



HOUSING ACT 2004: Houses in Multiple Occupation – HMO – Mandatory Licensing – Fee setting

RECOMMENDATION

1. To approve a fee structure for mandatory licensing of Houses in Multiple Occupation.

REASONS FOR RECOMMENDATION

- 2.1 The Housing Act 2004 introduces mandatory licensing for certain types of House in Multiple Occupation – HMO – with effect from 6 April 2006.
- 2.2 A fee will be payable by the HMO owner at the time of application.
- 2.3 Rather than set a national fee structure the Government has instead given local authorities the opportunity to plan their own fee structures to reflect local circumstances. However, it has made clear that fees must cover only the costs that a local authority incurs in the setting up and delivery of HMO licensing, including dealing with the application and an assessment as to whether a landlord or property manager is a fit and proper person.

SUPPORTING INFORMATION

- 3.1 Background detail on the Housing Act 2004 and its implications for Derby are contained in Appendix 2 to this report.
- 3.2 From recent research it is estimated that there are approximately 400 HMOs in Derby, which will fall within the scope of mandatory licensing under the Act.
- 3.3 In preparation for licensing, consultation has taken place with other Local Authorities across the East Midlands. Derby has also been one of the lead authorities in working with the Local Government Association, LGA, and IPF – IPF being the management support services company of the Chartered Institute of Public Finance and Accountancy, CIPFA – in their development of a national HMO licence fee 'Financial Toolkit'. However, whilst some consistency has been sought in arriving at a structure for fee calculation and at task times entered into that calculator, the final 'fee' does vary quite significantly across authorities. In the main, this can be explained by two significant variances:
 - the number of HMO's to be licensed acts as a divisor of the overall cost of HMO licensing, so a larger number of licensable HMO's tends to bring economies of scale, for example, where set-up costs can be spread over 3000 licences rather than 400 licences
 - some authorities have taken the decision to discount/disregard some cost elements in calculating a fee. Such a decision, if taken, means that those costs must be met from other revenue budgets.

3.4 Based on these charges, if 400 HMO's in Derby are to be licensed, this would generate an estimated income level of approximately £315,000 over five years. A licence remains valid for five years after which time it is renewable. Fees are payable at time of licence application by an HMO owner, so the spread of income cannot be controlled evenly across the five-year period. Licence fee income must only be spent on the HMO licensing function and this will be subject to audit. It is, therefore, particularly important that the income generated and costs charged to it are effectively ring-fenced and assessed across financial years. In order to fulfil the Council's duties under the Housing Act 2004 and achieve recommended inspection levels and targets set by the ODPM, additional staff will be required to undertake HMO licensing activities. These needs have been profiled at existing Scale 6 and PO1 officer levels. These costs will be met from licence fee income.

3.5 The variances in licence fee are demonstrated locally in the following draft standard fee proposals. These fees are only draft proposals at this stage and may be subject to change:

Nottingham	£340
Leicester	£550
Sheffield	£560

Economies of scale apply particularly in Sheffield and Nottingham, and their greater existing, and historical, resource commitment to housing enforcement has allowed some absorption of the licensing function and associated costs within existing staffing resources and revenue budgets. That is not the case in Derby.

3.6 By way of further comparison, other fee levels set elsewhere include:

Newcastle	£1,100
South Tyneside	£750

3.7 Most fee structures, including the Derby proposal, do allow for the addition of further costs where, for example, a particularly poor application is submitted and the landlord is uncooperative or obstructive throughout the licensing process, or for particularly large properties.

3.8 Most also allow for some 'discount' element, such as membership of an appropriate Landlord Association. This may be incorporated within the fee structure in Derby, subject to successful negotiation with Peartree and Normanton Landlord Association, East Midlands Property Owners and the umbrella bodies such as NFRL, RLA and NLA.

3.9 An initial draft fee structure, arriving at a similar fee level to that now proposed, has been widely distributed to landlords, agents, landlord associations and their national umbrella bodies for consultation. It has also been made available on Council and partner websites, again to encourage consultation and response. Only 10 responses have been received, but these primarily express concern that the proposed fee is too high.

3.10 As more information has become available on HMO licensing requirements and during our work with LGA and IPF in development of the national licence fee financial toolkit, we have reviewed that draft and have input those reviewed figures into the toolkit calculator. Whilst the fee output is slightly higher, it is not substantially different to the initial consulted draft.

- 3.11 Failure by a landlord to licence a licensable HMO will be a criminal offence. In specific circumstances, where there is no immediate prospect of being able to licence a licensable HMO, the Council have a duty to make a Management Order and take over management responsibilities for the HMO. To deliver this management role we are currently exploring options with Derby Homes and other housing management partners.
- 3.12 A £790 licence fee cost over a five-year period equates to £158 per annum. If a landlord has a rental income from five tenants, that equates to approximately £31 of his/her annual rental income received from each of those tenants. Given this breakdown of costs, it is not anticipated that this will have a major effect on the business of HMO landlords.
- 3.13 There is a likelihood that some landlords may choose to pass this fee onto their tenants through increased rents. If that £790 fee is expressed as a £158 cost per year, divided by five tenants and again by 12 monthly payments, it equates to £2.63 per tenant per month.
- 3.14 Since HMO Licensing will bring the Council's current HMO Registration to an end, new applications for Registration are no longer being accepted. Licensable HMOs which are registered under the current Registration Scheme will be passported into the new Licensing scheme for the remainder of their registration period, after which they will need to apply and pay for licensing in the usual way.

OTHER OPTIONS CONSIDERED

4. There is the option to subsidise the cost of HMO licensing from other revenue resources and thereby reduce the licence fee. However, such resources have not been identified.

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Background papers: HMO Licence Fee 'Financial Calculator' – Confidential
 Draft Initial License Fee
 Draft Initial License Fee – Consultation and Feedback
 HMO Licensing Mandatory Licensing Application
List of appendices: Appendix 1 – Implications
 Appendix 2 – Background on Housing Act 2004

IMPLICATIONS

Financial

- 1.1 Based on a charge of £790, if 400 HMOs are licensed, an estimated income level of £315,000 over five years would be generated.
- 1.2 Licence fee income must only be spent on the HMO licensing function and this will be subject to audit, so it is particularly important that the income generated is effectively ring-fenced and assessed across financial years.
- 1.3 The resource costs identified in this report amount to £62,227 per annum and will be met from licence fee income.

Legal

- 2.1 The provisions relating to mandatory HMO licensing are contained within Parts 2 and 7 of the Housing Act 2004. Under these the local authority has a duty to license all eligible HMO's within a 'reasonable period' of valid application being made.
- 2.2 The authority then has a further duty to inspect a licensed property under the HHSRS, for Category 1 hazards, within five years of the licence application being received.
- 2.3 Although owners have a legal duty to come forward and apply for a licence, the authority also has a duty to be proactive in seeking out relevant properties to ensure that they are indeed licensed.

Personnel

3. The introduction of mandatory HMO licensing will require additional staffing resources as identified within this report.

Equalities impact

- 4.1 The standard of private rented housing in the City impacts upon the quality of life both for tenants and for those living in the neighbourhood, impacting most heavily on the more vulnerable sectors of Derby's community.
- 4.2 These new provisions target the higher risk HMO's, and the greater resources directed to this work area can greatly assist an existing team of officers in developing the City and improving performance in terms of the numbers of properties licensed, made safe, and otherwise improved; and will contribute toward meeting the Council's new duties under the Act and ongoing responsibilities toward its community.

Corporate objectives and priorities

- 5.1 The proposal comes under the Council's objectives of providing **healthy, safe and independent communities, a diverse, attractive and healthy environment, and a shared commitment to regenerating our communities.**
- 5.2 The proposal furthers the priorities of, **working towards improving customer service, in the city centre and locally, working towards minimising increases in Council Tax and increasing value for money from our services, working in partnership to achieve socially cohesive communities and improving business processes and the use of ICT.**
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