

REPORT TO: LICENSING COMMITTEE – 3 JUNE 2004

REPORT ON: MANDATORY LICENSING OF HOUSES IN MULTIPLE OCCUPATION

REPORT BY: DEPUTE CHIEF EXECUTIVE (SUPPORT SERVICES)

REPORT NO: 467-2004

1. PURPOSE OF REPORT

1.1. To seek Committee approval for a revised fee scale in respect of initial applications for licence, to set renewal and variation fees and to agree a common renewal date for all future licences.

2. RECOMMENDATIONS

2.1. It is recommended that the Licensing Committee approves the undernoted revised fee scale for a maximum 3 year Licence linked to a common renewal date.

BAND WIDTH (BED SPACES)	INITIAL FEE	RENEWAL FEE
3 to 5	£830	£600
Up to 10	£930	£600
Up to 20	£1130	£800
Up to 30	£1330	£800
Up to 40	£1530	£800
Up to 50	£1730	£800
Up to 75	£2230	£1000
Up to 100	£2730	£1000
Up to 200	£4730	£1000
Over 200	£6730	£1000

2.2. Committee are asked to approve the following variation fees:

- Change of ownership prior to Committee £150
- Change of day to day manager £150
- Change of occupancy (within a band width) £150
- Change of occupancy (across a band width) £200 + band difference
- Material Change (Extension/Alteration) New Application
- Additional officer inspections £50 excluding VAT

2.3. In respect of licence periods it is recommended that all licences be subject to a Common Renewal date of the 1 October of the relevant year.

2.4. It is further recommended that Committee delegate authority to grant the renewal of a licence to the Depute Chief Executive (Support Services) where there has been no material change to the property and there are no officer or public objections.

3. FINANCIAL IMPLICATIONS

- 3.1. The Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000, as amended, requires that a licensing authority will seek, from time to time, to ensure that the total amount of fees received together with any monies paid by grant to the licensing authority by the Scottish Ministers is sufficient to meet the expenses incurred in administering the scheme. The revised fee scales proposed have been set with regard to this requirement.

4. LOCAL AGENDA 21 IMPLICATIONS

- 4.1. There are no direct Local Agenda 21 Implications from this report.

5. EQUAL OPPORTUNITIES IMPLICATIONS

- 5.1. The proposed fee scales outlined in this report are designed to ensure fair and equitable charges to all operators of HMOs. The proposed Common Renewal Date should ensure that no applicant for licence is disadvantaged by the date of application or grant of a licence.

6. BACKGROUND

- 6.1. Mandatory licensing for HMOs was introduced on the 1 October 2000 under the Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000, when it applied to houses occupied by more than five persons being members of more than two families. The occupancy threshold reduced by one each year until it reached an occupancy of more than two persons on the 1 October 2003.
- 6.2. Licence fees were set at that time and having now reached the lower threshold it is considered prudent to review the Initial Fee scale. Early applications are due for renewal this year and the proposals therefore include Renewal Fees and Variation Fees.
- 6.3. Experience to date also indicates that some applicants fail to adequately ensure that all necessary work is completed prior to final inspection, requiring additional inspections to be carried out by the relevant officers, the cost of which has been absorbed within the existing fee scales. An additional inspection charge is therefore proposed.
- 6.4. Initially licences have been granted for a maximum three year period commencing from the 1 October threshold date. As a result a late application would receive a reduced licence period. This was seen as an incentive to applicants to be proactive in submitting an application on time. To be seen to be fair to those potential landlords entering the HMO market for the first time it is proposed that HMO licensing moves to a Common Renewal date of the 1 October with licences and renewals continuing to be granted for a maximum three year period.

7. REVISED INITIAL FEE SCALE

- 7.1. Reference is made to the Licensing Committee of the 28th September 2000 when the original fee scale for HMOs was agreed. The fee scales set at that time, for initial applications only, were considered adequate to recover the costs of administering the scheme. The fee scales have however remained unaltered since that time as the occupancy levels have progressively reduced to the lowest threshold of three persons.
- 7.2. Although over 400 applications for licences have been received it is considered that there are still a significant number of properties for which applications have yet to be submitted and/or be identified and this will require a more proactive approach to enforcement to ensure that the objectives set by the Scottish Executive are met.
- 7.3. An analysis of fee income to date indicates that the allowance built in to the original fees to cover enforcement action has in fact been required just to process the applications received. When combined with the higher than anticipated number of inspections per application these factors require the licence fee to be increased.
- 7.4. As a result of consultations with the Depute Chief Executive (Finance) the following amended Fee Scale is proposed:

BAND WIDTH (BED SPACES)	ORIGINAL FEE	NEW INITIAL FEE
3 to 5	£650	£830
Up to 10	£750	£930
Up to 20	£950	£1130
Up to 30	£1150	£1330
Up to 40	£1350	£1530
Up to 50	£1550	£1730
Up to 75	£2050	£2230
Up to 100	£2550	£2730
Up to 200	£4550	£4730
Over 200	£6550	£6730

8. RENEWAL FEES

- 8.1. The first licences granted are due for renewal in October 2004 and this necessitates the setting of a renewal fee.
- 8.2. In line with guidance from the Scottish Executive it is anticipated that renewal will be primarily based on self-certification by the landlord resulting in a significantly reduced inspection regime and therefore enabling a reduction in the renewal fee in comparison to the initial fee.
- 8.3. Consideration was given to either a single renewal fee or a variable fee based on the existing band widths. As it is anticipated that a licensed property will be inspected at least once in the lifetime of a licence and the size of the properties vary significantly a variable fee based on larger band widths is proposed as follows:

BAND WIDTH (BED SPACES)	RENEWAL FEE
Up to 10	£600
Up to 50	£800
Over 50	£1000

- 8.4. Based on records of time spent on inspections it is considered that the above fees are adequate for a self-certification approach to licensing.

9. RENEWAL APPLICATION PROCESS

- 9.1. A revised Application Form in a different colour for renewals only will be produced. In addition a Statement of Self-Certification will be produced requiring the applicant to certify that there have been no physical or material changes to the property and that the property continues to comply with the licensing conditions and standards for shared accommodation. The applicant will also further certify that they have complied with the continuing requirement to test and maintain the fire detection and alarm systems, fire fighting equipment, gas and electrical installations and portable appliances. Confirmation that the tenancy agreements remain unchanged and that the required property insurance and owners liability insurance are current will also be required. The statement will require to be supported by the relevant certification.
- 9.2. Although every applicant for a licence renewal will be required to complete the self-certification it is proposed that any property previously granted a licence, which was or has become the subject of an objection will be re-inspected. Additionally any renewal applications which at the time of the previous grant caused concerns for the officers involved in the inspection will also be re-inspected.
- 9.3. It is further proposed that a minimum of 10% of renewal applications will be inspected at time of application and that all licensed properties will be inspected by officers of the Private Sector Services Unit at least once in the lifetime of the licence. Should these inspections raise any concerns orientated around fire safety, building regulations, health & safety or food hygiene, the relevant officers from Planning & Transportation, Tayside Fire Brigade and Environmental Health & Trading Standards will be asked to investigate with any subsequent charges being recovered from the fee income.
- 9.4. Significant numbers of licence renewals will be received where there have been no physical or material changes to the property, where all necessary certification and insurances are in place and where there are no officer or public objections. For renewal applications falling in to this category consideration should be given to delegating authority to grant the renewal of a licence to the Depute Chief Executive (Support Services). This approach would save significant time and preparation for the Licensing Committee.

10. VARIATION FEES

10.1. Since the introduction of Mandatory Licensing it has become evident that there is a need to establish a Variation Fee Scale to accommodate amendments to applications. The following variation fees are proposed:

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|---------------------------------------------|------------------------|
| • Change of ownership prior to Committee | £150 |
| • Change of day to day manager | £150 |
| • Change of occupancy (within a band width) | £150 |
| • Change of occupancy (across a band width) | £200 + band difference |
| • Material change (alteration/extension) | New application |

11. ADDITIONAL OFFICER INSPECTIONS

11.1. When reports are issued to applicants they are advised of the proposed date for referral to Committee and asked to ensure that all necessary works identified in the reports are completed and the relevant reporting authority informed to enable a final inspection to be carried out prior to Committee. Experience to date is that many applicants are extremely lax in ensuring that all of the work has been satisfactorily completed. The result is that officers principally from the Private Sector Services Unit, Planning & Transportation and Tayside Fire Brigade find themselves carrying out several inspections before they are in a position to accept the work carried out. This is a drain on limited resources and incurs additional expenditure which was not allowed for in the original fee scales.

11.2. In principle it is the various officers view that those responsible should pay directly for this additional time and that it should not be included as an additional cost within the standard initial and renewal fee scale. In this respect it is proposed that a standard charge of £50 excluding VAT, be raised against the relevant applicant for each individual additional inspection carried out by a relevant officer. Any such charges would be billed to the Private Sector Services Unit who would be responsible for authorising payment to the relevant authority and raising an account for recovery from the applicant.

11.3. The current Guidance Notes and Standards for Shared Accommodation would be amended to advise the applicant that the initial fee included the following services:

- Licence processing including Public Notices and Committee referral
- Police fitness check
- Initial inspections and reports by Private Sector Services, Building Control, Tayside Fire Brigade and where appropriate Environmental Health & Trading Standards, together with a maximum of two additional inspections/visits
- Random inspection at least once in the lifetime of a three year licence
- Additional inspections will be charged at a rate of £50 excluding VAT per visit per officer

11.4. It is envisaged that recovery of any outstanding debt in respect of these charges would be dealt with under normal policies by the Finance Department. It should be noted however that where a licence applicant is receiving grant assistance towards the provision of means of escape in an HMO, any outstanding debt to the Council can be recovered from the grant payment. Committee may wish to consider the fitness and appropriateness of an applicant for licence who has outstanding debt to the Council relating to such charges.

- 11.5. The object of the provision of such a charge is however meant as a deterrent rather than a source of income.

12. CONSULTATION

- 12.1. The Chief Executive, Depute Chief Executive (Finance), Director of Housing, Head of Environmental Health & Trading Standards, Director of Planning and Transportation, The Firemaster and Chief Constable have been consulted in the preparation of this report.

13. BACKGROUND PAPERS

- 13.1. Civic Government (Scotland) Act 1982.
- 13.2. Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000.
- 13.3. Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Amendment Order 2002.
- 13.4. Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Amendment Order 2003
- 13.5. Scottish Executive Guidance on the Mandatory Licensing of Houses in Multiple Occupation.
- 13.6. Scottish Executive HMO Working Groups discussion papers.

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15 April, 2004