

Decision under Delegated Powers

Officer Requesting Decision

Rebecca Short- Private Sector Housing Manager

Officer Making the Decision

David Harris – Head of Strategic and Private Sector Housing

Recommendation

That where existing licences for HMOs are transferred from an individual to a company, under the circumstances where the individual has left that company, then no charge be levied for this change.

Reason

There is no provision within the legislation to vary the licence holder of an existing licence. A new application must be made in order to change the licence holder. Given the circumstances of the requirement to change the licence holder in the specific cases described in the background, it would be unreasonable and open to challenge if we were to charge the associated fee.

Authority for Decision

By virtue of Item 1 of the delegations to Heads of Service, section 8.3 of the Constitution gives authority to undertake the periodic review of fees and charges raised within their service areas and falling within the scope of the Council's Income and Charging Policy Framework.

Decision and Date

Approved 

29.07.2014 09.30am.

Background

Cabinet Minute 190:2006 details the introduction of a local fee structure for an application for a licensed House in Multiple Occupation (HMO) of £500 with a reduction of £110 for gold standard accredited applications (under the then EMLAS accreditation scheme).

The fee structure was reviewed by DD02 14/15, increasing certificate fees in line with inflation at 3.8% and introducing a reduced re-licensing fee to encourage landlords to renew their licences on time.

The application form used for HMO licensing within Charnwood was based on the Decent and Safe Homes East Midlands (DASH) application form that was designed for use regionally to simplify the process for landlords that have properties across the East Midlands.

When licensing was first introduced the East Midlands authorities worked closely, through DASH, to ensure consistency across the region. The view at that time was that the licence holder must be a named individual and not a company i.e. that in the case of a company owning and or managing a property, an appropriate person must be nominated to hold the licence within that company.

As a result, a regional application form and associated guidance was developed specifying that this should be the case and named individuals within organisations were licenced, rather the company. This arrangement is fine, until such time as that individual leaves the employment of the company.

At the point that the individual licence holder within a company leaves the employment of that company, a new licence application must be made and the associated fee paid.

The interpretation of the legislation and the requirement for the licence holder to be a named individual has altered over time and it is now deemed appropriate for a company, rather than an individual within that company, to be a licence holder. This approach removes the problems associated with an individual leaving the employment of a company and the subsequent requirement for a new licence application.

A number of licences have been issued to companies and gradually, as licences are renewed, each case is assessed to determine the most appropriate person or company to hold the licence.

However, there are a small number of cases (20) where a licence has been issued to an individual within a company and that individual has now left the company and we are requiring a new application. It is in this small number of cases that it is proposed that the fee for the new licence (in the company name) should not be levied on the basis that the original application made in the name of the individual was done so in line with our guidance at that time.

It is proposed that the new licence in such cases be issued for the period of time remaining on the original licence. As such there will be no financial gain or loss to the applicants affected.

Those licences applied for by and issued to, an individual within a company, where that individual remains in the employment of the company and in control of the property will not be affected until such time as their position changes or the licence becomes due for renewal.

Financial Implications

There will be no impact on the projected income from HMO licence fees, as the affected licences will be issued for the remaining term of the original licence.

Risk Management

There is a risk that the Council would be challenged (possibly by judicial review) if this decision were not supported.

Key Decision: No

Background Papers: None

