

Item No.	Classification: Open	Date: 19 January 2016	Decision Maker: Cabinet Member for Housing
Report title:		Private Rental Sector Licensing Services Fees and Charges for 2016/17	
Ward(s) or groups affected:		All	
From:		Strategic Director of Environment & Leisure	

RECOMMENDATIONS

1. That the cabinet member agrees the proposed non-statutory fees and charges for 2016/17, with an implementation date of 1 April 2016.
2. That the cabinet member notes information on statutory fees and charges only.

BACKGROUND INFORMATION

3. This report sets out proposals for the fees and charges to be set for the Regulatory Services Division (Housing Enforcement) for 2016/17.
4. The Medium Term Resources Strategy (MTRS) 2015/16 – 2017/18 and the corporate income policy require that:
 - Fees and Charges are increased to a level, at a minimum, that is equal to the most appropriate London average (e.g. inner London, family, groupings etc.) except where this conflicts with council policy, would lead to adverse revenue implications or would impact adversely on vulnerable clients
 - Income generation is maximised by seeking income streams in line with council policies and priorities.
 - All fees and charges capped by statute are increased to the maximum level the cap allows.
5. Only where it can be demonstrated that adverse financial implications might arise or where increases are not considered realistic due to demand and local circumstances, can fees or charges increases be set at a lower level than that set by the MTRS.
6. The Council's constitution requires that all fees and charges increases are agreed by the relevant Cabinet Member through an Individual Decision Maker (IDM) report. An IDM report is also required where no increase or a reduction in fees and charges is proposed.

KEY ISSUES FOR CONSIDERATION

7. Fees and charges are those charges where there is a schedule of rates for services provided. There are various types, namely mandatory and discretionary i.e. where the Authority must charge or where there is a choice of charging or not. Whether mandatory or discretionary, the charges will be either:

- Fixed – where the level of charges is set by statute and the Authority has no discretion.
 - Capped - where a maximum level is set, generally by statute and so charges cannot be set above this level, or
 - Flexible – where there is full discretion on the level of charges to be set
8. Where the Authority has a choice about charging, any decision not to charge must be agreed by the relevant Cabinet Member. This will be reviewed annually and will be considered within the context of the overall budget position.
 9. This report only seeks approval for fees and charges for which there is discretion or where fees are capped, although, all fees and charges are included in the Appendices for information.
 10. In arriving at the proposed fees and charge levels, consideration has been given to a number of factors, including; volume assumptions, benchmarking data, market forces and sensitivity i.e. the impact that increases will have on its customers' ability to pay and the take-up of services. Another factor taken into account is that, whilst Southwark may have discretion over the level of fees set, in many cases, this is on a cost recovery basis or must have due regard to the cost of service and be reasonable. The cost of service provision has therefore, also been a consideration in arriving at the proposed fees.
 11. On 21st July 2015 Cabinet agreed that the Council will introduce discretionary licensing schemes in the borough. Additional licensing borough-wide with regard to houses in multiple occupation and a selective licensing for single family housing along the main high streets and thoroughfares with the borough. Both schemes became operational on 1st January 2016. This means all landlords and managing agents who operate in Southwark must determine if they require a licence and make an on line application via the Council website www.southwark.gov.uk.
 12. Table 1 (see paragraph 22) details the total income expected to be generated from non-statutory fees and charges. A full list of fees and charges to be approved are shown in Appendix 1.

Division / Business Unit

Housing Enforcement (Residential Services)

13. The Housing Act 2004 introduced licensing for houses in multiple occupation (HMOs). The Act provides a detailed definition of HMOs and sets out standards of management for this type of property. Fees are set to recover the cost of administration and enforcement of the licensing schemes. Licensing under the Housing Act 2004 is not a fixed fee, and there is an expectation that the fees will be reviewed periodically. Under the Act, there are three forms of licensing relating to private rented housing available to local authorities:

Mandatory Licensing Fees

14. All local authorities are obliged to run a licensing scheme covering Houses in Multiple Occupation (HMOs) that have three or more storeys and are occupied by five or more people. A scheme has been in operation in Southwark since 2006. The fees were increased on 1 November 2015 in order to be in line with

the new additional licensing scheme. It is proposed to hold fees at their current level.

Additional Licensing

15. Section 56 of the Housing Act 2004 provides a power to license HMOs not covered by mandatory licensing; defined as properties containing 3 or more separate households in a property of no more than 2 floors. Under Additional Licensing, local authorities can designate an area for an initial 5 years but must be satisfied that a significant proportion of the HMOs in the area are being managed sufficiently ineffectively as to give rise to one or more particular problems, either for those occupying the HMOs or for members of the public.

Selective Licensing

16. Under Part III of the Act, local authorities can introduce Selective Licensing schemes that focus on improving the management of privately rented properties accommodating single households as well as HMOs. Areas designated for Selective Licensing must demonstrate low housing demand or be experiencing 'significant and persistent' problems with anti-social behaviour. The council's scheme is for licensing of single family dwellings within specified areas of the borough.
17. The current fees for both Additional and Selective Licensing were approved by cabinet in July 2015 with implementation from 1 January 2016. It is proposed that the fees be held at their current levels given that they have only just been implemented.
18. The licence fees for both Additional and Selective Licensing are for a period up to 5 years, however, any landlord with a history of regulatory issues, or does not comply with the Act, so placing tenants health, safety and welfare at serious risk, will be required to pay a full fee every year. Once the landlord's property is in compliance the 1 year licence will be replaced with a 5 year licence.
19. A 20% discount is offered for landlords, applying for a licence under any one of the three schemes, who are accredited with a recognised accreditation scheme. A further 20% discount is also given to landlords who apply within the first 6 months from 1 January 2016 when the Additional and Selective Licensing schemes were implemented.
20. Income is from 3 licensing schemes as set out below. Fees are set to recover the cost of administration and enforcement of the licensing schemes. Licensing under the Housing Act 2004 is not a fixed fee, and there is an expectation that the fees will be reviewed periodically. However, we are not proposing to increase the fees next year as were only set recently.

Community impact statement

21. Officers have been mindful of the need to satisfy the Public Sector Equality Duty imposed by the Equality Act 2010. This requires the council to have due regard to take steps to meet the needs of those persons having a protected characteristic under the Act, and to ensure that such persons are able to access services.
22. One of the key considerations in arriving at the proposed fees and charge levels

for the division is price sensitivity i.e. the impact that increases will have on its customers' ability to pay and the take-up of services. This is supported by comparing prices with neighbouring authorities, where possible. However, this flexibility is limited to only where Southwark has discretion over the level of fees set. The adoption of the proposed fees and charges does not discriminate against any group in the community, either directly or indirectly.

Resource implications

23. Table 1 shows the budgets for 2015/16 and the anticipated income levels for 2016/17 arising from the proposed fees. Budget assumptions are covered in the comments accompanying the financial table and the above paragraphs.

Table 1 – Regulatory Services (Housing Enforcement Services) fees and charges

Income Stream	2015/16 Income Budget £'000	Expected Increase in income arising from increased fees £'000	2016/17 Estimated Income Budget £'000
Residential Services – Licensing HMO's / Service of Notices/Orders	229	200	429
Total - Division	229	200	429

24. The total net increase in income from Residential services of £200,000 as shown in Table 1, has been considered as part of the proposals in the budget and business planning exercise for 2016/17 budgeted income level.
25. Any benefits or repercussions on demand for services arising from the proposed fees and charges will be reflected in revenue monitoring reports and future budget proposals. Any variances will be contained within existing budget for 2016/17 financial year.

Staffing implications

26. There are no staffing issues associated with this report.

Consultation

27. Consultation is not required on the above fees and charges. However, once approved, notification of fee increases will be published through the appropriate channels and key stakeholders.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy (SB0116)

28. The cabinet member for housing is requested to approve the 2016/17 non-statutory fees and charges as outlined in this report. The recommendations will take effect on 1 April 2016 if approved.

29. The approval of the fees and charges sought in this report is a matter reserved to the cabinet member for individual decision making in accordance with Part 3D paragraph 3 of the Council's constitution.
30. The proposed increases are intended to be consistent with corporate policy, in particular the Medium Term Resources Strategy and will apply to the existing non-statutory fees and charges. The community impact statement contained within paragraphs 20 and 21 notes that the proposed fees and charges have been recommended following consideration by officers of their likely impact and effect on individuals and groups within the community (in particular, those having a protected characteristic) with reference to the Public Sector Equality Duty imposed by section 149 of the Equality Act 2010.
31. Section 93(1) of the Local Government Act 2003 enables the council to charge for providing discretionary services. The power in the Act is subject to the requirement that the council is not prevented from charging for the services by virtue of any other legislation. The director of law and democracy is not aware of any specific legislative provision which would prevent the council from relying on these powers to charge.
32. The power to charge for a service under the Act is also subject to the duty to make sure that, taking one financial year with another, the income from charges made from a service does not exceed the cost of the provision of the service.
33. The council is, therefore allowed to set the level of the charge for each discretionary service that it thinks fit and considers reasonable, subject to those charges not exceeding the costs of the provision.
34. The report confirms that there are no prescribed legal requirements for consultation on the proposed fees and charges although any proposed increases will need to be publicised and notified. Officers should ensure that all forms of notification explain how and to whom any complaints or queries should be made.

Strategic Director of Finance and Governance (FH0116)

35. This report recommends that the cabinet member for housing agrees the proposed non-statutory fees and charges for 2016/17, with an implementation date of 1 April 2016. The report also notes information on statutory fees and charges.
36. The strategic director of finance and governance notes the resource implications contained within the report.
37. Savings that have been factored into future budgets and alternative savings would need to be identified should the recommendations not be accepted. Officer time to effect the recommendation will be contained within existing budgeted revenue resources.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Environment & Leisure budget working papers	Regulatory Services Division, Environment & Leisure, 3 rd Floor, 160 Tooley Street, London SE1 2QH	Daniel Brew-Riverson, Divisional Accountant 0207 525 2389

APPENDICES

No.	Title
Appendix 1	Proposed Fees & Charges 2016/17

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director, Environment & Leisure	
Report Author	David Littleton, Head of Regulatory Services	
Version	Final	
Dated	19 January 2016	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	19 January 2016	