RHONDDA CYNON TAF

RECORD OF DELEGATED OFFICER DECISION

SUBJECT

Proposed changes to the fee structure for the Council's Additional Licensing Scheme for Houses in Multiple Occupation (2014)

PURPOSE OF ATTACHED REPORT:

The purpose of this report is to seek approval to make changes to the fee structure for the Council's Additional Licensing Scheme for Houses in Multiple Occupation (HMOs). Following a period of consultation and if no significant issues are raised during the consultation, these changes would be implemented with immediate effect

DELEGATED DECISION (Date):

- Note the reasons for the changes required to the existing HMO Licensing fee structure
- Give approval for officers to consult on the changes proposed to the fee structure.
- Authorise the Service Director Public Health and Protection to consider all responses to the consultation and where appropriate to revise the draft fee structure prior to implementing the new fee structure with effect from the 1st February 2015.

Chief Officer Signature	G. ISINGRINI *Print Name*	23.12.14. *Date*

The decision is taken in accordance with Section 15 of the Local Government Act, 2000 (Executive Functions) and in the terms set out in Section 5 of Part 3 of the Council's Constitution

K. J. Morgan

23rd December 201

CONSULTEE CABINET MEMBER SIGNATURE **DATE**

23rd December 2014

OFFICER CONSULTEE SIGNATURE **DATE**

Directorate:	Public Health and Protection	
Contact Name:	Jennifer Ellis	
Designation:	Housing Strategy and Standards Manager	
Tel.No.	01443 425391	

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2014 - 2015

REPORT TO ACCOMPANY DECISION OF
GROUP DIRECTOR, COMMUNITY & CHILDREN'S SERVICES AND

Part 1 **(Non-Confidential)**
Changes to the Additional Licensing Scheme for Houses in Multiple Occupation (HMOs) Fee Structure 2014

1.0 PURPOSE OF REPORT

The purpose of this report is to seek approval to make changes to the fee structure for the Council's Additional Licensing Scheme for Houses in Multiple Occupation (HMOs). Following a period of consultation and if no significant issues are raised during the consultation, these changes would be implemented with immediate effect

In accordance with the Council's scheme of delegation this report has been prepared to accompany the decision of the Group Director, Community and Children's Services as described below.

2.0 RECOMMENDATION

It is recommended that Members:

2.1 Note the reasons for the changes required to the existing HMO Licensing fee structure

2.2 Give approval for officers to consult on the changes proposed to the fee structure.

2.3 Authorise the Service Director, Public Health and Protection, to consider all responses to the consultation and where appropriate to revise the draft fee structure prior to implementing the new fee structure with effect from the 1st February 2015.

3.0 BACKGROUND

3.1 The declaration of a borough wide Additional Licensing Scheme for HMOs was approved by Cabinet on the 28th October 2013 and was launched on 1st April 2014. It will be in operation for 5 years. Landlords were made aware of the implementation of the new Scheme through a Public Notice, the Council's website, direct mailing and the Landlords' Forum.

3.2 The Fee Structure associated with the Scheme was also approved by Cabinet on the 28th October. It includes a variable licence fee depending on the size of the HMO. The Fee starts at £850 for smaller HMOs and includes an incremental £50 charge for each bedroom/unit over 5 bedrooms/units up to a maximum fee of £1500.

3.3 There are two charges within the fee structure that could be described as additional administrative charges. These are:

- A £30 fee for an application to vary an existing licence. For example, a change to the landlords name or address

- A £30 fee for a change of licence holder or manager if this happens during the licensing application process

3.4 The Fee Structure that was approved also includes incentives and discounts which were included with the intention of encouraging good compliance with the scheme. These are:

- An 'Early Bird Discount' of £200
- A 10% discount for Accredited Landlords
- A 10% discount for landlords who make more than one application for a licence at the same time

4.0 CHANGES PROPOSED

4.1 There are no changes proposed to the main licence fees as approved in October last year. However, due to recent decisions in the High Court relating to licence fees, it has become apparent that some changes are required to ensure that the Council fees are compliant with the legal precedent decisions made. In addition, after 6 months of operation of the new HMO Additional Licensing Scheme a review of the fees has been undertaken and some change is required to ensure the scheme can operate as effectively as possible.

4.2 Removal of charge for varying a licence

The power to charge fees in respect of HMO licensing is found in Section 63 of the Housing Act 2004. Importantly, this power is granted in respect of licence applications only. The recent Hemming v Westminster City Council High Court case clarified that a council can only charge a fee for something they are explicitly authorised in a piece of legislation to charge a fee for. Following this, in 2013 a case was brought against Oxford City Council for refusal to vary an HMO licence. As part of this case there was a dispute about whether Oxford could charge a fee for the variation. Ultimately the Residential Property Tribunal (RPT) ruled that the fee was unlawful and that it could not be charged.

Due to the case law outline above, the additional charge included in the fee structure for varying a HMO licence should be removed from the current Fee structure to ensure that it is compliant with the Housing Act 2004.

4.3 Removal of reference in Fee Structure to the Early Bird Discount in relation to 'Initial Application'

This discount was available for landlords of 3 let HMOs who made their application before the start of the new scheme (e.g. April 2014). As such this discount is no longer relevant and to avoid any confusion it is proposed to remove reference to the availability of this discount for 'initial applications'. The 10% discount will continue to be available for existing licence holders who make a renewal application before the expiration of their existing licence.

4.4 Removal of 10% discount for landlords who make more than one application for a licence at the same time

This discount was made available in the original fee structure as an incentive to encourage landlords to comply with the scheme. However, an unintended consequence of the availability of this discount is that it could encourage landlords who have licences that expire at different times to hold off making a timely renewal application for one or more of their expired licences. After 6 months of operation of the scheme, it has become apparent that this discount is unlikely to encourage timely compliance with the scheme and also is a contradiction to the 'early bird discount' available. As such, the proposal is to remove this discount from the scheme.

5.0 CONSULTATION AND IMPLEMENTATION

The new proposed Fee Structure is attached at Appendix A.

In order to ensure that all landlords are aware of the changes proposed to the Fee Structure information will be provided on the Council's website and landlords will receive a written letter outlining the proposed changes. Landlords will be given a 4 week period to comment on these changes, after which point if no significant issues are raised, the changes will be implemented.

Appendix A

HMO Additional Licensing Scheme Fee Structure

Application Fees	Smaller HMOs (3-5 units/bedrooms)	Larger HMOs (6+ units/bedrooms)	Guidance
Initial Application	£850	£50 extra per bedroom/ unit to a maximum of £1500	For example, for 8 bedrooms/units the fee will be £1000
Renewal Application made at least 2 months **before** the expiration of an existing licence	£650	£50 extra per bedroom/ unit to a maximum of £1300	
Renewal Application made **after** expiration of an existing licence	£850	£50 extra per bedroom/ unit to a maximum of £1500	
HMO Licence variation	No charge	No charge	For example, change of name or address
Change of licence holder or manager during licensing process	£30	£30	
Applicant decides to withdraw application	Cancellation fee will be calculated at time based on work undertaken on application to date.		

Discounts Available

Discount type	Discount Amount	Notes
The Manager or proposed licence holder is an accredited landlord/	10% off of application fee (utilising applicable fee e.g either £650 or £850)	Discount off total fees payable per property.