences issued for 1 year where concerns have been identified with their management or compliance will require an annual inspection, whereas licenses issued to compliant applicants for 2.5 years will be inspected at least twice during the 5 year scheme, and well performing landlords issued with a 5 year licence will require an inspection only once during the 5 year period of the scheme. The Council has no way of accurately identifying how many licences will be issued for each category of licence term in advance, and therefore the exact resources required to administer it. Officers will resource initially on the basis of processing all licence applications, and to have adequate staff to inspect the estimated number of 1 year licences issued during their initial licence term. Once the scheme is operational and the number and distribution of licences in known, further recruitment will be conducted to resource against the demand for inspections for all licences issued. This may mean that inspections of 2.5 year or 5 year licensed properties will need to be phased over years 2 and 3 of the scheme..

4.7. The fee structure outlined in Appendix 1 relates directly to the fee structure outlined in the Cabinet report of November 2022 for the additional licensing scheme, but represents an uplift in costs of approximately 4% to reflect the anticipated rise in costs to the council; predominantly in staff salary costs. This equates to an increased cost of approximately 50p per month for a 5 year licence, £1.03 per month for a 2.5 year licence, or £3.42 per month for a 1 year licence; compared with the fee structure outlined in the Cabinet report of November 2022.

## **5. Risks**

- 5.1. That insufficient income is received to cover the costs of the scheme due to an over estimation of the number of HMOs in the city or the reluctance of landlords to licence their properties. The data on the number of HMOs in the city is not exact. The fee structure is based upon data which indicates that approximately 4,800 properties would require an additional licence. Staff resource will be required to seek out unlicensed properties and actively enforce the licensing requirements. A flexible approach to resourcing the scheme will help to mitigate this risk, along with regular monitoring of the licensing fee structure and a formal annual review of the licensing fee structure.
- 5.2. That there has been an underestimation in the numbers of HMOs in the city and that the licensing service is unable to cope with higher than expected volumes of applications. A flexible approach to resourcing the scheme will help mitigate against this risk.

## **6. Integrated impact assessment**

- 6.1. See Appendix 3

## **7. Legal implications**

- 7.1 Part 2 of the Housing Act 2004 ("the Act") provides a mandatory licensing scheme for certain properties defined in that Act as HMOs. Section 56 of the Act provides a Local Housing Authority with a power to extend that scheme to certain types of HMOs outside the mandatory scheme by designating the whole or any parts of its area as being subject to Additional Licensing. Section 63 allows the authority to charge a fee for an application.
- 7.2 Any fee set must be fair, transparent and reflect the costs incurred by the Council in carrying out its functions. The fees cannot be used to raise extra revenue for other purposes. When setting fees, the Local Housing Authority may, pursuant to s.63 of the Act (subject to any regulations made under subsection 5) take into account:
- All costs incurred by the authority in carrying out their functions under Part 2 of the Act, and
  - All costs incurred by them in carrying out their functions under Chapter 1 of Part 4. In relation to HMOs.
- 7.3 Payment of HMO licence fees is required to be split into two stages, the first is payable on application and covers the administering of the application process. The second stage is payable on award of the licence and covers the costs of running the scheme.



7.4 It is within the Cabinet's powers to make the recommendations set out within this report, in accordance with the Council's constitution.

**8. Director of Finance's comments**

8.1 The charging mechanism for the Additional Licencing scheme has been designed to be cost neutral for the local authority. This requires accuracy to ensure that the costs of running the scheme are recovered through the fees charged, whilst also ensuring that no surpluses are made once the costs of administering the scheme have been taken into account.

8.2 As the report states, the number of HMOs in operation within Portsmouth are as yet unknown. As this picture becomes clearer the service will resource the service appropriately. The Additional Licencing charges work on the basis that we have a certain level of expenditure divided by a number and type of licences. This can, at this stage, only be estimated. The consequence of this is that the Licence fee income may not be adequate to cover the costs, resulting in a budget pressure.

8.3 The recommended fee structure for the additional licensing scheme includes an increase of approximately 4%, compared with that outlined in the Cabinet report of November 2022. This reflects a rise in anticipated costs to the council, predominantly in staffing resources. It is recommended that fees should continue to be reviewed periodically throughout the scheme.

8.4 If the charging mechanism makes a surplus, these would be remitted to a ring-fenced reserve and the Council would need to demonstrate that over a 5-year period that the scheme breaks even.

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Signed by: James Hill, Director of Housing, Neighbourhood and Building Services

**Appendices:**

- Appendix 1 - Additional Licensing Fee Structure June 2023
- Appendix 2 - Criteria for different licence terms
- Appendix 3 - Integrated Impact Assessment (IIA)

**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:

Title of document	Location
Housing Act 2004	<a href="http://legislation.gov.uk">Housing Act 2004 (legislation.gov.uk)</a>
Cabinet report - Examine the need for Additional Licensing controls of HMOs in the City - March 2022	<a href="http://portsmouth.gov.uk">Additional Licensing of HMOs.pdf (portsmouth.gov.uk)</a>



PRS Strategy 2021 - 2026	<a href="#">Private Rental Sector Strategy for Portsmouth 2021- 2026</a>
Additional Licensing consultation information	<a href="#">Additional-Licensing-Scheme-for-consultation-accessible-.pdf (portsmouth.gov.uk)</a>
Cabinet report - Additional Licensing Scheme for Houses in Multiple Occupation in Portsmouth - November 2022	<a href="#">Additional Licensing of Houses in Multiple Occupation HMO.pdf (portsmouth.gov.uk)</a>

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

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Signed by: