


<p style="text-align: center;"><u>Statement of Principles regarding</u></p> <p style="text-align: center;"><u>Additional HMO licensing</u></p> <p style="text-align: center;"><u>additional charge for ensuring</u></p> <p style="text-align: center;"><u>compliance.</u></p>	
<p><u>Background:</u></p> <p>From 4th April 2016 the Royal Borough of Kingston will include a fee to cover the additional resources used with the identification of a licensable non-licensed HMOs</p>	<p style="text-align: center;">Last updated March 2016</p>

Introduction

This statement sets out the principles that the Royal Borough of Kingston upon Thames Council (the Council) will apply in exercising its powers with respect HMO licensing fees and specifically the additional penalty charge of £300 (additional charge) to be levied following the requirement to input additional resources to require a landlord (responsible for being the licensee) (the Landlord) to successfully licence a licensable HMO. The fee is chargeable against one a single licence application on a case by case basis.

Purpose of the Statement of Principles

The Council has published this statement of reasons so that Landlords can understand the principles behind the additional charge that will be applied when administering the two licensing schemes.

An application for a licence for the Mandatory or Additional HMO scheme is covered under section 63 of the Housing Act 2004 (the Act). Section 63 places a requirement on landlords to licence an HMO that meets certain size and occupation criteria. A reasonable number of landlords continue to operate licensable HMOs without the required licence and there remains a need for intervention by the Council. The additional charge is introduced on a case by case basis to cover the cost of additional resources in pursuing such HMO landlords.

The Council may revise its statement of principles at any time, but where it does so, it will publish a revised statement.

The legal framework

The Housing Act 2004 was passed on the 18th November 2004 and came in to force in a staged way. The new definition of an HMO commenced on the 18th January 2005 and Part 2 relating to the mandatory licensing of HMOs came into force on the 6th April 2006. To cover smaller HMOs, the Council's HMO licensing scheme

designation under section 56 (1) came into force on 21 December 2012. The scheme operates for a period of five years.

The Act places a duty on landlords to operate a licensable HMO with a licence granted by the Council. Landlords are expected to be proactive when ensuring compliance with the Act. It is an offence under 72 (1) for a landlord to operate a licensable HMO that is not licensed.

The expectation is for the Council to commit resources in identifying non-compliant HMOs and taking such action as necessary to ensure compliance with the legislation. A number of reports from national bodies; Chartered Institute of Environmental Health and Shelter have been critical (2015) of the performance of local authorities.

HMO Licensing fees from 4th April 2016.

The fees for administering the HMO licensing scheme is set by each local housing authority. On November 11th 2015, the Council's Adults and Children's committee resolved the recommendation to have a new fee structure for HMO licensing. The abridged fee structure is below.

Link: <https://modern.gov.kingston.gov.uk/ieListDocuments.aspx?MId=7851>

HMO storeys	Application type	Current fee per unit	Fee per unit from 4 April 2016
One and two storey HMO properties	New licence application	£135	£200
	Licence renewal	£135	£170
Three or more storey HMO properties	New licence application	£200	£240
	Licence renewal	£160	£200
Supported application service	Additional £300 per HMO	Added to the above for assistance with measuring rooms, producing plans and completing the application form.	
Additional charge (penalty fee)	Additional £300 per HMO	Where no application has been made and the property is then subsequently discovered by the Council, the Additional Penalty Fee will be applied (in addition to the application fee per letting). NB The Council may also decide to prosecute the landlord for committing an offence under Section 72 of the Housing Act 2004.	
HMO licence - variation	£100	A fee to contribute toward the additional costs for minor changes such as change in amenities, manager or occupiers	
HMO licence - revoke	No charge		

The purpose of imposing an additional HMO licensing application fee.

The purpose of the Council exercising its regulatory powers is to protect the interests of the public. The proactive work in identifying and regularising unlicensed HMOs will support this and ensure that the illegal operation of HMOs is minimised within the

Borough. The standard HMO licensing fee includes the resources input by the Council to:

- Administer the Council's two HMO licensing schemes under Part 2 and Schedule 5 of the Act and Statutory Instruments such as The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Order 2006.
- To process a licence application and determine whether to grant or refuse an application for a HMO licence or Temporary Exemption Notice (TEN).
- To process applications to revoke or vary a licence. A further fee maybe applicable.
- To maintain, update and review the register of licences, TEN and management Orders
- To inspect fully each HMO and HMO unit during the HMO licence period.
- To ensure that the Landlord is complying with the requirements of the licence with respect to occupation and management.
- To ensure that Landlords who operate licensable HMOs apply for a licence and consideration is given use of the various enforcement powers.

Criteria for the imposition of the additional HMO licensing fee.

The Mandatory HMO licensing scheme has been in place for ten years and the responsibilities on landlords have been promoted widely. Nevertheless, a small number of landlords continue to operate, some knowingly, without the prerequisite HMO licence.

In considering the imposition of an additional (penalty fee) HMO licensing charge, the Council will assess the level of additional resources on a case by case basis that have need to be input to ensure legislative compliance.

The standard HMO licensing fee structure does not include the costs of additional resources for ensuring the compliance for non-compliant HMOs.

This additional charge assessment will consider the resources input for communication, arranging access, site visits, interviewing tenants, interviewing managing agents, working with other Departments and other appropriate actions needed to establish the current property use and relevant parties. The fee equates to approximately 6 hours officer time.

If the Council decides to take action under section 72 of the Act an application for costs to the Court will not include the resources used to pursue a Landlord for compliance under Part 2 of the Act where the additional charge has been made.

The amount of a additional charge

The additional charge fee has been set at £300. This is a single fee and has been calculated using a time and motion study assessing average expected time resources needed for non-compliant HMO properties.

The additional charge will be included as part of the HMO licensing application and if not paid a full application will be deemed not to have been made.

The additional charge will be levied following the sending of a reminder letter to the current licensee (existing licences) or the owner or prospective licensee (new licences). A warning will be given to all parties at the bottom of the letters sent out by the Council.

When the fee is levied an invoice will be issued for £300 and sent out to the licensee for payment in addition to the HMO licence fee.

All communications for representations regarding the additional fee can be sent to:

Lead Officer Private Sector Housing Team
Royal Borough Kingston upon Thames
Guildhall 2
Kingston upon Thames
Surrey
KT1 1EU

Or by email to: privatesectorhousing@kingston.gov.uk

The Call Centre general number for housing matters is 020 8547 5003.

The address for the First Tier Tribunal for an appeal under Schedule 5 Part 3 can be supplied on request. This link to the government website will offer assistance:
<https://www.gov.uk/housing-tribunals/overview>