



Title of meeting: Cabinet

Date of meeting: 4th December 2018

Subject: Licencing of Housing of Multiple Occupation (HMOs)

Report by: James Hill, Director of Housing, Neighbourhoods and Building Services

Wards affected: All

Key decision: No

Full Council decision: No

1. Purpose of report

1.1. To update members on the mandatory and additional licencing schemes for Houses of Multiple Occupation in the city.

2. Recommendations

2.1. Councillors note the report on Review of Licensing of Houses in Multiple Occupation (Appendix 1) as summarised in this report.

2.2. That Cabinet agrees to the refreshing of the Local Consultation Panel on HMO Licencing, recognising that decision making on policy surrounding licencing and HMOs remains with the city council.

2.3. Subject to approval of point 2.2, officers be instructed to work with the portfolio holder for Housing, and relevant internal and external stakeholders, to refresh and refocus the terms of reference, attendees and performance measures for the Local Consultation Panel on HMO Licencing.

2.4. That subject to point 2.2 and 2.3, officers return to councillors before the end of the municipal year, with a report on Local Consultation Panel on HMO Licencing the including refreshed terms of reference.

3. Background

3.1. Portsmouth City Council has a duty to enforce Part 2 of the Housing Act 2004 which regulates standards in private sector rented accommodation.

3.2. The aim of the legislation is to improve the management, amenity, and safety standards of HMOs and tackle anti-social behaviour to improve living standards within the community.

3.3. Since its implementation in 2006, the council has undertaken a mandatory licensing scheme. This applies to all HMOs with five or more people in properties with three or more storeys.

3.4. The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018 extended the mandatory licensing regime to remove the

'three storey' requirement, and HMOs which require a licence needed to submit their application to the council by 1st October 2018.

3.5. The Housing Act 2004 also provides the council discretionary powers to implement an additional licensing scheme to meet the needs of their locality if such a need is identified.

3.6. Following an appraisal and consultation exercise, post code areas PO1, PO4 & PO5 of the City were declared additional licensing areas at the Council's Housing Cabinet Meeting on 10th April 2013.

3.7. The additional licensing scheme in Portsmouth came into effect on 27th August 2013 and extended the scope of licensing to cover most rented property with three or more occupiers who form two or more households, regardless of how many storeys the property has.

3.8. The additional licencing scheme ran for a five year period, after which the council were required to end the scheme. However a new scheme can be re-introduced after undertaking a comprehensive and thorough appraisal to establish a need, and completing a consultation exercise.

4. **Operation and execution of an HMO licence**

4.1. The process for the operation and execution of an HMO licence is outlined in Appendix 1.

4.2. The regulations require that an officer inspects each licenced property once in the five year period. For the new mandatory licences, council officers aim to do this as soon as practicable after the licence is issued.

4.3. If a property is found to be an HMO but doesn't have the required licence, the council do not have the power to close it, but officers do work with the owner to either put someone in place who is suitable to manage it and apply for a licence, or take legal action and possibly take control of the property (an interim management order) until a suitable licence holder can be put in place.

4.4. If an HMO property is found to have a licence but not meeting the conditions, officers would inform the landlord of the contraventions and possibly take enforcement action, including fines or prosecution.

4.5. Licencing cannot control the number or location of HMOs as this is a responsibility of the council's Planning department, but it focusses on the way the property is managed and on the amenities and condition of the property. One of the aims of the additional licencing scheme was to see if it could have a positive impact on the way that HMOs effect their environment.

5. **Key data**

5.1. Mandatory licencing

5.1.1. Prior to the new legislation, the council had issued mandatory licences to 552 properties across the city, which last for 5 years. Apart from the 5 year renewal date of when licences came in (there were 66 licences issued in April 2017), the average number of licences issued per month is between 7-8

5.1.2. Based upon the additional licencing scheme it was estimated that that approximately 600 additional HMOs would require this new mandatory license. As of 1st October 426 applications for a new mandatory licence had been received.

5.1.3. In total 978 HMOs are currently covered by a mandatory licence across the city.

5.1.4. Based on current data of suspected HMOs in the city, a further 186 applications were anticipated. All of these properties have been contacted about the mandatory licencing scheme.

5.2. Additional licencing

5.2.1. In the five years of the additional licencing scheme the council had issued licences to 2184 properties in the PO1, PO4 & PO5 areas. Apart from the introductory period of when licences came in, the average number of licences issued per month is between 21-22.

5.3. Complaints about HMOs

5.3.1. The council records all complaints against HMOs, but it has not been possible to split the complaints against mandatory or additional licencing. However it would treat all complaints in the same method.

5.3.2. The number of complaints received about an HMO in the past five years in the five main postcode areas where HMOs are situated shows that complaints recorded on waste, noise and other issues have risen in the past five years.

5.3.3. Complaints have been categorised for the past 12 months, and found to be a mixture of complaints about a property received from tenants, and complaints about a property received from neighbours.

6. Analysis

6.1. As a result of a decision taken by the Housing executive on 3rd July 2018, the housing enforcement policy now gives officers wider authority to deal with problem properties.

6.2. From the 1st October 2018, the number of HMOs with a mandatory licence has risen from 552 to 978, with more expected.

6.3. Complaints have risen during the period of additional licencing, not fallen. Also complaints can be categorised as those by HMO tenants against their landlord, and those by neighbours against an HMO.

6.4. The Local Consultation Panel on HMO Licencing (Appendix 1 Section 5) had a set of terms of reference which have not been reviewed in five years and may no longer relevant to the current issues faced within Portsmouth. In addition, new attendees to the group may be needed, and new performance measures required ensuring that progress of the issue meets the aims of licencing.

7. Reasons for recommendations

7.1. Councillors need to be aware of the council's role in the licencing of HMOs, and the changes that the legislation has introduced.

7.2. The number of properties with a mandatory licence has increased, whilst over 1500 properties that previously had an additional licence no longer need one.

7.3. In order for any additional licencing of HMOs to be considered, strong evidence is required, and input needed from relevant stakeholders, a potential list of which is outlined in section 5.7 of Appendix 1. By refreshing the Local Consultation Panel on HMO Licencing terms of reference, structure and performance measures, it would create a group which can provide guidance and options to the city council on HMO licencing.

7.4. If approved, officers would work with all relevant parties to determine a suitable terms of reference document which can be brought to councillors for approval.

8. Equality Impact Assessment (EIA)

8.1 A preliminary equality impact assessment has been completed and the recommendations do not have a negative impact on any of the protected characteristics as described in the Equality Act 2010 for the following reasons:

- The changes are legislative
- The policy relates to the management of HMOs it is not related to people.

9. City Solicitor's comments

9.1. The report contains the relevant legislative references and the supporting documentation puts into context the following:

- The basis upon which HMO's are currently managed.
- The legislative changes and functional impact upon the service post the implementation of The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018

10. Director of Finance comments

10.1 All Licences levied to landlords of HMO's are priced so that they recover the costs of issue and administration. Therefore the net cash limited effect on the budget following the changes in this report should be zero.

10.2 Although the change of the criteria for Mandatory licencing will increase the number of Mandatory licenses issued the level of income received will continue to achieve full cost recovery for the cost incurred in administering the licenses, with no surplus income remaining, resulting in a net cash limited effect on the budget of zero.

10.3 The amount of licencing income that contributes towards the cost of these services is dependent on the number of licences issued. Predicting the amount of licences issued is difficult as this is dependent on a number of uncontrollable external factors. Periodic reviews of the licensing fee structure is therefore important to ensure full cost recovery is achieved in line with the number of licenses issued.

Signed by:

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James Hill, Director of Housing, Neighbourhoods and Building Services

Appendices:

Appendix 1 - Review of Licensing of Houses in Multiple Occupation

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
Changes to the enforcement policy used by Private Sector Housing Housing Portfolio, 3 rd July 2018	https://democracy.portsmouth.gov.uk/documents/s19163/Review%20of%20Enforcement%20Policy%202018%20report.pdf
Introduction of a comprehensive Licencing Programme for HMOs in Portsmouth Cabinet, 10 th April 2013	https://democracy.portsmouth.gov.uk/Data/Cabinet/20130410/Agenda/Cab20130410r4.pdf

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

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Signed by:
Councillor Vernon-Jackson
Leader of the City Council