

REPORT

<u>Name of Committee:</u>	Housing and Environment
<u>Date of Meeting:</u>	24 th August 2010
<u>Title of Report:</u>	HMO Licence Fees
<u>Lead Officer:</u>	Donald Urquhart, Head of Service, Housing and Community Safety
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Summary of Purpose of Report

The purpose of this report is to provide elected members with additional information to assist the discussion of the report and minute forwarded by the Licensing Committee on 2nd June 2010.

The report to the Licensing Committee was provided following a challenge from a landlord present at a previous Licensing Committee meeting in relation to the increases in the licensing fee over the period to 2009/10.

The Licensing Committee report showed that the council made an operating surplus of £204,920 in 2009/10. The setting of a licence fee for (HMOs) is prescribed under the Civic Government (Scotland) Act 1982, which governs all Licenses issued by local authorities.

The Licensing Committee resolved:

- (i) to remit the report to the Housing and Environment Committee for its consideration; and
- (ii) to recommend that the Housing and Environment Committee consider in particular
 - (a) the employment of an enforcement officer;
 - (b) the level of application fees; and
 - (c) the banding of application fees.

Role of HMO's

It is not possible for Aberdeen City Council to know how many unlicensed HMOs actually operate within the City. As at 22 July 2010, a total of 791 HMO Licences were in force. It is assumed that this is only about half of the number that exist.

HMO Licensing became mandatory in 2000 for 5 or more people and on 30th September 2003 for 3 or more.

Recent discussion with student representatives regarding affordable student accommodation has focused on HMOs because HMOs play an integral part in providing affordable accommodation for students. All student halls of residence are registered HMOs, but this only covers freshers at Aberdeen University with students having to find their own accommodation in years 2 and onwards.

The students believe that there has been a reduction in the number of HMOs with landlords leaving the sector due to the cost of a licence and the upgrading works required. In many cases the landlord prefers to seek only 2 occupants or a family for the same rental income without the outlay incurred in complying with HMO requirements. This means that 2 students sharing have to split the rent, electric and gas bills etc as opposed to between 3 occupants in a HMO. This leads to an affordability issue in addition to the already high rent in Aberdeen. Available information identifies Aberdeen private rented sector as the most expensive in Scotland. HMOs are also known to serve an important housing role for the migrant workforce.

Compliance for purpose of obtaining a HMO Licence

In order to comply with licensing the landlord must be a "fit and proper person" as should any agent acting on behalf of the landlord. There is a statutory requirement that the Chief Constable is asked to comment on all applications for a licence which in effect means that the Police notify the Council of any relevant criminal convictions. Adverse comments mean automatic referral to the licensing committee. Landlords must also not have contravened housing legislation and should adhere to good management, e.g. lease agreements and management of the lease, attention to repair and maintenance of the property, adherence to occupancy limits, and most importantly how the landlord deals with antisocial behaviour within their tenancies.

Landlords also have to ensure that the property complies with specific safety standards such as an annual gas safety certificate, electrical compliance certificates for installation and equipment, hard wired smoke detectors and self closing fire doors.

Fees and Banding

Item 6.1.2 in the report to Licensing Committee showed the cost of fees and banding of properties from 2006 to present. It will be noted that 2009/10 saw a marked increase in fee from £475 to £1,000 as well as a re-banding. Statistics show that 87% of all HMO applications are properties with 3 to 5 occupants and that a further 9% are for 6 to 10 occupants. The effect of the 2009/10 re-banding affected almost all HMOs within the city by classing them as one band and more than doubled their fee.

Initial Fee & Groupings

The fee for 2011/12 is set at £1,500 for the entry level of up to 10 persons with no further fees set at present for the bands above 10.

Given the surplus revenue for the last financial year and that predicted for this financial year the recommendation is that this fee increase should not proceed as officers can find no justification for it.

Renewal fees

Glasgow, Edinburgh, Dundee and Aberdeenshire all have a reduced renewal fee with discounts varying from 11% to 50% on the initial fee. Aberdeen operated a renewal fee at 50% of the initial fee up until 2006/07.

The work involved in dealing with a renewal application is to a large extent the same as that for a first application. However to encourage landlords to maintain their property as an HMO and renew their application the reintroduction of a lower renewal fee is proposed. In doing so it is important that this be set at a level which would still provide adequate income to run the HMO service.

If committee decide to make any change to fees or banding there needs to be an agreed implementation date. For the purpose of the exercise below an assumption was made that no refunds would be considered for those who have already applied for a licence.

Potential income based on 2009 - 10 applications

	Option 1		Option 2		Option 3	
Grouping	New app	Renewal	New app	Renewal	New app	Renewal
3 – 5	900	700	800	600	900	450
6 – 10	1,200	900	1,100	825	1,200	600
11 – 20	1,500	1,200	1,400	1,050	1,500	750
20 -	1,800	1,400	1,700	1,275	1,800	900
Income by application type	£86,880	£142,049	£77,090	£122,550	£86,280	£88,208
Total annual income	£228,929		£199,640		£174,488	

The table above shows options for re-banding the HMO properties and setting new fee scales against each. The calculation for income is based on the number of applications during 2009/10 and makes the assumption that this will continue throughout 2010/11 and 2011/12. There has been no allowance made for any income that may or may not come from enforcement work as this is an unknown quantity. This is partly due to the fact that we do not know how a landlord who is operating illegally will respond as one option is for them is to stop operating an HMO and move out of the HMO sector altogether.

If the fee scales and banding remain unchanged then it is anticipated that £350,000 will be received in fees this financial year.

Financial Issues

The legal issues section below highlights the basis for ensuring that fees receivable for HMO licenses meet the expenses of the authority in exercising their HMO function.

If as a result of the consideration of the issues by Committee a reduction in the initial application and renewal fees is agreed then the income received will be reduced in future years. This will result in a cost pressure of approximately £120,000 in a full year from the (non HRA) housing revenue fund which will require to be off-set by the Director of Housing & Environment elsewhere. Close monitoring of the income and expenditure will be essential to ensure that income continues to cover costs particularly if additional officers are employed. In employing additional officers, additional licence applications should be generated which will off set this additional cost.

Legal Issues

The Civic Government (Scotland) Act 1982 governs all licences issued by the local authority. It narrates that: -

"...the licensing authority shall seek to ensure that from time to time the total amount of fees receivable by the authority is sufficient to meet the expenses of the authority in exercising their functions...".

This is again reinforced by the Civic Government (Scotland) Act 1982 as amended by Order 2003 – Licensing of Houses in Multiple Occupation, which states: -

"Fees for houses in multiple occupation licences 15. - (1) A licensing authority shall charge such fees in respect of houses in multiple occupation licences and applications for such licences as may be resolved by them from time to time and shall seek to ensure that the total amount of fees received in respect of such licences and applications is, taken together with any money to which sub-paragraph (2) applies, sufficient to meet the expenses incurred by them in carrying out the functions exercisable by them by virtue of the Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000. (2) The money to which this sub-paragraph applies is any money paid by grant to the licensing authority by the Scottish Ministers for the purpose of enabling the authority to carry out the functions exercisable by them by virtue of that Order."

The legal advice provided to the Licensing Committee stated that under the terms of the Civic Government (Scotland) Act 1982, the Licensing Authority shall seek to ensure that fees receivable by them are sufficient to meet the expenses of the Local Authority in carrying out their functions under the Act it would be reasonable to have a modest surplus for contingencies, and that what was 'reasonable' in the circumstances was at the discretion of the Local Authority.

The Housing (Scotland) Act 2006 re-enacts the legislation for HMO's and gives additional powers to Council's. The HMO sections come into force on 31st August 2011. This will provide additional powers which may involve additional work.

Recommendations

It is recommended that Committee agrees

1. to introduce a revised fee structure to include a separate initial application and renewal fee and amend the bed spaces bandings;
2. that HMO licence fees be set at

Bed spaces	New application £	Renewal £
3 – 5	900	700
6 – 10	1,200	900
11 – 20	1,500	1,200
20 -	1,800	1,400

3. that recommendations (1) and (2) be referred to the next meeting of the Finance & Resources Committee for ratification with implementation from 1st October 2010;
4. To instruct that the appropriate Committee(s) considers when the setting of HMO licence fees on an annual basis;; and that when considering the setting of these fees that they ensure that the fees receivable will be sufficient to meet the expenses of the council in exercising their HMO Licensing function;
5. The Director of Housing & Environment report to the next Housing & Environment Committee with a Business Case requesting the employment of appropriate enforcement and administrative officers in relation to HMO licensing.