



Subject:	Update on Transfer of Houses in Multiple Occupation
Date:	05 March 2019
Reporting Officer:	Nigel Grimshaw, Strategic Director of City & Neighbourhood Services
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Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Some time in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in	
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues
1.1	The new legislative control, the Houses in Multiple Occupation (HMO) Act NI 2016 completed Final Stage on 15 th March 2016 and received Royal Assent on 12 th May 2016. On commencement of this Act HMO regulation will transfer to local Councils.
1.2	The Committee will recall an update paper presented at the meeting on 4 th December 2018, and the papers of 10 th April, 8 th May and 4 th September 2018.
1.3	Two papers were presented to the Licensing Committee on 20 th February 2019, which provided further detail regarding the fees, Fixed Penalty Notices, the management of Antisocial Behaviour and the Standard Conditions for the new scheme.

1.4	This paper provides a summary of the detail taken to the Licensing Committee in 20 th February 2019, regarding the fees, Fixed Penalty Notices, the management of Antisocial Behaviour and the Standard Conditions for the new scheme.
2.0	Recommendations
2.1	<p>The Committee is asked to:</p> <ul style="list-style-type: none"> • Note the report and that the Licensing Committee, at their meeting of 20th February 2019, agreed the recommendations regarding the fees, Fixed Penalty Notices, the management of Antisocial Behaviour and the Standard Conditions for the new scheme which takes effect from 1st April 2019.
3.0	Main report
3.1	<p><u>Key Issues</u></p> <p><u>Fees</u></p> <p>The Houses in Multiple Occupation (HMO) Act NI 2016 received Royal Assent on 12th May 2016 and is due to be commenced on 1st April 2019. The Department of Communities (DfC) will also be laying some subordinate Regulations at the same time, one of which is the Houses of Multiple Occupation (Fees) Regulations (NI) 2019. This sets the maximum level of fee for an application for a HMO licence at £45 per person per annum.</p> <p>DfC has carried out a stakeholder engagement in relation to the subordinate legislation and the feedback from stakeholders had been fully reviewed. No concerns were raised in that engagement in relation to the maximum fee which is being proposed in the Regulations.</p> <p>Whilst the Regulations set a maximum fee level of £45, following the preparation of a draft budget, and a subsequent detailed review by external consultants, it is proposed to set the fee at £37 per person per annum which, it is estimated, will allow the service to be provided on a cost neutral basis. The fee will be subject to review after two years by both council officers and DfC.</p> <p>In preparing the draft budget, the estimated expenditure includes full staff costs, non-staff costs and overhead costs. Overhead costs include the costs of a solicitor who will be recruited to provide the additional legal support that will be needed to support the new licensing regime.</p>

3.5 The estimated income includes deferred income from the old Registration Scheme which will be received from the Northern Ireland Housing Executive (NIHE) and income from new applications.

3.6 Members should note that while the costs of the new scheme are anticipated to remain relatively constant, apart from planned inflationary increases, estimated annual income is not evenly spread across each financial year. The total budget for the new HMO service has thus been established to include income and expenditure over five years, ie the life span of a licence. Years with higher income due to higher numbers of renewals (ie 2019 and 2020) generate an annual surplus, which are off set over the five year budget period against those years where smaller numbers of properties are due to renew and which will thus generate less income (ie 2021, 2022 and 2023).

3.7 Other fees

As well as the licence fees outlined above, Council is required to establish and agree the cost of variations to a licence. Officers proposed, based on the cost of a licence (ie £37 per person per year for 5 years = £185):

3.8 Table 1: proposed licence variation fees

Licence variations	
Item	Cost
Addition of a new owner or managing agent	£185
Addition of a new occupant	£185 for each new occupant + £75 inspection fee (per visit)

3.9 The council is also required to set the maximum fee to provide a certified copy of an entry relating to an HMO to any person who falls with section 62(9) of the Act, and a certified copy of its register, or of an extract from it, to any statutory authority, for the subordinate Regulations.

3.10 Officers have considered the cost for similar copies across the council, and proposed the following:

3.11 Table 2: proposed maximum fees for copy of the HMO Register

Maximum fee for copy of HMO register	
Item	Maximum cost
A certified copy of an entry relating to an HMO to any person who falls within section 62(9) of the Act	£15
A certified copy of its register, or of an extract from it, to any statutory authority	£15

Fixed Penalty Notices

3.12 The Houses in Multiple Occupation (HMO) Act NI 2016 provides a wide variety of enforcement options to be available to the Council, including the ability to serve Fixed Penalty Notices (FPN).

3.13 A fixed penalty notice (“FPN”) is a notice giving the recipient the opportunity of discharging any liability to conviction for an offence, by paying a fixed sum of money within a particular period.

3.14 Section 64-66 of the 2016 Act gives councils the power to issue fixed penalty notices which tend to be conferred in respect of lower level offending.

3.15 Members should note the issuing of a notice is an alternative to prosecuting the offender, in instances where an authorised officer, following an investigation, has reason to believe that a person has committed an offence under any of the relevant provisions, and there are grounds for instituting proceedings for an offence.

3.16 Section 64 of the 2016 Act lists the offences and maximum amount of the FPN’s. These are included Appendix 1. The 2016 Act states that the amount for each fixed penalty notice ‘is to be determined by the council’.

3.17 In March 2014, following a report on the Landlord Registration Scheme, Council agreed that FPN in the scheme should be set at the maximum levels specified in the legislation.

On this basis, officers recommended that the fixed penalty levels for the offences under the new HMO (NI) Act 2016 are set on the same basis. These are detailed in Appendix 1.

Standard conditions

3.18

The proposed standard conditions are attached in Appendix 2. The conditions imposed within this document will apply to all houses in multiple occupation (HMOs) in Northern Ireland, and will be attached to all licences as they are issued. They are imposed for the purpose of regulating both the management, use and occupation of the HMO, and its condition and contents.

3.19

The Council may include further conditions in the licence in addition to the conditions contained in this document. Such conditions, if imposed, shall be appended to the licence certificate.

Tackling Anti-social Behaviour

3.20

It is noted that if effectively implemented and sufficiently resourced, a new HMO regulatory framework for HMOs in Northern Ireland has the potential to have a positive impact on the lives of those living in HMOs, the owners of HMOs, and the residents of the communities in which HMOs are located. It is acknowledged that responsible HMO landlords want to be good neighbours, take the behaviour of their tenants seriously and already endeavour to resolve any alleged anti-social behaviour linked to their properties. Councils will continue to support landlords in doing so.

3.21

The proposed 'Tackling Anti-Social Behaviour in HMO Properties, A Guide for Owners and Managing Agents' is attached in Appendix 3. This will apply to all houses in multiple occupation (HMOs) in Northern Ireland, and will be attached to all licences as they are issued.

3.22

The guide has been prepared to assist landlords to comply with this new statutory obligation. It provides guidance to landlords on the remedies and preventative measures that can be taken to manage anti-social behaviour, how to best demonstrate compliance via record keeping and intervention, and the development of an anti-social behaviour plan.

	<p><u>Further engagement</u></p> <p>3.23 Representatives of LANI, the Landlords Association for Northern Ireland, requested to attend the Licensing Committee’s meeting on 20th February 2019. While LANI representatives were ultimately unable to attend, it was agreed that Officers would continue to engage with LANI and that any items raised in relation to HMO Regulations, can be brought back to a future meeting of the Licensing Committee.</p> <p><u>Financial and Resource Implications</u></p> <p>3.24 The cost of administering the new licensing regime has been included in the draft estimates for 2019/20.</p> <p>3.25 Regarding the fees, it is anticipated that the new HMO licencing scheme transferring from NIHE will remain cost neutral to councils given the increase in fees outlined above. As noted, the number of HMO applications to the new scheme will not be even, year by year. This therefore gives peaks and troughs in income. However, over a five year period the income offsets the expenditure meaning that this service will be cost neutral to the council.</p> <p>3.26 Regarding the Fixed Penalty Notices, given the inherent difficulties in projecting the variation in the income that may be derived from this source, it has not been possible to accurately determine how much income might be received from these enforcement actions, and any attempts to quantify such income is deemed speculative and variable. Given this, fixed penalty income has not been included in the revenue estimates for the first five years of the scheme. It is currently envisaged that income from enforcement action will be re-invested back into the scheme, for example, on education related activities.</p> <p><u>Equality or Good Relations Implications/Rural Needs Assessment</u></p> <p>3.27 There are no equality, good relations or rural needs implications associated with this report.</p>
4.0	Appendices
	<p>Appendix 1: Fixed Penalty Notices</p> <p>Appendix 2: Standard Conditions</p> <p>Appendix 3: Tackling Anti-Social Behaviour in HMO Properties, A Guide for Owners and Managing Agents</p>

