

OFFICER DECISION RECORD

Lead Officer: Dan Horn Corporate Director	Service: Private Sector Housing
CMT Officer: Peter Catchpole, Corporate Director and Chief Finance Officer	Delegated Power Being Exercised: Delegated Power Being exercised: Table 4 Para 26 To approve fees and charges unless part of the annual budget setting in consultation with the appropriate Corporate Director and Finance Portfolio Holder.
Subject of Decision: To approve fee for a 5-year Renewal HMO Licence	

Decision Taken:

To approve the costings used to calculate the fee charged to landlords for renewing a 5 Year HMO licence.

Amendments to the Mandatory HMO licensing criteria, effective from October 2019, resulted in more properties in Fenland became licensable. A costings exercise was completed for this scheme, with a fee of £750 being charged for a new 5-year licence.

Those properties that were licensed in the early months of the scheme are due for renewal and therefore an appropriate Renewal fee needs to be determined.

Having reviewed the officers' activities related to such applications on a full cost recovery basis, it is proposed that a cost neutral fee of £660 is chargeable for such applications. You are not allowed to make a profit. This fee will be charged as one amount at the application stage and in the event that an application is refused, the enforcement portion will be refunded. (see Legal Implications below)

Decision:

To approve the proposed fee for a Renewal HMO Application

Legal Implications:

Licence fees set by the local authority should be in accordance with the Local Government Association 'Open for business – LGA Guidance on locally set licence fees'. The LGA guidance is heavily based on the outcome of Hemming v Westminster City Council in which the UK Supreme Court with reference to the European Court of Justice set out the principle that licence fees should be charged in two parts. The first fee, charged at the time of application, for processing the application up to grant or refusal of the licence. The second fee charged at the point of granting the licence, for administering and enforcing the licensing scheme. The outcome of Gaskin v Richmond-upon-Thames LBC in the High Court directly applies the Hemming v Westminster judgement to HMO Licensing fee.

Reason for the Decisions:

To recover the costs associated with the administration and undertaking of the mandatory HMO licence scheme.

Alternative Options Considered (if appropriate):

The option exists to leave in place the existing fee for a New HMO application. However, consideration must be given to subsequent caselaw impacting this legislation; 1) Less paperwork required for a Renewal Application
2) Application Fee to be separated into Admin & Enforcement functions

Failure to recover the costs of the HMO licensing scheme will impact on the public purse and restricts the resources available to Private Sector Housing to regulate HMO's.

Background/Reports/Information considered and attached:

The Housing Act 2004 - Part 2, states that houses in multiple occupation (HMO) occupied by 5 or more people from 2 or more households, are required to have a licence from the local authority. It states that the local authority may charge a fee that is set locally.

The current fee for a new HMO license sets a single flat fee at £750.

A costings exercise has been undertaken for full cost recovery of the officer hours and financial costs for the first fee, that is the cost of processing of HMO licence applications and the second fee is the cost associated with the life of HMO licences including the costs of enforcement of the HMO licensing scheme. No discounts are proposed, all properties must reach a regulatory standard.

Officer's Signature:

Peter Catchpole
(in consultation with the Portfolio Holding for
Housing Cllr Sam Hoy and the Leader (Finance))

Date:

17 January 2024

Please forward to Democratic Services upon completion

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**Date copy passed to
Democratic Services**

**Implementation Date: 24 January 2024
(if not called-in)
(Allow 5 clear working days after publication
of decision)**

Circulation: Democratic Services, Portfolio Holder, Officer and Accountancy.