

## **Report to Portfolio Holder for Public Protection**

**Subject:** Mandatory Licensing of Houses in Multiple Occupation (HMOs), fee setting and adoption of amenity standards and current licensing conditions

**Date:** 23<sup>rd</sup> July 2018

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### **Wards Affected**

All wards

### **Purpose**

To authorise increasing the HMO licence fees to allow full cost recovery.

To formally adopt HMO amenity standards.

To adopt revised licence conditions to implement current licensing standards.

### **Key Decision**

Not a key decision

### **Background**

- 1.1 Part 2 of the Housing Act 2004 introduced a requirement for the Mandatory Licensing of HMOs with 3 or more stories and 5 or more occupants. The provisions came into force on 6<sup>th</sup> April 2006. On the 20<sup>th</sup> July 2006 Gedling Borough Council authorised a report to implement the legislation in which the license fee, licence conditions, and application form were set. Since 2006 costs associated with providing Council services have increased significantly and the baseline safety standards associated with HMOs have improved yet Gedling Borough Council's policy for HMOs licensing has not changed.
- 1.2 Currently there are 7 licensed HMOs in Gedling Borough. The Council's stock condition survey of 2006 estimated there could be in the region of 30 licensable HMOs in the district. The current licence fee is £335 and a licence is issued for a period of up to 5 years – this fee has not increased since 2006 and does not reflect the full costs associated with

administering a HMO licence application.

- 1.3 Analysis of Mandatory HMO licensing fees charged by Nottinghamshire Local Authorities show that Gedling Borough Council charges the least in the County. Nottingham City charge the most at £910 for 1 HMO and £870 for multiple applications. Rushcliffe charge from £557 for a 5 bed HMO up to £772 for a 15 bed HMO.
- 1.4 The Government has recently announced that from 1<sup>st</sup> April 2018 it is broadening the requirement for Mandatory HMO licensing and all 5 bed HMOs regardless of the number of stories will require a licence from the Council. Initial analysis of Council Tax records indicates there are 89 HMOs in the borough and 5 of them are known to have 5 or more occupants. Further investigation into all 89 are required as the Council Tax team acknowledge the occupancy information may not be accurate as it is not a requirement for taxation purposes.
- 1.5 The Council currently uses recognised HMO Amenity Standards prepared by Decent and Safe Homes East Midlands (DASH), but these have never been formally adopted by the Council as the minimum standards required. The proposed amenity standards have been developed in line with DASH standards and has been attached to this report and can be found in Appendices A, B, and C of this report.
- 1.6 Guidance issued by the Local Government Association in 2017 recommends recovery of licence fees in two parts; the first part is associated with processing the licence application and the second part is charged only to those applicants who receive a licence and covers the costs associated with compliance and enforcement of the licence.
- 1.7 The council previously formally adopted HMO licensing conditions on 2<sup>nd</sup> November 2006, these conditions have since been updated to take into account changes in building regulations and British standards. The power for the local authority to impose licence conditions the authority considers appropriate are provided in sections 67 and 90 of the Housing Act 2004. Schedule 4 of the act contains the mandatory conditions the Government deems appropriate for the local authority to apply to a HMO. Revised conditions drafted to current standards are attached in Appendix D to this report to ensure that references to the standards are current.

## Proposal

- 2.1 It is proposed that the following licence fees are set for Mandatory HMO licensing for accredited and non-accredited landlords.

| Type of landlord                            | Part 1 fee | Part 2 fee | Total HMO licence fee |
|---|------------|------------|-----------------------|
| Accredited landlord initial application     | £480       | £165       | £645                  |
| Accredited landlord renewal application     | £400       | £165       | £565                  |
| Non-accredited landlord initial application | £565       | £175       | £740                  |
| Non-accredited landlord renewal application | £485       | £175       | £660                  |

- 2.2 It is proposed that the Mandatory HMO Licensing amenity standards attached to Appendix A of this report are adopted by the Council.
- 2.3 It proposed to adopt the current HMO licensing conditions in Appendix D to this report.

## Alternative Options

- 3.1 To leave the current HMO licence fee as it stands which does not fully cover the costs incurred by the Council when administering licence applications.
- 3.2 To not adopt HMO amenity standards or current HMO licence conditions this would leave the Council open to challenge if a landlord disagrees with the standards or conditions an officer requires at a property. Adopting the proposed amenity standards and conditions also makes it clear for officers, applicants and tenants exactly what is required within a licensable HMO.

## Financial Implications

- 4.1 The proposed licence fees have been set on a full cost recovery basis and equate to the true current costs incurred by the Council from providing the Mandatory HMO licensing service.
- 4.2 The introduction of 2 part fees will allow a landlord to spread the cost of a licence. The part 2 fee will need to be paid once the Council has processed the application, inspected the property and is ready to issue the licence. Issuing the licence will be conditional to the applicant paying both parts of the fee. In the event where both fees are not paid the licence will not be issued and the property will be deemed as unlicensed. Failure to licence a HMO is a criminal offence.

It is not recommended for this scheme to introduce payment by annual instalments for the following reasons:

- It will introduce confusion for landlords over the correct fee due to the variety of fee levels that would be required for Accredited and Non-Accredited landlords and the 2 part fee system as recommended by the Local Government Association (LGA).
  - It will place additional burden and costs on the council to manage payment plans and direct debits and continually check the income received throughout the 5 year period of the scheme
  - It will increase the risk for the council of not collecting the full level of income required to provide the service. Landlords could cancel their direct debit arrangements or not pay future instalments and the Council would then need to carry out enforcement to recover the costs
- 4.3 The licence fees for renewing as HMO licence will be set on a cost recovery basis and the part 1 fee will be reduced by over 10% from the level set for the initial application for a new licence. The reduction is offered on the basis that the HMO has been previously licensed by the council but the council will still need to process a new application and re-inspect the premises to ensure compliance.
  - 4.4 There are no financial implications for the council through adopting the proposed amenity standards and licensing conditions. Formal adoption of the standards will support the council should disputes as to the standards arise.

## Appendices

- 5.1 Appendix A – HMO amenity standards
- 5.2 Appendix B – HMO bathing standards
- 5.3 Appendix C – HMO kitchen standards
- 5.4 Appendix D – HMO licensing conditions

## Background Papers

- 6.1 None

## Recommendation(s)

- 7.1 It is recommended that the following licence fees are set for Mandatory HMO licensing applications and renewals for accredited and non-accredited landlords.

| Type of landlord                            | Part 1 fee | Part 2 fee | Total HMO licence fee |
|---|------------|------------|-----------------------|
| Accredited landlord initial application     | £480       | £165       | £645                  |
| Accredited landlord renewal application     | £400       | £165       | £565                  |
| Non-accredited landlord initial application | £565       | £175       | £740                  |
| Non-accredited landlord renewal application | £485       | £175       | £660                  |

- 7.2 It is recommended that the Mandatory HMO Licensing amenity standards attached to Appendices A, B, and C of this report are adopted by the

Council.

- 7.3 It recommended to adopt the current HMO licensing conditions in Appendix D to this report.

### **Reasons for Recommendations**

To ensure full cost recovery when providing the service.

To ensure minimum amenity standards and current licensing conditions are implemented in HMOs protecting the health and wellbeing of the occupants.