

<b>Title of meeting:</b>	Cabinet Member for Housing
<b>Date of meeting:</b>	18 <sup>th</sup> September 2012.
<b>Subject:</b>	Introduction of a Comprehensive Licensing Programme for HMOs in Portsmouth.
<b>Report by:</b>	Alan Cufley Head of Community Housing & Regeneration
<b>Wards affected:</b>	St. Jude, Central Southsea, Eastney and Craneswater, Milton, Fratton and St,Thomas.
<b>Key decision:</b>	Yes
<b>Full Council decision:</b>	No

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## 1. Purpose of report

- 1.1 To introduce a Portsmouth City Licensing Programme for Houses in Multiple Occupation (HMOs) that will incorporate Additional Licensing, properties subject to mandatory HMO licensing and certain Section 257 (Housing Act 2004) properties.

## 2. Recommendations

- 2.1 That Cabinet Member for Housing approves an 11 week public consultation on the proposals for a Portsmouth City Licensing Programme for Houses in Multiple Occupation (HMOs)
- 2.2 That Cabinet Member for Housing will review the outcome of the consultation and make the appropriate decision relating to the possible implementation of the programme.

## 3. Background

- 3.1 Evidence shows that there are significant problems associated with Houses in Multiple Occupation (HMOs) in Portsmouth, including deficient property conditions, inadequate management and anti-social behaviour. These issues cannot be fully addressed through the current Mandatory Licensing Scheme nor by using the enforcement and regulatory measures available.
- 3.2 Portsmouth City Council has implemented a Landlord Accreditation Scheme, which has seen an increase in management standards and property conditions for landlords and letting agents who have signed up to this voluntary scheme. Unfortunately, a voluntary scheme alone will not be in a position to rectify the problems local communities are experiencing in certain wards in Portsmouth due to poor management of HMOs.

3.3 An Additional Licensing scheme covering smaller HMOs, occupied by three or more unrelated people, and certain Section 257 properties, would help to improve the condition and management of these properties. This would be a proportionate response to address community concerns about the local impact of HMOs whilst ensuring safe, good quality privately rented accommodation is available to meet current and future housing needs.

#### **4. Reasons for recommendations**

4.1 Portsmouth City Council values its very large and diverse private rented sector which represents around 22,000 properties and constitutes up 24% of the whole housing stock, The Council wants to see this sector continue to grow to become a stronger, healthier and vibrant market.

4.2 The sector has an important role in providing housing for those not wishing or able to consider home ownership, or for those to whom social housing is not an option, as well as providing housing for the city's student population. The sector offers flexibility and capacity that is key to addressing housing need in the city.

4.3 The Council is keen to ensure that the housing needs of a wide range of private rented tenants are met through well managed, quality accommodation. However, the private rented sector has some significant problems for which statutory regulation, particularly licensing, is required. The city has a large number of HMOs, estimated at 6,000 properties distributed throughout the city.

4.4 Licensing has significant social and financial benefits to the general economy of the city. It maintains the buoyancy of the rental market by ensuring that the better landlords are not disadvantaged by non-compliant landlords. Evidence in other cities, such as Oxford where additional licensing has been introduced, has shown that some of the worst landlords are being driven out of the market without a negative effect on the overall market in the areas concerned.

4.5 Mandatory HMO licensing, which applies nationally, is aimed at those HMOs that present the highest safety risks to occupiers. 364 properties are currently licensed under the Mandatory Licensing Scheme in Portsmouth.

4.6 In addition to these larger HMOs, research suggests that there are potentially 3500 smaller HMOs, and certain section 257 HMOs in the southern half of the city that the current licensing scheme does not cover. A comprehensive study has shown that there is evidence of unsatisfactory management, disrepair, inadequate safety standards, environmental issues and comprehensive anti social behaviour, which is having a detrimental effect on the local community.

4.7 Portsmouth City Council has implemented a successful Landlord Accreditation Scheme that currently has 100 members. The requirements of the scheme for improved management control mirrors those of mandatory licensing and has seen a significant improvement in the overall conditions of properties and management issues.

- 4.8 The Accreditation scheme, which is not limited to HMOs and is a voluntary programme, has again seen good landlords coming forward to become members. Although relatively successful when compared to a large number of other schemes nationally, the city council's voluntary accreditation scheme is not able to deal with all the problems that Portsmouth is experiencing with the issues associated with HMOs.
- 4.9 The new Portsmouth HMO Licensing Programme would incorporate both mandatory and additional licensing schemes. Evidence suggests that the condition and management of HMOs are independent of their location in the city. Although the study undertaken indicates that complaints from residents about noise, waste, antisocial behaviour and other issues are concentrated in areas of the city with high densities of HMOs, very poor housing conditions and management are also found when investigating complaints about HMOs in areas with lower density.
- 4.10 It is proposed to phase the designations for an Additional Licensing so that all the estimated 3500 smaller HMOs and certain section 257 HMOs will become licensed within a reasonable period from the start date.
- 4.11 Initially all areas, or specific property types, which have been identified as high risk through our studies, or by other means will take priority. All areas identified for the Additional Licensing Programme must meet the criteria set by the legislation prior to introduction.
- 4.12 The consultation process will be used to confirm the most reasonable methodology acceptable to all the key stakeholders and to ensure that the Additional Licensing Programme is introduced fairly throughout the parts of the city that are identified as suitable.

## **5. Property Definitions.**

### **5.1 Properties subject to Mandatory Licences:**

- 5.1.1 This is a property which is an HMO with 3 storeys or more and occupied by 5 or more persons, and is occupied by persons living in two or more single households.

### **5.2 Properties subject to Additional Licences:**

- 5.2.1 An HMO which is occupied by 3 or more persons, and not subject to Mandatory Licensing.

### **5.3 Section 257 Properties:**

- 5.3.1 It is proposed that the designation will apply to any building which is an HMO as defined by section 257 of the Housing Act 2004. Taking into account the fact that licensing is not intended to have an adverse affect on owner occupiers, the requirement to licence will only be required where the property is mainly or wholly tenanted, including those with resident landlords, or where a significant proportion of what otherwise would be owner occupied flats have been let by the owners.

## 6 Exemptions:

- 6.1 All properties that are not HMOs as defined within Schedule 14 Housing Act 2004.
- 6.2 Resident landlords with up to two lodgers.

## 7 Main proposals.

- 7.1 A phased implementation will ensure a similar number of applications are received and processed each year during the initial five-year programme.
- 7.2 The council has a duty to determine that a property is free of serious hazards within the period of the licence. However, to undertake any assessment of the property under Part 1 of the Housing Act 2004, does not form part of the licensing fee.
- 7.3 An alternative approach would be to licence all properties within the designated area on a first come first served basis and views on this will be sought during the consultation.
- 7.4 The proposals will help to more effectively integrate licensing and planning enforcement within the proposed designated areas and a more accurate database of HMOs will help considerably with the determination of new planning applications.
- 7.5 The Portsmouth HMO Licensing Programme would involve a number of checks, including:
  - Determining that the landlord or manager is a 'fit and proper person',
  - Making sure that the property is suitable for use as a HMO.
  - Checking the gas and electrical wiring safety certificates,
  - Fire safety
  - Waste collection arrangements are suitable for the occupants' needs.
- 7.6 Specific licence conditions would deal with anti-social behaviour, accumulations of waste and ensuring compliance with other specific areas of legislation that landlords of HMOs must adhere to.
- 7.7 The costs of the scheme, including costs associated with monitoring and enforcement of licence conditions, will be paid for by the licence fee, which is expected to be set between £500 to £700 per property for a five year licence.
- 7.8 There will have to be robust enforcement principles and procedures in place to deal with landlords that either fail to apply for a licence or comply with licence conditions. All procedures and policies will be in place at the start of the Additional licensing scheme.

## **8 Consultation.**

- 8.1 The consultation will include landlords, letting agents, residents and tenants groups, Portsmouth University, local letting agencies involved with housing and the general public.
- 8.2 Four stakeholder focus groups are planned and will be held at the Civic Offices or other suitable locations on dates to be decided.
- 8.3 There will be both paper and on-line questionnaires.
- 8.4 It is proposed that the scheme be reviewed after five years, which will include an evaluation of its impact on housing conditions, community concerns, health and wellbeing and supply of good quality, affordable housing.

## **9 Financial Implications.**

- 9.1 There are no capital implications.
- 9.2 The HMO licensing fees will be set at a level that is reasonably expected to cover the costs of providing the scheme, based on estimated officer time and associated costs involved in processing the applications, inspections, monitoring and enforcement as well as relevant overheads.
- 9.3 In line with the current Mandatory Licensing scheme, there will be fixed penalties for landlords who do not provide information, miss deadlines or miss appointments to ensure that compliant landlords are not placed in a position where they are paying more than is necessary. The cost of a typical five year licence is expected to be between £500 to £700, but the final cost of the scheme will depend on the outcome of the public consultation and will be submitted for approval by the Cabinet Member in January/February 2013.

## **10 Equality impact assessment (EIA)**

- 10.1 An Equalities Impact Assessment has been undertaken for this policy. A full public consultation will be undertaken, which will ensure that all persons have the ability to comment of the proposed program.

## **11 City Solicitor comments**

The Housing Act 2004 introduced two types of licensing schemes. Firstly, the mandatory scheme which all authorities must operate and secondly, a discretionary scheme. This proposal relates to the latter.

To make a designation for additional licensing, the authority must consider that a significant proportion of the HMOs which they intend to include in the designation

are being managed sufficiently ineffectively as to give rise, or to be likely to give rise, to problems either for the occupiers of the HMOs or for members of the public.

There is an obligation to make reasonable steps to consult with those likely to be affected prior to making the designation, to consider the responses, and once made, it must be confirmed by the secretary of state or to fall within the ambit of a general approval.

## 12 Head of Finance comments

12.1 There will be no additional revenue costs to Portsmouth City Council for introducing The Portsmouth HMO Licensing Programme.

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Signed by:  
Alan Cufley Head of Community Housing & Regeneration

### Appendices:

#### Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
None	

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by ..... on .....

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Signed by:  
Councillor Steven Wylie Cabinet Member for Housing