

Regulatory Committee

9.30am, Monday, 9 March 2020

Houses in Multiple Occupation – Three Year Review

Executive/routine
Wards
Council Commitments

1. Recommendations

1.1 The Regulatory Committee is asked to note the contents of the report.

Paul Lawrence

Executive Director of Place

Contact: Andrew Mitchell, Regulatory Services Manager

E-mail: Andrew.mitchell@edinburgh.gov.uk | Tel: 0131 529 4208

Houses in Multiple Occupation – Three Year Review

2. Executive Summary

- 2.1 This report updates the committee on the outcome of the work undertaken by the Licensing Service, following changes to the Houses in Multiple Occupation (HMO) regime that were agreed in April 2017.
- 2.2 The new three year licensing system and fee structure, introduced in April 2017, reflected the growth in the number of larger shared accommodation properties and allowed officers to grant three year HMO licences to suitable properties. This report provides the committee with an update on the operation of those changes to date.

3. Background

- 3.1 The Council is required to license Houses in Multiple Occupation, 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.
- 3.2 The HMO Licence fee structure was last modified in 2017 following a public consultation and financial modelling exercise. The current fee structure is attached at Appendix 1
- 3.3 HMO licence fees are based on occupant capacity, with an option of a one or a three year licence. New HMO licences are typically granted for one year, with a minimum period of six months. Existing licence holders applying for a subsequent licence for an individual property are afforded the flexibility of requesting a one or three year licence.
- 3.4 Grants of three year licences are only be considered for suitable properties on a case by case basis, and can be restricted to a one year licence based on the following assessment criteria:
 - 3.4.1 Premises/landlords that are subject to ongoing monitoring where issues have been identified by officers;
 - 3.4.2 Premises/landlords that are subject to enforcement action;
 - 3.4.3 Premises/landlords where previous complaints have been upheld;

- 3.4.4 Premises that have failed to complete remedial work identified on inspection within four weeks from the first inspection date, without prior consent from the Council;
- 3.4.5 Premises where the Licensing Sub-Committee has chosen to restrict the period of licence due to concerns raised.

4. Main report

- 4.1 Since the introduction of the changes noted above, officers have regularly reviewed the operation of the system to ensure that any unforeseen issues are resolved efficiently. There are a number of conclusions which may be drawn from these reviews.

HMO Property Inspections

- 4.2 The Licensing Service strives to operate a robust and consistent enforcement and inspection regime. Initially it was identified that the increase in licence period from one to three years could potentially reduce the required level of inspection. It was hoped that any additional resources arising from reduced inspection activity could be used to enhance enforcement and compliance.
- 4.3 The licence conditions HMO1 and HMO3, in particular, set out the requirement to maintain properties and to ensure that there is continuity of safety certification in place for the property throughout the licensing term.
 - 4.3.1 HMO1 – The licence holder must take steps to ensure that the property, fittings and furniture, including fire precautions, plumbing, drainage, gas and electrical installations, are maintained throughout the period of the licence to the standard required. The HMO owner should have a system in place which provides for continuity of safety certification.
 - 4.3.2 HMO3 – The licence holder must ensure that the physical standards for HMO living accommodation assessed as suitable by the local authority when approving the licence application are met at all times.
- 4.4 Since June 2017 officers have carried out approximately 13,000 inspections on HMO properties. Approximately 85% of HMO applications received by the Council are for the continuation of an existing licence. Of the properties inspected, 62% required at least one revisit due to requiring work in order to comply with HMO standards. The number of revisit inspections that have taken place indicates that a majority of existing HMO properties in Edinburgh are not maintaining the expected standards.
- 4.5 The first continuation applications since the introduction of three year HMO licences will soon be due to be considered, and officers have therefore been able to review how the operation of those licences has worked. The high percentage of revisits suggests that many landlords may be using inspections as a 'health check', in order to be specifically informed as to what action should be taken to make their property compliant.

- 4.6 As a result of this issue, officers propose to drive up the standards of HMO properties within the city by a series of measures to improve the safety of tenants. In order for a property to be considered suitable for a three year licence, the property will be expected to meet all of the required standards at the point of first inspection. As noted above, HMO safety standards should be maintained throughout the duration of a licence. Where it is established that the landlord has not complied with licence conditions, or the property is non-compliant on inspection, a one year licence or a refusal of the application will be recommended.
- 4.7 The result of HMO inspections will be determined by using a risk-based assessment process, with officers using an itemised inspection template. The template has also been made available to HMO licence applicants on the Council's website in order for them to have a greater understanding of the required condition of the property. Additionally, use of a template will provide more consistency for applicants and officers.
- 4.8 The measures noted above will help to drive up standards within the sector and satisfy the Council that properties are safe and fit for purpose. They incentivise landlords to carry out proactive maintenance and repairs on their properties throughout the licence period. This will subsequently improve landlords' prospects of obtaining a three year licence when submitting an application.

Volume of Licences

- 4.9 At present a total of 6,326 HMO properties are licensed by the Council, which is the highest number ever recorded by this authority. Over the last three years 1,189 new licences have been granted, which is an increase on previous years.
- 4.10 The number of new applications is due, in large part, to owners of purpose-built student accommodation selling their portfolios to other parties. This results in the new owner having to reapply for the HMO licence.
- 4.11 Another cause in the rise of new applications is tax relief for landlords being phased out. Since April 2017, the method by which landlords have to declare rental income has started to change, meaning that most may have seen their tax bills rise significantly. While borrowing money through a buy-to-let mortgage was once a major tax advantage, this is no longer the case. This change has caused some smaller landlords to restructure how they own their properties, transferring them from personal ownership to a limited company. This also requires a new licence application to be lodged.
- 4.12 The high volume of applications received, including the high number of new applications, has resulted in the service receiving a higher total of fees than had been initially anticipated. For example, where a new owner is granted a new licence, this would only be valid for one year. This further increased income for the following year. Appendix 2 sets out the level of fees received over the three year period against the initial projected income.

5. Next Steps

- 5.1 The Licensing Service will continue to closely monitor the operation of the HMO licensing system following the implementation of the changes noted above. Officers will analyse the results of HMO property inspections to ascertain whether the standard of properties within the sector has improved and report this back to the committee within 12 months.
- 5.2 Officers have undertaken to meet with the trade at regular intervals, with the next meeting planned in May 2020. The meetings provide officers and the trade with a forum to discuss issues and to improve communication with licence holders.

6. Financial impact

- 6.1 The Council's scale of fees was approved with effect from 1 April 2019. Any costs from implementing policy changes are contained within the current ring-fenced income generated from licensing fees.

7. Stakeholder/Community Impact

- 7.1 On 28 November 2019, officers met with over 30 HMO agents operating in Edinburgh to provide an update on areas which might affect the operation of HMOs over the subsequent year. Particular focus was given to the operation of three year licence renewals, the number of inspections being carried out and the overall standard of HMO properties. Agents were informed of the intention to rigorously apply the risk-based approach to inspections, commencing in April 2020. Further meetings are planned for the coming year.

8. Background reading/external references

- 8.1 [Proposed fees for HMO Licences report for Regulatory Committee on 21 April 2017](#)
- 8.2 [HMO Standard Conditions](#)
- 8.3 [Housing \(Scotland\) Act 2006](#)

9. Appendices

- 9.1 Appendix 1 – Current HMO Fees
- 9.2 Appendix 2 - HMO three Year Budget Figures

Appendix 1 – current HMO licence fees

Valid – 2019/20



HOUSE IN MULTIPLE OCCUPATION LICENCE APPLICATION FEES

HMO licence application fees are based on occupant capacity with an option of a one or three year licence as approved by the Councils Regulatory Committee on 21 April 2017

Please note:

- HMO licences in their first year may be granted for a minimum period of 6 months
- Existing licence holders applying for a second or subsequent application ('renewal') for individual properties can apply for either a one or three year licence *

* The grant of a three year licence will only be considered for suitable properties on a case by case basis and can be restricted to one year licence based on the following assessment criteria:

- Premises/landlords that are subject to ongoing monitoring where issues have been identified by council officers
- Premises/landlords that are subject to enforcement action
- Premises/landlords where previous complaints have been upheld
- Premises that have failed to complete remedial work, identified upon inspection, within four weeks from the first inspection date, without prior consent of the council

Number of Occupants	Fee (£) (1 or 3 year application)
3	540
4	720
5	900
6	1,130
7	1,360
8	1,590
9	1,820
10	2,050
11	2,280
12	2,510
13	2,740
14	2,970
15	3,200
16	3,430
17	3,660
18	3,890
19	4,120
20	4,350
21-30	4,850
31-40	5,350

41-50	5,850		
51-60	6,350		
61-70	6,850		
71-80	7,350		
81-90	7,850		
91-100	8,350		
101-150	9,150		
151-200	9,950		
201-250	10,750		
251-300	11,550		
301-350	12,350		
351-400	13,150		
401-450	13,950		
451-500	14,750		
501-550	15,550		
551-600	16,350		
> 600	Increase of £800 per banding of 100		
Percentage discount available for charity registered with The Scottish Charity Regulator (OSCR) and linked to homeless and / or vulnerable adult accommodation			
Educational institutions – Property owned and managed by a charity registered with The Scottish Charity Regulator (OSCR) would be considered eligible for a 50% fee reduction			

