AGENDA ITEM NO 7

EXECUTIVE
2 MARCH 2006

Subject: Implementation of the Private Sector Housing provisions of the Housing Act 2004

Director/Head of Service: Head of Housing

Decision Issues: These matters are within the authority of the Council

Decision: Key
First appeared in the Forward Plan on 16th September 2005

Considered by Overview and Scrutiny 15/02/06, due to be considered by Executive on 02/03/06 and Council on 20th April.

Ward: All

Summary: Licensing of houses in multiple occupation is due to start in April and we need to agree a fee structure for licence applications

To Recommend to Full Council That the scale of fees at appendix A be adopted, adjusted by officers in the light of experience in September 2006 and uprated annually thereafter.

Classification: THIS REPORT IS OPEN TO THE PUBLIC

SUPPORTING INFORMATION

1. Introduction
The Housing Act 2004 makes some quite significant changes to housing law, and is being implemented in stages.

Most of the existing legislation relating to Private Sector Housing is being repealed by the 2004 Act and replaced by new provisions.

This report is concerned primarily with the introduction of licensing for Houses in Multiple Occupation, which comes into effect in April this year.
Licensing of Houses in Multiple Occupation

The Act introduces a national licensing regime for larger Houses in Multiple Occupation. Licensing only applies to Houses in Multiple Occupation which have three or more storeys and five or more occupiers. In our district this definition will probably apply to around 200 to 300 houses.

The definition of a *House in Multiple Occupation* has been changed to make it absolutely clear that groups of unrelated people sharing a house are included.

In order to obtain a licence a landlord must:

- Put in place suitable arrangements for the management and day to day running of the house (ie competent manager, proper arrangements for repairs, etc.)
- Be a fit and proper person to hold a licence
- Provide annual gas, electric and other safety certificates
- Give full details of the property including simple plans
- Comply with minimum amenity and fire safety standards

The emphasis of licensing is on the day-to-day running and management of houses, with the ability to “disqualify” landlords or agents who are not felt to be fit and proper persons. It will be an offence to operate a larger House in Multiple Occupation without a licence. Sanctions include the ability to reclaim Housing Benefit paid whilst a house is unlicensed and a ban on evicting tenants.

Houses that fall outside the requirement to be licensed can still be dealt with individually as Houses in Multiple Occupation or, if there are significant anti-social behaviour problems in an area, by setting up an additional licensing scheme locally.

The Student Impact Review has been looking carefully at the issues around students living in private rented accommodation, and is likely to be recommending that we set up an accreditation scheme under general powers to cover student housing. This would replace the existing registration scheme, which will become unenforceable when the new powers come into force. If this fails to bring about the expected improvements we could consider setting up an additional licensing scheme instead.

**Decision needed**

In order that licensing of Houses in Multiple Occupation can commence in April 2006 a decision is needed on the fees to be charged for processing and issuing a licence.

The Kent Triangle authorities have jointly agreed a procedure for handling licensing applications, as shown at appendix A.
The legislation allows local authorities to charge a fee for handling licence applications. There is no maximum prescribed but we are only allowed to cover costs, not make a profit. The potential work content of the agreed process and the proposed fee per house in 2006/07 is shown in appendix A. Consideration of various factors has resulted in a review of the originally-proposed table of costs to make sure that enforcement costs in particular are fully recovered from those who try to evade the licensing regime. Following Overview and Scrutiny the figures have been revised upwards from those quoted at that committee.

The fee should be recalculated after a period of operational experience to ensure that our assumptions about work content are correct, then revised annually in line with inflation.

Many of the houses will have been improved already under the registration scheme and their owners will wish to comply with the new law by obtaining a licence voluntarily. These factors will significantly reduce the amount of time and effort spent getting them licensed. It would therefore be appropriate to offer a discount from the full fee to reflect this, as indicated in appendix A. In addition, some owners will have recently paid a registration fee, expecting this to last for the next five years. To be fair, the licence fee should be reduced on a one-off basis to reflect the amount already paid (pro rata to reflect the unexpired portion of the registration period).

2. **Relevant Council Policy/Strategies/Budgetary Documents**

   (a) Licensing of houses in multiple occupation is a new statutory duty

3. **Consultation**

   (a) Other officers/Councils. Other East Kent Councils are proposing to charge a fee of £370 per house.

   (b) Overview and Scrutiny Committee. Although the committee voted in favour of the recommendations in the officer's report, some members voiced concerns around the need to recover the costs of enforcement, management costs and the fees being charged by neighbouring councils. However members did not have any updated figures put before them.

4. **Options available**

   With regard to licence fees, the options are:

   (a) To charge no fee or

   (b) To charge a fixed fee or

   (c) To agree a formula for the calculation and revision of fees

   Guidance on other councils’ proposed fees will be available at the meeting.
5. **Implications**

(a) **Financial Implications**

The council has discretion whether or not to charge a licence fee. The implication of charging no fee would be increased costs on the general fund. A fixed fee, whilst simple, would result in compliant landlords subsidising the non-cooperative ones. The proposal at appendix A is seen as reasonable reimbursement of the council’s anticipated costs of administration, it attempts to treat landlords fairly and accords with the general expectation that the council will be charging a fee.

(b) **Staffing/Resource Implications**

This is seen broadly as having neutral impact in staffing terms. The main impact is on the need to re-train staff to deal with the new provisions instead of the old. This re-training is an on-going process that will continue throughout the year ahead.

(c) **Property Portfolio Implications** None

(d) **Legal Implications**

the licensing regime has legal implications, particularly if or when we exercise discretion to revoke someone’s licence because we feel they are not a fit and proper person. Procedural matters are prescribed in the Act but the exercise of discretion is always open to challenge.

(e) **Environmental/Sustainability Implications** None

(f) **Planning Implications** None

(g) **Human Rights Issues (Legal)** could arise in the circumstances described above.

(h) **Equalities**

(i) **Crime and Disorder Implications**

Where licensing has been piloted there has been some evidence of less-compliant landlords selling up to avoid the licensing regime. This may have the effect of temporarily increasing unlawful evictions. The licensing regime may have the effect of making landlords more careful about their choice of tenants in future.

6. **Conclusions**

The Act is a major piece of legislation that will have far-reaching effects. The main provisions will come into effect from 1st April this year. Further reports will follow in due course, dealing with other aspects of the Act.

A decision is needed now on the licence fee for houses in multiple occupation so that the mandatory licensing scheme can be introduced in April.

**Contact Officer:** Steve King  
**Direct Dial:** 862235