

19 December 2017		ITEM: 8
Housing Overview and Scrutiny Committee		
Fees & Charges Pricing Strategy 2018/19		
Wards and communities affected: All	Key Decision: Non-Key	
Accountable Assistant Director: John Knight, Assistant Director of Housing Management		
Accountable Director: Roger Harris, Corporate Director of Adults, Housing and Health		
This report is Public		

Executive Summary

Local Authorities are involved in a wide range of services and the ability to charge for some of these services has always been a key funding source to Councils.

This report specifically sets out the charges in relation to services within the remit of this Overview and Scrutiny Committee. All of the charges dealt with are for the General Fund by the Housing Service. Charges will take effect from the 1 April 2018 unless otherwise stated. In preparing the proposed fees and charges, Directorates have worked within the charging framework and commercial principles set out in the report.

Further director delegated authority will be sought via Cabinet to allow Fees and Charges to be varied within financial year in response to legal, regulatory or commercial requirements.

The full list of proposed charges is detailed in Appendix 1 to this report. The proposed deletion of current fees and charges are detailed in Appendix 2 to this report.

1. Recommendations

- 1.1 That Housing Overview and Scrutiny Committee note the revised fees, including those no longer applicable, and that Housing Overview and Scrutiny Committee comment on the proposals currently being considered within the remit of this committee.**
- 1.2 That Housing Overview and Scrutiny Committee note that director delegated authority will be sought via Cabinet to allow Fees & Charges**

to be varied within a financial year in response to legal, regulatory or commercial requirements.

2. Background

2.1 The paper describes the fees and charges approach for the services within the Housing Scrutiny Committee remit for 2018/19 and will set a platform for certain pricing principles moving forward into future financial years.

2.2 The paper provides narrative for the General Fund aspects of the Housing area and include:

- Existing Houses in Multiple Occupation (HMO) Licence
- Future HMO licences – legislative changes
- Housing Enforcement Notices
- Penalty Charges – Housing Planning Act 2016
- Penalty Charges – Smoke & Carbon Monoxide Alarm Regulations 2015
- Energy Efficiency Regulations 2015
- Non-Statutory Housing Reports
- Travellers Sites

2.3 The fees & charges that are proposed are underpinned in some instances by a detailed sales and marketing plans for each area. This will ensure delivery of the income targets for 2018/19, for ease these are summarised below for Housing fees and charges income codes.

2.4 Housing Figures

Service	Last Year Outturn 16/17	Revised Budget 17/18	Forecast Outturn 17/18	Proposed Budget 18/19
Housing (general fund)	(354,234)	(376,792)	(358,992)	(423,213)

2.5 The Private Sector Housing forecast outturn has decreased in 2017/18 due to the Parliament's delay on implementing extended licensing of Houses in Multiple Occupation [HMO] this financial year.

2.6 The individual service streams are summarised below

Service	Last Year Outturn 16/17	Revised Budget 17/18	Forecast Outturn 17/18	Proposed Budget 18/19
Private Sector Housing	(3,058)	(53,712)	(20,000)	(53,712)
Travellers Sites	(351,176)	(323,080)	(338,992)	(369,501)
Housing (GF) Total	(354,234)	(376,792)	(358,992)	(423,213)

3. Thurrock Charging Policy

- 3.1 The strategic ambition for Thurrock is to adopt a policy on fees and charges that is aligned to the wider commercial strategy and ensures that all discretionary services cost recover.
- 3.2 Furthermore, for future years, while reviewing charges, services will also consider the level of demand for the service, the market dynamics and how the charging policy helps to meet other service objectives.
- 3.3 Rather than set a blanket increase across all service lines, when considering the pricing strategy for 2018/19 some key questions were considered.
 - Where can we apply a tiered/premium pricing structure
 - How sensitive are customers to price (are there areas where a price freeze is relevant)
 - What new charges might we want to introduce for this financial year
 - How do our charges compare with neighbouring boroughs
 - How do our charges compare to neighbouring boroughs and private sector competitors (particularly in those instances where customers have choice)
 - How can we influence channel shift
 - Can we set charges to recover costs
 - What do our competitors charges
 - How sensitive is demand to price
 - Statutory services may have discretionary elements that we can influence
 - Do we take deposits, charge cancellation fees, charge an admin fee for duplicate services (e.g. lost certificates.)

4. Proposals and Issues

- 4.1 The fees and charges for each service area have been considered and the main considerations are set out below.
- 4.2 A council wide target of £6.835m has been proposed within the MTFs for additional income generation in respect of fees and charges income for 2018/19 and represents a 4.1% increase from 2017/18.
- 4.3 For Housing Services the increase equates to a target of £423k to be secured through the implementation of extended mandatory HMO licensing and increased fees and charges in 2018/19. The increased fees and charges are challenging and represent our commercial ambitions as a Council.
- 4.4 To allow the Council services to better respond to changes in legal, regulatory or commercial challenges; delegated authority will be sought through Cabinet to permit the Director of the Service Area jointly with the Director of Commercial Services to vary these charges within financial year to comply with:

- legally prescribed statutory fees and charges which may be subject to prescribed variation during the year, and that it may be necessary to adjust the relevant fees and charges during the year to reflect a change to their cost recoverability calculation; and that
- discretionary services provided on an traded basis for profit may be subject commercial operational considerations, and that it may be necessary to adjust the relevant fees and charges during the year to reflect a change to their cost recoverability calculation.

4.5 The following sections outline the fees and charges implications for the individual service streams.

5. Existing Houses in Multiple Occupation (HMO) Licences

5.1 The HMO licence fee is regulated under Section 63(3) of the Housing Act 2004. This allows the Council to set its fee taking into account all costs it incurred in carrying out its licensing function. This has been done for all licence applications for up to 5 years.

5.2 The regulations do not allow the Council to make a surplus on increasing its licence fee above the cost of issuing a license. As a result, these existing charges are recommended to remain the same in 2018/19.

5.3 The Private Sector Housing (PSH) Team undertook a benchmarking exercise in 2016/17 with its Essex Housing Authorities and found that existing HMO licensing charges were on average 2% higher than the Essex area.

6. Future HMO licences – legislative changes

6.1 Extending Mandatory HMO Licensing guidance issue has been delayed by Parliament. The DCLG forecast the legislation changes will be implemented in 2018/19, at which point fee level implications can be determined. This shall increase licence requirement for between 60-80 properties for up to 5 years.

6.2 In addition, the PSH Team is progressing the case for implementing an Additional Licensing scheme in Thurrock. This proposed scheme will license small HMO properties with 3 or more people who are unrelated living together and sharing basic amenities such as bathroom or kitchen. This could conservatively cover around 100 – 400 properties, but could be significantly higher and therefore staffing implications will have to be considered to manage the scheme. All licensing income must be ring fenced to administer the licensing scheme as per the regulatory guidance on HMO licence fees.

7. Housing Enforcement Notices

7.1 Housing enforcement notices are discretionary charges. The council will only serve an Improvement Notice on the landlord if this is the 'only way' of protecting the health and safety of the occupiers requiring the landlord to meet

the minimum housing standards. The Housing Act 2004 allows the Councils to charge for the service of legal notices under the Act. The regulations state the costs should be reasonable and auditable.

7.2 The introduction of a proposed variable charge according to the property size and number of hazards scored in the dwelling from 1 to 4 and 5 plus, rather than the previous flat fee structure, is reasonable to recover our full administration costs.

7.3 The table below shows how much income was charged in 2016/17 to demonstrate the benefits of a proposed variable charge based on size and hazard severity risk assessed. Last year our landlords scored 5 or more hazards. This shows a difference of £1944 extra income collectable under this proposed framework.

Income Charged 2016/17		
Improvement Notice Fee Cost	Total no of improvement notices served within 2016/17	Total Income Charge
474	14	£5688

Proposed Variable Administration Charge			
House / Bedroom size	No of properties	5 or more Hazards Improvement Notice Fee Charge	Total Income Charge
3	8	612	£4896
2	4	470	£1880
1	2	428	£856
Total			£7632

8. Penalty Charges – Housing Planning Act 2016

8.1 Legislative changes under this Act allow the Council to serve civil financial penalties for certain housing offences under the Housing Act 2004.

8.2 Civil penalties cover:

- Failure to comply with an improvement notice [section 30]
- Offences in relation to licensing of HMO [section 72]
- Offences in relation to licensing of houses under Part 3 of the Act [Section 95]
- Offences of contravention of an overcrowding notice [section 139]
- Failure to comply with management regulations in respect of HMO [section 234]

8.3 The standard of proof must meet a criminal prosecution standard to serve a Civil Financial Penalty.

- 8.4 The Council charge applied is scalable from the published minimum fee up to a maximum of £30k; at the discretion of the Private Housing service based on the severity, repetition and cooperation of the third party in resolving the issues.
- 8.5 Under this framework the Council retain the financial penalty imposed rather than the Courts for the fine paid as punishment for the offence. This new income from civil penalties must be ring fenced on private housing enforcement activities as per the regulation guidance.
- 8.6 This will be a transparent process which will be outlined in the council statement of principles, to be issued with the new fee structure. Appeals may also be made against the civil penalty charge, with the charge varied or waived dependent on individual mitigating circumstances. Where non-payment occurs the civil debt recovery process will be used to recover the outstanding liabilities.

9. Smoke and Carbon Monoxide Alarm Regulations 2015

- 9.1 Legislative changes under this Act allow the Council to require the Landlord to pay a penalty charge for failing to comply with a remedial notice in regards to installing smoke and carbon monoxide alarms within a single dwelling private rented home. The amount to be charged has not been prescribed by the regulations; however, it must not exceed £5k.
- 9.2 The setting of a minimum charge of £1k increasing to to the maximum sum of £5k allowed will be levied for repeated breaches within two years. The PSH Team undertook a bench marking exercise with our Essex Housing Authorities and found our proposed new charges are in line with the Essex sub region.
- 9.3 The service expects most landlords to comply with the law than face this financial penalty imposed by the Council.

10. Energy Efficiency [Private Rented Property] 2015

- 10.1 This new legislation will require private landlords to reach an Energy Performance Certificate (EPC) rating of E before granting a tenancy from April 1 2018 and will apply to all all tenancies from April 1 2020. Landlords with an EPC rating of band F or below G may not grant a tenancy to new or existing tenants.
- 10.2 The Private Housing Service can impose a civil penalty notice if its satisfied that a property has been let in breach of the Regulations or if the landlord has lodged false information on the PRS Exemption Register.
- 10.3 The council will impose a civil penalty if the landlord has let a sub standard property in breach of the Regulations for a period of less than 3 months scalable upto £4k at the discretion of the Private Housing Service. Also, if the landlord

has registered false formation or misleading information on the PRS Exemptions Register it will impose the maximum fine of £1k.

11. Housing Non Statutory Reports

- 11.1 This new traded service relates to charging providers of supported accommodation such as a children's care home or hostel requiring Houses in Multiple Occupation (HMO) reports to satisfy their local authority providers they comply with HMO management regulations and local amenity standards. This variable charge depends on the size of the dwelling and number of hazards identified on carrying out the inspection, to recover our full administration costs.
- 11.2 In 2016/17, the Private Housing Service undertook four 5 bedroom surveys at no cost to the housing provider commissioned by Children Services. Under this proposed framework we could have collected [4 x 556 [1-4 hazards, 5 bed accommodation] £2224

12. Travellers

- 12.1 The Council has three Travellers Sites with a total of 65 plots.

Location	Number of Plots
Ship Lane, Aveley, RM15 4HB	21 plots
Gammon Field site, Long Lane, Grays, RM16 2QH	22 plots
Pilgrims Lane site, North Stifford, Grays, RM16 5UZ	22 plots

- 12.2 An average of 83% of the residents receive full or partial Housing Benefit.

Location	HB Percentage
Ship Lane, Aveley, RM15 4HB	100%
Gammon Field site, Long Lane, Grays, RM16 2QH	68%
Pilgrims Lane site, North Stifford, Grays, RM16 5UZ	82%

- 12.3 In order to fully cost recover and deliver the budgeted surplus to the Council a 12.45% increase would be required from £96.59 to £108.62.
- 12.4 Previous increases over recent years have been in line with inflation only and have not taken full account of increases to utilities costs and maintenance costs. It is proposed that for financial year 2018/19 50% of the increase is applied as such the increase will be £102.60 representing a 5.8% increase.

13. Reasons for Recommendation

- 13.1 The setting of appropriate fees and charges will enable the Council to generate essential income for the funding of Council services. The approval of reviewed fees and charges will also ensure that the Council is competitive with other service providers and neighbouring councils. The ability to vary

charges within financial year will enable services to more flexibly adapt to changing economic conditions.

- 13.2 The granting of delegated authority to vary these charges within financial year will allow the Council to better respond to the needs of the communities, legal requirements, regulatory changes and commercial challenges.

14. Consultation (including Overview and Scrutiny, if applicable)

- 14.1 Consultations will be progressed where there is specific need. However, with regard to all other items, the proposals in this report do not affect any specific parts of the borough. Fees and charges are known to customers before they make use of the services they are buying.

15. Impact on corporate policies, priorities, performance and community impact

- 15.1 The changes in these fees and charges may impact the community; however it must be taken into consideration that these price rises include inflation and no profit will be made on the running of these discretionary services.

16. Implications

16.1 Financial

Implications verified by: **Julie Curtis**
HRA and Development Accountant

Additional income will be generated from increases but this is variable as it is also dependent on demand for the services. Increases to income budgets have been built into the MTFS.

16.2 Legal

Implications verified by: **David Lawson**
Monitoring Officer

Fees and charges generally fall into three categories – Statutory, Regulatory and Discretionary. Statutory charges are set in statute and cannot be altered by law since the charges have been determined by Central government and all authorities will be applying the same charge.

Regulatory charges relate to services where, if the Council provides the service, it is obliged to set a fee which the Council can determine itself in accordance with a regulatory framework. Charges have to be reasonable and must be applied across the borough.

Discretionary charges relate to services which the Council can provide if they

choose to do so. This is a local policy decision. The Local Government Act 2003 gives the Council power to charge for discretionary services, with some limited exceptions. This may include charges for new and innovative services utilising the power to promote environmental, social and economic well-being under section 2 of the Local Government Act 2000. The income from charges, taking one financial year with another, must not exceed the cost of provision. A clear and justifiable framework of principles should be followed in terms of deciding when to charge and how much, and the process for reviewing charges.

A service may wish to consider whether they may utilise this power to provide a service that may benefit residents, businesses and other service users, meet the Council priorities and generate income.

Decisions on setting charges and fees are subject to the Council's decision making structures. Most charging decisions are the responsibility of Cabinet, where there are key decisions. Some fees are set by full Council.

16.3 Diversity and Equality

Implications verified by: **Rebecca Price**
Community Development Officer

The Council is responsible for promoting equality of opportunity in the provision of services and employment as set out in the Equality Act 2010 and Public Sector Equality Duty. Decisions on setting charges and fees are subject to Community Equality Impact Assessment process and the Council's wider decision making structures to determine impact on protected groups and related concessions that may be available.

16.4 Other implications (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

- None

17. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- None

18. Appendices to the report

- Appendix 1 – Schedule of Proposed Fees and Charges for 2018/19
- Appendix 2 – Schedule of Fees and Charges no longer applicable

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