

## **BARNSELEY METROPOLITAN BOROUGH COUNCIL**

**This matter is a Key Decision within the Council's definition and has been included in the relevant Forward Plan**

### **REPORT OF THE EXECUTIVE DIRECTOR OF COMMUNITIES**

**To request approval to implement a new charging structure for the mandatory licensing of Houses in Multiple Occupation (HMOs), to reflect the actual officer costs to inspect and issue a licence for each property.**

#### **1. PURPOSE OF REPORT**

- 1.1** The purpose of this report is to set the rationale for implementing a new charging structure for mandatory licensed Houses in Multiple Occupation (HMOs). The report sets out a full breakdown of officer time and costs for issuing an HMO licence and the rationale for changes to the current charging structure. In addition, the report reflects on some of the additional influencing factors which support further interventions currently under consideration within the private sector realm, which will be complemented by a mandatory licensing scheme.

#### **2. RECOMMENDATIONS**

The recommendations to Cabinet are:

- 2.1** Approval to implement a new charging structure for mandatory licensed Houses in Multiple Occupation (HMOs) from 1<sup>st</sup> April 2017
- 2.2** Implement the new fee of £505 to licence a mandatory licensable House of Multiple Occupation (HMO) for a period of 5 years.

#### **3. INTRODUCTION**

- 3.1** The Mandatory licensing fee has been imposed by a legislative frame work set out in the Housing Act 2004, which mandates the licensing of HMOs to fulfil the following criteria:
- Houses of 3 or more storeys occupied by 5 or more unrelated people in 2 or more household. (This does not apply to self-contained flats).
- 3.2** All local "housing authorities" have a duty to ensure that HMOs fulfilling these criteria are licensed and that the terms of the licence are checked regularly to ensure continued compliance. Licensing requirements include the following:

- The property is suitable for the number of people.
- The proposed licence holder is a “fit and proper person”.
- Management arrangements and property standards comply with HMO regulations issued within the Act.

3.3 Currently there are 85 HMO’s which are licensed within the borough. Problems emerging from the growth of the sector are obvious as typically this type of accommodation can become the domain of last resort, home to transient individuals, and people with no other choice, the vulnerable, the economically deprived and socially isolated. It is also considered that these types of properties pose the greatest risk to its occupants due to the nature of shared amenities and the diverse occupants.

3.4 There are a number of factors contributing to the growth in this type of accommodation which include:

- Welfare and housing benefit reform making shared occupation more affordable to low income individuals and families.
- Availability of comparatively low cost housing in Barnsley.
- Maximum income return for landlords and agents making HMO’s a more attractive commercial proposition.

3.5 Optimising demand for this type of accommodation is the lack of alternative housing options for some groups such as single young men. There are numerous problems and concerns associated with HMO’s ranging from poor health and safety standards, overcrowding, tensions between occupants, exploitation of tenants and leaseholders, tensions within the surrounding community, blighting and visual deterioration.

#### **4. PROPOSAL AND JUSTIFICATION**

4.1 Approval will bring Barnsley Council in line with other local authorities. The rationale for this is to address the issue of the current charging structure which does not reflect the accurate costs of officer time or workload to undertake each application. In addition, in order to ensure transparency, additional charges have been outlined to cover licence specific service requests. The additional charges are not required for each HMO licence and are therefore levied on a ‘user pays’ basis.

4.2 The cost and duration of a licence is set at the discretion of the local housing authority, however in setting the fee the council must demonstrate that the fee income is solely recycled into administering the licensing arrangement such as managing and monitoring compliance. Currently set at £335 per licence it is considered the new charge of £505 reflects the actual cost of providing a standard licence. A discount of £100 will be afforded to all BMBC formally accredited landlords

- 4.3 Barnsley's current fee is extremely low in comparison to most other regional local authority areas and has not been reviewed for a number of years. By comparison, other areas currently charge an average of £700 per HMO for a five year licence with reduction incentives common where landlords have been afforded formally accredited status. Schedules and schemes for charges vary from place to place, however typically the number of occupants and size of accommodation are considered within most other licensing regimes.
- 4.4 The new charging structure reflects the work involved in granting a typical application. The fee has been calculated to account for a standard application, see **Appendix 1**. This figure equates to £505 per standard 3 storeys, five people or more HMO property with an additional charge of £50 for each additional unit of accommodation over five. To note: HMO's over 6 bedrooms are subject to planning fees in addition to the license fee. A review of charges will be undertaken post 2020, to review officer operating costs.
- 4.5 It should be noted that the new charging structure does not make an allowance for processing the payment. This is currently being investigated through the e- design team to set up payment method via the 'Pay for it' portal, (an online payment system) operated through Barnsley Council's website.

## **5. CONSIDERATION OF ALTERNATIVE APPROACHES**

- 5.1 Current legislation requires larger HMO's to be licensed as they are considered to be the most at risk, therefore, no other alternatives are able to be considered. Upon inception of the mandatory licensing of HMO's some landlords have sought to manipulate the criteria for licensing by reducing occupancy in their properties which have previously been pre-disposed to the mandatory criteria. Whilst the Council cannot prescribe how owners use their property outside of the criteria; it is considered that many properties cannot be actively policed to ensure the criteria is not being flouted. Therefore, in order to minimise the risk of the councils reputation, all HMO's licensed and formerly unlicensed properties, will be sent out a form to self- certificate themselves to specify the number and sizes of rooms, and the occupation of the property. This will assist in identifying future breaches in legislation.
- 5.2 A consultation paper from DCLG has recently closed. It requested consideration on the viability of introducing mandatory licensing to all HMOs with five or more persons forming two or more household and sharing amenities, regardless of number of floors. The consultation document has also suggested widening the scope of properties which will be included in the criteria. However, where HMO's have less than five persons they may be the subject of other discretionary and selective licensing in designated areas. .

### 5.3 Other interventions currently in operation include:

**Barnsley MBC's Accreditation Scheme** for Landlords and Managing Agents. The scheme is designed to acknowledge and promote good property standards and good management practices. Whilst it is acknowledged that some landlords are rogue in nature and as such unlikely to engage with accreditation, the experience of running the scheme shows that a far greater number are likely to welcome the encouragement, guidance and recognition that accreditation brings. As such accreditation continues to have an important role to play in lifting standards in the private rented sector, including HMO accommodation.

A membership fee of £50 per annum is in the process of being introduced and scheme administration will shortly be handed over to Berneslai Homes; the transfer of scheme administration duties to Berneslai Homes will complement their existing Property Management Service. There are some 130 members in the Accreditation Scheme with a total property portfolio of 580 dwellings. Landlords who are members of BMB Council's Accreditation Scheme will continue to receive a £100 reduction off the charge for Mandatory Licensing. The new proposed cost for a formally Accredited Landlord is £405 per standard licence application, plus additional fees for extra rooms and planning fees where applicable.

**Berneslai Homes provides a Property Management Service** for private sector landlords. *Drawing on Berneslai Homes' extensive housing management experience the service aims to meet the needs of the private landlord by maximising rental income and ensuring that the scheme provides fee income for Berneslai Homes.*

## 6. IMPLICATIONS FOR LOCAL PEOPLE/SERVICE USERS

6.1 See section 16.

## 7. FINANCIAL IMPLICATIONS

7.1 The new HMO licence fees are set locally and are based on actual time taken and costs incurred, the hourly rates on which they are based are considered robust enough so as not to attract legal challenges.

7.2 The new HMO licence fee detailed in Appendix 1 has been calculated at £505 for HMO properties for Landlords not in the BMBC Accreditation scheme (an increase of £170 to the previous charge of £335). For those landlords in the BMBC Accreditation scheme the licence fee charge will be £405. These new licenses apply for 5 years as they did under the previous charging regime.

7.3 Other charges calculated and detailed at Appendix 1 are as follows:

Temporary Exemption Notice	£80
Transfer of Licence to change of Manager (For remainder of Licence Period)	£120
DBS Check (Discretionary charge)	£70

7.4 There are currently 85 properties in Barnsley that fulfil the HMO criteria, only 3 of these properties are currently in the BMBC Accreditation Scheme. The new licence fee will see additional income of approximately £14,480 generated over a 5 year period (average £2,900 per annum, as all the properties were not originally licensed in the same financial year). It is envisaged that the new charges will come in to force from the 1<sup>st</sup> April 2017.

7.5 Financial implications of this report are detailed at Appendix A.

## **8. EMPLOYEE IMPLICATIONS**

8.1 N/A

## **9. COMMUNICATIONS IMPLICATIONS**

9.1 A communications plan will be developed to ensure all key stakeholders are aware of the changes.

## **10. CONSULTATIONS**

10.1 The new charging structure has been discussed as an outline proposal with full fee details with Strategic Housing who currently administer the Landlords Accreditation scheme. Once approval is agreed and after the formal Cabinet calling in period, the new charging structure will be posted onto the HMO webpages and changes will be made to staff procedures to accommodate the new process.

## **11. THE CORPORATE PLAN AND THE COUNCIL'S PERFORMANCE MANAGEMENT FRAMEWORK**

11.1 The proposed increase in fees/charges is in line with Council objectives and the desire to provide cost effective value for money services. The charges have been set in line with the Medium Financial Plan with an option to review in 2020.

## **12. PROMOTING EQUALITY, DIVERSITY AND SOCIAL INCLUSION**

12.1 Consideration has been given to whether increasing the fee will adversely impact tenants who live in HMO's. It is considered that landlords may choose to reduce the numbers of tenants in a property to fall outside of the guidelines imposed for Mandatory Licensing.

- 12.2 It is not anticipated that as a result of the change in fee, tenants will be affected. However, Housing options and tenancy assistance will be available to work through issues which arise for tenants.

### **13. TACKLING THE IMPACT OF POVERTY**

- 13.1 It is not anticipated that the landlord will pass this fee onto tenants as a top up fee against rent. However, as above Housing Options will be available to assist with tenancy and financial management for tenants through their out reach partners..

### **14. TACKLING HEALTH INEQUALITIES**

- 14.1 None

### **15. REDUCTION OF CRIME AND DISORDER**

- 15.1 None

### **16. RISK MANAGEMENT ISSUES**

- 16.1 As with all changes, fee structures pose a risk to the council of alienating landlords or managing agents. However, the council must demonstrate value for money and consideration regarding mitigating risks down to an acceptable level.

Risk Title	Current Assessment	Mitigations	Target Assessment
Landlords pull away from the Council's Accreditation scheme or move to the Barnsley accredited landlord scheme.	LOW	Barnsley's Residential Landlords scheme doesn't offer any discounts from the mandatory licensing scheme. Therefore, suggest impact low.	LOW
Formerly Mandatory Licensed HMOs revert back to single family residential properties. Thus increasing the focus onto Housing Options for homeless issues.	MEDIUM	AST retaliatory evictions. Support will be sought from Housing Options to deal with any issues relating to evictions as a result of the LL changing his property. NB> Changes of use over 6 beds' require planning consent which subsequently carries a charging structure.	MEDIUM

Risk Title	Current Assessment	Mitigations	Target Assessment
Increase in the cost of the licence may lead to overcrowding issues.	MEDIUM	LL self- certificates to state max number of persons and room sizes. Prosecutions taken under the HMO licensing regulations & Housing Act 2004.	LOW
Landlord reverts property to self- contained flats.	MEDIUM/ LOW	LL must obtain planning approval which is more costly than license. Planning to highlight. £395 per unit of accommodation. (Example: Change a five bed HMO to 3 self- contained flats = £395 x 3 = £1185).	LOW
May lead tenants to migrate to outer communities forcing a donut effect. Some local communities may display less tolerance for economic migration and social inclusion.	MEDIUM	Area Council officers will work directly with landlords within their specific areas of the community to calm issues and tensions.	LOW

## **17. HEALTH, SAFETY AND EMERGENCY RESILIENCE ISSUES**

**17.1** None

## **18. COMPATIBILITY WITH THE EUROPEAN CONVENTION ON HUMAN RIGHTS**

**18.1** None

## **19. CONSERVATION OF BIODIVERSITY**

**19.1** None

## **20. GLOSSARY**

LL – landlords

HMO- Houses in Multiple Occupation.

BMBC – Barnsley Council.

AST – Assured Shorthold Tenancy Agreement.

DCLG- Department for Communities and Local Government

DBS- Disclosure Baring Service.

## **21. LIST OF APPENDICES**

Appendix 1: Mandatory HMO licensing charging structure.

## **22. BACKGROUND PAPERS**

Sheffield and Doncaster's Mandatory HMO licensing fee structure  
Accessed 23.09.2016

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## Appendix 1

### Barnsley HMO Licensing Cost Analysis Index of Charges and Additional Fees.

	Time sheets -How times for individual jobs have been calculated	
	Wage costs- these are identified at technical officer level.	
	Disbursements – the on costs for completion of the licensing process	
	The fee calculation	
	Temporary Exemption Notices are charged at a flat fee.	
	Variation to a license, including significant changes to the property, additions to the threshold units, structural changes and changes to amenity will be subject to consideration for a full application. This is in addition to planning fees which are applicable.	
	Transfer of licence fee during the term of licence.	
	Discretionary DBS check fee. ** see Notes additional charges DBS checks.	

Wage Cost		HMO Officer.
Salary and On costs per annum		£44,588.
Operational Days in one year		209
Cost per operational day		£213.33
Hourly rate charged out: (includes additional 10% for management support)		£39.11

	Action	HMO Officer time in Hours and Minutes.
1	Enquiry received and service request entered onto the computer system. Information pack sent out. Acknowledgement letter generated and sent to applicant. Application details from the application form are entered on to the computer system.	01:35
2	Check that the returned application is valid with all compulsory questions completed and correct fee is enclosed. Where omissions have been made. Return the application from and chase up missing information. Including writing to property owner and follow up telephone calls.	00:35
3	On receipt of completed form - Check all the details are entered correctly. Examine gas safe certificates and other certificates submitted and consider the application.	00:40
4	Visit the property to check the license details and determine the priority for inspection (this includes travel time).	02:00
5	Prepare schedule of conditions and letters to all relevant parties including mortgagee and underwriter.	03:00
6	Re visit the property to ensure compliance with Licensing conditions and deal with representation made by interested parties i.e. Mortgagee/ Underwriter.	02:30
7	Prepare the licence documents and certificates of service for all interested parties including posting.	01:30
	<b>Total</b>	<b>11:50</b>

Disbursements and preparation costs per application		
Land Registry search	Undertaken on each application	£4.00
Transport costs	Average taken to be eight miles	£3.00
Postage costs	Average 5x first class postage @ 37p	£1.85
Chasing application	2x letters and/or phone call.	£3.00
<b>Total disbursements/ application costs</b>		<b>£11.85</b>

<b>HMO licence fee per property</b>	
Total time charged to complete a standard application	11 hrs 50 minutes (11.83 Hours)
Officer Rate	£39.11
General charge to complete and administer a standard application (11.83 Hrs * £39.11)	£462.67
Disbursement – fees	£11.85
Total cost of completed application	£474.52
Total 6% inflation over the 5 year application life (2% Equates to 0.5% increase per year at current inflation rate + 4% staff pay increase @ 1% per year).	£28.47
Total	£502.99
<b>Licence fee for a five person HMO property. (Rounded to the nearest £5)</b>	<b>£505.00</b>
Please Note: <b>Each additional unit of accommodation over 5 will be charged at <u>£50.00 per additional unit.</u></b>	

Please Note:

Additional fees apply to:

- Temporary Exemption Notices.
- Variation Notices – Refers to changes to license holder information, changes to amenity standards and increase / decrease in unit numbers in accordance with HMO regulations.
- All changes of Owner details are treated as new applications.

Additional Charges Breakdown:

<b>Charges breakdown for Temporary Exemption Notices (TEN)</b>		
To undertake property inspection, prepare paperwork and write to Mortgagee/ relevant parties. Undertake representation from interested parties. Complete and update computer the system. Revisit and complete the notice on our system.	02:00 Hours Charged at HMO Officer rate of £39.11	£78.22
<b>TOTAL</b>		<b>£80</b>

<b>Charges applied to administer a <u>Variation Notice to the HMO licence.</u></b>	
Variation to a license, including significant changes to the property, additions to the threshold units, structural changes and changes to amenity will be subject to consideration for a full application. Any charges will be in addition to planning fees which are applicable.**	
<b>TOTAL CHARGE FOR VARYING AN EXISTING HMO PROPERTY.</b> (See above)	<b>See above**</b>
TRANSFER of Licence for the remainder of the licence period to a: new/change of Manager/ Management.	£120
Discretionary fee, where required, for conducting a CRIMINAL RECORDS BUREAU check on a proposed Licence Holder or Manager. (Landlords may choose to undertake their own DBS check and forward the original document to this office for attention provided it is dated after any suspected breach.)  <i>To Note: 13/12/16 – A consultation is currently being undertaken by DCLG, regarding whether there is a requirement for an enhanced ‘fit and proper’ person test. If approved the licence fee will be subject to an additional mandatory fee for a DBS check. Details will be revised post (March 2017) The table of charges will be amended to reflect this.</i>	£70