

Crawley Borough Council

Report to Overview and Scrutiny Commission 25th June 2018

Report to Cabinet 27th June 2018

Licensing Houses in Multiple Occupation (HMOs)

Report of the Head of Strategic Housing and Planning Services – **SHAP/75**

1. Purpose

- 1.1 Legislation comes into force on 1st October 2018 that extends the mandatory licensing of houses in multiple occupation (HMOs) under the Housing Act 2004 to include all HMOs (regardless of the number of storeys) with five or more occupants forming two or more households. The purpose of this paper is to recommend that Cabinet note the use of the new mandatory duties, agree the proposed fee structure for issuing and renewing such licenses and note the change in working practices required to meet the new demands.

2. Recommendations

- 2.1 To the Overview and Scrutiny Commission:

That the Commission consider the report and decide what comments, if any, it wishes to submit to the Cabinet.

- 2.2 Cabinet is recommended to:

- 2.2.1 Note the use of the new mandatory duties to license all licensable HMOs, as summarised in sections 4.1 to 4.3 of this report.
- 2.2.2 Approve the proposed fee structure, as summarised in section 5 of this report.
- 2.2.3 Note the proposed changes to working practices to meet the new demands placed on the service as a result of this new legislative burden as set out in Appendix One and agree the appointment of one additional full-time member of staff, to be funded from the additional fee income.

3. Reasons for the Recommendations

- 3.1 The legislation extends the mandatory licensing of HMOs and the Council's Private Sector Housing Team are legally required to implement it.
- 3.2 The current fee structure is fair, proportionate and continues to reflect the cost of providing the service.
- 3.3 Additional resources will be required to meet the increased work generated by the legislation change.

1 Section 63(7) of the Housing Act 2004

2 'Open for business – LGA Guidance on locally set licence fees'

3 Section 55 (5)(b) of the Housing Act 2004

4. Background

- 4.1 Historically, mandatory licensing only covered HMO properties of three storeys or more with five or more occupants forming two or more households. The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018 extends mandatory licensing to include all HMOs with five or more occupants forming two or more households.
- 4.2 Landlords of HMOs with five or more occupants forming two or more households need to apply for a licence before the legislation comes into force on 1st October 2018. Failure to do so by this date will be a criminal offence.
- 4.3 The 2015 BRE Dwelling Level Housing Stock Modelling report estimated that Crawley has 513 HMOs in total, of which 55 are currently licensed under the existing Mandatory Licensing scheme. Based on the BRE report, there could be at least a further 460 HMOs in the borough, the majority of which are likely to be two storey properties due to the housing stock. Not all HMOs will require a licence, as those with four or fewer occupants are excluded from licensing requirements.

5. Proposed Licence Fees

- 5.1 The proposed licensing fees (as shown below) are the same as existing HMO licence fees:

Fees for shared accommodation:

Number of Occupants	Initial fee	Renewal fee
For a property accommodating 5 persons	£1099	£780
For a property accommodating 6 persons	£1118	£793
For a property accommodating 7 persons	£1135	£808
For a property accommodating 8 persons	£1151	£822
For a property accommodating 9 persons	£1171	£835
For a property accommodating 10 or more persons	£1187	£850

Fees for bedsit accommodation:

Number of Occupants	Initial fee	Renewal fee
For a property accommodating 5 persons	£1453	£1067
For a property accommodating 6 persons	£1524	£1125
For a property accommodating 7 persons	£1595	£1180
For a property accommodating 8 persons	£1667	£1239
For a property accommodating 9 persons	£1736	£1295
For a property accommodating 10 or more persons	£1809	£1354

Fees for hostel accommodation:

Number of Occupants	Initial fee	Renewal fee
For a property accommodating up to 10 persons	£1099	£780
For a property accommodating 11 - 20 persons	£1453	£1067
For a property accommodating 21 - 30 persons	£1809	£1354

- 5.2 The following table shows the initial licence fees charged by other West Sussex LHAs for a shared house occupied by 5 persons for comparison purposes.

1 Section 63(7) of the Housing Act 2004

2 'Open for business – LGA Guidance on locally set licence fees'

3 Section 55 (5)(b) of the Housing Act 2004

Local Authority	Initial fee
Arun DC	£1261.00
Chichester DC	£854.90
Mid Sussex DC	£950.00
Horsham DC	£836.00

- 5.3 Local housing authorities are required to set licence fees to reflect the costs of providing the HMO licensing service. The fees can take into account the costs of developing the service, processing applications and monitoring accommodation.¹
- 5.4 The income generated from these fees must be ring-fenced to cover the cost of providing the HMO Licensing Service, including all overheads and oncosts.²
- 5.5 The Council Executive adopted the original HMO Licence fees in 2006 when Mandatory HMO Licensing was first introduced and those original fees have formed the basis of HMO licence fees ever since. These have been increased in line with the budget strategy.
- 5.6 There is no proposed reduction or increase in licence fees as a desktop exercise carried out as part of this implementation confirms the current charges are still appropriate and therefore applicable to the extended HMO licensing scheme.
- 5.7 No other West Sussex LHA are proposing to alter their HMO licence fees at this time although the Sussex Housing Group will be reviewing licence fees across the county as part of its annual work plan.

6. Description of Issue to be Resolved

- 6.1 This report recommends Cabinet note the use of the new mandatory duties, agree the proposed fee structure for issuing and renewing such licenses, note the change in working practice required and approve the additional staffing resource required to meet the new demands.

7. Information & Analysis Supporting Recommendation

- 7.1 Government are planning to release guidance regarding use of these powers *after* the legislation comes into force in October 2018.

8. Implications

- 8.1 Financial – It is estimated that the extension of mandatory licensing could generate in the order of £500,000 in the first year (based on 460 additional HMO licences x £1,099.00 per licence). As this is a five year license, £100,000 will be accounted for in each of five years.
- 8.2 Approximately £350,000 will be received in year 6 (as licenses must be renewed every five years) which equates to £70,000 per annum for years 6 to 10 (based on a renewal fee of £780.00).
- 8.3 The cost of an additional permanent member of staff will be £41,200 plus overheads. In the first year additional temporary resourcing will required to meet the demands of the service, these costs can be accounted for over the five years of the license. The net effect would result in a break even position over the period.

¹ Section 63(7) of the Housing Act 2004

² 'Open for business – LGA Guidance on locally set licence fees'

³ Section 55 (5)(b) of the Housing Act 2004

- 8.4 The additional resources required to fulfil the burden placed on the authority by this legislation will be funded through the additional income generated. Further information is detailed in Appendix One.
- 8.5 Legal – The extension of the mandatory HMO licensing scheme is likely to generate additional enforcement work, as this part of the private rented sector has not been subject to this level of regulation and scrutiny before. Legal advice and/or guidance is likely to be required if cases proceed beyond the service of notices.
- 8.6 The extent of Legal input needed is difficult to quantify at this time, but will be spread over the course of five years as programmed inspections identify issues with the properties concerned.
- 8.7 Equalities Impact – The Equalities Impact Assessment has identified that the implementation of this legislation will not have an adverse equalities impact. A copy of the assessment is at Appendix Two.
- 8.8 Environmental – There are no environmental implications resulting from use of this legislation.

9. Background Papers

- 9.1 There are no background papers associated with this report.

Contact Officer: *Chris Modder (Private Sector Housing Manager)*
chris.modder@crawley.gov.uk 01293 438418.

1 Section 63(7) of the Housing Act 2004

2 'Open for business – LGA Guidance on locally set licence fees'

3 Section 55 (5)(b) of the Housing Act 2004

APPENDIX ONE – Resourcing Details

Demand:

The Private Sector Housing Team (PSHT) have identified 355 properties being let as HMOs during the course of their work. The 2015 BRE Dwelling Level Housing Stock Modelling report estimated that Crawley has 513 HMOs in total. Experience suggests that for every HMO that is known to the PSHT, there will be another HMO that is unknown. However, not all HMOs will require licensing as some HMOs will contain fewer than five occupants. Excluding the 55 [three storey] HMOs already licensed from the number predicted in the BRE report equates to 458. This is the best figure on which to base likely demand and has been rounded to 460.

Potential Income (based on 460 HMOs):

- Income from licence applications (in year 1) = £505,540 (for years 1 to 5)
- Income from renewing licenses (on 5 year cyclical basis) = £358,800 (for years 6 to 10)

Resourcing:

The law states that HMO licenses should be determined within a “reasonable period”³. The turnaround time for a licence at present is 3 months. If this paper is agreed at Cabinet this allows three months during which we would expect to receive licence applications (before the October deadline), allow a further three months for licenses to be determined and we have a six month window in which the Council should determine licence applications.

The process of licensing HMOs is also likely to generate enforcement work (as outlined in 8.5 of the main report). However it is not possible to estimate the volume of work with any degree of accuracy as the number of licensable HMOs and their condition are unknown.

Current Way of Working - Issuing Licences after Inspection of Property

HMO licence fees are currently set on the basis that each application requires 16.5 hours of officer and manager time to determine the application (including an inspection of the property before the licence is issued).

Time to license HMOs if inspections are carried out before issuing the licence:

16.5 hrs x 460 HMOs = 7590 hours of work (1012 7.5 hour working days¹ / 203 weeks / 51 months / 4.25 years)

To resource this 8.5 additional staff will be required over the 6 month period (if we adhere to a 3 month turnaround time). **This would not cover the enforcement work that would be generated and further additional resources would be required to meet this demand.**

In five years' time HMO landlords would need to apply to renew their licences. HMO renewal fees are currently set on the basis that each application requires 13.5 hours of officer and manager time to determine the application (including an inspection of the property before the licence is renewed).

Time to renew licences if inspections are carried out before renewing the licence:

13.5 hrs x 460 HMOs = 6210 hours of work (828 days² / 168 weeks / 42 months work/ 3.5 years)

To resource this 7 additional staff would be required over the 6 month period (if we adhere to a 3 month turnaround time).

¹ Section 63(7) of the Housing Act 2004

² 'Open for business – LGA Guidance on locally set licence fees'

³ Section 55 (5)(b) of the Housing Act 2004

Note: Agency Private Sector Housing Officers currently attract a market rate of £30 - £40 per hour (figure obtained from Oyster Partnership agency) and agencies will usually charge approximately 20% for their involvement in the placement. An hourly rate of £30 equates to an overall cost of £57,720 per annum (excluding agency fee). A private sector housing officer did work with the team (via an agency) in 2015 at a cost of £30 per hour.

Proposed Change to Working - Inspection of Property after Issuing Licences

If HMOs were inspected on a programmed basis after the licence was issued (but within the 5 year period as required by law) this would reduce the initial time to issue the licence to 11.5 hours. This would allow the workload to be spread over a greater time period.

Time to licence HMOs if inspections are carried out after issuing the licence:

11.5 hrs x 460 HMOs = 5290 hours of work (approx. 705 days' / 143 weeks / 36 months / 3 years work)

To resource this you would need 6 staff over the 6 month period (if we adhere to a 3 month turnaround time). The remaining 2300 hours of deferred inspection and follow-up work could be carried out by one full-time officer in 62 weeks. It is proposed that 5 agency staff are utilised over a 6 month period with the recruitment of 1 full time member of staff which would also then be able to carry out the additional enforcement work.

In five years' time HMO landlords would need to apply to renew their licences. HMO renewal fees are currently set on the basis that each application requires 13.5 hours of officer and manager time to determine the application. If HMOs were inspected on a programmed basis after the licence was renewed (but within the 5 year period) this would reduce the initial time to issue the licence to 11.5 hours.

Time to renew licences if inspections are carried out after renewing the licence:

11.5 hrs x 460 HMOs = 5290 hours of work (approx. 705 days' / 143 weeks / 36 months / 3 years work)

To resource this you would need 6 staff over the 6 month period (if we adhere to a 3 month turnaround time). The remaining 920 hours of work deferred inspection and follow-up work could be carried out by the one full-time officer in 25 weeks.

Considerations:

- Resourcing the additional licences should be covered by the additional income generated along with the associated Court/Tribunal costs of enforcement.
- With the current way of working, the narrow timescale for inspections (over 6 months) would result in all enforcement work being identified and actioned over a very short period of time and require additional staffing resources to enable the service to cope with the demand. It would also place considerable demand on existing staffing resources (the Private Sector Housing Manager, Legal Services and Fraud Team most notably).
- The exact number of HMOs requiring licensing is currently unknown and the risk of not being flexible to respond to actual demand could result in additional costs to those detailed above if under estimated.
- Whilst we will be advertising the need to apply for a licence from July onwards, landlords may defer applying until September. To be able to process applications in a reasonable time (in 3 months as we currently do) a more steady flow of applications is required.

1 Section 63(7) of the Housing Act 2004

2 'Open for business – LGA Guidance on locally set licence fees'

3 Section 55 (5)(b) of the Housing Act 2004

Our initial promotion [of the legislation] will attempt to address this by advising that delays in applying may lead to longer waits [to receive the licence].

- Resilience – Existing Private Sector Housing Officers are both trainees and have minimal levels of formal enforcement and prosecution experience. The team lost one PSHO in May and recruitment for an experienced replacement has been problematic.
- Recruiting a number of experienced agency staff at one time who are available to work the months required could be problematic but will offer the flexibility to meet demand when needed. If the demand is not as predicted, the level of additional staff will not be required and multiple agencies can be approached.
- If staffing resources are not in place to enable the Council to meet demand, we could be open to scrutiny and maladministration if a complaint were to be made and upheld to the Local Government Ombudsman
- The Council risk losing existing staff as they would be unable to meet the demands of the service.
- The issue of where additional staff would be seated and the cost of additional desks and IT have not been factored in at this stage.
- IT options and potential internal resources within other teams such as Environmental Health will be explored going forwards to assist with the work, reduce the burden in five years' time and carry out a comprehensive review of HMO licence fees based on the actual demand for and costs of the HMO service.

Recommendations:

- Authorities do not have to inspect every licensable HMO before issuing a licence but all licensable HMOs have to be inspected within five years. Therefore the recommendation is to inspect properties on a programmed basis after issuing licenses which is cost neutral to the council.
- To employ one additional member of staff on a FTE permanent basis (Scale G/H, £26,486 - £32,529) to meet initial demand (for issuing licenses) and ongoing demand (inspections and enforcement work on a 5 year cyclical basis). The person appointed should be experienced in HMO licencing, inspections and enforcement (i.e. not a trainee). The cost (for budgeting purposes) is £41,200 per annum. Employ agency staff as required on a flexible basis as dictated by demand.
- This allows for programmed inspections over a 5 year period and therefore the FTE post could manage these inspections and any associated enforcement work within their case load.

1 Section 63(7) of the Housing Act 2004

2 'Open for business – LGA Guidance on locally set licence fees'

3 Section 55 (5)(b) of the Housing Act 2004

APPENDIX TWO - EQUALITY IMPACT ASSESSMENT

Name of activity:	Extending mandatory of HMO licensing for HMOs with five or more occupants forming two or more households	Date Completed:	9th April 2018
Division responsible for activity:	Strategic Housing & Planning Services	Lead Officer:	Hannah Martin
Existing Activity	<input type="checkbox"/>	New / Proposed Activity	<input checked="" type="checkbox"/>
		Changing / Updated Activity	<input type="checkbox"/>

What are the aims / main purposes of the activity?

Legislation is to come into force on 1st October 2018 that extends the scope of mandatory licensing of houses in multiple occupation (HMOs) under the Housing Act 2004 to include all HMOs with five or more occupants forming two or more households.

What are the main actions and processes involved?

For the Private Sector Housing Team, this will mean a significant increase in workload, with a significant number of properties to be licenced. Compliant landlords will not be unduly affected by this legislation, other than the introduction of fees to be paid on a five yearly cycle. Non-compliant landlords will be required to bring their properties up to the required standard and comply with the HMO Management Regulations

Who is intended to benefit and who are the main stakeholders?

These powers were introduced by Government to improve standards in the private rented sector and make landlords more accountable for conditions within their properties.

Have you already consulted on / researched the activity?

Government carried out a consultation in 2016 regarding the extension of mandatory licensing powers and therefore further [local] consultation is not required.

Impact on people with a protected characteristic

Protected characteristics / groups	Is there an impact (Yes / No)	If Yes, what is it and identify whether it is positive or negative
------------------------------------	-------------------------------	--

1 Section 63(7) of the Housing Act 2004

2 'Open for business – LGA Guidance on locally set licence fees'

3 Section 55 (5)(b) of the Housing Act 2004

Age (older / younger people, children)	No	This legislation was designed to target unscrupulous landlords and improve conditions within HMOs. A person's age has no bearing on the use of this legislation or its impact.
Disability (people with physical / sensory impairment or mental disability)	No	Whether or not a person identifies as having a disability has no bearing on the use of this legislation or its impact.
Gender reassignment (the process of transitioning from one gender to another.)	No	Whether or not a person is undergoing gender reassignment has no bearing on the use of this legislation or its impact.
Marriage & civil partnership	No	Whether or not a person is married or in a civil partnership has no bearing on the use of this legislation or its impact.
Pregnancy & maternity (Pregnancy is the condition of being pregnant & maternity refers to the period after the birth)	No	Whether or not a person is pregnant or on maternity has no bearing on the use of this legislation or its impact.
Race (ethnicity, colour, nationality or national origins & including gypsies, travellers, refugees & asylum seekers)	No	A person's race has no bearing on the use of this legislation or its impact.
Religion & belief (religious faith or other group with a recognised belief system)	No	A person's religion or religious beliefs have no bearing on the use of this legislation or its impact.
Sex (male / female)	No	A person's gender has no bearing on the use of this legislation or its impact.
Sexual orientation (lesbian, gay, bisexual, heterosexual)	No	A person's sexual orientation has no bearing on the use of this legislation or its impact.
Whilst Socio economic disadvantage that people may face is not a protected characteristic; the potential impact on this group should be also considered	No	A person's socio economic status has no bearing on the use of this legislation or its impact.

1 Section 63(7) of the Housing Act 2004

2 'Open for business – LGA Guidance on locally set licence fees'

3 Section 55 (5)(b) of the Housing Act 2004

What evidence has been used to assess the likely impacts?

Government have already carried out an impact assessment regarding the introduction of this legislation, therefore further [local] assessment is not required.

What resource implications are there to deliver actions from this EIA?

Financial – It is estimated that the extension of mandatory licensing could generate approx. £505,540 in the first year (based on 460 additional HMO licences x £1,099.00 per licence) and approx. £358,800 on a five yearly cyclical basis (as licenses must be renewed at least every five years and renewal fees are lower at £780.00).

Legal – The extension of mandatory licensing is likely to generate additional enforcement work, as this part of the private rented sector has not been subject to this level of scrutiny before. Legal input may be required if cases proceed beyond the service of notices.

Outcome following initial assessment

Does the activity have a **positive** impact on any of the protected groups or contribute to promoting equality, equal opportunities and improving relations within target groups?

No

Does the activity have a **negative impact** on any of the protected groups, i.e. disadvantage them in any way.

No

Decision following initial assessment

Continue with existing or introduce new / planned activity

Yes

Amend activity based on identified actions

No

Action Plan (Has the EIA identified any positive or negative impact on any of the protected groups which requires action? E.g. adjustments to the approach or documents, changes to terminology, broadening parameters of policy, etc. If so record any actions to be undertaken and monitored)

Impact identified	Action required	Lead Officer	Deadline
None identified			

Monitoring & Review

Date of last review or Impact Assessment:

Not applicable

1 Section 63(7) of the Housing Act 2004

2 'Open for business – LGA Guidance on locally set licence fees'

3 Section 55 (5)(b) of the Housing Act 2004

Date of next 12 month review:	
Date of next 3 year Impact Assessment (from the date of this EIA):	

Date EIA completed:	9 th April 2018
Signed by Person Completing:	Hannah Martin
Date Sent to HR and Equalities Team:	
Approved by Head of Service:	

1 Section 63(7) of the Housing Act 2004

2 'Open for business – LGA Guidance on locally set licence fees'

3 Section 55 (5)(b) of the Housing Act 2004