

13 December 2016		ITEM: 6
Housing Overview and Scrutiny Committee		
Update on HMO Licence Fee Consultation and the Proposal of Additional Licensing		
Wards and communities affected: All	Key Decision: Key	
Report of: Dulal Ahmed, Housing Enforcement Manager		
Accountable Head of Service: John Knight , Head of Housing		
Accountable Director: Roger Harris, Corporate Director of Adults, Housing and Health		
This report is Public		

Executive Summary

On 21st July 2016 the Housing Overview and Scrutiny Panel agreed to review the HMO licence fee changes proposed by the Private Sector Housing Service for Houses in Multiple Occupation (HMOs). The fee changes are based on the extension of HMO licencing as a statutory requirement. This relates to the Council's five year licence fee charges in 2017/18.

This report outlines the consultation feedback and recommendations of residents, private landlords and stakeholders affected by the proposed changes and how the Council can support them through a formal landlord accreditation scheme and sets out a proposed level of licence fee.

In addition, it sets out the proposal of carrying out an assessment of Additional HMO Licensing under the Housing Act 2004, to improve housing standards on other HMO categories types, outside of the mandatory definition within Thurrock.

Section 58(6) and 82(6) of the Housing Act 2004 gives Local Authorities in England general approval to declare an additional licensing scheme within their area provided the local authority consult with persons who are likely to be affected by the schemes for not less than 10 weeks.

1. Recommendation(s)

It is recommended that Members:

1.1 Note the Central Government changes to mandatory HMO licensing scheme;

- 1.2 **Note the feedback to Thurrock Council's public consultation on this extension to HMO licencing and on the revision of HMO licence fees to carry out this duty;**
- 1.3 **Note the proposed HMO licence fee charges for 2017/18 to Cabinet in January 2017.**
- 1.4 **Note the proposal to explore the option of Additional HMO licensing to properties below the Government's mandatory definition. This assessment will test it's appropriateness for additional licensing powers in Thurrock.**

2. Introduction and Background

- 2.1 At the end of December 2015, the Government consulted on the proposals to extend the scope of mandatory licensing of HMOs from three storey buildings occupied by five persons or more and two or more households to two storey buildings occupied by at least 4 persons. The council consulted landlords and members of the public on the Government's proposals and the Council's response in the summer. These results are summarised in section 3.
- 2.2 The Government has announced its decision to extend mandatory HMO licensing. This includes removing the storey rule so all houses (regardless of how many floors) with 5 or more people from 2 or more households are in scope. Also, it will extend mandatory licensing to flats above and below business premises (regardless of the number of storeys).
- 2.3 The Private Sector Housing Service has 5 licensed HMO on its public register.
- 2.4 We are aware of over 300 HMOs that meet the new definition criteria and will therefore need to be licenced. We estimate a further 100 properties based on Council Tax and Electoral Roll intelligence data. This is a significant licensing increase for the Private Sector Housing Service to administer.
- 2.5 Currently, there is a flat HMO fee structure for small and large HMOs. Our proposal of a variable fee structure reflects the administration cost on carrying out this inspection duty.
- 2.6 The Local Housing Authority (LHA) can determine its own fees for HMO licence applications. In setting its fees a LHA may take into account all costs it has incurred in carrying out its licensing function and the Private Sector Housing Team has drafted a suite of variable licence fees to reflect our duties.
- 2.7 The Housing Act 2004 allows LHA to impose a licence on other categories of HMOs in its area which are not subject to mandatory licensing. This is known as Additional Licencing. The LHA can do this if it considers that a significant proportion of these HMOs are managed sufficiently ineffectively so as to give rise to one or more complaints either for those occupying the HMOs or for members of the public. This list is not limited to unaddressed anti-social

behaviour, neighbour nuisance, fly tipping, noise, poor management, maintenance problems to name a few.

2.8 The Private Sector Housing Service will carry out this assessment and report its findings.

3. Consultation

3.1 The Private Sector Housing Service carried out a variety of engagement methods to capture public feedback on the extension of HMO licensing and the new HMO licence fee structure.

3.2 This included an independent telephone survey, broad public consultation via an on-line questionnaire, a Private Landlord Forum and stakeholder meetings with the Police and Fire Service.

3.3 The telephone survey results undertaken by KWest in July 2016 showed 67% out of 166 residents are supportive of extending HMO licencing. They agreed that the Council should be doing more to tackle poorly managed HMOs.

3.4 The on-line public consultation survey on the Council website was completed by a total of 108 people. The key results showed that:

- 81% of private landlords and 9% of residents completed the survey;
- 74% rented of their homes on the open market including to family and friends;
- 34% of landlords wanted help to find a good tenant;
- 76% felt HMO licensing improved their property management standards;
- 74% had not heard about the pending government HMO consultation changes;
- 57% were unaware that all licensable HMOs will have to pay a licence fee;

3.5 Essex Police and Fire Brigade are in strong support of mandatory and extending HMO licensing in Thurrock. This increases the safety of residents and would assist their ability to deal with anti-social behaviour and fire safety associated with HMOs.

3.6 The Private Sector Housing Team hosted a Landlord Forum in August which identified that a number of local landlords will require HMO education and guidance to comply with the law. This is consistent with the on-line survey results which showed 74% had not heard about the pending changes.

3.7 Landlords with more than one HMO welcomed the capped discount to support them.

3.8 An *'early bird'* discount scheme was regarded as another positive measure to reward private landlords registering early.

4 The Landlord Accreditation Scheme

- 4.1 Thurrock's private rented sector is dominated by small landlords and although much of the sector functions well the problem of poor management, neighbour nuisance and maintenance problems persist and have increased as the sector has expanded.
- 4.2 One method of tackling poorly performing private landlords is to engage constructively with them and encourage them to join an accreditation scheme. Operating an accreditation scheme demonstrates to both landlords and existing and prospective tenants that the council actively supports the provision of safe and suitable private rented accommodation and gives landlords an incentive to operate within the law. In addition an accreditation scheme helps landlords meet the required standards of management and maintenance and the benefits to the landlord include:
- Enhance knowledge and skills to run a more successful business;
 - A market advantage appealing to tenants that they are accredited and trust worthy;
 - Having access to up to date information such as legislative changes, advice and support;
 - Access to discounted and free training events;
 - Working in partnership with the council's Private Housing and Housing Solutions Service, to improve their regulatory compliance and provide accredited landlords a tenant introduction service.

5 Proposed Licencing and Licence Fees

- 5.1 Appendix 1 shows the proposed fees for licencing the HMO housing market. This includes incentives to encourage early compliance and discounted fees for landlords with more than one property.
- 5.2 A five year licence will be granted to our private landlords who pass their HMO management conditions and maintenance inspection.
- 5.3 The 2017/18 new licence fees are comparable to other local authorities providing the same service.
- 5.4 The proposed fee structure plan encourages Private Sector Landlords operating in Thurrock to pay and become an accredited landlord scheme member. This entitles them to receive a 15% discount on their HMO licence fees.
- 5.5 Private landlords with more than one HMO (Landlord accredited) will also benefit from a discounted fee, capped at 20% per property.

- 5.5 A temporary 12 month license fee will be granted in the circumstances when a landlord fails to pass their housing management and maintenance inspection. Other reasons include unaddressed anti-social behaviour concerns associated with their property and/or the landlord neglecting his management duties in any of their properties. This will support them to trade lawfully whilst evidencing they can achieve full compliance.
- 5.6 The council will, however, prosecute landlords who fail to improve when advised to do so and after our support to them has not resulted in a satisfactory improvement.
- 5.7 The new fees do not apply to a private landlord leasing a whole house/flat to a single household unless the principal tenant sublets rooms to two or more unrelated sub tenants.
- 5.8 The extension of HMO licencing will necessitate a greater level of work for the Private Sector Housing team and the costs incurred are legally recoverable by the Council through a licence fee mechanism. This represents the administrative and officer costs in preparing a 5 year HMO licence.

6. Consultation (including Overview and Scrutiny, if applicable)

- 6.1 A full consultation on the new fees has been carried out – see section 3 above. No further consultation will take place. The new fees if approved will be published on the website.
- 6.2 The assessment of additional HMO Licensing under Part 2 of the Housing Act 2004 will commence prior to 2017/18. This opportunity will test the reasons for the proposal in Thurrock, covering HMOs below the mandatory definition.

7. Impact on corporate policies, priorities, performance and community impact

- 7.1 Extending HMO licensing should improve the health and wellbeing of private tenants through the reduction of poor and unsafe housing conditions. This aim contributes twofold to the Council's strategic objective of '*Improve health and well-being*' and '*Build pride, responsibility and respect*'.

8. Implications

8.1 Financial

Implications verified by: **Julie Curtis**
HRA and Development Accountant

This report recommends a new HMO fee structure. The fees for this type of licensing are reviewed every year thereafter to be open and transparent.

Implementing the extension of HMO licensing in 2017/18 will have future staffing implications for the Private Sector Housing Team who will be administering the scheme. These costs will be recovered from the HMO income fee.

The expected licence fee income of over 300 homes will capture nearly all of the smaller HMOs within the new HMO licence definition for the General Fund. This represents a significant licensing increase because under the existing HMO licence definition, the Council has 5 licensed HMOs on its public register.

8.2 Legal

Implications verified by: **Chima Obichukwu**
Housing Litigation Solicitor

When the Local Authority has a statutory duty to provide a service, any charge to be imposed must be within any statutory fee range outlines in related legislation.

Section 63(3) of the Housing Act 2004 provides the Council the right to determine a fee for a HMO licence application and recover all reasonable costs incurred in the processing of licences. This fee structure complies with the Housing Act 2004.

Section 56(3) of the Housing Act 2004 states that the Local Authority must take reasonable steps to consult persons who are likely to be affected by the additional licence designation and consider any representations made in accordance with the consultation.

8.3 Diversity and Equality

Implications verified by: **Natalie Warren**
Community Development Manager

The objective of the proposals is to improve the private rented sector in terms of meeting minimum legal safety standards to protect lives and the wellbeing

of residents. A draft equality impact assessment will be completed alongside the consultation. No negative equality implications are foreseen but there are expected to be positive measures by ensuring a minimum standard for all residents.

8.4 Other implications (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

A new staffing structure has been proposed to manage this new demand. As there is a large increase in the duties to be undertaken by officers to implement the HMO licensing. This will necessitate an increase in the workforce in 2017/18.

9. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- Update on the Housing and Planning Act 2016, 21st July 2016 Housing Overview Scrutiny Panel Report
- Extending mandatory licensing of Houses in Multiple Occupation (HMOs) and related reforms November 2015, Department for Communities and Local Government
- Homes in Multiple occupation and residential property licensing reforms October 2016, Department for Communities and Local Government

10. Appendices to the report

Appendix 1 - HMO fee Schedule 2017/18

Report Author:

Dulal Ahmed

Housing Enforcement Manager

Appendix 1- HMO fee Schedule 2017/18

	Number of People	Landlord Accredited	Non-Accredited	Accreditation discount
New HMOs 5 year License (Fees for single tenancies and shared houses)	4-5	£949.70	£1,092.16	£142.46
	6 to 10	£999.40	£1,149.31	£149.91
	11 to 15	£1,099.10	£1,263.97	£164.87
	16 to 20	£1,198.80	£1,378.62	£179.82
	21 to 29	£1,378.26	£1,585.00	£206.74
	30 or more	£1,597.60	£1,837.24	£239.64
* extra fee may be applicable for larger premises inspection				
New HMOs 12 month temporary License (Fees for single tenancies and shared houses)	4-5	£474.85	£546.08	£71.23
	6 to 10	£499.70	£574.66	£74.96
	11 to 15	£549.55	£631.99	£82.44
	16 to 20	£599.40	£689.31	£89.91
	21 to 29	£689.13	£792.50	£103.37
	30 or more	£798.80	£918.62	£119.82
Renewable HMOs License (5 Year- no changes or management regulation breaches)	4-5	£474.85	£546.08	£71.23
	6 to 10	£499.70	£574.66	£74.96
	11 to 15	£549.55	£631.98	£82.43
	16 to 20	£599.40	£689.31	£89.91
	21 to 29	£689.13	£792.50	£103.37
	30 or more	£798.80	£918.62	£119.82
Other Misc. income				
License Variation		£150.00	£172.50	£22.50
Change of Manager or ownership		£150.00	£172.50	£22.50
Permitted number changes		£150.00	£172.50	£22.50
License Holder Change Fee reduced by 50% if application for new license within 12 month of issue and subject to property condition/inspection)	4-5	£474.85	£546.08	£71.23
	6 to 10	£499.70	£574.66	£74.96
	11 to 15	£549.55	£631.98	£82.43
	16 to 20	£599.40	£689.31	£89.91
	21 to 29	£689.13	£792.50	£103.37
	30 or more	£798.80	£918.62	£119.82
Failure to notify changes in ownership or management (non-license holder)		£250.00	£250.00	£0.00
HMO Public license register fee		£59.20	£59.20	£59.20
Assisting with Licensing application (First 30 minutes free for accredited landlords, thereafter £50.00 per hour pro rata)		£50.00	£50.00	£0.00
DBS Landlord Check		£25.00	£25.00	£0.00