

5 June 2013		ITEM: 17 01104214
Cabinet		
PRIVATE SECTOR HOUSING FEES		
Report of: Councillor Val Morris Cook, Portfolio Holder for Housing		
Wards and communities affected: All	Key Decision: Key	
Accountable Head of Service: Richard Parkin, Head of Housing		
Accountable Director: Barbara Brownlee, Director of Housing		
This report is a public report		
<p>Purpose of Report: To seek approval of :</p> <ul style="list-style-type: none"> • The fee to be charged for licence applications for Houses in Multiple Occupation which fall within the mandatory licensing requirements of the Housing Act 2004, • The fee to be charged for the taking of certain types of enforcement action under the provisions of the Housing Act 2004, and • The fee to be charged for non statutory inspections such as inspections of properties in connection with applications for UK Border Agency Clearance Reports. 		

EXECUTIVE SUMMARY

The Housing Act 2004 details a mandatory licensing requirement for certain types of larger Houses in Multiple Occupation (HMO) and gives the Local Authorities the ability to charge for this licence application, with discretion given to calculate the fee such that the licensing process is cost neutral to the Authority. A local fee has been calculated which is comparable to that of other Local Authorities and approval is sought for this fee to be included in the Fees and Charges schedule.

The Housing Act 2004 also gives the power for Local Authorities to charge for certain types of enforcement activity. Discretion is given to the Local Authority to calculate this fee. A fee has been calculated which is comparable to that of other Local Authorities and approval is sought for this fee to be included in the Fees and Charges schedule.

The Local Authority undertakes certain non statutory inspections of private sector housing. These include inspection of properties at request of a sponsor to a person seeking UK Border Agency Clearance. The Authority may charge a fee for such inspections. A fee has been calculated which is comparable to that of other Local Authorities which also offer this service and approval is sought for this fee to be included in the Fees and Charges schedule.

1. RECOMMENDATIONS:

That cabinet

- 1.1 Approve the fee to be charged for licence applications for Houses in Multiple Occupation which fall within the mandatory licensing requirements of the Housing Act 2004**
- 1.2 Approve the fee to be charged for the taking of certain types of enforcement action under the provisions of the Housing Act 2004**
- 1.3 Approve the fee to be charged for non statutory inspections such as inspections of properties in connection with applications for UK Border Agency Clearance Reports.**
- 1.4 Agree the Private Housing Service Enforcement Policy and Procedure for 2013/14.**

2. INTRODUCTION AND BACKGROUND:

- 2.1 The Housing Act 2004 details a mandatory licensing requirement for certain types of larger Houses in Multiple Occupation (HMO). The purpose of these provisions is to give Local Authorities increased powers and control over this type of property by imposing licence conditions.

The Act allows Local Authorities to charge for this licence application, with discretion given to the Authority to calculate the fee. The fee should be set such that the licensing process is cost neutral to the Authority.

The licence application process involves various administrative processes and an inspection of the premises.

Once the fee has been approved the Council can commence the HMO licensing program. A licence lasts for a five year period.

These fees are being requested outside of the normal annual Fees and Charges cycle, generally in September, due to the recent recruitment of a HMO Officer. For this officer to be able to carry out their duties over the next year, the fees need to be agreed.

- 2.2 The Housing Act 2004 also introduced the power for the Local Authority to charge for certain types of enforcement action.

These types of enforcement action include the serving of an improvement notice requiring repairs to be completed; the making of a prohibition order/emergency prohibition order which prohibits the use of all or part of a property for living in; the serving of a hazard awareness notice advising of a defect; the taking of emergency remedial action where the Authority undertakes the repairs itself in cases of urgency and the making of a demolition order in extreme cases.

A local housing authority may make such reasonable charge as they consider appropriate as a means of recovering certain administrative and other expenses incurred by them.

In accordance with the Private Housing Service Enforcement Policy, Appendix 1, a statutory notice or other enforcement action will be taken where owners persist in non compliance with legal requirements or blatantly disregard their legal obligations to maintain their properties.

The adoption of a fee to be charged to property owners is considered likely to act as a deterrent to those who may be un-cooperative on initial contact and encourage them to comply with their legal obligations more quickly on an informal basis. This will protect the often vulnerable tenants which occupy the poorer quality properties within the private rented sector.

- 2.3 One of the requirements for a person seeking UK Border Agency Clearance is for a report on the condition of the property which they intend to occupy. This report requires an inspection of the property and consideration of whether the property is in reasonable condition and will not be overcrowded.

This report can be prepared by the Local Authority or by another suitably competent professional. Within Essex, all Local Authorities provide this Service. Given the diversity of the population of Thurrock, this is considered a useful service to offer residents. However, this is a non statutory service and the Authority has the discretion to charge for this.

3. ISSUES, OPTIONS AND ANALYSIS OF OPTIONS:

- 3.1 The adoption of an HMO licence fee is allowed for by legislation. The fee has been calculated transparently with all steps in the process identified and a time and officer hourly rate applied. Thurrock Council's general calculation for fees would be $(\text{Base Salary}) \times 2.5 / 52 / 37$ to receive an hourly rate. This would then be multiplied by the number of hours taken to complete the task. Using this calculation however meant that the fee came out at £925. Looking at the benchmarking information in Appendix 3 it is more appropriate to match the prices of Southend, Basildon and Brentwood to ensure that we do not lose landlords to neighbouring Councils.

The calculated fee as detailed at Appendix 2 of £750 is considered the chosen fee to be approved.

- 3.2 The taking of certain types of enforcement action has been undertaken by the Private Housing Service since the powers were enacted by the Housing Act 2004 in April 2006.

The Council has not previously adopted a system of charging for this activity, however, in order to support the current savings programme and in line with other Local Authorities within Essex, future charging is now recommended. See Appendix 5.

The calculated fee as detailed in Appendix 4 of £440 is considered the chosen fee to be approved.

- 3.3 Providing a service to residents for inspections of private sector properties, such as those as part of UK Border Agency Entry clearance requirements, is a non statutory function.

Requests for this type of work are intermittent, but pending approval of future fees, a more proactive approach to advertising this service will be carried out i.e. use of professional web sites. The calculated fee as detailed in Appendix 6 of £146 is considered the chosen fee to be approved.

This approach is in line with those 4 other Local Authorities within Essex which charge for a similar service and is comparable with the prices they charge. See Appendix 7. This fee is also competitive when compared with those private companies which offer the service.

- 3.4 In line with these proposed changes and the new Housing Strategy the enforcement policy and procedures have now been reviewed, having regard to the current management structures, but will be further updated to ensure they are still fit for purpose (appendix 1). This report asks Cabinet to agree this policy for 2013/14.

4. REASONS FOR RECOMMENDATION:

- 4.1 Guidance issued, see Appendix 8, recommends that where Local Housing Authorities charge for enforcement, the basis for the charges needs to be included in the enforcement policy, approved by councillors, or otherwise set in accordance with the council's constitution.

5. CONSULTATION (including Overview and Scrutiny, if applicable)

- 5.1 Examples of good practice have been followed and comparison made with other Local Authorities procedures and fees and charges. Guidance issued, see Appendix 8, has also been considered. This has shown that the approval of these recommendations will bring Thurrock's approach on these issues to be generally in line with those of other Authorities within Essex and neighbouring London Boroughs.

6. IMPACT ON CORPORATE POLICIES, PRIORITIES, PERFORMANCE AND COMMUNITY IMPACT

- 6.1 The adoption of the recommendations will contribute to the Housing Transformation Programme priorities of Improving the quality of homes; managing to improve performance and the services offered by the Council and working in partnership with landlords.

7. IMPLICATIONS

7.1 Financial

Implications verified by: **Mike Jones**
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It is anticipated that the income generated in the first year from HMO licensing will be in the region of £5,000 – £10,000. As licences last for a five year period this will not be a continuous annual income. However, it is envisaged that with proactive action in identifying previously unknown licensable HMOs, that year on year additional properties will require licensing and could generate an income in the region of £1000-£2000 per annum for years 2-5. In year 5, licence applications are renewed and the fee will require re-consideration for renewal applications.

It is anticipated that the income generated from Housing Act 2004 enforcement activity will be in the region of £3,000-£5,000 per annum. This will be a continuous annual income and with the recent additional staffing resources is likely to increase.

It is anticipated that the income from non statutory inspections will be in the region of £1,500 per annum based on current requests for this service.

The recent increase in staffing capacity within the Private Sector Housing Service will allow this work to be undertaken and it is considered that there will be no further additional staffing or other resources required for this work at this time.

7.2 Legal

Implications verified by: **Alison Stuart, Principal Solicitor**
 Telephone and email: **01375 652040**
alison.stuart@bdtlegal.org.uk

The power to charge for licence applications for House in Multiple Occupation is contained within Section 63 of the Housing Act 2004. When fixing fees under this section, the local housing authority may take into account all costs incurred by the authority in carrying out their functions relating to HMO licensing.

The power to charge for certain enforcement action is contained within Section 49 of the Housing Act 2004. A local housing authority may make such reasonable charge as they consider appropriate as a means of recovering certain administrative and other expenses incurred by them as defined in the Section.

The adoption of the proposed Fees will implement these provisions.

7.3 **Diversity and Equality**

Implications verified by: **Samson DeAlyn**
Telephone and email: **01375 652472**
sdealyn@thurrock.gov.uk

The implications of this report in relation to Diversity and Equality have been considered.

The adoption of a fee for HMO licence applications will allow the Authority to licence these properties and to impose licence conditions to protect the potentially vulnerable persons who tend to occupy this type of accommodation. The fee has been set at a level which is comparable with other Essex and neighbouring London Local Authorities and it is not considered likely that this will cause HMO owners to close their businesses or be economically disadvantaged.

The adoption of a fee for certain types of Housing Act enforcement activity will ensure that those persons who occupy sub standard private rented accommodation who are often vulnerable (such as those in receipt of income related benefits, single parents etc) are given further protection. It is envisaged that it will act as a deterrent to unscrupulous property owners who may be considering non compliance with their legal obligations in maintaining their properties. The fee has been set at a level which is comparable with other Essex Local Authorities and it is not considered likely that this will cause property owners to be economically disadvantaged. The fee can be set as a charge on the property if the property owner cannot pay it and the works required by the enforcement activity can be completed in the default of the owner if required and the charge attached to the property.

The adoption of a fee for non statutory inspections such as inspections of properties in connection with applications for UK Border Agency Clearance Reports could be considered to have implications against those persons requesting this service who will not be of English nationality. However, the applicant has the choice to use the Service provided by the Local Authority or by commercial companies and the fee set for this work compares favourably with those charged commercially.

7.4 **Other implications**

There are no other direct implications to the contents of this report.

The adoption of a charging process will generate income to the Authority without the need for additional resources.

BACKGROUND PAPERS USED IN PREPARING THIS REPORT:

- Housing Act 2004 (www.legislation.gov.uk)

APPENDICES TO THIS REPORT:

- Appendix 1- Private Housing Service Enforcement Policy
- Appendix 2-HMO Licence Fee Calculation
- Appendix 3- Comparison of Thurrock proposed HMO licence fee with those of other Local Authorities
- Appendix 4 - Housing Act 2004 enforcement action Fee Calculation
- Appendix 5 - Comparison of Thurrock proposed Housing Act 2004 enforcement fee calculation with those of other Local Authorities.
- Appendix 6- UK Border Agency Clearance Report Fee Calculation.
- Appendix 7 – Comparison of Thurrock proposed non statutory inspection fee with those of other Local Authorities.
- Appendix 8 – LACORS FAQ “How should LHAs charge for enforcement of notices or orders served under the Housing Act 2004 Part 1.”

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