



Report for:	Cabinet
Date of meeting:	29 January 2019
Part:	1
If Part II, reason:	

Title of report:	HMO Licensing Fees
Contact:	Cllr Margaret Griffiths, Portfolio Holder for Housing Natasha Beresford, Strategic Housing Group Manager
Purpose of report:	To set out a proposed revision of licence fees payable by landlords of Houses in Multiple Occupation in order to meet the statutory requirements of fee setting.
Recommendations	1. That the fee schedule for the licensing of Houses in Multiple Occupation and associated activities, as set out in the report and Appendices, be approved.
Period for post policy/project review	It is proposed that a further review of licence fees charged is to be conducted during 2019/2020; this is to reflect the ongoing changes in requirements.
Corporate objectives:	The Strategic Housing Service's responsibilities and activity in relation to the Private Rented Sector contributes to the following corporate objectives: Clean Safe and enjoyable environment Building Strong and vibrant communities
Implications:	<u>Financial</u>
'Value for money' implications	Failure to regulate the private rented sector could have financial implications for the council in relation to prevention of homelessness and in relation to pressures on temporary accommodation provision. Any income gained from activity related to regulating the private rented sector, is ring-fenced and must be retained for expenditure within the general fund to deliver an effective private sector housing service <u>Value for money</u>

	The income generated from the licence fees and associated activity will offset the overall costs of the service.
Risk implications	The risk register presented to members on a quarterly basis will consider the new remit.
Community Impact Assessment	In view of the objectives of licensing for Houses in Multiple Occupations (HMOs) - which are to ensure that all tenants can live in safe, warm and secure accommodation - it is felt that a Community Impact Assessment is not applicable. The private rented sector, in particular HMOs, houses a younger and transient population than the national average. HMOs in particular will have higher proportion of migrants and vulnerable younger people. The impact of licensing is not felt to have a negative effect on any of the groups protected under the Equality Act 2004.
Health and safety Implications	Failure to regulate the private rented sector will have serious health and safety implications for private sector residents.
Monitoring Officer/ S 151 Officer Comments	<p>Deputy Monitoring Officer:</p> <p>No comments to add to report</p> <p>Deputy S.151 Officer:</p> <p>The recommended fees and charges have been calculated based on the criteria highlighted in the Treasury's paper on Managing Public Money and also reflecting on Counsel advice and recent case law guidance.</p> <p>The charges, are based on estimates of the time and costs incurred by the council to deliver these services. These services are new to the council and hence the costs to deliver these services may change as the service develops so they will need to be monitored going forward to ensure they meet with current legislation and achieve best value for the council and its clients.</p>
Consultees:	<p>Lynne Hunt, Acting Private Sector Team Leader</p> <p>Fiona Williamson, Assistant Director Housing</p> <p>Mark Gaynor, Corporate Director Housing and Regeneration</p>
Background papers:	<p>Appendix 1 Briefing Paper</p> <p>Appendix 2 PRS fees briefing</p> <p>Appendix 3 Managing Public Money</p> <p>Appendix 4 Finance documentation in relation to proposed fees</p>
Glossary of acronyms and any other abbreviations used in this report:	<p>Houses in Multiple Occupation (HMO)</p> <p>Private Rented Sector (PRS)</p> <p>Full Time Equivalent (FTE)</p> <p>Housing Health and Safety Rating System (HHSRS)</p> <p>Ministry of Housing Communities and Local Government (MHCLG)</p>

1. Introduction

- 1.1. In January 2018, the housing service took on the responsibility for regulating private sector housing. The purpose of this report is to provide members with an update on the circumstances surrounding the revision of the HMO licence application fees and recommendations on setting a new set of charges.

2. Context

- 2.1. In October 2018, the Ministry for Housing, Communities and Local Government (MHCLG) introduced new Houses in Multiple Occupation (HMO) licensing reforms. The new reforms offer major revisions to the HMO legislation extending the definition of an HMO to include houses with less than three storeys. A more detailed explanation on the legislative change was submitted to Housing and Community Overview and Scrutiny Committee in July 2018.
- 2.2. Dacorum had 41 licensed HMOs in the borough at the point that the service moved into Housing. The introduction of the new regulations has seen an increase in activity in relation to HMOs and a significant spike in the volume of visits and inspections required to be undertaken by Officers. In September 2018, the service received eight new HMO applications, which rose to 20 applications in October 2018. Appendix 1 comprises a briefing paper, which provides further information in relation to current activity.
- 2.3. A Building Research Establishment (BRE) Integrated Stock Model Report conducted in 2017, estimates that there are approximately 916 HMO's in Dacorum, this is significantly more than the applications to date indicating that Dacorum may have to undertake further enforcement activity to ensure all properties are effectively licensed.

3. Fees and charges

- 3.1. In the HCOSC report in July 2018, it was advised that the team would review the agreed fees and charges linked to the regulation of the PRS. This included HMO licence fees and notices.
- 3.2. The team has worked extensively with the Finance Department, to explore the full breakdown of costs that can be included within the licence fee charged. It is important to note that this will require ongoing review, as the service continues to develop and there are still many elements of the functionality that are unknown in quantity. We will also be able to determine the involvement and impact on other departments such as Corporate Support, Revenue and Benefits, Environmental and Community Protection and this will allow service level agreements and recharge arrangements will be implemented.
- 3.3. A recent judgement will affect how local authorities can charge for HMO licencing applications. In *R(Gaskin) v LB Richmond Upon Thames*(2018) EWHC 1996 (Admin) the High Court overturned a prosecution against Mr Gaskin and gave substantial guidance on fees and other points associated with HMO licensing, and by implication selective licensing, schemes under the Housing Act 2004.

3.4. Because of the ruling, the service has sought specialist advice from Counsel in relation to our existing licence fee, which currently requires a one off payment of £700 for a new HMO application and £980 for a licence undertaken through local authority intervention. Counsel made the following points regarding our current licence fee charge:

- The Council should amend its fee structure as soon as possible, but in the meantime, it does not need to suspend the current scheme. It should issue a public statement on the relevant section of its website that the Council is considering the implication of the judgment in *Gaskin* and that it will be making changes to the fee structure as soon as possible – and that it will provide refunds in appropriate cases.
- The Council can only lawfully charge unsuccessful applicants a fee, which represents the cost of processing the application. The wider costs of running and enforcing the licensing scheme can only be recovered from licence holders (i.e. those whose applications are successful).

3.5. In view of the judgement and the advice received from Counsel, Strategic Housing and Finance have worked closely together, to review the relevant functions that make up the licence fee charge. Appendix 3 shows the Treasury’s document *Managing Public Money*, which lays out what local authorities can include when developing their fees. Appendix 4 shows the functions that have been included at this time.

3.6. It is important to note that any income gained from activity related to regulating the private rented sector, is ring-fenced and must be retained for expenditure within the general fund to deliver an effective private sector housing service, this includes HMO licence application fees. In line with the proposed workings in Appendix 4, the service is proposing a new-tiered approach to fee setting.

HMO licence fee part 1	£599	(initial licence fee application)
HMO licence fee part 2	£426	(ongoing management of 5 year licence)
Enforcement fee	£254	(due to failure to apply to Local authority)

The above fees proposed are reflective of the activities undertaken in processing the applications received, the authority can at its discretion charge a reduced fee, however it must be aware that this will not cover costs incurred in relation to activity and therefore risk maintaining a balanced budget

4. Conclusion

4.1. This report has provided members with an overview of the PRS and changes to the council corporate structure, which led to Strategic Housing taking over the delivery of this service. Finally, the report informs members of the work that is on going to review fees and charges and ensure they appropriately reflect the demand on the service so landlords cover costs.

It is recommended that the fee schedule for the licensing of Houses in Multiple Occupation and associated activities, as set out in Paragraph 3.6 of the report and Appendices, be approved.