

Report Title: **Houses in Multiple Occupation (HMO) Licensing**

Forward Plan reference number (if applicable):

Report of: **Director of Environmental Services**

Wards(s) affected: **All**

Report for: **Key Decision**

1. Purpose

- 1.1 To outline new legal requirements on the licensing of HMOs.
- 1.2 To seek Executive approval of the recommended fees and administrative arrangements for the licensing of HMOs.

2. Introduction by Executive Member

- 2.1 The Housing Act 2004 recognises the need to regulate HMOs and introduces mandatory licensing for larger HMOs as from 6th April 2006. Although this is hugely welcomed, and it is considered that it is overdue reform in the private housing sector and key to establishing sustainable communities, it is unfortunate that the Act only applies to HMOs of 3 or more storeys and 5 or more residents who constitute more than one household. In Haringey the Act will not affect the majority of small, unlicensed HMOs, particularly in the East of the borough, that are a great concern to many of our residents.
- 2.2 It is welcomed that the Act gives discretionary powers to councils. In Haringey we are committed to piloting and testing the discretionary powers that are outlined in the Act. This will better regulate and control HMOs that are crucial to create reliable, well-established and sustainable communities, as well as furthering the key objectives of Better Haringey. A further report will be brought to the Executive looking into the powers, including the discretionary ones, in detail.

3. Recommendations

- 3.1 That the Executive approves proposed HMO licensing fees as outlined in section 10.3 and arrangements to support the HMO licensing provision.

3.2 That Executive agrees that a further report on the wider provisions of the Act and the implications for Haringey is brought back to a future Executive meeting.

Report Authorised by: **Anne Fisher, Director of Environmental Services**

Contact Officer: **Robin Payne, Assistant Director of Enforcement**

4. Executive Summary

4.1 The Housing Act 2004 received Royal Assent on 18th November 2005. This is a wide ranging Act, which the Government intends will implement long overdue reforms in the private housing sector and contribute towards establishing 'sustainable communities'.

4.2 Among many provisions, the Act introduces mandatory licensing for larger HMOs as from 6th April 2006. Licences will operate for up to 5 years before requiring renewal. This report outlines the costs associated with this activity and proposes a charging regime that will offer full Council cost recovery.

4.3 This report details the proposals for the introduction of HMO licensing in Haringey and seeks approval for the proposed fees.

5. Reasons for any change in policy or for new policy development (if applicable)

5.1 New arrangements required by introduction of new legal powers and responsibilities for the licensing of certain types HMOs.

6. Local Government (Access to Information) Act 1985

6.1 The Housing Act 2004 - ODPM

6.2 The Stock Condition Survey Report (May 2002) – Haringey Council

6.3 Licensing in the Private Rented Sector: *Consultation on the implementation of HMO Licensing (July 2004)*. ODPM

6.4 Cost analysis paper – Held by Robin Payne, Assistant Director for Enforcement

7. Background

7.1 The Housing Act 2004 is a wide ranging Act, which the Government argues will implement long overdue reforms in the private housing sector and contribute towards establishing 'sustainable communities'.

7.2 It is recognised that the private rented sector makes a valuable contribution to the housing market and the Act seeks to provide additional powers to regulate the market. The Provisions include:

- Replacement of the current housing fitness standard with a new Housing Health and Safety Rating System (HHSRS).
- Introduction of mandatory licensing for certain larger HMOs, which the remainder of the report will concentrate on.
- Local discretion to apply additional licensing to other types of HMOs.
- Introduction of selective licensing

- New enforcement powers following the HHSRS
- Changes to the Right to Buy
- Additional powers to take over the use and management of empty properties

- 7.3 The Act seeks to enable landlords in managing their properties in a professional manner but also to improve the quality and status of the sector by providing stronger powers to deal with bad landlords and poor tenants who cause problems to others.
- 7.4 Haringey Council welcomes the introduction of the Act, as the new powers will enhance our successful private sector work and will help us to deliver our Private Sector Housing strategy objectives. The provisions fit well with our existing work on Landlord Accreditation, empty properties and area based intervention.
- 7.5 The remainder of this report will concentrate on the implementation of HMO licensing, but it is proposed to return with a report on the broader provisions at a later date.
- 7.6 The Housing Act 2004 introduces a mandatory licensing scheme for certain categories of Houses in Multiple Occupation (HMOs) and discretionary powers to extend licensing to other types of HMOs through additional licensing schemes. Mandatory HMO licensing is to commence borough-wide on the 6 April 2006. Haringey's existing HMO registration control schemes will cease. HMO registration scheme currently operate in the Hornsey Park Renewal Area and in an area of the West Green ward.
- 7.7 Mandatory licensing will apply to HMOs of 3 or more storeys and 5 or more residents who constitute more than one household. It will therefore not affect a majority of the HMOs in Haringey and particularly not those found in the east of the borough. It will be the intention of officers to bring a further report on the potential of additional licensing to better regulate and control the operation of HMOs in the east of the borough and in smaller premises. These powers are unlikely be released until mandatory licensing has been completed.
- 7.8 The Act imposes a duty on the Council to:-
- a) effectively implement a HMO licensing regime;
 - b) ensure that all applications for licensing are determined within a reasonable time; and
 - c) to satisfy itself as soon as is reasonably practicable (within 5 years maximum) that inspections to identify and remove serious hazards have been carried out.

A licence may therefore be granted prior to an inspection.

- 7.9 The Act provides that a Council may charge a fixed fee for an application, and provides for secondary legislation in the form of regulations which may specify maximum fees (either by amounts or calculation methods), fee exemptions, or refunds. In fixing the fee, the Act allows the Council to take into account all costs incurred in carrying out HMO licensing functions and also all enforcement costs incurred in relation to HMO Management Orders, where the costs of the latter are not recoverable elsewhere.

7.10 The resources required to support mandatory licensing are in addition to existing responsibilities relating to HMO enforcement. Whilst there is some limited potential for the absorption of field time spent on assisted applications and of management costs within the existing establishment, some growth from fee income is required.

8. HMO Licence Fees

8.1 Licensing is to be managed so that it is self-financing and the fee should reflect the number and nature of the HMOs in the local area and the resources needed, including staffing levels. Guidance indicates that all costs must be justifiably covered but also that fees are not set so that they are perceived as an additional tax on landlords. Whilst each authority must justify and set their own fees, it is expected that there will be some consistency for landlords operating across neighbouring authorities.

8.2 Whilst it is recommended that licences be for the full five year period, the Government is committed to review HMO licensing after 3 years. It proposed that we therefore aim to have completed mandatory licensing within this period. Cost recovery has therefore been planned to reflect this.

8.3 Based upon the most recent stock condition survey, it is believed that there are currently around 480 licensable premises with an average of between 5 and 6 lettings per premises. A letting here would be a room or collection of rooms capable of being let for use by a separate household within a premises. This figure is subject to error and could potentially be up to 640 premises. Over the 3 year programme an estimated 160 premises will need to be licensed each year. Of these approximately one third are believed to have no record of enforcement activity or are otherwise unknown to us and are expected to need additional levels of assistance. These assisted applications will require officers to visit the applicants and help draft the applications and supporting documents. Unassisted applications will be where all applications are properly drafted and supported on receipt.

8.4 Based on estimated processing time for assisted and unassisted HMO applications, the staffing resources required is an estimated 3.3fte. This will provide on average an estimated 3.5 hours of field officer time per letting application. In the case of assisted applications, these will require an estimated 6 additional hours per HMO.

8.5 Set up and running costs are expected to be £50,750. This includes costs associated with the recruitment and training of staff, service design and project initiation. Within these costs we have also allowed for potential legal costs associated with disputes that may occur over the 3 year period.

8.6 The table below shows the expected breakdown of service costs based on 3 year programme.

	£
• Total Salary costs based on 3.3 fte (£124,919 x 3)	374,757
• Set up and running costs	50,750
• Total 3 year cost	425,507
<u>Total cost per year</u>	<u>141,836</u>

8.7 Based upon an average of 5.4 lettings per HMO and 160 properties licensed per year, an average of 864 lettings will be licensed each year. In reality such an even flow will be difficult to manage and some provision has been made from within existing resources to accommodate expected peaks in workload.

8.8 To encourage early take up of applications, an option of a discounted rate is proposed. This will help to facilitate targeted and steady work flow. It is proposed that properly completed applications received prior to October 2006 will receive a 10% reduction on the total cost per HMO.

8.9 HMO licensing provides an opportunity to increase the take up of landlord accreditation. It is therefore proposed that a 20% discount should be offered to any accredited landlord for an application received at any time. This will encourage landlords to adopt higher standards of accommodation and increase the availability of good quality short stay accommodation.

9. Consultation/Policy document

The service has consulted its landlords on licensing fees and proposed discounts. Proposals and a questionnaire were posted on the Haringey website in October and the documents were also mailed to 370 landlords. Twenty two completed questionnaires were returned and just over half said the proposals were fair. Negative comments received emphasised that fees were seen as a financial burden. Comments received that could be considered can be summarised as follows:-

Comment Response

- Fees should be per property not per letting
The cost to the Council of administering licences will be affected by the number of lettings per property.
- Fees should be nominal to encourage compliance
This would mean that the Council would not recover its costs.
- There should be a cap on fees for larger HMOs.
The price per letting will reflect the income potential of the property.

10. Proposed Fees

- 10.1 Based on a total service cost per year of £142k and an average expected throughput of 864 lettings, the average cost per letting would need to be £164. This equates to a cost per letting over 5 years of 63p per week.
- 10.2 Assuming that all known HMOs attract early application discounts at 10% and that only 1 in 10 landlords is accredited, the projected cost of discounts over the 3 years would be £39,000. This cost, will be recovered through increased rates aimed at assisted applications. There may also be efficiency savings through increased volumes achieved in years 1 and 2.
- 10.3 Proposed HMO licensing fee rates are as follows:

Unassisted applications

A. Fixed standard fee per letting	£164
B. Full application received pre 30/9/2006 10% discount	£148
C. Application from accredited landlords 2006-2008 20% discount:	£131
D. If both B and C	£115

Assisted applications (no discounted rates will apply)

E. An additional charge per HMO	£230
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11. Benchmark studies

- 11.1 The council has collaborated on it fees with its North London sub region partners; Islington, Barnet, Westminster, Enfield and Camden where there is a monthly lead officer HMO licensing group meeting. The ALG is currently collating responses from the 33 London boroughs on their fee structures. It is understood that the LGA are devising an on-line fee toolkit to go live at the end January 2006.
- 11.2 The NLSR are using the same rationale in setting fees. The ALG have had responses from 17 of the 33 boroughs. It is still at an early stage and much of the some data provided is provisional. The structures generally indicate a unit fee per

letting or per room to which discounts are applied.

- 11.3 The West London sub-region proposes a similar fee across the five boroughs. £400.00 basic fee per HMO plus £25.00 per habitable room to which discounts are applied.
- 11.4 Otherwise other responding boroughs propose their own local fees. These are in the range of £110.00 to £150.00 per letting/room with discounting provisions that are similar to Haringey's.
- 11.5 The study shows that some authorities are considering capping fees. In Haringey a maximum cap may be relevant to a very few, very large HMOs. It is recommended any such decision be considered on an individual basis and authorised at Director level or Director delegated authority.

12. Summary and Conclusions

- 12.1 The mandatory licensing of HMO will provide an opportunity to set a fees structure that will promote safe and decent short term housing provision, reward responsible landlords and promote landlord accreditation. The proposals outlined will ensure that the full costs of HMO licensing are met and that the costs for Haringey are consistent with other benchmarked London authorities.
- 12.2 Arrangements put in place to initiate HMO licensing are additional to the existing responsibilities for HMO inspection and registration where it continues. Fee income through licensing needs to be traceable to the new and reasonable costs of licensing.
- 12.3 Based on the benchmarking data, the Haringey fee structure, fee levels and discounting provisions compare favourably with that of other London boroughs.

13. Recommendations

- 13.1 It is recommended that a HMO licensing fee structure as provided in 10.3 above is introduced and which reflects discounts aimed at promoting early applications and encouraging landlords to become accredited.
- 13.2 In relation to maximum capping, that extraordinary cases of are reported to the relevant Director for approval of decision.
- 13.3 That a further report on the wider provisions of the Act is brought to Executive at a later date.

14. Comments of the Director of Finance

- 13.1 The proposed fees for HMO licensing have been constructed in accordance with regulatory guidelines on the basis of full cost recovery including the estimated impact of proposed potential discounts. The fees should be subject to annual reviews to ensure they remain competitive, consistent with neighbouring boroughs and continue to recover the full cost of the HMO licensing function.

15. Comments of the Head of Legal Services

The Head of Legal Services has been consulted in the preparation of this report and makes the following comments:

- (1) The proposed regime of licensing fees as outlined in 10.3 of the report are appropriate and proportionate and are thus in accordance with the requirements of the Housing Act 2004 and the implementation guidance relating thereto.
- (2) The wider provisions of the Act are subject to a further report: it is recommended that the report provides consideration of any further secondary legislation which may further define the requirements of the Act.

16. Equalities Implications

- 16.1 It is possible that some landlords seek to recover the costs associated with licensing through increased rents. The true additional cost for reputable landlords is actually very low but any actions by less reputable landlords would impact on more economically vulnerable tenants. This impact needs also to be seen in the context of improved housing standards for all HMO tenants.