

Regulatory Committee

10.00am, Monday, 19 September 2016

Proposed Fee Structure for Houses in Multiple Occupation Licences

Item number	6.2
Report number	
Executive/routine	
Wards	All Wards

Executive Summary

This report asks for Committee approval for a proposed fee structure and public consultation for Houses in Multiple Occupation Licences. The new fee structure reflects changes in the growth of larger shared accommodation properties and rationalises the current fee structures into a single transparent fee structure.

Links

Coalition Pledges	P13
Council Priorities	CO16, CO21, CO23
Single Outcome Agreement	SO4

Proposed Fee Structure for Houses in Multiple Occupation Licences

1. Recommendations

It is recommended that the Committee:

- 1.1 notes the content of the report and the proposed changes to the fee structure;
- 1.2 agrees to carry out a consultation exercise;
- 1.3 agrees to receive a final report on the outcome of the consultation as set out in paragraphs 3.19 – 3.20; and
- 1.4 discharges the outstanding remit from the Regulatory Committee on 24 July 2013.

2. Background

- 2.1 The Council is required to license Houses in Multiple Occupation (HMO), where three or more individuals or families live in a property. The Council charges a fee to cover the costs of operating and enforcing the licensing scheme. The current fee structure is included in Appendix 1.
- 2.2 The current HMO Licence fee structure was last modified in 2006. The fees have since remained largely unchanged, with minor adjustments made in line with inflation in 2014 and 2016.
- 2.3 There has been significant change in the HMO market, particularly with respect to conversions of existing property to increase capacity and the growth of purpose-built student accommodation operated on a commercial basis.
- 2.4 The current fee structure varies with the size of the HMO which is being licensed, and is currently capped at five occupiers and above. Since 2012 the proportion of licensed HMOs that are larger than five occupiers has increased by 3%, and now accounts for 10% of the total number of licensed HMOs.
- 2.5 In addition, in line with other local authorities, discounts are given to HMO properties that are operated by named educational institutions. With increasing complexity regarding the way in which this type of accommodation is funded (e.g. property now owned and managed by financial institutions or commercial operators and run in partnership with educational institutions), the discount structure needs to be re-examined.

3. Main report

Basic fee Structure

- 3.1 This report seeks approval to consult with relevant stakeholders on the proposed changes to the fee structure for HMO licences.
- 3.2 The current licence fee structure differentiates between new applications and circumstances where an applicant already holds a current licence for the property. Subsequent applications are commonly referred to as 'renewals'. The fee for a new property reflects the additional inspection costs associated with a first time application. A second or subsequent application, where no changes are made to the existing licensed property, attracts a discount. It is proposed to retain a discount.
- 3.3 The Council also offers a discount for flatted accommodation where the flat is in the same stair, identical in layout (including rotated layouts), and the same ownership to one for which the full fee is paid. Such identical footprint and mirror images can be assessed quickly, having assessed the master, and it is also proposed to retain a discount in these circumstances.
- 3.4 The proposed fee structure identifies a number of new criteria against which an application will be considered, in which the scale of the fee difference will change to reflect the level of work involved. It is proposed to retain discounts for renewal and premises with an identical layout.

Fee based on number of occupants

- 3.5 The current fee structure was historically based on the size of the property, with the upper band being five occupiers and over. This banding aligns with existing planning regulations, which require the applicant to obtain a 'change of use' certificate to accommodate more than five occupiers.
- 3.6 However the HMO market has changed significantly, with HMO properties in the 'five occupants and over' band making up 10% of licensed properties. While there are some efficiencies when officers inspect a larger property, inspection of a property with 100 occupiers takes considerably more time than a property with five occupiers, although both currently attract the same fee.
- 3.7 Larger properties typically require a significant amount of consultation both prior to and after the HMO application has been submitted, which is currently not covered in the current top fee band. In effect the Council is providing a free consultancy service prior to an application being made.
- 3.8 It is therefore proposed to add a band from six to 10 occupiers and 11+ occupiers. The width of these bands reflects the efficiencies of inspecting large properties, and will cover the majority of normal residential property enlarged by an extension or attic conversion.

- 3.9 Fees for properties with 11+ occupiers will consist of a flat fee plus an additional charge for up to every additional 10 occupiers (e.g. 21-30, 31-40 etc). A discount will still be available where identical footprint or charitable status applies

Accommodation for students /homeless hostels

- 3.10 Currently educational institutions have access to a separate fee table approved by the Regulatory Committee in October 2006 (Appendix 2), which is in effect a discount on the standard fees.
- 3.11 It is proposed that where the applicant is a registered charity with the Scottish Charity Regulator and linked to homeless accommodation and/or owned and managed by an Educational institution itself, they are given a percentage discount on their fee. The rationalisation of the fee structure will provide clarity on who is eligible for the discount, and will allow charities that provide HMO accommodation to people escaping domestic abuse, or provide homeless accommodation, to benefit from the same lower fees. These fees have not increased since 2006 and will therefore be reviewed to address inflation costs.

Period of licence

- 3.12 The Licensing of Houses in Multiple Occupation Statutory Guidance for Scottish Local Authorities suggests that “general practice should be that licences are granted for a three year period, with licences of a shorter duration being granted where the authority is satisfied that justification for a shorter period exists.”
- 3.13 The existing fee structure only allows for the grant of an annual licence. In line with the statutory guidance it is proposed to introduce a new three year licence category.
- 3.14 It is proposed that a three year licence would be only be considered for suitable properties. This would be determined by using a risk based assessment process, taking into account previous monitoring and inspection visits, complaints and enforcement issues. Properties that would be considered suitable for a three year licence would include new build student accommodation.
- 3.15 The Council has to balance the cost of licences to customers with the cost of administration, public safety and enforcement activity to protect the rights of the occupiers, to ensure public confidence in the regime, and to ensure that responsible HMO owners are not put at a disadvantage.
- 3.16 The Provisions of Services Regulations 2009 require that fees charged in relation to a licensing regime must be reasonable and proportionate to, but not exceed, the cost of all procedures required to carry out this function.
- 3.17 The cost associated with the introduction of a three year licence will be balanced against reduced administration, public safety and enforcement activity.
- 3.18 As some operators, including charities, may see an increase in their operating costs, it is not proposed to remove the option to apply for an annual licence. This will allow applicants an opportunity to budget accordingly.
- 3.19 A summary of proposed changes to the fee structure is included at Appendix 3.

- 3.20 Following approval of the proposed fee structure, a carefully structured consultation exercise, using a combination of methodologies, will be undertaken. This will include the wider business and residential communities, relevant partners and agencies.
- 3.21 It is intended to report back on the outcome of the consultation within six months. A final report will then be prepared for consideration by the Regulatory Committee

4. Measures of success

- 4.1 That the city's licensing function is modernised to ensure that it meets the needs of customers and residents.
- 4.2 A wide-ranging and clear consultation and engagement process that demonstrates customer focus and commitment to listening to all stakeholders.
- 4.3 That the fee levels work on a cost recovery model, and as such should not be subsidised by other Council budgets.
- 4.4 That the fee structure remains effective and transparent and costs within the system are minimised.

5. Financial impact

- 5.1 The Council's scale of fees for licensing applications was approved with effect from 1 April 2016. Any costs from implementing policy changes will be contained within the current ring-fenced income generated from licensing fees
- 5.2 The measures outlined in this report will match expenditure on licensing costs to the level of income generated.

6. Risk, policy, compliance and governance impact

- 6.1 The main items of legislation that constrain how the Council can set its fees are the Housing (Scotland) Act 2006 and The Provision of Services Regulations 2009.
- 6.2 The 2006 Act allows Scottish Ministers to set regulations on how fees are to be arrived at, maximum fee levels, etc. To date no such regulations have been made. Statutory guidance has been issued by the Scottish Government under the 2006 Act, which provides an overview of what is considered to be appropriate when setting fees. The proposed HMO licensing fee structure is in line with this guidance.
- 6.3 HMO licensing schemes are a type of authorisation scheme defined by the 2009 Act and thus subject to regulation under the Act. The main obligation the 2009 Act places on the Council in relation to fees is that "charges ... must be reasonable and proportionate to the cost of the procedures and formalities under the scheme".

7. Equalities impact

- 7.1 An Equality and Rights Impact Assessment was carried out prior to the enactment of the Private Rented Housing (Scotland) Act 2011 and at that time found there were no equalities issues. It is proposed to carry out a further assessment as part of the consultation process and any impacts, direct or otherwise, on any group of people with one or more protected characteristics, will be reported.

8. Sustainability impact

- 8.1 The effects of this report in relation to the three elements of the Climate Change (Scotland) Act 2009 Public Bodies Duties have been considered, and the outcomes are summarised at 8.3 below.
- 8.2 The proposals in this report will help to achieve a sustainable Edinburgh by ensuring that there is shared accommodation, which is safe and well managed, to meet the housing demands of the residents of Edinburgh.
- 8.3 The proposals in this report will reduce carbon emissions, because having shared accommodation that works allows people to live near to place of work or study reducing the need to travel.

9. Consultation and engagement

- 9.1 A carefully structured consultation exercise, using a combination of methodologies, will be undertaken. The methodologies include focus group research with key stakeholder groupings, wider survey work and specific localised research for some key sites, to help elicit informed and creative thinking.
- 9.2 An Equalities and Rights Impact Assessment will be used to ensure that the consultation process is robust and is inclusive of all relevant stakeholder input.

10. Background reading/external references

- 10.1 [The Provision of Services Regulations 2009](#)
- 10.2 [Housing \(Scotland\) Act 2006](#)
- 10.3 [Licensing of Houses in Multiple Occupation Statutory Guidance for Scottish Local Authorities](#)

Susan Mooney

Head of Housing & Regulatory Services

Contact: Andrew Mitchell, Regulatory Services Manager

11. Links

Coalition Pledges	P13 Enforce tenancy agreements (council and private landlord) with a view to ensuring tenants and landlords fulfil their good conduct responsibilities.
Council Priorities	CO16 Well-housed – People live in a good quality home that is affordable and meets their needs in a well managed Neighbourhood. CO21 Safe – Residents, visitors and businesses feel that Edinburgh is a safe city. CO23 Well engaged and well informed – Communities and individuals are empowered and supported to improve local outcomes and foster a sense of community.
Single Outcome Agreement	SO4 Edinburgh's communities are safer and have improved physical and social fabric
Appendices	Appendix 1- Houses of Multiple Occupation: Fees charged between 2007 and 2017 Appendix 2 - Regulatory Committee - Licensing of Houses in Multiple Occupation - Review of Application Fees for University Accommodation - October 2006 Appendix 3- Summary of Proposed Changes to HMO licensing fee structure

Appendix 1 - HOUSE IN MULTIPLE OCCUPATION: Fees charged between 2007 - 2017

Category	Duration	2007/2014	2014/2016	2016/2017
5 or 5+ persons (new)	1 year	£585	£602	£627
5 or 5+ persons (Subsequent / renewal)	1 year	£410	£422	£440
4 persons (new)	1 year	£545	£561	£584
4 persons (Subsequent / renewal)	1 year	£370	£381	£397
3 persons (new)	1 year	£505	£520	£542
3 persons (Subsequent / renewal)	1 year	£330	£339	£353
identical footprint / mirror image (new/ Subsequent / renewal)	1 year	£50	£51	£53

Licensing of Houses in Multiple Occupation – Review of Application Fees for University Accommodation

Regulatory Committee

13 October 2006

Purpose of report

- 1 To request the Committee to adopt a revised application fee structure to be applied for the year 2006/07 in respect of applications for House in Multiple Occupation (HMC) licences made by universities.

Main report

- 2 The Universities of Edinburgh, Napier, Queen Margaret and Heriot Watt and Jewell and Esk Valley College operate large premises that require HMO licences. On 17 August 2001 the Regulatory Committee agreed that the renewal fees for these HMO licences should be assessed on an individually negotiated basis.
- 3 Following a review of fees charged previously and an assessment of the HMO licensing workload it is proposed that a fee table, as set out below, be agreed and that application fees payable by the universities should be calculated on the basis of their property portfolios with reference to the fee table. This fee table is based on fee calculations agreed previously with University of Edinburgh with the addition of a 2.5% increase for the year 2006/07.

HALLS OF RESIDENCE	£369.00
FLATS (Per block)	
Blocks with less than 20 flats	£738.00
Blocks with 20 – 49 flats	£1,107.00
Blocks with 50+ flats	£1,476.00

- 4 The Committee is requested to set the application fees for the year 2006/2007. It is recommended that the appropriate fees for each university are calculated on the basis of the table set out in paragraph 3 above. Applying this fee table the fees payable by each university for the year 2006/2007 would be as follows:

University of Edinburgh	£31 365.00
Napier University	£12 546.00
Queen Margaret University	£3 690.00
Heriot Watt	£6 273.00
Jewell and Esk Valley College	£369.00

Recommendation

That the Committee approve the fee table detailed in paragraph 3 and the fees as set out in paragraph 4 above to take effect on applications for HMO license received on or after 1 April 2006.

Jim Inch
Director of corporate Services

Appendices	None
Contact/tel/Email	Robert Millar, Principal Solicitor, 0131-529-4150
Wards affected	City Wide
Background Papers	None

APPENDIX A

Proposed Licensing Fee Structure University Owned and Long Lease Property

Fees

Halls of Residence

Pollock Site

	Number of Students
Baird House	167
Chancellors Court (Replaced Brewster & Crown)	154
Ewing House	161
Grant House	195
Holland House Annex	20
Holland House A&B blocks	172
Holland House C&D blocks	173
Lee House	167
Masson House	133
Salisbury Green House	49
Turner House	203

Halls of Residence
14x£360 £5040

Off Site

David Horn House 40/46 Craigmillar Park Edinburgh	39
Kitchener House 6 Gordon Terrace Edinburgh	55
Richmond Place 7 Richmond Place Edinburgh	235

Flats

Blocks with less than 20 flats

	Breakdown of Flat Sizes
Blackwood Cresc/Causewayside	15 flats 11x5 4x4
Mayfield Road	7 flats 1x3 6x5
West Mains Road	13 flats 1x2 12x10
12 Buccleuch Street	7 flats 1xF 2x2 3x3 1x5
16 Bristo Plae	6 flats 3xC 3x3
19 Bristo Place	8 flats 1xF 2x1 1x2 4x3
17 Teviot Place	6 flats 6x3

Less than 20 flats it block

7x£720 £5040

Blocks with 20-49 flats

1-3 College Wynd	20 flats 1x3 14x4 4x5 1x6
Crown Commissioners	40 flats 1xC 3xF 11x2 7x3 15x4 1x6 2x7
Darroch Court	39 flats 1x1 7x3 31x5
East Newington Place	24 flats 6x3 16x4 2x5
Hermits Croft	24 flats 24x5
Kincailds Court	41 flats 10x12 23x5 2x3 3x4 1xC
Morgan Court	23 flats 2x1 10x3 1x4 10x5
New Arthur Place	27 flats 1x2 1x3 15x4 10x5
Nicolson Street/South College Street	42 flats 4x1 11x2 15x3 10x4 2x6
Robertsons Close	43 flats 1x3 14x4 12x5 15x6
Sciennes 1	33 flats 1x3 22x4 3x5 7x6
South Clerk Street	26 flats 16x4 8x6 2x5
Warrender Park Crescent	38 flats 5x3 11x4 22x5
Warrender Park Road	22 flats 1x3 6x4 9x5 6x6
West Nicolson Street	21 flats 3xC 4xF 2x2 2x3 9x4 1x5
Fraser Court	35 flats 3x3 34x3 3x3 x32

Blocks with 20-49 in Block

16x£1080 £17280

Blocks with 50+ flats

Myines Court#	60flats 8x1 11xC 8x2 13x3 8x4 12x5
Sciennes 2	50flats 3x3 34x4 10x5 3x6

Blocks with 50+flats

2x£1440 £2880

Total

£30240

#Myines Court has previously been Licensed as a Hall of Residence given its configuration we believe this to have been incorrect.

Appendix 3 - Proposed Changes to House in Multiple Occupation Licence Fee Structure

Renewal and New Applications

Current	Proposed
Lower fees where applicant holds a current HMO licence for the property (renewal application) vs. a new application to reflect differing inspection costs.	A lower fee will continue to apply.

HMO licence fee bands

Current Band	Proposed Band
3 Occupiers	3 Occupiers
4 Occupiers	4 Occupiers
5+ Occupiers	5 Occupiers
	6 -10 Occupiers
	11 - 20 Occupiers*
	* thereafter in addition to this fee a further fee applies for every 10 occupiers or less (e.g. 21-30 , 31-40 etc.)

Discounts

Current Discount	Proposed Discount
Mirror Image / Identical Footprint	Reduced discount based on requirement for full inspection by 2 council officers and officer from the Fire and Rescue Service, for properties in the same stair, ownership.
N/A	Percentage discount for charity register with The Scottish Charity Regulator (OSCR) and linked to homeless accommodation.
Named educational institutions use fee table as set out in October 2006	Percentage discount for charity registered with The Scottish Charity Regulator (OSCR) and owned and managed by an educational institution