

Cabinet

18 July 2018



Title	Mandatory Licensing of Houses in Multiple Occupation – Fee Setting		
Purpose of the report	To make a decision		
Report Author	Tracey Willmott-French, Senior Environmental Health Manager		
Cabinet Member	Councillor Mark Francis	Confidential	No
Corporate Priority	Housing		
Recommendations	Cabinet is asked to: 1. adopt the proposed fee setting policy for the licensing of houses in multiple occupation, and 2. agree to delegate authority to determine the fees under this policy for 2018/19, to the Leader in consultation with the Portfolio Holder.		
Reason for Recommendation	<ul style="list-style-type: none">• Cabinet is required to approve fees and charges.• The proposed fee setting policy is designed to reward landlords who comply with their legal requirements, while ensuring non-compliant landlords pay for the additional Council resources used towards achieving their compliance.• The fee setting policy directs the cost of the Council's statutory duties for licensing houses in multiple occupation to those who benefit financially from them, rather than council tax payers.		

1. Key issues

Changing definition of a licensable House in Multiple Occupation

- 1.1 The current definition of a licensable House in Multiple Occupation (HMO) is a dwelling comprising of three or more storeys, that is occupied by five or more people, living as two or more separate households, and where the occupiers share some basic amenities such as washing and/or cooking facilities.
- 1.2 On the 01 October 2018, the definition will change and the scope of mandatory licensing for HMOs will be extended to bring smaller HMOs within the scheme. Mandatory licensing for HMOs will include:
 - All HMOs with five or more people, living as two or more separate households, regardless of the number of storeys, and where the occupiers share some basic amenities. Effectively this means the storey requirement will be removed from the current definition.

- Purpose built flats where there are up to two flats in the block, and one or both of the flats are occupied by five or more people, living as two or more separate households, and where the occupiers share some basic amenities. This will apply to dwellings above or below commercial premises, bringing some flats above shops on high streets within mandatory HMO licensing as well as small blocks of flats which are not connected to commercial premises.
- 1.3 Currently there are 28 licensed HMOs in Spelthorne. The extended scope of the HMO definition will bring a significant increase in the number of HMOs that will require a licence to operate. Overall this will bring about improvements to the management and safety standards in a high proportion of residential properties in the private rental sector within Spelthorne.
 - 1.4 A provisional licensable HMO database has been developed which holds some 450 property addresses. At this time the actual properties that will be captured by the new 'licensable HMO' definition is unknown, but it is estimated that some 200 or more dwellings may require an HMO licence to operate.
 - 1.5 Spelthorne will actively promote its revised HMO licensing scheme. It will also pursue landlords who do not come forward to licence applicable properties. Where necessary we will take enforcement action to ensure that there is no incentive for failing to apply for a licence.

New HMO Licence Applications

- 1.6 There are two licensing processes, one for new HMO licence applications, and another for HMO licence renewals.
- 1.7 All successful new licence applications will be granted an initial two year licence. During this time the property will be inspected to assess compliance with licence conditions, confidence in management and other risk factors to determine a risk rating for the property.
- 1.8 The risk rating will be used to determine the term of the licence subsequently granted on renewal, with properties presenting a low risk being granted a longer licence; the terms of licence will be 5, 3, or a 1 year licence.
- 1.9 Properties with a longer term licence will be inspected less frequently, and those with a shorter term licence and therefore having a higher risk rating, will correspondingly be inspected more frequently.
- 1.10 The cost of processing an HMO renewal application is the same regardless of the time period the licence is issued for. As such, the cost of the additional Environmental Health resources directed towards higher risk HMOs will be funded by their landlords, due to their having to pay the same licence cost again after only one year.

Transitional Arrangements

- 1.11 Holders of an HMO licence granted under the current HMO licence scheme will be transferred to the new scheme on expiry of their current licence, with their licence being renewed according to the new renewal process and be subjected to the risk rating process.

2. Options analysis and proposal

- 2.1 Option one - to adopt the HMO fees and fee setting policy (**this is the preferred option**)
- 2.2 Option two – not to adopt the HMO fees and fee setting policy

2.3 Option three – to adopt the HMO fees and fee setting policy with amendments.

3. Financial implications

3.1 Spelthorne's fees policy for 'Mandatory Licensing of Houses in Multiple Occupation' is attached as **Appendix 1**, which includes Schedule 1 detailing the HMO Licensing fees for 2018/19.

3.2 The High Court has indicated that local authorities have a duty to administer funds so as to protect the interests of council tax payers in accordance with the accepted principal that licensed activities should be funded by those benefitting from them, rather than council tax payers.

3.3 The Housing Act 2004 makes provision for local authorities to recover their costs associated with operating HMO licensing schemes. There is no upper limit on the maximum fee that can be charged but local authorities are not allowed to make a profit, and the fees charged must be reasonable and proportionate.

3.4 Recoverable costs include set-up costs, processing applications, third party costs, overheads, local democracy costs, provision of advice/guidance, web materials, management costs, setting and reviewing fees, policies and procedures, monitoring licence holders, service development and improvement, and identifying unlicensed landlords (this is regarded as being of benefit to HMO licence holders as it helps avoid unlicensed operators undercutting those with HMO licences).

3.5 Costs recovered from licensing fees will be used to cover the costs incurred by the Council in performing the HMO licensing activities outlined in paragraph 3.4 above. Hence, there are no financial implications to the Council, as additional costs have been reflected in the new fees for the new HMO licensing scheme in Appendix 1.

3.6 To ensure that all properties that require a licence in the Borough are licensed, and in a timely and efficient manner, we have streamlined our HMO licensing processes. We have also gained a clear understanding of the costs involved so that the fees we charge reflect our new processes.

3.7 Spelthorne's current fee structure for its existing HMO licensing scheme (attached as **Appendix 2**) will cease to have effect once this new fee structure has been approved and published.

4. Other considerations

4.1 Due to the high cost of housing (purchasing and renting) HMOs offer a cost-effective solution to the housing needs of people from all walks of life and personal situations.

4.2 This extension to HMO licensing will ensure safer accommodation within previously unlicensable HMOs, bridging the gap between previously unlicensed and licensed HMOs and improving equity.

5. Timetable for implementation

5.1 The new mandatory HMO scheme will come into force from 01 October 2018.

5.2 Landlords of HMOs which come under the new HMO scheme are now able to submit applications for their HMO licence. The new policy, fees and charges will be implemented on approval by Cabinet.

Background papers: None

Appendices:

- Appendix 1 – Proposed mandatory fees policy for licensing of HMOs (this includes Schedule 1 detailing the proposed HMO fees under the new HMO licensing scheme)
- Appendix 2 – Current HMO fees under the existing HMO licensing scheme