

Agenda



Cabinet Member for Regulatory Functions

Date: Monday, 5 October 2015

Time: Not required

Venue: Not required

To: Councillor R Poole

Item		Wards Affected
1	<u>Licensing of Houses in Multiple Occupation in Newport: Associated Fees (Pages 3 - 8)</u>	All Wards

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Report

Cabinet Member for Regulatory Functions

Part 1

Date: 5 October 2015

Item No:

Subject **Licensing of Houses in Multiple Occupation in Newport - Associated Fees**

Purpose To seek approval of the Cabinet Member for the amendment of the fees charged for the licensing of Houses in Multiple Occupation

Author Environmental Health Manager

Ward City Wide

Summary The current fee structure for the licensing of Houses in Multiple Occupation was agreed in December 2013 by the Cabinet Member for Licensing & Statutory Functions. It is necessary to amend the fee structure in order to take account of updated calculations, to incorporate best practice and also to remove the discount given to landlords accredited under the voluntary Landlords Accreditation Wales Scheme, as Part 1 of the new Housing (Wales) Act 2014 makes training compulsory from October 2015.

Proposal **To agree the proposed fees for the licensing of Houses in Multiple Occupation**

Action by Head of Law & Regulation

Timetable With effect from 1 October 2015

This report was prepared after consultation with:

- Head of Law & Regulation
- Public Protection Manager
- Head of Finance
- Head of People and Transformation

Signed

1 Background

- 1.1 The Housing Act 2004 includes powers for local authorities to charge fees for the licensing of Houses in Multiple Occupation (HMOs). The current fee structure for the licensing of HMOs in Newport was agreed in December 2013 by the Cabinet Member for Licensing & Statutory Functions.
- 1.2 Since that time the all-Wales Wales Heads of Environmental Health Licensing Expert Panel produced a fees calculator in order to make it easier for local authorities to more accurately calculate the costs of operating licensing regimes. This was used successfully to calculate the fees to be charged for new Mobile Homes licences and this has been subsequently used to re-calculate the proposed fees for HMO Licensing.
- 1.3 Environmental Health accurately calculated the cost of the HMO Licensing service and the associated fees required previously. The need to calculate licensing accurately has been brought into sharper focus by the Westminster City Council v Hemming (2013) court case, by the updated guidance from the Local Government Association that resulted from that case, and by the Judicial Review of Cardiff Council's taxi licensing fees by members of their taxi trade.
- 1.4 Currently we discount the HMO Licensing fee if landlords have become accredited under the voluntary Landlords Accreditation Wales Scheme (LAWS). Training to improve the standard of property management is the key element of LAWS and the discount is provided to encourage landlords to undertake and pass the training. The new Housing (Wales) Act 2014 makes training a legal requirement for any landlord who undertakes letting and property management activities and therefore it is no longer necessary or appropriate to offer a discounted fee. This legal requirement comes into force in October 2015.
- 1.5 Therefore because of the need to remove the discount and the need to be able to demonstrate we have accurately calculated the cost of the licensing service and the fees necessary to recover the cost of the service, we have undertaken the calculation exercise again.
- 1.6 Currently Newport has 351 smaller HMOs (3 to 5 units of accommodation) and 154 larger HMOs (6+ units) licensed.

2 The current fee structure

- 2.1 The current fees structure approved in December 2013 is as follows:

	Smaller HMOs (3-5 Occupants)	Larger HMOs (6+ Occupants)
Initial Application	£850 (discounted to £600 for Accredited Landlords)	£50 extra per Occupant to a maximum of £1500
Renewal Application made before expiration of existing licence	£650 (discounted to £600 for Accredited Landlords)	£50 extra per Occupant to a maximum of £1300
Renewal Application made after expiration of existing licence <i>(as this is the equivalent of an initial application)</i>	£850 (discounted to £600 for Accredited Landlords)	£50 extra per Occupant to maximum of £1500
Licence Variation (involving an inspection of the property)	£75	£75

3 The proposed fee structure

- 3.1 The fees have been calculated using the methodology used for the new Mobile Homes licences. We have deviated from the methodology by proposing to charge £50 extra per each additional unit of accommodation (i.e. additional household, not occupant as set out in the 2013 Cabinet Member report). The fees toolkit sets out fees for small (3 to 5 units), medium (6 to 10 units) and large (11+ units) properties, whereas we feel that an additional fee per unit over 5 is a fairer way of charging, as it raises the fees incrementally unit by unit as the size of the properties increase.
- 3.2 The higher level of the fees for larger properties reflect the additional time it takes officers to inspect such properties and complete administrative tasks, both initially to issue a licence and also later to check compliance with the licence conditions and take action if necessary.
- 3.3 Our fee for a Licence Variation has been carried over from our current fees, and is not calculated by the fees toolkit, but has been increased by 4% in line with the increase applied corporately to many Council fees and charges in 15/16. This fee level takes precedence over the approach described in the Council's Private Sector Housing Enforcement Policy 2013, which previously set out that we would charge 10% of the original licence fee, where the Variation was required as a result of actions by the licence holder.
- 3.4 Where a licence is revoked by the Council, for example following a determination by the Council that the licence holder is no longer a 'fit and proper' person to hold the licence, and the licence holder responds by nominating a new licence holder, the process to re-license the property is very simple and does not involve an inspection of the property. Therefore the Private Sector Housing Enforcement Policy 2013 sets out that the fee to re-license the property will be the same as the renewal fee. For clarity, this has now been included in the proposed fee structure set out in this report.
- 3.5 Licences will continue to be issued for 5 years, at which point they will need to be renewed.
- 3.6 The proposed fee structure with effect from 1 October 2015 is:

	Smaller HMOs (3-5 units of accommodation/ households)	Larger HMOs (6+ units of accommodation/ households)
Initial Application	£866	£50 extra per additional unit to a maximum of £1516
Renewal Application made before expiration of existing licence	£685	£50 extra per additional unit to a maximum of £1335
Renewal Application made after expiration of existing licence <i>(as this is the equivalent of an initial application)</i>	£866	£50 extra per additional unit to a maximum of £1516
Licence Variation (involving an inspection of the property)	£78	£78
Licence Application following Revocation of previous licence, where landlord proposes new manager etc. (property ownership unchanged)	£685	£50 extra per additional unit to a maximum of £1335

4 Impact of the Proposed Fees

- 4.1 For landlords who are not currently accredited under the Landlord Accreditation Wales Scheme (LAWS), it can be seen that the proposed fees are not radically different to the current fees and therefore the impact on those landlords should be marginal and the fees are unlikely to be controversial. The main impact of this report is the proposed removal of the discounted fee for accredited landlords; for those landlords the fees will be higher but this must be done to reflect that the new legislation makes training compulsory and ends LAWS. The fees for some landlords will be lower than currently, because we are proposing to charge for extra units of accommodation above 5, rather than occupants. It is worth noting that the proposed increase to an Initial Licence fee is less than the 4% increase that the Council has generally applied to fees and charges in 15/16.

5 Financial Summary

- 5.1 We have calculated that the proposed fees will provide sufficient income to the Council to ensure this licensing service is cost neutral to the tax payer.
- 5.2 The legislation does not allow the Council to make a financial surplus with HMO Licensing; the service must be cost neutral.

6 Risks

Risk	Impact of Risk if it occurs(H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
The proposed fees are not approved.	M	L	This report seeks approval of the fees in order to cover the costs of implementing the legislation, as allowed for by the legislation.	Environmental Health Manager

7 Links to Council Policies and Priorities

- 7.1 Ensuring that this work is completed as required by statute will support the following Council Policies and Strategies:
- 7.2 Newport City Council's Corporate Plan "Standing Up for Newport" 2012-2017 (Relevant priorities: "A Greener & Healthier City"; "A Safer City").

Health and Well-being part of the LSB- Single Integrated *One Newport* Plan.

8 Options Considered/Available

- 8.1 To approve the proposed fees at paragraph 3.6 of this report. This will allow Newport City Council to recover its costs associated with operating the licensing scheme, as provided by the legislation. It will also enable the fees to be robustly defended, should they be legally challenged.
- 8.2 Not to approve the proposed fees at paragraph 3.6 of this report. This would increase the financial impact on the Council of implementing this legislation and would leave the fees open to legal challenge.

9 Preferred choice and reasons

- 9.1 To approve the proposed fees at paragraph 3.6 of this report. This will allow Newport City Council to recover its costs associated with operating the licensing scheme, as provided by the legislation. It will also enable the fees to be robustly defended, should they be legally challenged.

10. Comments of Chief Financial Officer

The proposed action within the report should not result in any additional cost to the council. The service should be cost neutral and the amendment to the fees structure will still allow the council to recover the costs associated with the delivery of this scheme.

11. Comments of Monitoring Officer

The proposed HMO fees are in accordance with the Council's powers under Section 63 of the Housing Act 2004 to set licensing fees for houses in multiple occupation under the statutory scheme. The fees must reflect the administrative costs incurred by the Council in implementing the licensing scheme and the irrecoverable costs of any statutory enforcement action. The proposed fees are considered to be reasonable and an accurate reflection of the Council's true costs. The cost assessment does not include the fees discount previously offered to landlords who were accredited under the voluntary Landlords Accreditation Wales Scheme, and it is recommended that these discounts are no longer offered, because this has effectively been superseded by the statutory training requirements of the new Housing (Wales) Act 2014.

12. Comments of Head of People and Business Change

There are no specific HR implications in this report. This report sets out the changes to HMO fees in line with the all-Wales Heads of Environmental Health Licensing Expert Panel fees calculator. This calculator has been designed to make it easier for local authorities to more accurately calculate the costs of operating licensing regimes and is in line with the Housing (Wales) Act 2014.

13. Background Papers

Report to Cabinet Member for Licensing & Statutory Functions in December 2013 that set the current fees:

<https://democracy.newport.gov.uk/CeListDocuments.aspx?Committeed=157&MeetingId=927&DF=13%2f12%2f2013&Ver=2>

Date: 5 October 2015

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