

# Regulatory Committee

2.00pm, Thursday, 29 September 2022

## Houses in Multiple Occupation - Fees Update

Executive/routine  
Wards  
Council Commitments

### 1. Recommendations

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Regulatory Committee is asked to:

- 1.1 Approve the proposed revised fee structure in relation to applications for Houses in Multiple Occupation (HMO) licences; and
- 1.2 Note that a consultation on HMO licence conditions 011 and 012 is ongoing.

**Paul Lawrence**

Executive Director - Place

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## Houses in Multiple Occupation - Fees Update

### 2. Executive Summary

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- 2.1 This report provides the Committee with an update on work carried out to review the current licence application fee structure for Houses in Multiple Occupation (HMOs). The report provides an update following the introduction of three year licences in 2017, and makes recommendations about changes to the existing fee structure with the overarching aim of driving up standards and ensuring that full cost recovery is reflected in HMO fees
- 2.2 The report also provides an update on an ongoing consultation on HMO licence conditions 011 and 012.

### 3. Background

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- 3.1 In terms of the Housing (Scotland) Act 2006 ('the 2006 Act') the Council is required to license HMOs where three or more individuals or families both live in a property and share facilities therein. The Council is entitled under the 2006 Act to charge a fee for an application for a HMO licence to cover the costs of operating and enforcing the licensing scheme.
- 3.2 The HMO licence fee structure was last modified in 2019 (Appendix 1). Application fees are based on occupancy capacity, with an option of a one or three year licence. New HMO licences are normally granted for one year only, with a statutory minimum period of six months. Existing licence holders applying for a subsequent licence for an individual property are afforded the flexibility of being able to request either a one or a three year licence.

### 4. Main report

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- 4.1 On 23 August 2021 the Committee agreed that a review of the current HMO application fees should take place, to consider whether any changes are required to reflect the current costs to the Council of dealing with an application
- 4.2 The three year licensing system and fee structure, first approved in 2017, reflected the growth in the number of larger shared accommodation properties and

associated increased costs of inspection. It additionally sought to incentivise landlords to improve the standard within the sector by allowing the grant of three year HMO licences, at the same cost as a one year licence, to suitable properties which had demonstrated compliance with legislation and conditions of licence. This was on the basis that the work involved in processing and granting a licence for three years would come at no extra cost to the Council. Unfortunately, this has not proved to be the case as officers typically spend significantly longer on HMO continuation applications in order for a three year licence to be issued.

- 4.3 The Licensing Service currently processes approximately 4,500 HMO applications per year, 90% of which are renewals. On average, a HMO licence holder has held a licence for a minimum of five years and therefore should be experienced at complying with legislation and conditions of licence.
- 4.4 As reported to the Regulatory Committee on 23 August 2021, a review of the first cycle of three year HMO renewals found that approximately 70% of applications had not demonstrated continuous safety certification during the licensed period, as required by condition HMO1 of the standard conditions of licence. Using this snapshot as an indicator, officers were concerned that this may illustrate a wider problem with standards being maintained by licence holders during the extended three year period of licensing.
- 4.5 Due to Covid and the subsequent lockdown, it was anticipated that licence holders would have difficulty sourcing contractors to carry out certification checks throughout the lockdown period. Therefore, in order not to disadvantage licence holders, in March 2021 the Committee agreed that licence holders submitting a 'renewal' application declaring that they had been unable to provide the required continuous safety certification due to lockdown restrictions would have these accepted with a temporary exemption from compliance with condition HMO1. This exemption would apply for a maximum period of six months from the date on which the application was lodged with the Council.
- 4.6 This pragmatic approach afforded licence holders an opportunity to obtain the relevant documentation and to continue to submit renewal applications without being disadvantaged due to circumstances out with their control. This temporary change was in place until 31 December 2021.

#### **Impact on officer time**

- 4.7 Since the review, which was reported in August 2021, and taking into account the effects of the pandemic, officers have found that gaps in safety certification continue to exist in a significant number of HMO applications received.
- 4.8 In order to review the certification in a fair and transparent manner, officers using delegated powers in terms of the Council's Scheme of Delegation to Officers granted three year licences to applicants where continuous certification for any dates prior to lockdown was evidenced in their applications. However,

approximately 70% of applicants for renewal of existing HMO licences could not demonstrate continuity of certification for this particular period.

### **Further measures to drive improvement and efficiency**

- 4.9 One of the central reasons behind the introduction of a three year licence for HMOs was to support further targeted enforcement work to ensure that all properties met the required standard and complied with the legislative requirements set out in the 2006 Act.
- 4.10 It is therefore intended to introduce risk based inspections. This will enable officers to target properties which are higher risk in terms of a number of factors, including anti-social behaviour, enforcement action, complaints, noise disturbance etc. Multiple visits may be required during a licence period. However, where a property can demonstrate continuity of certification combined with an absence of complaints, enforcement action etc, there may be only one visit during the licence period. The proposed new inspection model will also help to drive up standards in the sector, as it will require properties to be maintained to the required standard throughout the licence period and not only when an inspection is scheduled during the application period.

### **Proposed Fee Structure**

- 4.11 The Council's functions as a licensing authority are funded directly by income raised from licence application fees. These fees are normally approved by the Council as part of the annual budget process and are intended to fully recover the costs of delivering a licensing scheme. This Committee has delegated authority to agree a licence fee structure or to amend any existing fee structure.
- 4.12 Where an applicant for the continuation of a HMO licence has failed to demonstrate continuous safety certification and a one year licence has been issued instead of three, this has led to frustration on the part of certain licence holders. This is because their expectation is to receive a three year licence for the same fee as a one year licence, rather than to consider it a one year licence which has been extended to three years licence for demonstrating compliance. The subsequent complaints and dissatisfaction with this outcome are then the focus of the applicant's attention, rather than their failure to demonstrate compliance for a period of three years.
- 4.13 To help address this issue, it is proposed to revisit the fee structure, with a one year licence fee being introduced at a reduced rate. This will allow the opportunity for applicants who are unable to show three years' continuous safety certification during the period of their previous licence to renew their licence, and to afford them time to bring any expired certification in line with the HMO standard conditions (Appendix 3). The minimum expectation is the ability to demonstrate certification for a period of one year, in order to be considered for continuity of licence (renewal).
- 4.14 Those applicants who can demonstrate continuous safety certification for a period of three years, along with compliance with all other conditions, will still be able to apply for a three year licence at the same rate as currently set.

- 4.15 It is hoped that this approach will act as a further incentive for improving standards within the sector. Officers continue to develop a best practice guide for HMO licence holders and will bring a report on this issue to Committee early next year.

### **HMO Conditions Consultation**

- 4.16 On 28 February 2022, the Committee agreed that a consultation should take place on whether conditions 011 and 012 of the HMO standard conditions should be amended to require licence holders, and agents acting on their behalf, to annually provide adjoining properties with emergency contact details. A public consultation on this issue was launched on the Council's Consultation Hub on 28 September 2022 and will close on 21 December 2022. Officers will report back to Committee with the results of the consultation and recommendations in due course.

### **4.17 Best Practice Guide**

- 4.18 The Committee was advised on 28 February 2022 that work would be undertaken to develop a best practice guide for HMO licence holders and agents as an additional tool to help improve standards in the sector. Work on this will be taken forward in the autumn, and will include a meeting with agents. Officers will then bring a report forward early next year for the Committee to consider the best practice guide.

## **5. Next Steps**

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- 5.1 If agreed, officers will arrange for the new fee structure to be advertised and communicated as appropriate. This will include direct contact with all HMO licence holders and agents.

## **6. Financial impact**

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- 6.1 The new fee structure will take effect from 1 April 2023 and will apply to any application received on or after that date

## **7. Stakeholder/Community Impact**

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- 7.1 Officers have engaged with colleagues from other Council services to accurately identify the effect of the proposed fee structure on resources and what further impact these changes may have.

## **8. Background reading/external references**

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- 8.1 [Houses in Multiple Occupation – Service Update – 23 August 2021 – Regulatory Committee](#)

## **9. Appendices**

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- 9.1 Appendix 1 – Current HMO Licence Application Fees
- 9.2 Appendix 2 – Proposed Licence Application Fees
- 9.3 Appendix 3 – HMO Standard Conditions

## Appendix 1 – Current HMO Licence Application Fees

# Valid – 2022/23

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THE CITY OF EDINBURGH COUNCIL

### 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 licences 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	653		
4	871		
5	1,089		
6	1,367		
7	1,646		
8	1,924		
9	2,202		
10	2,481		
11	2,759		
12	3,037		
13	3,315		
14	3,594		
15	3,872		
16	4,150		
17	4,429		
18	4,707		
19	4,985		
20	5,264		
21-30	5,869		
31-40	6,474		

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41-50	7,079		
51-60	7,684		
61-70	8,289		
71-80	8,894		
81-90	9,499		
91-100	10,104		
101-150	11,072		
151-200	12,040		
201-250	13,008		
251-300	13,976		
301-350	14,685		
351-400	14,944		
401-450	16,880		
451-500	17,848		
501-550	18,816		
551-600	19,784		
> 600	Increase of £967 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

### MISCELLANEOUS FEES

CERTIFIED COPY LICENCE	£61 – per copy
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## Appendix 2 – Proposed HMO 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 Council's Regulatory Committee on 29 September 2022**

Please note:

- HMO licences in their first year may be granted for a minimum period of 6 months
- Existing licences 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
- Premises where the landlord is unable to provide evidence of continuous safety certificates for the property, during the term of the previous licence

Please note that all licence application fees are non-refundable, except in exceptional circumstances. Application fees are based on the costs to the Council of processing a licence application and delivering a licensing scheme. Therefore, where a licence is restricted to one year based on an assessment of the above criteria, any refund of the balance of the application fee will not be offered.

Number of Occupants	Fee (£) 1 year application	Fee (£) 3 year application
3	253	653
4	471	871
5	689	1,089
6	967	1,367
7	1,246	1,646
8	1,524	1,924
9	1,802	2,202
10	2,081	2,481
11	2,359	2,759
12	2,637	3,037
13	2,915	3,315
14	3,194	3,594
15	3,472	3,872
16	3,750	4,150
17	4,029	4,429
18	4,307	4,707

19	4,585	4,985
20	4,864	5,264
21-30	5,469	5,869
31-40	6,074	6,474
41-50	6,679	7,079
51-60	7,284	7,684
61-70	7,889	8,289
71-80	8,494	8,894
81-90	9,099	9,499
91-100	9,704	10,104
101-150	10,672	11,072
151-200	11,640	12,040
201-250	12,608	13,008
251-300	13,576	13,976
301-350	14,285	14,685
351-400	14,544	14,944
401-450	16,480	16,880
451-500	17,448	17,848
501-550	18,416	18,816
551-600	19,384	19,784
>600	Increase of £567 per banding	Increase of £967 per banding

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

### MISCELLANEOUS FEES

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## Appendix 3 – HMO Standard Licence Conditions

Housing (Scotland) Act 2006  
Standard HMO Licensing Conditions – Adopted 9 March 2012

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.
HMO2	The licence holder must ensure that advice to occupiers on action to be taken in the event of an emergency is clearly and prominently displayed within the living accommodation.
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.
HMO4	The licence holder must ensure that the number of persons residing in the premises shall not exceed [insert number] when operating as an HMO.
HMO5	The licence holder must make the Licence, including any conditions, available to occupiers, or prospective occupiers, within the premises where it can be conveniently read by residents.
HMO6	The licence holder must ensure that actions to secure repossession must be only by lawful means.
HMO7	The licenceholder must provide each tenant with a clear statement, in a form they can understand and keep for reference, of what is expected of them and what they can expect from the licenceholder. The agreement must accurately describe the subject of let, the start and end dates of the agreement, rent to be paid, period of written notification of intention to enter the property (which shall not be less than 24 hours), and where the agreement is in the form of a lease and the licence holder intends to retain a key for the property, the agreement will specify how the tenant will grant explicit permission for the key to be used.
HMO8	The licenceholder must act lawfully and reasonably in requiring any advanced payments, handling rents, returning deposits, and making deductions from deposits.
HMO9	The licenceholder must comply with all relevant legislation affecting private sector residential tenancies, including participation in any communal repairs and maintenance, as per the Tenements (Scotland) Act 2004.

HMO10	The licenceholder must manage the property in such a way as to seek to prevent and deal effectively with any anti-social behaviour by tenants to anyone else in the HMO and in the locality of the HMO.
HMO11	An emergency contact telephone number for the licenceholder and/or management shall be available and notified to the Council for 24-hour contact purposes for emergencies or antisocial behaviour from the property.
HMO12	The licenceholder shall give a neighbour notification to every occupier in the same building as the licenceholder's premises, and any adjoining premises within 28 days of the licence holder's receipt of the licence document. This will advise of the name of the licenceholder or managing agent, a contact address, day time telephone number and an emergency contact number.
HMO13	The use of the premises shall be as authorised from time to time by the City of Edinburgh Council in terms of the Building (Scotland) Act 2003.
HMO14	Adequate facilities must be provided for the storage and disposal of refuse, and recycling. The licenceholder shall make the tenants fully aware of their responsibilities.
HMO15	The licence holder must ensure that Liquefied Petroleum Gas (LPG) shall not be used or stored on the premises.
HMO16	The licence holder shall comply with the current regulations regarding maximum re-sale prices of gas and electricity supplied, as appropriate.
HMO17	Where the agreement between a tenant (or group of tenants) and the licence holder gives those tenants exclusive access to specified rooms in the premises, the licence holder should ensure those rooms are fitted with a lever latch and secured with a suitable lock and thumb turn mechanism or other appropriate locking mechanism.
HMO18	Any chimneys/flues that are in use must be maintained/cleaned annually or in accordance with the manufacturer's instructions, or, where the flue is covered by a Gas Safety Inspection, at a period determined by a Gas Safe registered engineer.