

Report of the Cabinet Member for Wellbeing and Healthy City

Council – 26 November 2015

HOUSES IN MULTIPLE OCCUPATION (HMO) LICENSING POLICY 2016

Purpose:	To agree the proposed new HMO Licensing Policy, which includes the Mandatory HMO Licensing Scheme for the whole of Swansea and renewal of the Additional HMO Licensing Scheme for Castle and Uplands electoral divisions.
Policy Framework:	HMO Licensing Policy 2011 Local Housing Strategy 2015-2020
Reason for Decision:	To seek authority to introduce the HMO Licensing Policy to take effect from 9 March 2016.
Consultation:	Legal, Finance, Access to Services.
Recommendation(s):	It is recommended that: 1. Council approves and publishes the Policy.
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1.0 Introduction

- 1.1 Houses in multiple occupation (HMOs) provide an important source of affordable housing for people across our communities. The standards of management across the stock are variable.
- 1.2 Council approved its first HMO Licensing Policy in November 2006. This was reviewed in 2008 and again in 2011. An Additional HMO Licensing Scheme for Castle and Uplands was first introduced in 2008. This Scheme was re-designated in line with the Policy review in 2011. Significant changes at that time were the introduction of a graduated fee structure relating to the number of occupiers, a new Management Standard and the additional sanction of a reduced licensing period to

reflect poor management performance and the decisions of Licensing Committee.

- 1.3 The licence fees were reviewed for 2015 – 2016 and were increased from 1st April 2015.

2.0 Policy Review

- 2.1 There are a number of factors which have influenced the need for this review.
- 2.2 The legislation governing HMO licensing, Housing Act 2004, states that a designation of an Additional Licensing Scheme will cease to have effect no later than five years after the date on which the designation comes into force. The current Additional Licensing Scheme came into force on 9th March 2011.
- 2.3 The Council's HMO Licensing Policy includes the requirement for a review.
- 2.4 The Housing (Wales) Act 2014 will introduce new legislation from autumn 2015 that will require private landlords to register and private landlords or their agents to obtain a licence to operate. Licence applicants will need to attend an accredited training course, pass a fit and proper person test and abide by a code of conduct. An individual or business will need to apply for one licence for all their rental properties in Wales. The new scheme, called Rent Smart Wales, will be administered and delivered by Cardiff Council for the whole of Wales and will replace the voluntary Landlord Accreditation Wales to which the Council has contributed since 2008. These new requirements are separate from and additional to HMO licensing.

3.0 The Proposed Policy

- 3.1 The new Policy includes a number of changes including:
 - a) A change in the fee structure;
 - b) Minor changes to the licence conditions to provide clearer understanding of technical issues, better control on removal of waste at the end of tenancies and the introduction of a requirement for licence holders to provide contact details for emergencies to occupiers of immediately adjacent properties;
 - c) The removal of the Swansea Management Standard due to the legislative changes being introduced later this year under the Housing (Wales) Act 2014 and Rent Smart Wales;
 - d) A change to the duration of a licence so that no licence will be issued for longer than five years from the date of receipt of the application for

a new licence. No renewal will be issued for longer than five years from the date of expiry of the previous licence.

4.0 Consultation

4.1 A draft HMO Licensing Policy was put out for general public consultation in July. Key consultees were landlords and agents across the private rented sector in Swansea, the Swansea Student Liaison Forum, residents' groups and Citizens Advice Bureau. An article about the consultation also appeared in the South Wales Evening Post. 35 responses were received and they are included in Appendix A. A response has been provided to each of the respondents.

4.2 The key points raised in the responses to the consultation were:

- a) Fees and the cost of running the scheme;
- b) Minor changes to the licence conditions;
- c) Fines to be used for non-compliance;
- d) The number and density of HMOs;
- e) Concerns over parking;
- f) Concerns about to-let signs;
- g) The number of HMOs emerging in St Thomas;
- h) The wider context of the Housing (Wales) Act 2014.

5.0 Response to Consultation

5.1 All the points raised have been considered and are commented on here.

a. **Fees**

The licence fee is covered in section 6 below;

b. **Suggested Changes to Licence Conditions**

Some of the suggestions for changes to the licence conditions are outside the remit of the Housing Act 2004 and cannot be included as part of the HMO Licensing Policy. The legislation specifically prohibits licence conditions requiring any alteration in the terms of a tenancy under which any person occupies the house. Licence conditions may not be imposed on anyone other than the licence holder unless that person consents to them. Contact details for the Council's Pollution Control Team have been added to licence condition 17.

c. **Fines**

There is no legal mechanism for fining anyone who fails to comply with HMO Licence conditions.

d. **Number and Density**

There are currently no legal powers to control the number and density of HMOs. Welsh Government is currently considering changes to the Planning Use Classes Order for HMOs which may in turn allow Council to introduce new controls over density. This is however, a planning matter and not something which can be included as an HMO Licensing consideration.

e. **Parking**

Parking provision is a highways consideration where planning permission is required for an HMO with more than six occupiers and outside the remit of the Housing Act 2004. This cannot be included as part of the HMO Licensing Policy.

f. **To-Let Signs**

The Council has a Voluntary Code for Advertisers on To-Let signs which is also a planning matter and not something which can be included in the HMO Licensing Policy.

g. **St Thomas**

Both Swansea University and the University of Wales Trinity St David's have developed sites in the east of the city and there are proposals for further development. This has raised concerns over the spread of student HMOs from the traditional areas in Castle and Uplands to St Thomas and the impact they might have. Whilst Additional HMO Licensing is within a local housing authority's discretion, prior to declaring an Additional Licensing scheme the Council must consider that a significant proportion of HMOs in the area are being managed sufficiently ineffectively as to give rise, or be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public. Currently there is no evidence to this effect and the legal requirements cannot be satisfied. The area will however be kept under close review.

h. **Housing (Wales) Act 2014**

The wider context of the Housing (Wales) Act 2014 is dealt with in 2.4.

5.2 A number of points raised in response to the consultation can be acted upon and the draft Policy has been amended to include the following changes:

- a) Reference has been made to the planning context regarding HMO numbers and density.

- b) Monitoring and review of the situation in St Thomas has been included;
- c) Reference has been made to the registration and licensing requirements of the Housing (Wales) Act 2014;
- d) Additional statistical information has been included about the Castle and Uplands wards and the statistical information about the number of licensed HMOs across the City & County has been updated.

6.0 Licence Fee Structure

6.1 The Council may fix a fee to an HMO licence application. The fee may only take into account the costs incurred in carry out the licensing function. In 2011 a graduated fee structure was introduced reflecting the additional costs in licensing larger properties.

6.2 At present the licence fee for an HMO with 3 or 4 occupiers is £650. The fee increases by £50 for each additional occupier.

6.3 Having re-assessed the actual costs involved it is proposed that the fee is increased by £50, but that there is a reduction of £70 for applicants wishing to renew an existing licence. The proposed fees, subject to approval, will be as follows:

(a) New application:

- For 3 or 4 occupiers £700
- Each additional occupier +£50

(b) Application to renew an existing licence by the same applicant submitted within the two months prior to the expiry of the existing licence:

- For 3 or 4 occupiers £630
- Each additional occupier +£50

(c) Application to renew an existing licence by the same applicant submitted after the existing licence has expired:

- For 3 or 4 occupiers £700
- Each additional occupier +£50

6.4 This maintains a graduated fee structure and also provides a discount for applicants renewing licences within the required legal timeframes whose applications consequently require less administration.

6.5 Whilst the Council cannot legally fix a fee for administrative changes when varying a licence (e.g. for change of licence holder's address), any application to increase the maximum number of occupiers under the licence requires the licence holder to pay a fee of £50 for each additional occupier of the property. This fee will remain in the 2016 fee structure.

7.0 Timetable

7.1 The Council approved its original Additional HMO Licensing Scheme in 2008 under the terms of the National Assembly for Wales General Approval 2007.

7.2 Subject to Council approval, the renewed scheme will become effective on 9th March 2016.

8.0 Equality and Engagement Implications

8.1 The Access to Services Team has advised that an EIA is not required for the renewal of the Policy.

9.0 Financial Implications

9.1 The proposals outlined for fees in section 6 above would yield an estimated additional annual income of approximately £10k to ensure full cost recovery.

10.0 Legal Implications

10.1 The proposed revisions to the Policy are in line with the Housing Act 2004 and subsidiary regulations, Welsh Government guidance on Additional HMO Licensing Schemes and also allow the Council to meet its statutory duty in respect of the Housing Health and Safety Rating System. The proposed fee structure is set on a cost recovery basis.

10.2 The legal framework is set out in Part 3 of the Policy.

Background Papers: HMO Licensing Policy 2016 including appendices
www.swansea.gov.uk/hmoconsultation

Appendices: Appendix A - Comments from Consultation
Respondents