



COUNCILLOR PHIL DAVIES

STRONG LEADERSHIP REPORT

**Extension of Mandatory Licensing of
Houses in Multiple Occupation**

Councillor Phil Davies said:

“Houses in Multiple Occupation (HMOs) often house the most vulnerable residents in the borough.

“These buildings are often at greater risk of fire and local evidence suggests poor management practises, anti-social behaviour and poor property conditions are often associated with this type of accommodation.

“We will not accept any Wirral resident living in poor quality rented accommodation. We will do everything in our power to support tenants in our borough.

“The extension of mandatory licensing of HMOs, to widen the numbers of properties needing a licence, will drive up standards further in this sector and improve the living conditions for our residents”.

1.0 REPORT SUMMARY

- 1.1 The purpose of this report is to advise the Leader on the extension of mandatory licensing of HMOs from 1st October 2018 to cover a wider range of properties and approve the revision to the licensing fees which are charged at a rate that reflects the cost of administering the licence by the Council.
- 1.2 The proposed extension of mandatory licensing will assist the Council in meeting the objectives of the Wirral Plan pledges through the provision of “Good quality housing which meets the needs of residents” and the aim of improving 2,250 private sector properties by 2020. It will also contribute towards improving the housing and support needs of our most vulnerable people to enable them to live independently.
- 1.3 This matter affects all Wards within the Borough.
- 1.4 This matter is a key decision.

2.0 RECOMMENDATION

2.1 The Leader of the Council is asked to:

1. Note the requirements of the Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018 for the extension of mandatory HMO licensing to cover a wider range of property types.
2. Agree that the licence fees set out in the report and the proposed extension to the term of the Licence from one to three years be adopted.

3.0 REASON/S FOR RECOMMENDATION/S

3.1 This report sets out Wirral's response to requirements of the Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018 made in March 2018 for the extension of mandatory HMO licensing to cover a wider range of property types. This extension is applicable to all Local Housing Authorities throughout England. In order to manage the increased workload generated from this extension within existing staffing resources, the licence term is to be increased from one to three years. In addition, the application options and associated fee charge will reflect the administration involved in processing licenses.

4.0 OTHER OPTIONS CONSIDERED

4.1 The proposed expansion to Mandatory Licensing of HMOs is not optional and therefore no alternatives have been considered. The Council has a statutory duty to operate a licensing scheme that encompasses the extended definition of licensable HMOs.

5.0 BACKGROUND INFORMATION

5.1 HMOs are an important form of accommodation within the private rented sector because they are typically cheaper than other private rental options and therefore often the only option for some tenants, some of whom are very vulnerable. It is estimated that there are around 508,000 HMOs across England and, in Wirral, there are approximately 2,100 HMOs. HMOs are often created in large converted buildings and house a number of separate households who share amenities such as bathrooms or kitchens. Due to there being a number of separate households in one building, the risk of fire increases and the means of escape in the event of a fire must be considered. HMOs can be problematic in terms of poor conditions and sometimes anti-social behaviour. The larger the HMO, the higher the risks involved, particular in relation to fire and means of escape. Good management practices are essential for an HMO to function correctly and a range of powers exist to assist local authorities in the regulation of these types of properties.

5.2 Part 2 of the Housing Act 2004 ("the Act") provides for Local Housing Authorities to licence certain HMOs in their areas. Under the same Act, the Secretary of State introduced The Licensing of Houses in Multiple Occupation (Prescribed

Descriptions) (England) Order 2006 (referred to as *the 2006 Order*), on the 6th of April 2006. These regulations described the category of HMOs that needed to be licensed, as follows:

- (a) the HMO or any part of it comprises three storeys or more;
- (b) it is occupied by five or more persons; and
- (c) it is occupied by persons living in two or more single households

The regulations focused on the larger, higher risk, HMOs and in Wirral this has resulted in the licensing of just under 100 HMOs on an annual basis, since 2006.

- 5.3 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. Licensing has been largely successful in improving management and safety standards in those HMOs, however, since mandatory licensing was first introduced there has been a significant increase in the use of smaller properties, notably two storey houses, originally built for families, as HMO accommodation. Many of these properties are being converted into five or six bedroom HMOs on Wirral. While some HMOs are operated to a very high standard for professionals, a small number of properties are operated by landlords who exploit their vulnerable tenants, by renting sub-standard, overcrowded and dangerous accommodation. Poor practice can include: housing illegal migrants; failing to meet the required health and safety standards; permitting overcrowding and ineffective management of tenant behaviour. This has a significant impact not only on tenants, but also the local community through excessive waste, excessive noise and anti-social behaviour.

6.0 THE EXTENSION OF MANDATORY HMO LICENSING

- 6.1 In response to the increasing number of smaller HMOs and the resultant problems, mandatory licensing is to be extended to cover one or two storey HMOs which are occupied by five or more people comprising two or more households. This will bring roughly 160,000 additional properties into licensing across England. In Wirral, it is anticipated that this change will result in an estimated 250 additional properties falling within mandatory licensing.
- 6.2 The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018, replaces *the 2006 Order* and extends licensing to cover the following, from the 1st October 2018:

Any house regardless of the number of storey's that:

- contains five or more people in two or more households; and
- there are shared facilities such as a kitchen, bathroom or toilet.

OR

Any self-contained flat in a converted building that:

- contains five or more people in two or more households; and

- there are shared facilities such as a kitchen, bathroom or toilet
- 6.3 In addition to the extension of mandatory licencing from the 1st October 2018, the Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018 extend the existing mandatory licensing conditions, to include the introduction of minimum room sizes for rooms to be used for sleeping accommodation and new provisions for waste disposal arrangements.
- 6.4 In relation to room sizes the minimum sleeping room sizes to be imposed as conditions are:
- 6.51 m² for one person over 10 years of age
 - 10.22 m² for two persons over 10 years of age
 - 4.64 m² for one child under the age of 10 years
- 6.5 It will also be a mandatory condition that any room of less than 4.64 m² may not be used as sleeping accommodation and the landlord will need to notify the local housing authority of any room in the HMO with a floor area of less than 4.64 m².
- 6.6 The purpose of this condition is to reduce overcrowding in smaller HMOs. The standards adopted are similar, but not identical to, those relating to overcrowding in dwellings under Section 326 of the Housing Act 1985.
- 6.7 Owners of properties allowing the use of rooms smaller than the minimum sizes for sleeping accommodation will have 18 months to prevent further use. Failure to comply after 18 months is a breach of licence conditions.
- 6.8 The minimum size for sleeping accommodation does not apply to charities providing night shelters or temporary accommodation for people suffering or recovering from drug or alcohol abuse or mental disorders.

7.0 DELIVERY OF EXTENDED MANDATORY HMO LICENSING

- 7.1 Extending the licensing scheme is expected to increase the number of licensable properties in Wirral considerably, possibly threefold. In anticipation to the increased number of licence applications, a bespoke licensing software package called Verso, provided by Rocktime Ltd, has been procured that will allow applicants to access an online, self-service, property licensing and data validation system which will include electronic payments. This system will reduce the additional administrative burden created by the new licencing requirements, however the properties will all require compliance inspections by Housing Standards Officers and any follow up action including enforcement where necessary to ensure properties meet the minimum required standards.
- 7.2 The new licences from the 1st October will change from a one year to a three year term. During this period all properties will be subject to at least 1 compliance visit. These visits will be risk assessed based on information provided at the application stage and any known letting history with landlords and agents. This will allow

resources to focus on the higher risk properties first, with these likely to receive more than one site visit.

- 7.3 Licence fees will be set to cover the costs of issuing the licenses. For the extended licensing scheme there will be two fees, one for a paper application and one for an electronic application. The paper application fee is £750 and the electronic application fee is £650, reflecting reduced administration involved when using the electronic route. This cost is based on a five bedroom HMO with an additional £30 per room being added for any number of letting rooms above five, which reflects the additional work required in licencing larger HMO's. A discount is to be given for landlords who are accredited with the Residential Landlords Association, National Landlords Association, or, have been accredited with the local authority Landlord Accreditation Scheme before the 1st October 2018.
- 7.4 Current HMO licence conditions remain valid up until the time an existing licence is renewed. At the point of renewal the local housing authority must impose the new HMO licensing conditions.
- 7.5 Properties which are currently licenced under a Selective Licence Scheme will be 'pass-ported' into the mandatory HMO scheme from 1st October 2018. Existing licences will remain valid under the mandatory regime and no additional fees will be charged. Upon expiry of the existing Selective Licences the landlord will need to apply for an HMO licence under Part 2 of the Act.

8.0 FINANCIAL IMPLICATIONS

- 8.1 The costs of administrating mandatory HMO licensing including the processing of the licence and ensuring compliance with licensing conditions as well as the new software requirements are covered by a fee paid for by individual landlords. The estimated income from the extended licensing scheme is in the region of £50,000 per annum based on 250 licenses and assuming all of the discounts are given.
- 8.2 There is however likely to be a significantly increased resource required for enforcing minimum standards (under Part 1 of the Housing Act 2004) for which the Council has a general duty to undertake already. It is therefore not legally permitted to charge for this work within the license fee. This additional resource requirement will be met by realigning and re-prioritising staff workloads across the Housing Standards & Renewal Teams so they can contribute towards this area of work as well as re-structuring the section to allow for a more generic way of working.

9.0 LEGAL IMPLICATIONS

- 9.1 The extension to HMO licensing is mandatory and will come into force on the 1st October 2018. There is also a duty for the local authority to promote the changes and the extension of mandatory licensing in its area. An awareness raising campaign has been running for some time as set out in 12.1 of this report.

9.2 New enforcement powers have been introduced to deal with certain Housing Act offences and include the use of Civil Penalties, as an alternative to prosecution and Rent Repayment Orders (RROs). Local policies on when to use these powers and determining the level of Civil Penalties have been consulted on and will be incorporated in the Corporate Enforcement Policy currently being updated. Any monies recovered from both Civil Penalties and RROs can only be used to support similar housing enforcement work.

10.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS

10.1 A bespoke licensing software package has been procured that will allow applicants to access an online self-service property licensing and data validation system. This system will reduce the administrative burden created by the new licencing requirements and it is anticipated that the existing administrative support will be sufficient to cope with the increased workload. The system will be paid for from HMO licensing fee income.

10.2 Existing staffing resources are estimated to be insufficient to deal with the volume of HMOs that will require a licence from October 1st 2018. The Council is obliged to process applications in a timely manner as landlords who do not hold a license after the time are committing an offence. The Housing Standards and Renewal Team structure is therefore to be reviewed in light of both the proposed changes to mandatory licensing and the potential enlargement of Selective Licensing. More generic working is anticipated in order to provide sufficient resources to implement the above requirements

10.3 Locally, the license term is to be increased from one year to three years allowing a risk assessment approach to prioritise compliance visits over a longer period of time. In addition, staffing resources across the Standards and Renewal Team will continue to move towards more generic working with all existing Housing Standards Officers eventually undertaking mandatory HMO licensing work once fully trained in this specialist area of work, thus increasing the number of staff being able to work on licensing in the longer term. There is likely to be a short term need however for an additional temporary Housing Standards Officer experienced in HMO enforcement to boost capacity from 1st October during the 12 month transition phase to the extended scheme. This post will be funded from the HMO licensing reserve which is ring-fenced for HMO licensing. As the number of potential new licensable HMOs is only an estimate, the staffing resource will be under constant review during the first 12 months of the extended HMO scheme. If increased staffing resource is required to meet demand, any requests for additional staff will be taken through the appropriate approvals process and would be paid for from the additional fee income generated.

11.0 RELEVANT RISKS

11.1 There is a risk that the digital licensing application and management software is not operational in time to process licensing applications leaving only the paper based application option. This will substantially increase the administration resources needed to process applications and will be the more costly option as additional administrative resources will need to be recruited on a temporary basis to respond to these demands. The licensing fee for paper based applications has been set at a higher level to ensure these costs are covered. This risk has been reduced by

active project management with a project team helping to ensure programme milestones are delivered. The risks of implementing this contract will be reviewed regularly by the project group overseeing the installation of Rocktime.

- 11.3 A further risk is the number of HMOs falling within mandatory licensing being greater than anticipated. This will not be known until applications are submitted, although a pre-registration process is now in place to give an indication of numbers in advance of the October deadline. This risk will have to be kept under review, however temporary additional staff will be recruited and in place to address the initial demand and any further action necessary to mitigate this risk will have to be considered when and if the numbers exceed those planned for. This would be accounted for within existing resources.

12.0 ENGAGEMENT/CONSULTATION

- 12.1 There is no obligation to consult on the expansion of mandatory licensing; however, the Council must promote the changes and the extension of mandatory licensing in its area. In connection with this obligation, various methods have been employed to inform as many private sector landlords of the coming changes to mandatory licensing, including:

Attendance and presentation given at the local National Landlords Forum on 7th November 2017

Presentation given at Wirral's Landlord Forum held on the 7th June 2018

Press campaigns involving the Wirral Globe and Wirral View

Notices on Wirral Council's website, Facebook and Twitter accounts

Direct emails to landlords known on the Council's database, having recently consenting to receive information

Landlord Link Newsletter 2018 and proposed targeted bulletin

13.0 EQUALITY IMPLICATIONS

- 13.1 An Equality Impact Assessment (EIA) has been completed for both the extension to mandatory HMO licensing and the changes to mandatory licence conditions, including minimum room sizes and waste management arrangements. The EIA will be available using the following link:

<https://www.wirral.gov.uk/communities-and-neighbourhoods/equality-impact-assessments/equality-impact-assessments-2017/delivery>

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REFERENCE MATERIAL

SUBJECT HISTORY (last 3 years)

Council Meeting	Date