

<b>9 November 2021</b>		<b>ITEM: 6</b>
<b>Housing Overview and Scrutiny Committee</b>		
<b>Fees &amp; Charges Pricing Strategy 2022/23</b>		
<b>Wards and communities affected:</b> All	<b>Key Decision:</b> Non-Key	
<b>Report of:</b> Kelly McMillan, Business Development Project Manager		
<b>Accountable Assistant Director:</b> Ewelina Sorbjan, Assistant Director, Housing		
<b>Accountable Director:</b> Ian Wake, Corporate Director of Adults, Housing and Health		
<b>This report is Public</b>		

## **Executive Summary**

Local Authorities are involved in a wide range of services and the ability to charge for some of these services has always been a key funding source to Councils.

This report specifically sets out the charges in relation to services within the remit of this Overview and Scrutiny Committee. The charges dealt with are for the General Fund by the Housing Service. Charges will take effect from the 1<sup>st</sup> April 2022 unless otherwise stated. In preparing the proposed fees and charges, directorates have worked within the charging framework and commercial principles set out in the report.

The full list of proposed charges is detailed in appendix 1 to this report.

### **1. Recommendations**

**1.1 That Housing Overview and Scrutiny Committee note the revised fees, including those no longer applicable, and that Housing Overview and Scrutiny Committee comment on the proposals currently being considered within the remit of this committee.**

### **2. Background & introduction**

2.1 The paper describes the fees and charges approach for the services within the Housing Scrutiny Committee remit for 2022/23 and will set a platform for certain pricing principles moving forward into future financial years.

2.2 The paper provides narrative for the General Fund aspects of the housing area and includes:

- Houses in Multiple Occupation (HMO) Licence
- Housing Enforcement Notices
- Penalty Charges – Housing Planning Act 2016
- Penalty Charges – Smoke & Carbon Monoxide Alarm Regulations 2015
- Energy Efficiency Regulations 2015
- Electrical Safety Standards in the Private Rented Sector [England] Regulations 2020
- Mobile Homes Act 2013
- Travelers' Sites

2.3 The fees & charges that are proposed are underpinned by statutory, regulatory and discretionary conditions.

### 3. Thurrock Charging Policy

3.1 The strategic ambition for Thurrock is to adopt a policy on fees and charges that is aligned to the wider commercial strategy and ensures that all services cost recover.

3.2 Furthermore, for future years, while reviewing charges, services will also consider the level of demand for the service, the market dynamics and how the charging policy helps to meet other service objectives.

3.3 Rather than set a blanket increase across all service lines, when considering the pricing strategy for 2022/23 some key questions were considered.

- Where can we apply a tiered/premium pricing structure
- How sensitive are customers to price (are there areas where a price freeze is relevant)
- What new charges might we want to introduce for this financial year
- How do our charges compare with neighbouring boroughs
- How do our charges compare to neighbouring boroughs and private sector competitors (particularly in those instances where customers have choice)
- How can we influence channel shift
- Can we set charges to recover costs
- What do our competitors charges
- How sensitive is demand to price
- Statutory services may have discretionary elements that we can influence
- Do we take deposits, charge cancellation fees, and charge an admin fee for duplicate services (e.g. lost certificates.)

3.4 For housing, a number of different methods to tier their charges depending on the service area are used:

- **Houses in Multiple Occupation** – are tiered based on the number of rooms, and whether the landlord is accredited or unaccredited.
- **Enforcement Notices** – are tiered around the number of hazards in conjunction with the number of bedrooms in the accommodation.

- **Mobile Homes Licencing** – these charges are tiered around number of pitches
- **Civil Penalty Notices** – these are tier charges based on severity of the offence, potential harm and considers the landlord’s income and track record.

3.5 The key following points should be noted for 2022/23 fees and charges:

3.6 The Private Housing Enforcement Policy is regularly updated as required to meet the changing circumstances caused by COVID19 to ensure a pragmatic approach is taken when dealing with landlords and the council continue to emphasis the importance of keeping properties free from hazardous conditions.

- **Houses in Multiple Occupation.** These charges will increase by an average of 2.3% (£23), as rounded to the nearest pound.
- **Assisting with licencing applications.** These will increase by an average of 3.05% (£2), as rounded to the nearest pound.
- **Enforcement Notices.** These will increase by an average of 10% (£60), as rounded to the nearest pound.
- **Penalty Charges – Housing Planning Act 2016.** These charges were introduced in 2018/19 and are scaled up to the maximum sum allowed.
- **Penalty Charges – Smoke & Carbon Monoxide Alarm Regulations 2015.** These charges are scaled in line with industry standard.
- **Penalty Charges – Energy Efficiency Regulations 2015.** These charges are scaled in line with industry standard.
- **Penalty Charge – The Electrical Safety Standards in the Private Rented Sector [England] Regulations 2020.** These charges are scaled in line with industry standard.
- **Mobile Homes.** The application fees have increased by an average of 2.2% (£9), as rounded to the nearest pound, and a new charge for “mobile homes fit and proper person test” has been added for 2022/23.
- **Travellers’ Sites.** These will increase by 3.57% (£4), as rounded to the nearest pound.

#### 4. Proposals and Issues

4.1 The fees and charges for each service area have been considered and the main considerations are set out below.

4.2 The increased fees and charges are challenging and represent our commercial ambitions as a Council.

4.3 Unless indicated otherwise, fees and charges for 2022/23 will increase in line with forecast inflation (subject to rounding).

4.4 The following sections outline the fees and charges implications for the individual service streams.

#### 5. Mandatory and Additional Houses of Multiple Occupation (HMO)

## **Licences**

- 5.1 The HMO licence fee is regulated under Section 63(3) of the Housing Act 2004. This allows the Council to set its fee taking into account all costs it incurs in carrying out its licencing function. This has been done for all licence applications for up to five years.
- 5.2 The regulations do not allow the Council to make a surplus by increasing its licence fee above the fully loaded costs of issuing a licence.
- 5.3 Additional licencing of Houses of Multiple Occupation came into force on 1<sup>st</sup> June 2019 for shared houses let to three to four unrelated persons in certain parts of the borough. It lasts for five years ending on 31<sup>st</sup> May 2024.
- 5.4 Legislative changes require the HMO fee structure to be split into two parts to take into account of the actual staff time required to process HMO licences.

Part 1 – the amount that becomes payable on application

Part 2 – the amount that becomes payable on the grant of a licence

Both parts give a total for licencing a dwelling.

All licencing income must be ring fenced to administer the licencing scheme as per the regulatory guidance on HMO licence fees.

- 5.5 Mandatory and additional licencing fees will increase by an average of 2.3% for the financial year 2022/23.

## **6. Housing Enforcement Notices**

- 6.1 Housing enforcement notices are discretionary charges. The council will only serve an improvement notice on the landlord if this is the 'only way' of protecting the health and safety of the occupiers requiring the landlord to meet the minimum housing standards. The Housing Act 2004 allows the Council to charge for the service of legal notices under the act. The regulations state the costs should be reasonable and auditable.

- 6.2 These charges will increase by an average of 10% for the financial year 2022/23.

## **7. Penalty Charges – Housing Planning Act 2016**

- 7.1 Legislative changes under this act allow the Council to serve civil financial penalties for certain housing offences under the Housing Act 2004.

- 7.2 Civil penalties cover:

- Failure to comply with an improvement notice [section 30]
- Offences in relation to licencing of HMO [section 72]
- Offences in relation to licencing of houses under Part 3 of the Act [Section 95]

- Offences of contravention of an overcrowding notice [section 139]
- Failure to comply with management regulations in respect of HMO [section 234]

- 7.3 The standard of proof must meet a criminal prosecution standard to serve a Civil Penalty Notice.
- 7.4 The Council charge applied is scalable from the published minimum fee up to a maximum of £30k; at the discretion of the Private Housing Service based on the severity, repetition and cooperation of the third party in resolving the issues.
- 7.5 Under this framework the Council retain the financial penalty imposed rather than the courts for the fine paid as punishment for the offence. This new income from civil penalties must be ring fenced on private housing enforcement activities as per the regulation guidance.
- 7.6 This will be a transparent process which will be outlined in the council statement of principles, to be issued with the new fee structure. Appeals may also be made against the civil penalty charge, with the charge varied or waived dependent on individual mitigating circumstances. Where non-payment occurs the civil debt recovery process will be used to recover the outstanding liabilities.
- 7.7 These charges are scaled in line with industry standard for 2022/23.

## **8. Penalty Charges - Smoke and Carbon Monoxide Alarm Regulations 2015**

- 8.1 Legislative changes under this act allow the Council to require the Landlord to pay a penalty charge for failing to comply with a remedial notice in regard to installing smoke and carbon monoxide alarms within a single dwelling private rented home. The amount to be charged has not been prescribed by the regulations; however, it must not exceed £5k.
- 8.2 The setting of a minimum charge of £1k increasing to the maximum sum of £5k allowed will be levied for repeated breaches within two years.
- 8.3 The service expects most landlords to comply with the law than face this financial penalty imposed by the Council.
- 8.4 These charges are scaled in line with industry standard for 2022/23.

## **9. Penalty Charge - Energy Efficiency [Private Rented Property] 2015**

- 9.1 This legislation requires private landlords of single dwellings to reach an Energy Performance Certificate (EPC) rating of E before granting a tenancy from 1<sup>st</sup> April 2018 and will continue to apply to all tenancies from 1<sup>st</sup> April 2020. Landlords with an EPC rating of band F or below G may not grant a tenancy to new or existing tenants unless an exemption is registered if they want to continue to let it.

9.2 The Private Housing Service can impose a civil penalty notice if it is satisfied that a property has been let in breach of the Regulations or if the landlord has lodged false information on the PRS Exemption Register. A publicity campaign raising awareness of the changes in the private rented sector has been done.

9.3 The council will impose a civil penalty if the landlord has let a substandard property in breach of the regulations for a period of less than three months scalable up to £4k at the discretion of the Private Housing Service. Also, if the landlord has registered false formation or misleading information on the PRS Exemptions Register it will impose the maximum fine of £1k.

9.4 These charges are scaled in line with industry standard for 2022/23.

## **10. Penalty Charge - The Electrical Safety Standards in the Private Rented Sector [England] Regulations 2020**

10.1 This legislation came into force on 1<sup>st</sup> June 2020, to improve electrical safety in all residential premises.

10.2 Landlords of privately rented accommodation must:

- Ensure national standards for electrical safety standards are met as set out in the 18<sup>th</sup> edition of the wiring regulations
- Ensure all electrical installation in their rented properties are inspected and tested by a qualified person at least every five years
- Obtain a report conducting the inspection and test which gives the results and sets a date for the next inspection and test
- Supply a copy of this report to the existing tenant within 28 days of the inspection and test
- Supply a copy of this report to a new tenant before they occupy the premises
- Supply a copy of this report to any prospective tenant within 28 days of reviving a request for the report
- Retain a copy of the report to give the inspector and tester who will undertake the next inspection and test
- Where the report shows that further investigative or remedial work is necessary, complete the work within 28 days of any shorter period
- Supply written confirmation of the completion of the further investigative or remedial work from the electrician to the tenant and the local authority within 28 days of completion of the works

10.3 The Council may impose a civil penalty notice, which is scalable up to £30K, on those who are in breach of their duties under regulations and on failure to take remedial action to make their electrical installation safe. This income must be ring fenced on private housing enforcement activities. This is a new charge for 2022/23.

## **11. Mobile Homes Act 2013**

- 11.1 The Mobiles Homes Act provides greater protection to occupier's rights of residential park homes and caravans with planning permission under Part III of the Town and Country Planning Act 1990.
- 11.2 Under this act it allows for licencing of '*relevant protected sites*' to ensure they are properly managed and health safety standards are maintained. A relevant protected site is defined in the act as any land to be used as a caravan site with planning consent.
- 11.3 The Council can charge a licencing fee for this function that includes:
- A licence fee for application to grant or transfer a licence or an application to alter the conditions of a licence
  - An annual licence fee for administering and monitoring licences
- 11.4 Examples of relevant protected sites are typically residential parks, mobile home parks, and or traveller sites.
- 11.5 There are exemptions to this legislation where a caravan site licence is not required under the Caravan Sites and Control of Development Act 1960. For example:
- Use within curtilage of a dwelling house
  - Use by a person travelling with a caravan for one or two nights
  - Use of holdings of five acres or more in certain circumstances
  - Sites granted for holiday use only
  - Travelling Showman sites are exempt from licencing
  - It does not include sites that are owned by the council
- 11.6 The application fees have increased by an average of 2.2 and a new charge for "mobile homes fit and proper person test" has been added for 2022/23.

## 12. Travellers' Sites

- 12.1 The travellers' sites charges for 2022/23 will be increased by 3.57% to manage this function. The Council has three travellers' sites with a total of 64 operational plots. The Gammon Field site is at risk by the proposed Thames Level Crossing to be relocated elsewhere in the borough. Housing remains engaged in discussions about the site's future with Highways England.

Location	Number of Plots
Ship Lane, Aveley, RM15 4HB	21 plots
Gammon Field site, Long Lane, Grays, RM16 2QH	21 plots
Pilgrims Lane site, North Stifford, Grays, RM16 5UZ	22 plots

- 12.2 An average of 66% of the residents receive full or partial Housing Benefit. The reduction from last year on this figure is due to the increased in Universal Credit applications. We are working with those who have moved across to set up direct payments to cover rental changes.

Location	HB Percentage
Ship Lane, Aveley, RM15 4HB	76%
Gammon Field site, Long Lane, Grays, RM16 2QH	62%
Pilgrims Lane site, North Stifford, Grays, RM16 5UZ	59%

### 13. Reasons for Recommendation

- 13.1 The setting of appropriate fees and charges will enable the Council to generate essential income for the funding of Council services.
- 13.2 Under Directors' delegated authority, fees and charges can be varied within the financial year in response to commercial requirements.

### 14. Consultation (including Overview and Scrutiny, if applicable)

- 14.1 Consultations will be progressed where there is specific need. However, with regard all other items, the proposals in this report do not affect any specific parts of the borough. Fees and charges are known to customers before they make use of the services they are buying.

### 15. Impact on corporate policies, priorities, performance and community impact

- 15.1 The changes in these fees and charges may impact the community; however, it must be taken into consideration that these price rises include inflation and no profit will be made on the running of these discretionary services.

### 16. Implications

#### 16.1 Financial

Implications verified by: **Mike Jones**  
**Strategic Lead – Corporate Finance**

The effect of any changes to fees and charges on individual income targets will be determined as part of the 2022/23 budget setting process in which Corporate Finance and service areas will review anticipated level of demand, fee increases, previous performance and potential associated costs. Future reports will set out the 2022/23 targets across all directorates.

#### 16.2 Legal

Implications verified by: **Ian Hunt**  
**Deputy Head of Law and Deputy Monitoring Officer**



Fees and charges generally fall into three categories – Statutory, Regulatory and Discretionary. Statutory charges are set in statute and cannot be altered by law since the charges have been determined by Central government and all authorities will be applying the same charge.

Regulatory charges relate to services where, if the Council provides the service, it is obliged to set a fee which the Council can determine itself in accordance with a regulatory framework. Charges have to be reasonable and must be applied across the borough.

Discretionary charges relate to services which the Council can provide if they choose to do so. This is a local policy decision. The Local Government Act 2003 gives the Council power to charge for discretionary services, with some limited exceptions. This may include charges for new and innovative services utilising the Council's general power of competence under section 1 of the Localism Act 2011. The income from charges, taking one financial year with another, must not exceed the cost of provision. A clear and justifiable framework of principles should be followed in terms of deciding when to charge and how much, and the process for reviewing charges.

A service may wish to consider whether they may utilise this power to provide a service that may benefit residents, businesses and other service users, meet the Council priorities and generate income.

Decisions on setting charges and fees are subject to the Council's decision making structures. Most charging decisions are the responsibility of Cabinet, where there are key decisions. Some fees are set by full Council.

### **16.3 Diversity and Equality**

Implications verified by: **Rebecca Price**  
**Community Development Officer**

The Council is responsible for promoting equality of opportunity in the provision of services and employment as set out in the Equality Act 2010 and Public Sector Equality Duty. Decisions on setting charges and fees are subject to Community Equality Impact Assessment process and the Council's wider decision making structures to determine impact on protected groups and related concessions that may be available.

### **16.4 Other implications (where significant) – i.e. Staff, Health Inequalities, Sustainability, Crime and Disorder, Impact on Looked After Children**

None

### **17. 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):**

None

**18. Appendices to the report**

Appendix 1 – Schedule of Proposed Fees and Charges for 2022/23

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