

HOMES & COMMUNITIES COMMITTEE

11 JUNE 2018

1.0 Purpose of the Report

- 1.1 To outline the changes to the licensing regime for Houses in Multiple occupation (HMOs).

2.0 Introduction

- 2.1 The private rented sector accounts for 4.5 million or 20% of households in England and it is the second largest tenure after home ownership. HMOs are an important form of accommodation within the private rented sector because they are typically cheaper than other private rental options and often house vulnerable tenants. It is estimated that there are around 508,000 HMOs across England. Currently and since 2006, only large HMOs of 3 storeys or more housing 5 or more persons in 2 or more separate households are subject to mandatory licensing – capturing 60,000 HMOs. It is generally not disputed that licensing has been largely successful in improving management and safety standards in those HMOs.
- 2.2 Houses in Multiple Occupation (HMOs) have been subject to mandatory licensing since 1 April 2006. The Housing Act 2004 sets the definition of a licensable HMO is any property that:

Is 3 or more storey in height (storey includes a basement, loft conversion and any storey comprising business premises) and contains 5 or more people in 2 or more households plus it has shared facilities such as a kitchen, bathroom or toilet.

- 2.3 Within the Newark & Sherwood District there are currently 28 licensed HMOs with 2 applications pending.
- 2.4 All applications for a HMO license must be accompanied by a fee set by the local authority. The 2018/19 fee has been set at £520 with a discount to £440 for multiple applications. A licence on granted is valid for a period of 5 years.

3.0 The New Proposals

- 3.1 Following a lengthy consultation process the definition of a licensable HMO was amended by regulations. The new definition is set out below.

Description of HMOs prescribed by the Secretary of State

An HMO is of a prescribed description for the purpose of section 55(2)(a) of the Act if it —

- (a) is occupied by 5 or more persons;
- (b) is occupied by persons living in 2 or more separate households; and
- (c) meets—

- (i) the standard test under section 254(2) of the Act;

- (ii) the self-contained flat test under section 254(3) of the Act but is not a purpose-built flat situated in a block comprising three or more self-contained flats; or
- (iii) the converted building test under section 254(4) of the Act.

3.2 There are 2 main elements of the above definition that require some clarity. The fundamental change is that the definition now applies to any house regardless of the number of storeys. Therefore all houses (irrespective of the number of storeys) where there are 5 or more people and they are living in 2 or more separate households will now require licensing as HMOs.

3.3 The second element of the definition applies to a flat which is occupied by 5 persons or more, in 2 households or more and is in a converted building; or in certain circumstances is in a building where part of the building is used for commercial or other non-residential purposes.

3.4 The principle behind applying the licensing regime to flats rests in the risks posed by certain purpose built blocks. Frequently a shop with a flat above is a purpose built block. The risks and management challenges posed by such property is no different, in the Government's view, to a building converted into a shop with a flat above. It is also the case that a purpose built shop may have upper storeys converted into letting rooms.

3.5 The intention is to ensure that flats in multiple occupation or other HMOs are licensable if above commercial premises, but not if:

- the flat is in a purpose built block comprising entirely of self-contained flats; or
- where the flat is in a block which contains commercial premises, but also comprises 3 or more purpose built flats.

3.6 Under Part 2 of The Housing Act 2004 a licence may only be granted if the licence holder is a "fit and proper" person, the management standards are satisfactory and the HMO is suitable, or can be made suitable, for the specified number of occupiers, including shared amenity standards. Section 67 of the Act provides that a Local Housing Authority may impose licence conditions relating to the management, use and occupation of the HMO and its condition and contents. Section 72 sets out licensing offences, including that it is an offence to manage or have control of an HMO that is required to be licensed, without a licence being in force.

3.7 The requirement to licence HMOs is a statutory duty placed on the local authority and therefore there is no discretion as to whether we choose to adopt these changes.

3.7 Amenity Standards

In order to provide consistency and to ensure that landlords are well informed about the standards that their properties are expected to achieve a set of amenity standards have been developed.

3.8 The standards have been drawn together from best practice documents from across the country and in the opinion of officers reflect a balance between providing suitable living

accommodation standards for the occupiers of the buildings without placing an undue burden on the landlords.

3.9 The standards cover room sizes, washing and bathing facilities, kitchen and food preparing facilities.

3.10 The draft amenity standards are set out in **Appendix One** to this report.

3.8 Transitional Arrangements

The new definition of HMOs comes into force on 1 October 2018. Before that date local housing authorities must promote the changes this instrument makes and the extension of mandatory licensing in their respective areas. During this period, LHAs must also process applications for licences relating to those HMOs prescribed by this instrument. However, any licences issued in advance by virtue of this instrument cannot come into force before 1 October 2018. Landlords of HMOs falling within the prescribed description who fail to apply for licences by 1 October 2018 commit a criminal offence from that date.

4.0 Resource Implications

4.1 In 2016 A House Condition Survey was undertaken in the Newark & Sherwood district. One of the pieces of work included in the specification was to identify the potential number of HMOs that may fall within an amended definition. (The Government had already consulted on a change to the HMO definition at this time). The Survey concluded that there were 909 HMOs in the district of which 144 would be included in the new definition of HMOs and would require licensing.

4.2 Process mapping has been undertaken to identify the key tasks that will be associated with the application, validation, issue and compliance checking of a HMO licence application. This is attached as **Appendix Two**. It is estimated that each application will require 26.5 hours of officer time.

4.3 Whilst every effort will be made to ensure as many applications are made within the required timeframe it is anticipated that the application process for new HMOs will in effect be spread over a number of years as it is not expected that all landlords will be aware of the new requirements or they may seek to continue operate the HMO without a licence.

5.0 Proposals

5.1 HMOs pose one of the highest risks in the private rented sector and the new licensing regime provides a mechanism for exerting additional controls. In order to support landlords in meeting the requirements of the new licensing regime the following actions are proposed.

Develop a communication plan and promotional activity backed by clear information on the Council's website.

Promote on line licensing with clear guidance.

A simple fee structure with discounts for multiple applications

Adopt Amenity standards that are easily understood and provide consistency.

6.0 Budget Implications

- 6.1 The HMO licence fee is £520 per property. A licence is valid for a period of 5 years whereupon it is required to be renewed. The renewal fee is set at the same level.
- 6.2 The renewals of the current 29 licences are spread randomly over the next 5 years which gives on average an income of £3,016 per year.
- 6.3 As stated above it is anticipated that there will be an additional 144 HMOs required to be licensed. Based on the current fee this would generate an additional £74,880 over the next five years (assuming it takes 5 years to get them all licensed).
- 6.4 This would then mean that there was a total of 173 licensed HMOs generating income over 5 years of £89,960. This equates to £17,992 per annum

7.0 Equalities Implications

- 7.1 There are not considered to be any equalities implications arising from this report.

8.0 RECOMMENDATIONS that:

- (a) the introduction of the new licence regime relating to Houses in Multiple Occupation Members be noted; and**
- (b) the amenity standards set in Appendix One to the report be adopted.**

Reason for Recommendations

To ensure members are fully aware of the changes to the licensing regime relating to HMOs and how these will be implemented in Newark and Sherwood.

Background Papers

Nil

For further information please contact Alan Batty, Business Manager - Environmental Health & Licensing on (01636) 655467.

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