

## BIRMINGHAM CITY COUNCIL

### PUBLIC REPORT

<b>Report to:</b>	<b>CABINET</b>
<b>Report of:</b>	<b>Corporate Director – Place</b>
<b>Date of Decision:</b>	<b>12 December 2017</b>
<b>SUBJECT:</b>	<b>REVIEW OF HOUSE IN MULTIPLE OCCUPATION LICENCE FEE AND PROPOSALS FOR SELECTIVE LICENSING FEE.</b>
<b>Key Decision:</b>	<b>Yes</b>
<b>If not in the Forward Plan: (please "X" box)</b>	<b>Relevant Forward Plan Ref: 004109/2017</b>
<b>Relevant Cabinet Member(s)</b>	<b>Chief Executive approved <input type="checkbox"/></b>
<b>Relevant O&amp;S Chairman:</b>	<b>O&amp;S Chairman approved <input type="checkbox"/></b>
<b>Wards affected:</b>	<b>Councillor Peter Griffiths – Housing and Homes</b>
	<b>Councillor Victoria Quinn – Housing and Homes</b>
	<b>All</b>

#### 1. Purpose of report:

- 1.1 To review the current House in Multiple Occupation (HMO) licence fee and determine a new fee based on improvements to the application process
- 1.2 Consider a licence fee structure for the proposed Selective Licensing scheme to allow inclusion in the consultation process

#### 2. Decision(s) recommended: That the Cabinet :-

- 2.1 Approves the new HMO licence fee as set out in paragraph 5.9 of this report
- 2.2 Approves the proposed Selective Licensing fee structure as set out in paragraph 5.11 of this report to enable officers to include the detail in the forthcoming formal consultation in target wards

<b>Lead Contact Officer(s):</b>	Rob James, Service Director – Housing
<b>Telephone No:</b>	0121 464 7699
<b>E-mail address</b>	Robert.james@birmingham.gov.uk

<b>Telephone No:</b>	Peter Hobbs, Service Head PRS and Tenant Engagement
<b>E-mail address:</b>	0121 675 7936 or Mob: 07766924366
	Pete.hobbs:Birmingham.gov.uk

### **3. Consultation**

#### **3.1 Internal**

Officers from City Finance and Legal & Democratic Services have been involved in the preparation of this report. The proposal has been discussed with the Councillor Peter Griffiths, Cabinet Member for Housing and Homes, who is supportive of the need to improve the efficiency of license approvals and implement an effective on-line application solution as well as to have the fee better represent the Council's costs of administering the scheme.

#### **3.2 External**

This proposal has been discussed at the Landlord Forum Steering Group, a partnership meeting with private landlords who represent a range of providers and includes the regional representative of the National Landlords Association. In general the LFSG is critical of the existing level of HMO licence fee and support a reduction as well as supporting a discount for responsible landlords who are members of an accreditation scheme. They wish to see a simpler application process on-line and an effective low cost renewal process where there is no change of circumstance.

### **4. Compliance Issues:**

#### **4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?**

HMO licensing is a mandatory requirement for certain types of property and the use of licensing to target worst landlords in worst areas is consistent with the Housing Birmingham Strategy Statement. The Council is able to charge the costs of administering a licence and the fee structure seeks to ensure the reasonable costs are recovered in compliance with legislation and guidance. Charging a fee ensures that there is not a financial burden on the Council for delivering this enforcement approach to improving standards in the private rented sector

#### **4.2 Financial Implications (Will decisions be carried out within existing finance and Resources?)**

Licence fees for either HMOs or Selective Licensing are required to be set at such a level that does not exceed the costs incurred in administration, investigation and inspection of licensable properties (including both direct and indirectly apportioned costs).

This proposal supports the delivery of savings proposal HN4 within the Council's approved budget for 2017/18 and future years, proposed to deliver an additional net contribution to overheads of £250k in 2017/18, increasing to £500k per annum in subsequent years.

The Council has received licence fees totalling £1.725million over a full 5 year cycle from 2012 (an average of £345,000 per annum), which includes discounts to responsible landlords.

The following table estimates gross license fee income to be generated as a result of the proposed improved on-line operating system and the proposed revised fee basis. The Government have indicated that they intend to extend the scope of statutory HMO licensing in April 2018 and it is estimated this will add an additional 3-4,000 other properties to the licensing programme.

	2018/19	2019/20	2020/20	2021/22	2022/23	Total
<b>HMO Licensing</b>						
Licences Issued	1,500	1,000	1,000	1,000	1,000	5,500
Ave Licence Fee (£)	625	665	635	665	665	650
Total Income (£'000)	937	665	635	665	665	3,567
<b>Selective Licensing</b>						
Licences Issued	2,000	1,500	500	500	500	5,000
Ave. Licence Fee (£)	365	365	365	365	365	365
Total Income (£'000)	730	548	182	182	183	1,825
<b>Overall Total Income</b>	<b>1,667</b>	<b>1,213</b>	<b>817</b>	<b>847</b>	<b>848</b>	<b>5,392</b>

The Council can charge the costs of administering the licence and the associated activities (including overheads) and so the revenue costs for this service are equivalent over time to the income received, making the service cost neutral.

#### 4.3 Legal Implications

The Council is required under the Housing Act 2004 Part 2 s55 to licence certain HMOs. It also has the power under Part 2 Section 56 to use Additional Licensing for other HMOs or Part 3 Section 79 to use Selective Licensing for other PRS properties where the criteria are met.

#### Data Protection

The Council uses personal details of landlords or agents as part of the licence application and in accordance with the requirements of the Housing Act 2004. The requirements of the Data Protection Act 1998 and Human Rights Act 1998 have been taken into consideration in terms of the processing and management of data involved in these proposals.

It is a requirement to publish the list of licensed properties however the personal details of landlords or agents are not included on the register which is available on the Council's website.

#### 4.4 Public Sector Equality Duty

A copy of the Equality Act 2010 – Public Sector Duty statement is appended – Appendix 2A together with the initial equality assessment screening – Appendix 2B. The screening concludes that in relation to the HMO licence fee the changes do not significantly impact on any particular group and that it is a statutory duty to enforce licensing for certain categories of HMO.

In relation to Selective Licensing it concludes that there is no evidence that any particular group will be disproportionately affected by licensing in the target wards but that it will impact financially on all landlords operating in Stockland Green and Soho.

Should the Council decide to proceed with Selective Licensing following formal consultation and charge a fee, a full impact assessment will be done at that time.

## 5. Relevant background/chronology of key events:

### HMO LICENSING

- 5.1 The Council has a duty to license certain private rented Houses in Multiple Occupation (HMO). At present there are 1,900 properties on the Council's HMO licence register. The Council charges a fee for the administration of the licence and the current fee structure is set out below. The fee is for a 5 year period. The Council started licensing HMOs in April 2006 when the original fee was £500 as an introductory fee level to encourage landlords to apply early. It was increased to £800 in 2008 and was increased to the current level in 2012. Discounts were introduced for accredited landlords (MLAS, NLA and RLA) in 2013. In the last 5 year period (when the fee was £1,150) the Council has received £1.725m in licence fee income. Between 1 April and 31 October 2017, the Council has received 523 licence applications, of which 90% were entitled to a discount. The Council supports responsible renting and currently provides substantial discounts to landlords who are members of accredited organisations and demonstrate good practice. It should be noted that a landlord who is a member of both MLAS and NLA/RLA would be entitled to both discounts.

#### **How much should I pay? Licence fees**

A first application for a licence for a property. **£1150**

For the renewal of an existing licence made before the current licence expires **£850**

Where an application for the renewal of an existing licence is made after the expiry of the current licence. **£1150**

*Please Note: There is an additional charge of **£100** for incomplete applications. If further information is required, the application will not be processed until this additional fee has been paid.*

#### **The proposed Licence Holder may claim any of the following discounts for membership of the following landlord organisations:**

Midland Landlord Accreditation Scheme (MLAS) a discount for each HMO licence. **£300**

National Landlord's Association (NLA) or the Residential Landlord's Association (RLA) - a discount for each HMO licence. **£150**

- 5.2 The fee is based on the activities and costs associated with processing and approving the licence, carrying out an investigation and inspection to ensure compliance and to cover reasonable overhead costs such as traveling, IT and premises. The Council has used a Toolkit developed by the Local Government Association to help determine the fee. The Toolkit ensures that relevant activities by officers are included and the level of salary and time is applied to each activity. The Toolkit also includes provision for the inclusion of relevant overheads and on-costs associated with the activities undertaken.
- 5.3 A review of the processing of licences has been carried as there are a number of emerging pressures
- The Government is intending to extend existing mandatory HMO licensing in 2018, which may add another 4,000 HMOs to the register and this will create significant demand on the current system. The implementation date for this extension has not yet been confirmed, but is anticipated to be April 2018.
  - The current system involves considerable processing of paperwork and is staff intensive and requires storage facilities for paper files.
  - The Council is consulting over the potential use of Selective Licensing powers in target areas which may substantially increase the volume of licence applications to be processed.
  - The Council may consider the use of Additional Licensing powers under the Housing Act 2004, for other HMOs in the city and this fee structure will need approval to apply to the use of this power.
- 5.4 This review is based on a move to processing applications using an on-line system that has been procured by the Council. This improvement has been proposed for some time and is supported by the Landlord Forum. This move aims to improve the efficiency of the scheme and reduce processing times. This is consistent with the channel shift of Council services to the website portal.
- 5.5 The Council has been criticised by the National Landlords Association (NLA) and the Landlord Forum Steering Group about the level of fee, in particular with regard to comparative costs across the West Midlands local authorities. Appendix 1 shows comparative costs of an HMO licence in other local authorities in the region and other core cities. Overall the Council's fees are higher than in the West Midlands area but are similar to (or below) those of larger cities such as Bristol, Leeds and Nottingham.
- 5.6 The Council does, however, offer a larger discount for accredited landlords than in the other authorities in Appendix 1, which for responsible landlords would make the fees more competitive. Discounts are currently available based on membership of a number of organisations, including Midland Landlord Accreditation Scheme -MLAS (which is a West Midlands landlord accreditation scheme that provides advice and training to members as part of registration as a member to ensure compliance with legal duties and promotes good practice), National Landlords Association – NLA and Residential landlords Association RLA (which are both professional membership bodies representing landlords). The Midland Landlord Accreditation Scheme (MLAS - <https://mlas.org.uk/> ) is part of the partnership of HOMESTAMP (<https://homestamp.com/>) of which the Council is a member. HOMESTAMP and MLAS promote good practice and provide advice and guidance to landlords and agents, as well as tenants through the new phone app “Check before you Rent”.

## 5.7 MLAS

The following is an extract from the MLAS website which explains the scheme.

*“MLAS membership is an **individual membership**. As an individual you will be required to have completed the Application form, Accreditation Day Seminar and have signed up to MLAS Terms and Conditions including our Code of Conduct and Fit and Proper Person agreements....*

*To become a Member of the MLAS you must either attend our **Accreditation Day Seminar** at a cost of **£150.00 per person** or, **if you are an existing member of another Accreditation Scheme**, you may be eligible to join at no charge via our **PASSPORT service**.”*

The Council is working with MLAS to promote membership and support information to tenants on the benefit of using an MLAS accredited landlord.

## 5.8 It is proposed to amend the fees as shown below, with licences continuing to be valid for a 5 year period. The new fee level has taken account of the following

- The introduction of streamlining through the new on-line process
- Stronger enforcement of failure to comply with standards through the service of relevant statutory notices where costs can be recovered. This will impact on irresponsible landlords
- Simplification of fee structures to remove additional costs for larger properties and to remove discounts for portfolio owners as the Council has to complete the same level of checks and approvals for each property.
- Consolidation of discounts for members of accreditation and professional bodies. The MLAS scheme is seen as an important element of recognising responsible renting and is relevant to the way local authorities in the West Midlands (who are part of HOMESTAMP) are targeting enforcement on the worst landlords. It is no longer considered necessary to offer additional discounts for membership of NLA or RLA as this duplicates the MLAS scheme and NLA and RLA members can passport to the MLAS scheme if necessary.
- The discount is provided in recognition of the need not to carry out a routine inspection of the property within the 5 year term of the licence as it is expected that any complaint is first resolved by referral to MLAS. The discount better reflects the cost to the Council of inspecting HMOs and completing associated health and safety rating assessments and updating systems and records.

## 5.9 Proposed Fee Structure

<b>HMO LICENCE</b> <b>BASIC FEES FOR ALL APPLICATIONS RECEIVED AFTER 1<sup>st</sup> April 2018</b>	
Licence fee for an HMO	<b>£950</b>
For the renewal of an existing licence made before the current licence expires where no change of circumstances	<b>£650</b>
<b>DISCOUNTS</b>	
For applicants who are members of Midlands Landlords Accreditation Scheme (based on a deduction for non-inspection of properties at the average cost of inspection of HMOs)	<b>£250</b>

**SELECTIVE LICENSING**

- 5.10 The Council also has powers under Part 3 Housing Act 2004 to licence other private rented housing. At present the Council is proposing to consult in target Wards on the use of Selective licensing and this report is setting out the proposed fee structure. The principles are the same in that the fee is for the administration of the licence and the LGA toolkit has been used to calculate the fee for a 5 year licence.
- 5.11 With the HMO licensing scheme in place and the likelihood of the extension of the scheme to a wider range of properties it is anticipated that the majority of properties included in a Selective Licensing scheme will be smaller houses with simpler letting arrangements and less complex needs for compliance with housing standards. This is therefore reflected in the amount of work involved in approving a licence and the fee levels are lower than for larger HMOs. The Council will provide discounts for MLAS members as above, where a routine property inspection will not be required.

<b>SELECTIVE LICENCE</b> <b>BASIC FEES FOR ALL APPLICATIONS RECEIVED AFTER 1<sup>st</sup> April 2018</b>	
Licence fee for a property	<b>£500</b>
<b>DISCOUNTS</b>	
For applicants who are members of Midlands Landlords Accreditation Scheme (based on a deduction for non-inspection of properties at the average cost of inspection)	<b>£150</b>

**6. Evaluation of alternative option(s):**

- 6.1 The Council can charge a fee for HMO or Selective licensing to cover the cost of administration of the licence. The fee level has been calculated using a toolkit developed by the LGA. The Council could use an alternative method but this toolkit is felt to be robust should the fee level be challenged.
- 6.2 The Council could charge a reduced amount but this will not cover the costs of the service and would not be in line with the Council's overall approved Budget .

**7. Reasons for Decision(s):**

- 7.1 The Council is required to charge a fee for an HMO licence and can charge fees for Additional and Selective licensing schemes where implemented. The report seeks approval to a review of fees in the light of a new online operating model and the proposed implementation of Selective licensing in target areas.

**Signatures**

**Date**

Cabinet Member

.....  
Councillor Peter Griffiths  
Housing and Homes

.....

Corporate Director

.....  
Jacqui Kennedy  
Corporate Director - Place

.....

**List of Background Documents used to compile this Report:**

None

**List of Appendices accompanying this Report (if any):**

1. Comparison of HMO Licence Fees
2. 2A. Public Sector Equality Duty Statement and 2B. Equality Analysis

**Report Version**

**Dated 23/ 11/ 17**



## Appendix 1

## Comparison of HMO Licence Fees

Local Authority	Licence Fee	Renewal Fee	Discount offered
Sandwell	£700	£500	Up to £200 for accredited landlords
Wolverhampton	£650	£585 if made 3 months prior to expiry	Up to 15% for accredited landlords 25% for portfolio HMO owners making multiple applications at one time
Walsall	£750 (5-6 persons) ranging up to £1580 for 20+ persons	£350 where no change of circumstances	Minimum of £150 for accredited landlords
Coventry	£804.97 up to 7 lets additional £10.89 per unit/person over 7	Same	None
Sheffield	£750 plus £25 for every person over 5 people	£430 plus £10 for every person over 5 people	None
Leeds	£1,350 for 9+ persons £825 for 5-6 persons	Same	£150 to members of the Leeds Rental Standard
Bristol	£1,350 new application £1,550 for "unlicensed HMO"	Same	£250 "Reward" for complete application. No accreditation scheme in place
Manchester	£690.75 plus £40 fee for number of habitable rooms	£434.25 plus £40 fee for number of habitable rooms	None
Nottingham	£910	£830	£115 for membership of accreditation scheme £100 on renewal
Liverpool	£840	£790	£50 for membership of "CLASS" local accreditation scheme
Birmingham	£1,150	£850 where renewal made before expiry	Up to £450 for accredited landlords
London Borough of Newham	£500 Selective Licensing £800 Additional Licensing HMO licensing £1050-£1650	same	None
London Borough of Waltham Forest	£650 All PRS properties	same	None

## Equality Act 2010

The Executive must have due regard to the public sector equality duty when considering Council reports for decision.

The public sector equality duty is as follows:

1	<p>The Council must, in the exercise of its functions, have due regard to the need to:</p> <ul style="list-style-type: none"> <li>(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act;</li> <li>(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;</li> <li>(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.</li> </ul>
2	<p>Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:</p> <ul style="list-style-type: none"> <li>(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;</li> <li>(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;</li> <li>(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.</li> </ul>
3	<p>The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.</p>
4	<p>Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:</p> <ul style="list-style-type: none"> <li>(a) tackle prejudice, and</li> <li>(b) promote understanding.</li> </ul>
5	<p>The relevant protected characteristics are:</p> <ul style="list-style-type: none"> <li>(a) Marriage &amp; civil partnership</li> <li>(b) Age</li> <li>(c) Disability</li> <li>(d) Gender reassignment</li> <li>(e) Pregnancy and maternity</li> <li>(f) Race</li> <li>(g) Religion or belief</li> <li>(h) Sex</li> <li>(i) Sexual orientation</li> </ul>