



Oversight and Governance

Chief Executive's Department

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Delegated Decisions

Delegated Executive/Officer Decisions

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Notice of call-in for non-urgent decisions must be given to the Democratic Support Unit by 4.30pm on Thursday 22 October 2020. Please note – urgent decisions and non-key Council Officer decisions cannot be called in. Copies of the decisions together with background reports are available for viewing as follows:

- on the Council's Intranet Site at <https://modgov/mgDelegatedDecisions.aspx>
- on the Council's website at <https://tinyurl.com/jhnax4e>

The decisions detailed below may be implemented on Friday 23 October 2020 if they are not called-in.

Delegated Decisions

I. Councillor Chris Penberthy - Cabinet Member for Housing and Co-operative Development:

- | | | |
|-----|---|--------------------------|
| I.a | Approval of HMO Licence Policy 2020 | (Pages 1 - 120) |
| I.b | Approval of Licence Fee Structure for Licensable HMOs Contained in Block Style Accommodation | (Pages 121 - 170) |
| I.c | Approval of Moving to a 2-stage Payment Licence Fee Structure for Licensable HMOs, and Adapting our Discretionary Discounts Available | (Pages 171 - 198) |
| I.d | Minimum Energy Efficiency Standards (MEES) (Private Rented) Policy | (Pages 199 - 264) |

EXECUTIVE DECISION

made by a Cabinet Member



REPORT OF ACTION TAKEN UNDER DELEGATED AUTHORITY BY AN INDIVIDUAL CABINET MEMBER

Executive Decision Reference Number – HCD03 20/21

Decision	
1	Title of decision: Approval of HMO Licence Policy 2020.
2	Decision maker (Cabinet member name and portfolio title): Councillor Chris Penberthy (Cabinet Member for Housing and Co-operative Development)
3	Report author and contact details: Mark Chubb (Technical Lead – Housing Improvement) 01752 308989
4	Decision to be taken: To approve an updated HMO licensing policy. The existing policy is from 2014 and the proposed policy is for 2020.
5	<p>Reasons for decision:</p> <p>Legislative changes made to the ‘prescribed description’ of licensable HMOs, effective from 1st October 2018, https://www.legislation.gov.uk/ukxi/2018/221/article/4/made, have removed the ‘storey condition’ from the pre-existing description. This change has led to a significant increase in the number of licensable HMOs in our city, doubling from an average of Circa 650 to an Average of Circa 1300.</p> <p>There has been a significant amount of housing legislation change since the 2014 HMO Policy came into force, and these include but are not limited to:</p> <ul style="list-style-type: none"> • <i>The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015</i> • <i>Deregulation Act 2015</i> • <i>The Smoke and Carbon Monoxide Alarm (England) Regulations 2015</i> • <i>Housing and Planning Act 2016</i> • <i>The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018</i> • <i>The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020</i> <p>The introduction of this new legislation, but especially <i>The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018</i>, has meant that parts of the existing policy are now redundant, other parts needed updating, and some new additions were also required.</p> <p>Risks:</p>

	<p>The proposed policy has gone out to consultation with the Private Rented Sector Partnership Group (PRSPG) in September 2020 and the response was very positive. The PRSPG is a partnership group that consists of political leadership from Cllr Penberthy, technical guidance from PCC departments, and collaborative working with key figures who represent landlords, letting agents, universities, social housing providers, tenancy support services, and other support services. The consultation comments highlighted only a few minor textual changes. These were reviewed, agreed, and subsequently altered as part of the consultation process.</p> <p>Should there be changes in the sector, including additional legislation, we have the ability to review the policy at any time and can amend/update as appropriate. Therefore there is considered to be low risk in implementing the updated HMO licensing policy.</p> <p>Not updating the policy represents a potential risk in respect of the enforcement actions that we undertake. When an enforcement action is challenged/appealed to the First-tier Tribunal (F-tT), one of the most important elements we will be judged on, is whether or not we have followed our policy in respect of our work. Therefore having an up to date and relevant policy is key to support our enforcement of licensed HMOs in the Private Rented Sector.</p> <p>Benefits: The benefits of having an updated HMO licensing policy means that it will be better reflective of the current service. It also permits us the opportunity to apply some improvements to the standards we apply to licensed HMO's. In addition we have greater and more robust enforcement powers. As referred to in the Risks section, when an enforcement action is challenged/appealed to the First-tier Tribunal (F-tT), one of the most important elements we will be judged on, is whether or not we have followed our policy in respect of our work. Therefore having an up to date and relevant policy is key to support our enforcement of licensed HMOs in the Private Rented Sector.</p> <p>Resourcing Implications: There are no resourcing implications from updating the HMO licensing policy.</p>			
6	<p>Alternative options considered and rejected:</p> <p>In theory we could consider doing nothing and retain the 2014 HMO licensing policy. However, we have rejected this option, as we believe it contains information that is no longer correct, and is missing information that is currently relevant. A decision to maintain the existing policy would not make sense.</p> <p>There are no other options available for consideration.</p>			
7	<p>Financial implications: There are no financial implications from updating the HMO licensing policy.</p>			
8	<p>Is the decision a Key Decision? (please contact Democratic Support for further advice)</p>	<p>Yes</p>	<p>No</p>	<p>Per the Constitution, a key decision is one which:</p> <p>in the case of capital projects and contract awards, results in a new commitment to spend and/or save in excess of £3million in total</p> <p>in the case of revenue projects when the decision involves entering into new</p>

			commitments and/or making new savings in excess of £1 million
		X	is significant in terms of its effect on communities living or working in an area comprising two or more wards in the area of the local authority.
	If yes, date of publication of the notice in the <u>Forward Plan of Key Decisions</u>	N/A	
9	Please specify how this decision is linked to the Council's corporate plan/Plymouth Plan and/or the policy framework and/or the revenue/capital budget:	<p><u>Corporate Plan</u></p> <p>Values – Responsible – By having an updated policy we are taking responsibility for process and our actions in delivering our statutory duty. We are also taking steps to ensure that standards are continuously reviewed to positively impact on the improving the housing conditions of our citizens.</p> <p>Values – Fairness – Having an up-to-date HMO licensing policy ensures that key stakeholders can be fully informed of the local authority's procedures and requirements from them. It provides guidance, reassurance and also a benchmark of consistency for the majority of situations.</p> <p>Caring Council – Having an up-to-date HMO licensing policy, as well as regularly reviewing and improving standards within licensed HMOs across the city, helps to reduce health inequalities. This is achieved through the provision of safer rented accommodation to the citizens of Plymouth, and robust enforcement of Rogue Landlords.</p> <p><u>Plymouth Plan for Homes 3</u></p> <p>Improving Housing Conditions in PRS – Having an up-to-date HMO licensing policy, as well as regularly reviewing and improving standards within licensed HMOs across the city, helps to reduce health inequalities. This is achieved through the provision of safer rented accommodation to the citizens of Plymouth, and robust enforcement of Rogue Landlords. Improvements to accommodation can be physical in terms of the building but can also be in the management of the property.</p>	

10	Please specify any direct environmental implications of the decision (carbon impact)	Updating the HMO licensing policy has no direct environmental implications.		
Urgent decisions				
11	Is the decision urgent and to be implemented immediately in the interests of the Council or the public?	Yes		(If yes, please contact Democratic Support Support (democraticsupport@plymouth.gov.uk) for advice)
		No	X	(If no, go to section 13a)
12a	Reason for urgency:			
12b	Scrutiny Chair Signature:		Date	
	Scrutiny Committee name:			
	Print Name:			
Consultation				
13a	Are any other Cabinet members' portfolios affected by the decision?	Yes		
		No	X	(If no go to section 14)
13b	Which other Cabinet member's portfolio is affected by the decision?	N/A		
13c	Date Cabinet member consulted	N/A		
14	Has any Cabinet member declared a conflict of interest in relation to the decision?	Yes		If yes, please discuss with the Monitoring Officer
		No	X	
15	Which Corporate Management Team member has been consulted?	Name	Craig McArdle	
		Job title	Strategic Director for People	
		Date consulted	13/10/2020	
Sign-off				

16	Sign off codes from the relevant departments consulted:	Democratic Support (mandatory)	DS43 20/21
		Finance (mandatory)	djn.20.21.105
		Legal (mandatory)	35410/hm
		Human Resources (if applicable)	N/A
		Corporate property (if applicable)	N/A
		Procurement (if applicable)	N/A

Appendices


17	Ref.	Title of appendix
	A	Briefing report for publication
	B	Draft HMO licensing Policy 2020 (highlighted changes and commentary for ease of review)
	C	Existing HMO Licensing Policy 2014
	D	EIA

Confidential/exempt information

18a	Do you need to include any confidential/exempt information?	Yes		<p>If yes, prepare a second, confidential ('Part II') briefing report and indicate why it is not for publication by virtue of Part I of Schedule 12A of the Local Government Act 1972 by ticking the relevant box in 18b below.</p> <p>(Keep as much information as possible in the briefing report that will be in the public domain)</p>				
		No	X					
		Exemption Paragraph Number						
		1	2	3	4	5	6	7
18b	Confidential/exempt briefing report title:							

Background Papers

19	Please list all unpublished, background papers relevant to the decision in the table below.
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<p>Background papers are <u>unpublished</u> works, relied on to a material extent in preparing the report, which disclose facts or matters on which the report or an important part of the work is based. If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part I of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.</p>							
Title of background paper(s)	Exemption Paragraph Number						
	1	2	3	4	5	6	7
Existing HMO Licensing Policy 2014							
http://www.legislation.gov.uk/ukpga/2004/34/section/55 Mandatory HMO licensing							
http://www.legislation.gov.uk/ukpga/2004/34/section/63 HMO licensing Applications and Fees							
http://www.legislation.gov.uk/ukpga/2004/34/section/254 HMO tests							
http://www.legislation.gov.uk/ukpga/2004/34/schedule/14/paragraph/4 HMO exemptions							
http://www.legislation.gov.uk/uksi/2018/221/article/4/made Licensable HMO 'prescribed description'							
Cabinet Member Signature							
20	I agree the decision and confirm that it is not contrary to the Council's policy and budget framework, Corporate Plan or Budget. In taking this decision I have given due regard to the Council's duty to promote equality of opportunity, eliminate unlawful discrimination and promote good relations between people who share protected characteristics under the Equalities Act and those who do not. For further details please see the EIA attached.						
Signature			Date of decision	14/10/2020			
Print Name	Councillor Chris Penberthy (Cabinet Member for Housing and Co-operative Development)						

BRIEFING - EXECUTIVE DECISION FOR HMO LICENSING POLICY 2020 (HMO LICENSING)



This briefing note sets out the reasons for updating the HMO licensing policy from the existing 2014 version.

1. Reasons for decision:

Legislative changes made to the 'prescribed description' of licensable HMOs, effective from 1st October 2018, <https://www.legislation.gov.uk/ukxi/2018/221/article/4/made>, have removed the 'storey condition' from the pre-existing description. This change has led to a significant increase in the number of licensable HMOs in our city, doubling from an average of Circa 650 to an Average of Circa 1300.

There has been a significant amount of housing legislation change since the 2014 HMO Policy came into force, and these include but are not limited to:

- *The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015*
- *Deregulation Act 2015*
- *The Smoke and Carbon Monoxide Alarm (England) Regulations 2015*
- *Housing and Planning Act 2016*
- *The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018*
- *The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020*

The introduction of this new legislation, but especially *The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018*, has meant that parts of the existing policy are now redundant, other parts needed updating, and some new additions were also required.

2. Actions taken: We started the policy review process of review in Autumn 2019 with the following actions being taken:

- Identification of legislation changes that may affect the policy (as above)
- Identification of procedural changes and service/standards improvements that we would like to have incorporated in an updated policy (i.e. 2-Stage Payments, Block Fees, increased Fire Safety etc.)
- Technical Lead review of existing policy content for consideration of relevance moving forwards. This process identified what elements of the 2014 must stay, what elements could be removed, and what elements could be updated.
- Ongoing consultations with Portfolio Holder, Cllr Penberthy and PRSPG.
- Posting on RIAMS, a Professional Forum for Local Authorities
- Ongoing discussions with PCC Finance department.
- Ongoing discussions with PCC Legal department.
- Consultation with both Strategic Manager and Director of Service for Community Connections.

There have been a few bumps in the road and shifting of priorities that have affected the timescale for delivery of both business as usual and strategic service improvements (i.e. development of a new customer relationship management system, integration of Block Fees, 2-stage payments, Civil

Penalties, new and additional legislation, as well as COVID-19). However, we are now in a position to move forward and implement the necessary changes to our licensing policy, once approved.

3. Financial implications:

There are no financial implications from updating the HMO licensing policy.

4. Resourcing Implications:

There are no resourcing implications from updating the HMO licensing policy.

5. Risks:

The proposed policy has gone out to consultation with the Private Rented Sector Partnership Group (PRSPG) in September 2020 and the response was very positive. The PRSPG is a partnership group that consists of political leadership from Cllr Penberthy, technical guidance from PCC departments, and collaborative working with key figures who represent landlords, letting agents, universities, social housing providers, tenancy support services, and other support services. The consultation comments highlighted only a few minor textual changes. These were reviewed, agreed, and subsequently altered as part of the consultation process.

Should there be changes in the sector, including additional legislation, we have the ability to review the policy at any time and can amend/update as appropriate. Therefore there is considered to be low risk in implementing the updated HMO licensing policy.

Not updating the policy represents a potential risk in respect of the enforcement actions that we undertake. When an enforcement action is challenged/appealed to the First-tier Tribunal (F-tT), one of the most important elements we will be judged on, is whether or not we have followed our policy in respect of our work. Therefore having an up to date and relevant policy is key to support our enforcement of licensed HMOs in the Private Rented Sector.

6. Benefits:

The benefits of having an updated HMO licensing policy means that it will be better reflective of the current service. It also permits us the opportunity to apply some improvements to the standards we apply to licensed HMO's. In addition we have greater and more robust enforcement powers. As referred to in the Risks section, when an enforcement action is challenged/appealed to the First-tier Tribunal (F-tT), one of the most important elements we will be judged on, is whether or not we have followed our policy in respect of our work. Therefore having an up to date and relevant policy is key to support our enforcement of licensed HMOs in the Private Rented Sector.

7. Alternative options considered and rejected:

In theory we could consider doing nothing and retain the 2014 HMO licensing policy. However, we have rejected this option, as we believe it contains information that is no longer correct, and is missing information that is currently relevant. A decision to maintain the existing policy would not make sense.

There are no other options available for consideration.

**LICENSING OF HOUSES IN MULTIPLE
OCCUPATION 2020**



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1.0 Introduction

- 1.1 This report reviews the application of the mandatory scheme for the licensing of houses in multiple occupation (HMOs) in Plymouth. It sets out a new policy to replace the previous Licensing of Houses in Multiple Occupation policy 2014. This new policy sets out the standards, procedures and fees for mandatory licensing.
- 1.2 HMO licensing was introduced in April 2006 and there are approximately 1280 HMOs currently licenced within Plymouth. Our numbers have significantly increased from circa 650, following legislation changes to the 'prescribed description that came into force on 1st October 2018.¹ The introduction of legislation changes means that there are many licensable HMO's either licensed, or in the process of licensing that have not yet been inspected. As a Local Authority, we have a Statutory Duty to satisfy ourselves, as soon as reasonably practicable, but within 5 years of application, that there are no HA2004 Part 1 functions that ought to be exercised.²
- 1.3 These changes have provided an opportunity for minor amendments and clarifications.

2.0 Background

- 2.1 HMOs provide valuable accommodation for a range of people. These include students, young professional people, and those on low income/benefits. However, HMOs can present a number of problems to both the health and safety of the occupiers and the general neighbourhood. A balance needs to be struck to address these issues whilst encouraging the provision of sufficient accommodation. Owners need to be made aware of their obligations and encouraged in their compliance.
- 2.2 HMO licensing was introduced in April 2006 under the provisions of the Housing Act 2004. Its aim was to target those HMOs which were perceived to be of the highest risk and ensure that these attained the appropriate standards. In October 2018 HMO licensing was widened to encompass more properties that meet the new 'prescribed description'. The Act also enables local housing authorities to declare areas of additional, or selective, licensing of other residential property. These powers have not been adopted in Plymouth, thus far, and this report only refers to HMOs within the mandatory licensing scheme.
- 2.3 As indicated in Section 2, 'Local Context', of the Housing Improvement Policy 2018.³ The total number of dwellings in Plymouth is Circa 108,000. 9.9% of these dwellings (Circa 10,700) are considered to be HMOs or converted

¹ <http://www.legislation.gov.uk/uksi/2018/221/contents/made>

² <http://www.legislation.gov.uk/ukpga/2004/34/section/55>

³ <https://www.plymouth.gov.uk/sites/default/files/Housing%20Improvement%20%28Housing%20Standards%29%20Policy%20%20-%20Final.pdf>

flats. Mandatory licensing only applies to a small part of the total HMO stock in Plymouth. Less than 12 percent of the HMOs in Plymouth require a licence. These figures are drawn from Housing Stock and Condition Surveys from 2005-2008 and as such the information may be out of date.

- 2.4 The number of HMOs that still require licensing is unknown. The licensing scheme is complex; in some cases landlords may not realise that their property is in fact licensable. We have worked closely with external partners on identifying properties that may be subject to the latest legislation changes. However, there may well be some landlords, and their managing agents, who are knowingly evading their responsibilities.
- 2.5 Accommodation can readily change between use as a single family dwelling and that of an HMO. Changes to Housing Benefit/Universal Credit and the Local Housing Allowance will reduce many tenants' entitlements to that of the "Shared Room Rate"; and this may result in the creation of more HMOs, some of which may be licensable.⁴
- 2.6 A HMO licence will not automatically be refused if a property does not have the correct planning permissions. However, additional conditions and a shorter licence may be considered appropriate. Nor will it automatically be refused where a property is being occupied contrary to the conditions of mortgage, lease or restrictive covenant.
- 2.7 Conditions of licence may be imposed; these can require improvement to the standards of the HMO and its management.
- 2.8 Licensing decisions are subject to appeal through the First-tier Tribunal. Offences against licensing requirements may be subject to prosecution, or if appropriate the imposition of a financial penalty as an alternative to prosecution. The implementation of the Housing and Planning Act 2016, Schedule 9⁵ introduced a number of offences that could be punishable by a financial penalty as an alternative to prosecution. There were consequential amendments made to S249A and Schedule 13A of the Housing Act 2004 to accommodate this. Irrespective of which type of enforcement action is considered to be the most appropriate, the licensing policy must be sufficiently robust to withstand legal challenge; and it must have the authority of the Council.
- 2.9 The licensing policy will help ensure that decisions are considered, fair, reasonable, consistent and transparent.
- 2.10 Legislation enables the reasonable costs of licensing to be recovered through a licence fee. The income generated must be ring-fenced for HMO licensing activity as this is the basis of their calculation. There is Local Government

⁴ <https://www.plymouth.gov.uk/benefitsandgrants/housingbenefit/localhousingallowancerates>

⁵ <http://www.legislation.gov.uk/ukpga/2016/22/schedule/9/enacted>

Association guidance on the calculation and use of fees that should be referred to.⁶

3.0 Strategic considerations

- 3.1 The current financial situation means that the Council must recover the costs of licensing where it is legal, and practical, to do so.
- 3.2 Since implementation of HMO licensing in April 2006, many local housing authorities have raised their licensing fees. In some cases this is due to an initial under estimation of the complexity involved in administering the scheme. In other cases authorities may have decided that their previous policy of subsidising licensing is no longer sustainable. Plymouth City Council undertook a HMO licensing fees review in 2018 resulting in an increase. Regular reviews of the fee structure have been, and will be, taken every couple of years to ensure the fee levels are set at a fair, appropriate, and justifiable level. This may see small incremental rises to match RPI.
- 3.3 It is recognised that the licence fee will be passed on to the tenants. Their position may be precarious, especially those Housing Benefit/Universal Credit claimants who are most vulnerable. However, the typical weekly cost of licensing (for each tenant) is minimal (60p)⁷ over the typical five year licence.
- 3.4 The legal requirements for re-licensing are basically the same as those for initial licensing. However, our previous involvement should mean that there is less work required in re-licensing; the fee can be correspondingly less. Following the HMO Licence Fee review of 2018 it was calculated that a renewal may take an average of 1 hour less resource time and as such a £50 reduction on fees was applied to renewal HMO licence applications.
- 3.5 Pressures placed on landlords, be they financial or bureaucratic, may result in some landlords withdrawing from the market or changing their market niche. This could have different effects on the various segments of the housing market. Those landlords wishing to maintain good standards in the more problematical markets may be the most affected.
- 3.6 Licensing policies should reward good practice and deter poor management and inadequate standards. There are available discretionary discounts that may apply to a HMO licence application. These include a landlord accreditation discount, because it is expected that they would have an enhanced level of knowledge and their properties would generally be maintained in a better condition. It is also recognised that applications being complete, at point of application, reduces the requirement for officers to

⁶https://www.local.gov.uk/sites/default/files/documents/5%2013%20%20OpenForBusiness_02_web.pdf

⁷ Calculation: 60p x 52 weeks x 5 years x 6 persons = £936, a figure greater than the max. licence fee

make additional requests for information which incur additional expense for the local authority.

- 3.7 It is recognised that areas with a higher incidence of HMOs have problems with noise, antisocial behaviour, acquisitive crime and refuse. What is less clear is the extent to which the presence of HMOs exacerbate the underlying problems which may already have been present in such areas. Regardless of the causes of these problems, licensing cannot be used to limit the presence of HMOs or significantly reduce the impact of many of the issues perceived to be associated with them.
- 3.8 This report reviews the licensing fee, processes (including the move to a 2-stage payment process), procedures, standards and conditions; it reconsiders the policies and their effectiveness in addressing the requirements of current licensing legislation.
- 3.9 This report complies with (and has regard to) the Housing Improvement Policy 2018.⁸

4.0 Consultation

The contents of this report, and the revised policy, have been subject to consultation with landlords and other stakeholders, via the Private Rented Sector Partnership Group between 8th September 2020 and 23rd September 2020. The consultation process, and results, are set out in Appendix I of this report.

5.0 Recommendations

That the licensing policy, together with the, forms of licence, fees and standards (as set out in Appendix 2 to this report) are adopted with effect from 31/10/2020.

⁸<https://www.plymouth.gov.uk/sites/default/files/Housing%20Improvement%20%28Housing%20Standards%29%20Policy%20%20-%20Final.pdf>

Appendix I

Consultation

On 8th September 2020, copies of the proposed HMO Licensing Policy 2020 report were shared with members of the Private Rented Sector Partnership Group (PRSPG) to engage in a period of consultation. The PRSPG comprises a collective of landlords, letting agents, tenant support services, PCC departments, councillors, and other support agencies involved in the private rented sector within Plymouth. The period of consultation concluded on 23rd September 2020.

Consultation Comments

(1) On 18th September 2020, the South West Landlords Agency (SWLA) emailed the following comments:

Thank you for forwarding the revised HMO policy for review. SWLA are broadly happy with this and in particular grateful for the continued support for trained and good landlords in the form of substantial fee discounts. We have previously discussed the possibility of providing discounts for suitably qualified managing agents and wondered whether this was something that can be considered further. We have looked at a number of schemes previously.

We note the intention to move the HMO Register online and would appreciate discussing this prior to implementation. Whilst we support the right of the public to identify those responsible for control of HMOs where there are problems, it is important that due consideration is given to the potential for abuse of this information by some parties.

In response to this feedback, a process has been agreed whereby we will engage in further discussion with SWLA, and the PRSPG to explore the options and practicalities of:

- Applying discretionary discounts for managing agents.
- Creating a digitally accessible version of the HMO register, that is sensitive to data sharing but complies with legislative requirements.

(2) On 22nd September 2020, Kate Medhurst on behalf of Plymouth Access To Housing (PATH) emailed the following comments:

1.17 It says that a paper copy of the register can be viewed, by appointment, in a council building.

Q: I was wondering whether that is likely to change in light of the current Covid 19 conditions? (Also what the purpose of being able to view the register?)

Later on in the doc it states that people are allowed to check with PCC to see if a property is registered, it may be worth referencing that here, maybe as a footnote or something?!

13.2 & 13.3 Relating to Rent Repayment Orders

*The policy says that RRO could be used to recover UC/HB. It then states that tenants could request a RRO for non UC/HB payments. If a tenant has UC/HB paid to them (rather than direct to Landlord) and they use this to pay then landlord, they could still claim this back? Does this mean that PCC could seek to recover HB/UC where payments **where** made direct to landlord?*

Page 36 relating to fire. Any definition of what a competent person would look like in terms of carrying out fire risk assessments?

Page 42 expectations. It says you must issues a tenancy agreement. Some HMO's aren't let on tenancies but on licences for temporary accommodation.

*Later on page 46 Clause 6 it say: The licence holder shall ensure that a written statement of terms of occupancy is supplied to each occupier
Possibly use the same terminology for both.*

Also on page 42 it states that that you must comply with Right to Rent requirement, perhaps include: unless the property qualifies for an exemption? I.e. those being used as hostel type accommodation.

In response to this feedback, a process has been agreed whereby we will engage in further discussion with SWLA, and the PRSPG to explore the options and practicalities of:

- Creating a digitally accessible version of the HMO register, that is sensitive to data sharing but complies with legislative requirements.

In addition there has been some alterations to the policy text to better reflect:

- The position around Rent Repayment Orders, and the payments that can be claimed by tenants (i.e. if in receipt of UC/HB they can claim an RRO for 'top up rent', but if not in receipt of UC/HB they can claim the full rent. This is because UC/HB payments should be returned to the Department of Work and Pensions.
- The position regarding written agreements being in place for residents of licensed HMOs, whether they are on an Assured Shorthold Tenancy, or on a Licence Agreement.
- The position regarding 'Right to Rent', and the fact that some properties may qualify for an exemption from needing to comply.

Appendix 2

Housing Act 2004 - Mandatory Scheme for the Licensing of Houses in Multiple Occupation - HMO Licensing Policy

1.0 Outline of Licensing: Legislative Requirements and Powers

1.1 The Act requires local housing authorities to licence houses in multiple occupation (HMOs) of a specific description⁹. An HMO is of a prescribed description for the purpose of section 55(2)(a) of the Act if it—

- (a) is occupied by five or more persons;
- (b) is occupied by persons living in two 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.

*for more information on 'purpose-built', please see section 2.6

1.2 The licensing requirements are that:

- those persons involved in the property are fit and proper (this includes matters relating to offences connected with drugs, violence, breaches of housing law etc),
- there is sufficient funding and expertise to manage the property, and
- the property will be reasonably suitable for occupation. Minimum standards are set out in prescribed regulations.

1.3 The application form is not prescribed by legislation, although some of the contents are. The application must ask for specified information, and statute requires the insertion of specified text within it. On a practical level, the application form is a part of the process which provides the information to make licensing decisions. The legislation allows local housing authorities to prescribe both a form and a fee; this latter may be demanded at the time of application.¹⁰

1.4 The HMO licensing fee is not capped. However, the Act and The Provision of Services Regulations 2009¹¹, restrict the activities for which a fee may be charged, when fees may be levied, and how income from licence fees may be used. There is, in addition, Local Government Association guidance on the

⁹ <http://www.legislation.gov.uk/uksi/2018/221/article/4/made>

¹⁰ <http://www.legislation.gov.uk/ukpga/2004/34/section/63>

¹¹ <https://www.legislation.gov.uk/ukdsi/2009/9780111486276/contents>

calculation and use of fees that should also be referred to.¹² A move to a 2-stage payment process for HMO licences, will satisfy the legislative requirements of the European Services Directive.

- I.5 The licence holder must be the most appropriate person to fill this role. This will normally be a person who has control of the property. The conditions of the licence are only binding upon the licence holder (unless some other person has agreed to be bound by them).
- I.6 The licence must include certain mandatory conditions which are listed in schedule 4 of the Housing Act 2004.¹³
- I.7 The licence may include additional conditions to make the house suitable for occupation by the number of persons stated. There is an alternative of reducing the occupancy of the house to a level whereby the housing conditions are suitable for that number.
- I.8 The licence may also include other additional conditions which relate to the occupancy, management, use, condition and contents etc.
- I.9 The application of discretionary conditions (paragraphs I.7 and I.8 above) is limited by the need to consider each property specifically, and the prohibition on applying any condition which may alter a condition of tenancy.
- I.10 The licence must specify the number of people who can occupy the HMO.
- I.11 HMOs must be reasonably safe for occupation within the terms of the Housing Health and Safety Rating System (Part I of the Housing Act 2004). Local housing authorities must take steps to verify this; in practice this will require an inspection of the HMO.
- I.12 The maximum period of the licence is 5 years, but the duration can be less.
- I.13 The licence may need to be changed during its term. The licence holder may wish to alter the occupancy, or there may be matters identified at inspection which require the imposition of licensing conditions. A formal licence variation may be needed to address these issues. Any variation must be based upon standards no higher than those adopted at the time the original licence was approved (unless there has been a change to the legally prescribed minimum standards).
- I.14 Where a landlord wishes to remove a property from the licensing requirements (for instance by carrying out works of self-containment) they may apply for a Temporary Exemption Notice (TEN). This exempts the

¹²[https://www.local.gov.uk/sites/default/files/documents/5%2013%20%20OpenForBusiness_02_web.p
df](https://www.local.gov.uk/sites/default/files/documents/5%2013%20%20OpenForBusiness_02_web.pdf)

¹³<https://www.legislation.gov.uk/ukpga/2004/34/schedule/4>

property from licensing requirements for three months; a further TEN can be applied for, but only in exceptional circumstances.

- 1.15 A licence application can be refused where the criteria for granting a licence are not met. A licence can also be revoked where it is subsequently found that the circumstances require this action.
- 1.16 There are a range of sanctions available to penalise licence holders, landlords and managers who fail to comply with licensing requirements. These include Prosecution or Imposition of a Financial Penalty, Rent Repayment Orders, Property Management Orders, Banning Orders and restrictions on the use of Section 21/Form 6A notices for lawful eviction.
- 1.17 There is a legislative requirement to maintain a register of licensed HMOs and, that this must be made a publicly accessible document. This requirement is fulfilled by being able to produce a paper copy of the register that can be viewed by appointment (not copied or photographed) at a local authority building. Other forms of the HMO register may be produced digitally, which may contain reduced information. Single property, or street, queries may be dealt with separately by contacting the team.

2.0 Policy – Licensable HMO

- 2.1 The following policies will be used to determine whether an HMO requires a licence. The legal background for these interpretations is explained further in Annex D.
- 2.2 In respect of HMOs occupied by their owners, we will consider that the owner (and their household) only comprise one nominal person. Where an owner-occupier takes-in lodgers, this can alter the consideration of the property in HMO terms.
 - If the property is also occupied by 2, or 3, lodgers (i.e. other persons/not family members) the property will be considered a HMO, but not licensable (as there will be 3 or more persons, from 2 or more households in residence). In these instances *The Management of Houses in Multiple Occupation (England) Regulations 2006*¹⁴ will apply to the property.
 - If the property is also occupied by 4, or more, lodgers (i.e. other persons/not family members) the property will be considered both a HMO, and licensable (as there will be 5 or more persons, from 2 or more households in residence). In these instances the property would fall into the Mandatory HMO licensing scheme under Part 2 of the Housing Act 2004. *The Management of Houses in Multiple Occupation (England) Regulations 2006* would also still apply to the property. Failure to licence a licensable HMO is an

¹⁴ <http://www.legislation.gov.uk/uksi/2006/372/contents/made>

offence that can be punishable by Prosecution (with unlimited fine), or the Imposition of a Financial Penalty as an alternative (max £30,000 fine).

- 2.3 Following the changes to the prescribed description, effective from 1st October 2018, the storey condition was removed from the criteria of what makes a licensable HMO. This change now negates previous challenges and case law, under the previous description, such as *London Borough of Islington v The Unite Group PLC*.
- 2.4 A self-contained flat is a “separate set of premises” which contains its own toilet, personal washing and cooking facilities. “Separate set” means premises which have all rooms accessible through a single front flat entrance door, which means the occupier does not have to cross the common parts to gain access to any other part of his/her accommodation. Each self-contained flat may meet the requirements of HMO licensing, if the criterion of the prescribed description is met.
- 2.5 Large blocks of accommodation may contain multiple self-contained flats that each require a HMO licence. Primarily this type of accommodation is occupied by students attending one of the universities in the city. Whilst some student accommodation is exempt from being considered a HMO¹⁵, and subsequently cannot be considered licensable, there are stipulations that include the requirement for the HMO to be under the management and/or control of the educational establishment the students attend.
- 2.6 HMO tests under section 254 of The Act ((2) Standard Test, (3) Self-contained flat test, (4) Converted building test) help to identify types of building that can be considered HMOs. Where we have identified blocks as purpose-built (i.e. Discovery Heights and Alexandra Works) these are exempt, but many others are not. MHCLG guidance Houses in Multiple Occupation and residential Guidance for Local Housing Authorities (December 2018) states: Purpose-built is not defined in the regulations and therefore takes its ordinary and natural meaning, i.e. the building was originally designed and constructed for a particular use.

Section 254(8) of the Housing Act 2004 advises: “converted building” means a building or part of a building consisting of living accommodation in which one or more units of such accommodation have been created since the building or part was constructed.

3.0 Policy – Fit and Proper Persons

- 3.1 The Council is required to assess whether persons associated with the management of the property are fit and proper for this function. The application form must include a list of questions relating to specified offences

¹⁵ <https://www.legislation.gov.uk/ukpga/2004/34/schedule/14/crossheading/buildings-occupied-by-students>

and acts. The list of offences and failures is not exhaustive; other matters may be considered if they are relevant to the management of the HMO.

- 3.2 It is not necessary to have proved to a court or tribunal that an offence or failure has been committed. Where there is evidence of an alleged relevant breach or failure this should be considered.
- 3.3 The circumstances of the offence or failure will be examined in the light of how this may affect the future conduct of the HMO. An offence or failure may not prevent the granting of the licence. Any decision to accept a person as being fit and proper will be based upon:
- The severity of the breach
 - The number of breaches
 - The time which has elapsed since the last breach, and subsequent conduct since
 - The relevance of the breach to the proper operation of the HMO
 - The evidence that the applicant has accepted the need to conduct his business in accordance with the appropriate standards (including whether there has been satisfactory arrangements for the repayment of any debts associated with the failure to meet statutory responsibilities)
 - The training received since the breach occurred
- 3.4 Fit and proper status will normally be determined by self-certification, together with consideration of any other relevant information in the Council. Where there are other properties outside Plymouth, enquiries may be made of the relevant local housing authority. Contents of the Rogue Landlord Database may be reviewed¹⁶, and in some cases it may be appropriate to ask for a criminal records check.
- 3.5 In the context of fit and proper status, “person” includes a corporate body (for example, a limited company). See Annex D.

4.0 Policy – Management Arrangements

- 4.1 Appropriate management arrangements, including financial arrangements, must be present.
- 4.2 Management of the HMO must comply with the standards of management set out in the Management of Houses in Multiple Occupation (England) Regulations 2006.
- 4.3 The Manager is defined as a person who receives rent or other income from

¹⁶ <https://www.legislation.gov.uk/ukpga/2016/22/part/2/chapter/3>

the occupiers. This will be the licence holder but can also include a managing agent. Where there is a separate manager they must be employed by, or appointed as an agent¹⁷, by the person having control of the HMO.

- 4.4 In all cases a manager (whether this is the same person as the licence holder or otherwise) must be available to act proactively (inspect the property to identify problems) and reactively (to respond to problems as they arise). They would normally be expected to reside/work sufficiently close the HMO to carry out these functions. There must be proper property management and decisions about this will be informed by the inspection of the property and its management history.
- 4.5 The manager must have appropriate arrangements to deal with an emergency at any time.
- 4.6 There must be access to a pool of competent tradesmen capable of dealing with all aspects of HMO maintenance in a timely fashion.
- 4.7 There must be sufficient finance available to deal with any emergency situation. Finance should also be available to support any works necessary to protect the health and safety of the occupiers, visitors and neighbours and/or otherwise meet any statutory requirements.
- 4.8 Occupiers should be provided with the information necessary for them to:
 - take appropriate steps in the event of a fire
 - take appropriate steps in the event of the fire alarm activating
 - use the heating and hot water system
 - use all appliances provided
 - notify the licence holder of any problems that may arise and
 - properly store and arrange for the collection of refuse
- 4.9 There should be systems in place to identify and address anti-social behaviour, on the part of the occupiers or their visitors, arising from the property.
- 4.10 Annex A sets out the standards of management that apply.

5.0 Policy – Licence Holder

- 5.1 The licence holder must be the most appropriate person to fill this role. This will normally be the person having control of the HMO (usually the owner)¹⁸. In the case of corporate bodies, the licence holder will normally be that body rather than a named person. See Annex D.
- 5.2 The licence holder will have the powers and financial resources to:

¹⁷ This is a specific requirement of Section 64(3) the Housing Act 2004

¹⁸ <http://www.legislation.gov.uk/ukpga/2004/34/section/66>

- manage tenancies
 - authorise repairs and improvements as necessary to comply with statutory obligations and Part I of the Housing Act 2004¹⁹ and
 - comply with the conditions of any licence which is proposed to be granted either directly or through an agent (for which the licence holder is responsible)
- 5.3 The fact that a person lives abroad may not bar them from being a licence holder. Consideration will be given to management arrangements of the property, and the level of confidence that such standards will be maintained with, or without, the imposition of licence conditions on the proposed licence holder or some other person.

6.0 Policy – Property Standards

- 6.1 The HMO must be suitable for the accommodation of the number of persons who will occupy it. Where an HMO is unsuitable, it is usually possible to improve it by the imposition of licensing conditions specifying appropriate works. Where it is not possible to improve the HMO, the occupancy should be restricted to a level that would be satisfactory with the existing amenities and room sizes etc.
- 6.2 Minimum property standards are set in the regulations. However, the local housing authority may adopt standards higher than the prescribed standards. Annex A sets out the standards which apply. These standards incorporate minimum room sizes and expand on the requirements of the prescribed regulations. The attached standards in Annex A, are the standards at the time this policy was created. We review our standards as required so these may change following the construction of this policy document. For the latest standards and guidance please visit our website for more information.

7.0 Policy – Licence Conditions

- 7.1 All HMO licences must include specific conditions. In addition, the licence may also include other conditions which relate to the occupancy, management, use, condition and contents etc. See Annex B for the form of licence and typical conditions.
- 7.2 There is an overlap between the standards which can be demanded through the imposition of licence conditions and those addressing the broader health and safety issues (which are imposed under HHSRS), and other pieces of legislation (e.g. Smoke & Carbon, MEES etc.). Decisions will be made on a case by case basis, but in general, matters relating to HHSRS will be dealt with

¹⁹ The Housing Health and Safety Rating System (HHSRS)

under Part I of the Act rather than as licence conditions, and simple point defects will tend to be dealt with through licensing conditions.

- 7.3 Licence conditions are imposed upon the licence holder. However, it may be appropriate to impose some conditions upon another person with their consent (paragraphs 5.2/5.3).
- 7.4 Discretionary licence conditions may not be applied automatically; each condition must be considered in accordance with the specific circumstances of the property to be licensed. However, the licence conditions described in paragraph 7.5 will apply to most licensable HMOs. Paragraph 7.5 also explains their purpose and relevance. Their appropriateness will be considered as part of the approval process.
- 7.5 The following discretionary conditions relate to matters which will apply to most HMOs:
- Requirements to notify the Council of any change of manager, and, in respect of the new manager, to provide details to verify their fit and proper status and competence to manage. This is to aid communication with the manager and ensure that the management arrangements continue to fulfil the requirements for licensing. Previous experience indicates that the manager will often change within the licence period.
 - Requirements for the licence holder to notify the Council of a change of their address, telephone number and email address. This is to ensure that the Council can properly communicate with the licence holder and apply the conditions of licence. Previous experience indicates that many owners change their address or other contact details within the licence period.
 - Requirements to take reasonable steps to minimise anti-social behaviour. Over the period the licence occupancy will change; there is the risk that one or more future occupiers may give rise to a problem with antisocial behaviour.

8.0 Policy – Duration of licence

- 8.1 A HMO licence cannot be granted for more than 5 years, but may be granted for a lesser period of time (subject to paragraphs 8.2 to 8.5 below).
- 8.2 For re-licensing, the licence period for the new licence will typically end five years from the date of expiry of the previous licence. This will ensure that there is no incentive to delay in applying for renewal.
- 8.3 Re-licensing refers to applications where all the following apply:
- The property has been previously licenced as an HMO and

- The proposed licence holder is the same person, or body, named as licence holder on the licence to be replaced.
- 8.4 In some cases it may be appropriate to grant a licence for a period of less than five years in duration. When granting a licence, we will consider a range of factors, including but not limited to;
- Adequacy of management arrangements.
 - Fit and Proper Person Status of Licence Holder, HMO Manager, and/or associates.
 - Date from which the property was believed to be licensable, including any period of time where the property has been operating as a licensable HMO without a licence.
 - If a Prosecution, or Civil Penalty, action has been taken in respect of the Licence Holder, HMO Manager, and/or associates.
 - Where there has been a lack of appropriate planning permissions identified.
- 8.5 In exceptional circumstances a Technical Lead (Housing Improvement) may approve a licence of 5 years where the circumstances would normally fall within paragraphs 8.2 to 8.4 above.

9.0 Policy – Licence Fees & Register Fee

- 9.1 The licence fees and discounts are set out in Annexes C1 to C3. These fees are those agreed in 2020 to account for implementation of a 2-stage payment structure, whilst also having regard to the HMO Licensing Fee Review 2019, and will continue to be monitored periodically.
- 9.2 HMO licensing fees are reviewed regularly to ensure that they are set at an appropriate level, in accordance with the legislation²⁰. To ensure local authority costs are recovered. When a fee review is conducted, it involves data analysis from a cross-section of licences that were granted in the previous 2 year period. This analysis provides a breakdown of the resources required to operate the scheme, and then this information is applied to the local authority's cost recovery model to understand the costs incurred.
- 9.3 Legislative changes brought about by the European Services Directive, and the Provision of Services Regulations 2009, along with more recent case law, identified that HMO licenses under Parts 2 and 3 of the Housing Act 2004 (i.e. Mandatory HMO licensing, and Selective HMO licensing schemes) should be charged in 2 stages. We have therefore moved to a 2-stage payment process for our HMO licences, as follows;

²⁰ <https://www.legislation.gov.uk/ukpga/2004/34/section/63>

- Stage 1 Payment: Application processing only
- Stage 2 Payment: Continued administration of licensing scheme

This method of payment ensures that unsuccessful applicants are not charged for the continued administration of the scheme.

Stage 1 payments are fixed fees, and no discretionary discounts will be applied at this stage. The fixed fee for a 'Renewal' licence application is lower than that for a 'New' licence. This lower fee recognises the anticipated lower resource implications required for a renewal application.

Stage 2 payments are variable fees depending on which, if any, of the local authority's discretionary discounts may apply. The decision to apply any of the discretionary discounts remains with the local authority. Any applicable discounts will be taken into consideration before the applicant is requested to make payment for this stage.

- 9.4 A discretionary discount is available (excluding blocks*), to the stage 2 payment, when the application has been submitted (i.e. in Stage 1) complete 'first time' with:

- All relevant and accurate information
- All required certification (i.e. requested, appropriate, and in-date)
- Payment of the appropriate stage 1 fee
- Without the requirement for the local authority to make further contact to request information, certification, or payment.

*this refers to 5 or more simultaneous applications submitted for licensable properties, contained within a block. These have a separate discount applied, considering economies of scale. Please see Annex C3.

- 9.5 Additional discounts (excluding blocks*) are also available when the **licence holder** demonstrates higher levels of management expertise through:

- **Having passed the Landlord Proficiency Test** (an on-line test operated by the West of England Private Housing Partnership) or
- **Being accredited through The National Residential Landlords Association** (N.B. following a merger of National Landlords Association and the Residential Landlords Association) or
- **Being accredited through Private Rented Sector Accreditation Scheme (PRSAS)** or
- **Being accredited through Landlord Accreditation South West** or
- **Being accredited through The London Landlords Accreditation Scheme** or
- Having their name appearing on the register of any other scheme which incorporates a test of proficiency, a code of conduct and a disciplinary code of practice (as may be approved by a Technical Lead (Housing Improvement) for this purpose)

*this refers to 5 or more simultaneous applications submitted for licensable properties, contained within a block. These have a separate discount applied, considering economies of scale. Please see Annex C3.

It is expected that this expertise will be manifested in the better management of the HMO, resulting in lesser demands being placed upon the Council's licensing resources.

- 9.6 The stage 1 licence fee will be demanded at the point of application. The stage 2 licence fee will be demanded, ahead of a licence being granted. If payment of the stage 2 licence fee is not made within the period specified in the request, it is likely that your licence will be refused. If your licence is refused the local authority will need to consider implementing a Management Order on the property. In addition to this; having control of, or managing, a HMO that is required to be licensed but is not so licensed, is an offence. This offence can be punishable by Prosecution (with unlimited fine), or the Imposition of a Financial Penalty as an alternative (max £30,000 fine).
- 9.7 A charge will be made where a copy of the register of licensed HMOs is requested (See Annex C4). Other than this (and the licence fee) no other charge will be made in respect of licensing functions.
- 9.8 It is not appropriate to refund any part of the Stage 1 fee where a licence is to be refused. The costs associated with refusing a licence are likely to be significantly greater than the fee paid.

It is not considered appropriate to refund any part of the Stage 2 fee when a licence is revoked (either by the Authority's own initiative, or following sale of the property). The return of the fee would increase the overall cost of licensing.

- 9.9 A Technical Lead (Housing Improvement) may reduce, waive or refund the fee payable in exceptional circumstances.
- 9.10 The average licence fee is based on a typical property with 5/6 permitted occupiers as this represents 61% of the licensed HMOs in Plymouth²¹. In exceptional circumstances, where properties exceed this, and there is additional cost to the local authority, we reserve the right to consider an additional charge to recover these costs in line with the legislation.

10.0 Policy – Applications

- 10.1 Application for an HMO licence should be made online via the following link <https://www.plymouth.gov.uk/housing/privaterentedaccommodation/housemultipleoccupationhmo/applyhousemultipleoccupationlicence>. Where an applicant is unable to make an application via the online portal, they can contact Community Connections via emailing communityconnections@plymouth.gov.uk or by calling 01752 398500.

²¹ HMO register June 2020 identified 1280 licensed HMO's with 781 being 5 or 6 bedrooms.

- 10.2 There is a current exception to the above that applies when applications for 5 or more HMO licences for HMOs, contained within a block, are required. Applications for licences of this type are presently required to be paper-based and can be requested by emailing communityconnections@plymouth.gov.uk, using the subject header 'HMO licence – Block Application Request'. It is our intention to move to an online application form for these licences too, in the future.
- 10.3 The HMO licence application will be considered complete when:
- The **correct application form** has been properly and fully completed (submission of an application using an incorrect form will preclude the right to 'complete first time' discretionary discount being applied).
 - All appropriate certificates and attachments have been submitted (as specified within the form and guidance)
 - The correct Stage 1 fee has been paid.
- 10.4 Once the application is considered complete and has been checked, the stage 2 fee will be requested ahead of granting the licence, or a notice of intention to refuse licence will be issued.
- 10.5 Once the stage 2 fee is paid we will issue a notice of intention to grant the HMO licence.
- 10.6 If (1) The stage 2 payment is not received, or (2) The HMO licence application consideration is to refuse a licence, we will issue a notice of intention to refuse the HMO licence.
- 10.7 Timescales and tacit consent. We aim to process all applications within 12 months from the date that they are submitted and complete. Typically applications are processed within 3 months. In the event of a failure to process the application within the period set, deemed consent does not apply and it must not be assumed that the licence has been granted, as Plymouth City Council consider that it is in the public interest for health and safety reasons for us to process applications before a HMO licence is granted.

11.0 Policy – Licence Variations and changes to licence holder

- 11.1 The need to vary the licence may arise following an inspection of the property or a request from the licence holder. There is no additional charge in relation to applications to vary an HMO licence.
- 11.2 Variations will be considered in accordance with standards no higher than those used to assess the HMO at the time that the licence was issued. This is subject to any changes in the standards set by regulation.

- 11.3 As the licence is unique to both the property address and the licence holder, it is not possible to vary a licence to permit the change of licence holder (typically on sale of the HMO). In such cases a new licence must be applied for and the current licence revoked. Such a revocation would generally be voluntary and not an enforcement issue within paragraph 13.4.

12.0 Policy – Temporary Exemption Notices and death of licence holder

- 12.1 Landlords can apply for Temporary Exemption Notices (TENs) when they propose to take steps to remove an HMO from the remit of licensing. The TEN allows the HMO to operate legally for three months whilst the appropriate changes are taking place. There is no additional charge in relation for applications of a Temporary Exemption Notice.
- 12.2 In deciding whether to issue a Temporary Exemption Notice, we will have regard to whether:
- the proposals will remove the HMO from the remit of licensing,
 - the proposals are practical and likely to be completed within the three month period of the TEN and
 - any evidence which suggests that an Interim Management Order may be appropriate
- 12.3 A second TEN will only be issued in exceptional circumstances.
- 12.4 In the event of the death of the licence holder the Council is required to treat the HMO as if a TEN had been granted at the time of that death. This gives the personal representative (of the deceased) three months in which to take control of the HMO. The representative may ask for this period to be extended by a further three months, and any such application will be considered on its merits.

13.0 Policy – Enforcement Issues

- 13.1 Failure to apply for a licence, or comply with the conditions of licence, are offences. The Housing Improvement Policy 2018 will be considered in the enforcement decisions on how breaches of licensing requirements are to be addressed.
- 13.2 Enforcement options are available where there has been a failure to apply for a licence. These include but are not limited to:
- Prosecution (with unlimited fine)
 - Imposition of a Financial Penalty – Civil Penalty (maximum £30,000 fine)

- Rent Repayment Order (RRO) to recover Universal Credit/Housing Benefit payments.
 - Banning Order
 - Management Order
 - Entry on to the Rogue Landlord Database
- 13.3 In some situations, tenants may also apply for an RRO in respect of any rental payments they have made that are not Universal Credit/Housing Benefit awards (i.e. tenants not in receipt of UC/HB awards, or tenants in receipt that have paid 'top up' rent). Any UC awards get returned to the DWP, and HB awards are returned to the Local Authority.
- 13.4 A licence application may be refused, or a previously issued licence revoked. Generally this will be a last resort following the failure to secure the required changes/improvements by agreement. Such enforcement decisions are made in consultation with the Service Director (Community Connections). (See also paragraph 11.3).
- 13.5 Statutory provisions apply where the Council is unable to grant an HMO licence, either because no application has been made, or the circumstances of application require its refusal. Legislation requires that the Council take over the management of the HMO through an Interim Management Order. This is an action of last resort; all reasonable steps will be taken to enable a licence to be granted prior to any decision to make an IMO.
- 13.6 There are restrictions on the use of Section 21/Form 6A notice of eviction where licensing requirements have not been met. Section 21/Form 6A notices may only be used for licensable HMOs where:
- A full licence application has been made but not decided or
 - An application for a TEN has been made but not decided or
 - An HMO licence has been approved and is current or
 - A TEN has been approved and is current.

The Housing Improvement and Homelessness teams of Community Connections will work together to ensure that occupiers are properly advised and information on unlicensed HMOs is acted upon.

- 13.7 When we identify a licensed HMO where circumstances have changed (i.e. creation of another bedroom or use of lounge as an additional bedroom) this would mean that the HMO is being occupied otherwise than in accordance to the licence. This is an offence and a licence holder should apply for a variation of the HMO licence, ahead of making changes property layout or occupancy.

Where an offence has occurred, an appropriate enforcement action may be taken, consideration will be given to the most appropriate course of action available to us in accordance with legislation, this policy, and Housing Improvement Policy 2018. If considered appropriate a variation to the licence

may also be undertaken. This action will be determined through checking with a Technical Lead (Housing Improvement).

- 13.8 When we identify a HMO that requires licensing but is not licensed, we will invite the interested parties to make a HMO licence application without delay, and investigate the circumstances. There will be an investigation into the property, interested parties, and how long an offence has been committed. An officer will review the circumstances, establish what offence/s have occurred, consider the range of enforcement possibilities and advise accordingly. Where it is a first offence for failing to licence a licensable HMO, it is likely that the imposition of a financial penalty (i.e. Civil Penalty) would be more appropriate than prosecution²². Any subsequent licence issued would have a shorter duration to take account of the period of offence, (typically restricted to a maximum of 5 years from when the property became licensable).

14.0 Policy – Process

- 14.1 The scheme of Delegated Authorities for Officers with Statutory Duties specifies the officers authorised to take decisions in connection with this policy.
- 14.2 Although the need for HMOs to be licensed is widely known, information will continue to be made available on the Council's webpages, through landlord's associations and other sources.
- 14.3 It is the responsibility of the licence holder to comply with the requirements of any licence that is granted, for example the permitted occupancy, (maximum and per room). The local authority may write to licence holders to advise when a licence is due to expire, however, it is not a legal requirement for the local authority to do so. Individuals/corporate bodies having control of, or managing, an HMO must satisfy themselves that a valid HMO licence is in place. If they cannot do this, then they must make application for a licence, as failure to do so may result in them committing an offence.
- 14.4 The licence fees reward good practice, in particular landlord accreditation. Details of these schemes will be published on the Council's webpages.
- 14.5 The public register of licensed HMOs will be available to view at the Councils' main office by appointment. A copy will be available on payment of the fee (See Annex C4). Enquiries about a single property entry will not be charged for.

²² See Civil Penalty Policy <https://www.plymouth.gov.uk/housing/privaterentedaccommodation/policies>

Annexes - Contents List

- Annex A Property and Management Standards
- Annex B Form of Licence
- Annex C1 Licensing Fees; New Licence Application
- Annex C2 Licensing Fees; Renewal Licence Application
- Annex C3 Licensing Fees; Multiple HMOs in a Block Application
- Annex C4 Fees for Accessing HMO Register
- Annex D Background to Specific Policy Decisions

Annex A - Property and Management Standards

PART ONE - AMENITY STANDARDS

Indicative standards for room sizes, provision of bathrooms, WCs and kitchens etc. for HMOs.

PART TWO - HOUSING HEALTH AND SAFETY RATING SYSTEM (HHSRS)

Guidance on the HHSRS introduced by the Housing Act 2004 which may in some circumstances override the indicative standards given. This system applies to all dwellings not just licenced properties or HMOs and is a method of assessing the risk to health and safety to occupiers and visitors.

PART THREE - MANAGEMENT OF THE PROPERTY.

Summary of the requirements of the Management Regulations and expectations of the Manager of a licensed HMO, including dealing with Anti-Social Behaviour. These requirements apply to ALL HMOs regardless of whether or not they are licensable.

PART FOUR – FIRE SAFETY ORDER

Which properties this applies to and the duties it imposes. The order applies to certain HMOs regardless of whether or not they are licensable.

Please note that your property does not necessarily have to meet all these standards to allow a licence to be issued.

Please contact us if you have any queries about property standards or managing an HMO. In addition, more detailed information on your responsibilities as a landlord can be found in the government's "How to let" leaflet that can be downloaded from the web link below:

<https://www.gov.uk/government/publications/how-to-let>

Contact Details:

Telephone: 01752 398500

Email: communityconnections@plymouth.gov.uk

Website: <http://www.plymouth.gov.uk>

PART ONE - AMENITY STANDARDS

Indicative standards for room sizes, provision of bathrooms, WCs and kitchens and other requirements for HMOs.

I.1 - General

The standard for a licensed HMO is that the house is considered reasonably suitable for occupation by, not more than, the maximum number of households or persons as specified within the application or by the Local Authority.²³

As a part of this standard there are regulations which require that the HMO has adequate and suitable provision of; kitchen(s), bathroom(s), WC(s), heating, and fire precautions.

The Council has adopted guidance to give advice to licence holders and HMO managers; this is to help them comply with the legal requirements. This guidance also helps our officers to act in a fair, consistent and appropriate way. The guidance is based upon our understanding of:

- what is reasonable and practical for both licence holder and tenant
- the legal frameworks which would be expected to apply to housing in general and HMOs in particular. These include, but is not limited to; the Housing Health and Safety Rating System, the Management Regulations (see Parts Two and Three of this document) and the Housing and Planning Act 2016.

This guidance will be relevant, and applicable, to the majority of HMOs; compliance will help ensure that licence holders are meeting the criteria for licensing. Where an HMO does not meet the guidance our officers will consider the design, occupation and management of the HMO before deciding whether (or not) to demand compliance with the guidance.

As well as guidance, this part of the document sets out the explicit legal requirements for a licensed HMO. These can be identified by the use of the word “must”. Use of the words “generally”, “typical(ly)”, “should” etc. indicate that the phrase is guidance on how to comply with the law; these should be considered in accordance with the preceding paragraph.

²³ <http://www.legislation.gov.uk/ukpga/2004/34/section/64>

Bedrooms

Indicative Sizes for Bedrooms				
Number of people	Age restrictions where applicable	Shared Lounge	Shared Kitchen	Room Size (m ²)
1	Under 10 years old*	Yes	Yes	4.64 to 6.5
1	N/A	Yes	Yes	6.51
1	N/A	No	Yes	10
1	N/A	No	No	13
2	N/A	Yes	Yes	10.22
2	N/A	No	Yes	14
2	N/A	No	No	20.5

*Child under 10 – only applicable in properties where there is a shared lounge and shared kitchen provided. In addition the overall suitability of the property will always be considered, on a case by case basis, to ensure that occupation by a child is appropriate. The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018 amend Schedule 4 of the Housing Act 2004 to specify mandatory conditions for room sizes.²⁴

Generally a single room should not be occupied by more than one household²⁵.

It is not normally acceptable for a bedroom to be occupied by more than two people in one household. Please consult the Housing Improvement Team or advice in this situation. An assessment using the Housing Health and Safety Rating System (HHSRS) will be carried out to determine the risk from 'Crowding and Space'. Where this is unacceptable improvement will be required.

Shared Lounges

Shared lounges should be of sufficient size and have sufficient soft furnishings. Generally this will be to allow at least two thirds of occupiers to sit together and socialise. Occupiers should be able to use this room to relax without interference from other activities. In rooms where more than one of the activities of lounging, dining and cooking are carried out the areas allocated to these activities should be arranged to avoid risk of accident and injury.

Dining Rooms/Dining Areas

See "Facilities for Storage, Preparation and Cooking of Food and for the Disposal of Waste Water". Dining areas may be required where shared kitchen facilities are poorly sited in relation to some of the letting rooms they serve. Generally dining rooms will also be required in premises where meals are provided as a part of the business.

²⁴ SI 2018/616 R2. Amends schedule 4 of HA2004

²⁵ The word "household" is defined in law. A simplified meaning is that all the people in the household are all members of the same family, or are husband and wife (or living together as such including in same sex relationships)

Generally the dining area is to be on the same floor, and adjacent to, the shared kitchen facilities.

Dining areas are expected to be of sufficient size to accommodate a dining table and seating to serve all the occupiers using the shared kitchen facilities. Where the dining area is a part of a room, the room should be arranged so that all its functions can be carried out with reasonable safety and comfort.

Measurement of Rooms

Room sizes are calculated by taking wall to wall measurements directly above the height of the skirting board. In general, where the layout of the room prevents some parts of it being properly used, these areas will be excluded from the assessment of size.

The following are examples of those areas which may be excluded:

- those areas which can only be used for access (for example some “L” shaped rooms with a narrow area in front of a doorway)
- parts of rooms located below sloping ceilings where the ceiling height is less than 1.5m (NB this is not a minimum ceiling height and the ceiling throughout the dwelling should be reasonable for normal usage).
- Parts of rooms occupied by en-suite facilities.

Generally the indicative room sizes apply to each room and the equivalent amount of space cannot be made up by using two smaller rooms.

1.2 - Provision of Bathrooms, Toilets and Wash Hand Basins

Preferably each separate occupancy should be provided with its own bath (or shower), WC and wash hand basin. Where this is not practical there must be an adequate number of bathrooms, toilets and wash hand basins for the number of persons sharing those facilities.²⁶ Generally those facilities should be as described in the following table:

Number of people ^{i,iii}	Typical bathroom and toilet requirements ²⁷
1-4	1 bathroom, 1 WC can be combined ^{ii, iv}
5	1 bathroom and 1 separate WC ^{ii,iv}
6-8	2 bathrooms and 2 WC's (separate WC not required) ^{ii,iv}
9-10	2 bathrooms and 2 WC's (1 WC must be separate) ^{ii,iv}
11-12	3 bathrooms and 3 WC's (separate WC not required) ^{ii,iv}
13-15	3 bathrooms and 3 WC's (1WC must be separate) ^{ii,iv}

²⁶ SI 2007/1903 R12(4). Amends schedule SI 2006/373 Sch 3(2)

²⁷ Derived from standard set out in SI 2006/373 Sch 3(2)[1][b] now repealed

- i This refers to the number of people using shared facilities.
- ii All compartments/rooms containing a WC should contain a wash hand basin.
- iii Numbers over 16 will be considered in accordance with the above principles.
- iv Specific provisions apply in premises where meals are provided as a part of the business. In these cases a bath will normally be required for the use of all occupiers, the bathroom to be of a sufficient size for parents to assist in the bathing of their children.

In some circumstances wash hand basins may be required within sleeping rooms²⁸. This may be to compensate for a lack of a wash hand basin in a WC compartment or bathroom (due to restricted space), because there is an excessive distance to the nearest wash hand basin or other matters.

Specific requirements for all baths, showers, toilets and wash hand basins:²⁹

- All baths, showers and WCs must be located in a proper room of adequate size and layout³⁰
- In bath/shower rooms there must be sufficient room for washing/bathing, drying, dressing and the placing of dry clothing having regard to the location of the bath/shower.³¹
- The room must be suitably located for occupiers using them;³² this will generally mean within one floor of those occupiers bedrooms.
- Suitable steps should be taken to protect the privacy of those using the bathroom/WC. Typically these will include provision of a privacy lock and obfuscation of any glazing provided.
- There must be an adequate supply of cold and constant hot water³³. The hot water supply must be of sufficient capacity, temperature and flow for any wash hand basin, bath or shower and be available at all times. In the case of showers the water temperature should be thermostatically controlled. In the case of wash hand basins the cold water supply should be potable (drinking water quality). All fittings must be permanently plumbed into the hot/cold water system and properly connected to mains drainage³⁴.
- All bathrooms and WC compartments must be adequately ventilated³⁵. An effective means of natural/artificial ventilation must be provided. Any water closet sited so as to open directly and immediately on to a space intended for the storage or preparation of food should be provided with mechanical ventilation.

²⁸ SI 2007/1903 R12(4). Amends schedule SI 2006/373 Sch 3(2)

²⁹ SI 2006/373Sch 3 as amended and other legislation; see specific footnotes

³⁰ SI 2006/373Sch 3(2)[5]. Also SI 2006/373Sch 3(4)[2] for non shared facilities

³¹ Inferred within the words "layout" SI 2006/373Sch 3(2)[5] and "laid out" in SI 2006/373Sch 3(4)[2]

³² SI 2006/373Sch 3(2)[7]. Also SI 2006/373Sch 3(4)[2] for non shared facilities

³³ SI 2006/373Sch 3(2)[3] and SI 2006/373Sch 3(4)[2]

³⁴ See footnote 10 above re plumbed in water supplies. Re drainage connections, SI 2006/373Sch 3(2)[6] infers this in respect of shared bathrooms. Otherwise S64(3) Housing Act 2004 and S59 Building Act 1984, HHSRS etc.

³⁵ SI 2006/373 Sch 3(2)[4] does not mention ventilation of WC compartments for shared use. However para (4)[2] does require ventilation, but assumes that the room is a combined bathroom/WC; this paragraph does not consider the possibility of separate WC compartments. In all cases inferred under S64(3) Housing Act 2004 and HHSRS

- Heating: see later section on “Space Heating” and “Excess Cold” in Part Two. Note that all bath/shower rooms must be provided with adequate heating³⁶.
- Electricity, hot and cold water supplies: please see section “Electricity, Gas and Water Supplies” which applies to metering of energy supplies.
- Floor covering should be water resistant, readily cleansable and suitably sealed to adjoining surfaces. When choosing floor coverings consideration should also be given to the possibility of slips and falls. On inspection an assessment using HHSRS will be carried out to determine the risk of slips and falls, where this is unacceptable improvement will be required.
- All baths, WCs and wash hand basins must be suitable for their purpose³⁷
- Baths: a suitable splashback should be provided to protect each wall adjacent to the bath. Typically this will be 300 mm.
- Showers: a suitable waterproof covering should be provided to the walls to protect each wall adjacent to the shower area. Typically this will be to a minimum height of 2100mm above the base of the shower. A shower curtain or screen should also be provided.
- Wash hand basins: a suitable splashback should be provided to protect each wall adjacent to the basin. Typically this will be 300 mm.

See also ‘Personal Hygiene, Sanitation and Drainage’ in Part Two.

I.3 - Facilities for the Storage, Preparation and Cooking of Food and for the Disposal of Waste Water

Generally

Shared kitchens. There must be a kitchen/s suitably located in relation to the living accommodation, arranged and equipped as to enable users to store, prepare and cook food³⁸. The numbers of fittings must be adequate for the number of users, and the equipment must be fit for its purpose³⁹. These fittings must include sinks (with adequate constant hot and cold water), cooking appliances, electrical sockets, worktops, storage cupboards, refrigerators (and freezer capacity), refuse disposal bins, a fire blanket and fire door⁴⁰.

Single household kitchens. This applies where a unit of accommodation contains kitchen facilities for the exclusive use of the individual household; the facilities⁴¹ must include a sink (with adequate constant hot and cold water), cooking appliance, electrical sockets, worktops, storage cupboards and a refrigerator. These must be adequate and fit for their purpose⁴².

³⁶ SI 2006/373 Sch 3(3)[21] applies to shared bathrooms. No explicit provision for single household bathrooms, but inferred under SI 2006/373 Sch 3(1), S64(3) Housing Act 2004 and HHSRS.

³⁷ SI 2006/373 Sch 3(2)[6]. For single household amenities. Inferred under S64(3) Housing Act 2004 and HHSRS.

³⁸ SI 2006/373 Sch 3(3)[a]

³⁹ SI 2006/373 Sch 3(3)[b]

⁴⁰ SI 2006/373 Sch 3(3)[b]

⁴¹ SI 2006/373 Sch 3(4) amended by SI 2007/1903 R12(8). There are exceptions where (a) the landlord is not contractually bound to provide these (b) the occupier is entitled to remove same or (c) the appliances are otherwise outside the control of the landlord. Generally the landlord would be expected to provide these in licenced HMOs.

⁴² Not explicitly supported by SI 2006/373 Sch 3(4). Para 4 does refer to adequate appliances for cooking of food, but otherwise “adequate and fit for purpose” is inferred from S64(3) Housing Act 2004 and HHSRS

All kitchens. In all cases safe kitchen facilities must be provided for the preparation of food and hot drinks⁴³ These facilities should be available for all occupiers at all times (even in the case where the premises is a business providing meals).

Kitchens should be provided as close to living accommodation as possible, to a maximum of one floor distance, unless there is a dining area within the kitchen or on the same floor as the kitchen, and there is sufficient dry and refrigerated storage space within the kitchen.

The layout of the kitchen facilities provided must permit the safe preparation of food and hot drinks⁴⁴. The size, layout and location of these facilities must be satisfactory and safe for the numbers of occupiers using them. Although no minimum size has been set you should aim to provide around 3m² for each person using any shared kitchen. The amount of space needed will depend on the layout of the facilities, shape of the room etc. and whether or not there are associated dining facilities.

On inspection kitchens will be assessed using HHSRS to determine if there are risks of burns and scalds, collision, falls, fire or poor ergonomics with regard to size, layout and potential number of users. Where risks are considered to be unacceptably high improvements will be required.

Electricity, hot and cold water supplies: please see section “Electricity, Gas and Water Supplies” which applies to metering of energy supplies.

Flooring

Floor covering should be water resistant, readily cleansable and suitably sealed to adjoining surfaces. When choosing floor coverings consideration should also be given to the possibility of slips and falls.

Ventilation

Adequate ventilation must be provided including artificial ventilation where necessary⁴⁵.

Lighting

There must be adequate artificial lighting to safely use, and cleanse, the kitchen and its fittings. Light switches must to be suitably located.⁴⁶

⁴³ With reference to provision, SI 2006/373 Sch 3(3)+(4)[1][a] apply. However the word “safe” is not explicitly referred to. For shared kitchens, Sch 3(3)(a) refers to “adequately enable those sharing....to store, prepare and cook food” which implies doing so in safety. For single household kitchens this is inferred by S64(3) Housing Act 2004 and HHSRS

⁴⁴ See footnote 20 above

⁴⁵ SI 2006/373 Sch 3(3) applies to shared kitchens and requires “appropriate extractor fans”. We have taken this to mean that it is appropriate where needed (for example, inadequate opening windows, mould problems). However, for single household kitchens there are no explicit requirements for ventilation. Inferred by S64(3) Housing Act 2004 and HHSRS

⁴⁶ SI 2006/373 Sch3(3)a for shared kitchens (“equipped”). Inferred under safety (see note 19 above). Also management regulations R4(4) and R7(e) and HHSRS

Kitchen Facilities

The following table sets out the typical minimum requirements:

Fittings	Single household use kitchen	Shared kitchen (for every 5 persons using unless otherwise stated) ⁱ
Electrical sockets	2 number 13 amp sockets ⁱⁱ	2 number 13 amp sockets ⁱⁱ
Refrigeration	A refrigerator with freezer compartment ^{ix}	A refrigerator with freezer compartment
Dry food store	0.1m ³ storage (i.e. a 500 wall unit) for each person using the kitchen ⁱⁱⁱ	0.1m ³ storage (i.e. a 500 wall unit) for each person using the kitchen ^{iii,iv}
Storage for cooking utensils, etc.	0.15m ³ cupboard (i.e. a 500 base unit) storage for cooking utensils, crockery and cutlery	0.15m ³ cupboard (i.e. a 500 base unit) storage for cooking utensils, crockery and cutlery
Fixed cleansable worktop(s)	A total of two metres run with a minimum depth of 500mm ^{v,vi}	A total of two metres run with a minimum depth of 500mm ^{v,vi}
Cooking appliance	For a single person, an appliance with two rings/hotplates together with either an oven or a grill ^{ix} Otherwise an appliance with three or four rings/hotplates together with a grill and oven ^{ix}	An appliance with three or four rings/hotplates together with a grill and oven ^{vii}
Sink and disposal of waste water	A sink (with drainer) with its own permanently connected supplies of hot and cold (drinking) water and suitably connected to mains drainage and with a splashback of at least 300 mm ^{viii}	A sink (with drainer) with its own permanently connected supplies of hot and cold (drinking) water and suitably connected to mains drainage and with a splashback of at least 300 mm ^{viii}
Waste bin	Lidded refuse storage container/s sufficient for the numbers of people using the facilities	Lidded refuse storage container/s sufficient for the numbers of people using the facilities

ⁱIn some cases this may be reduced to one set to ten persons where meals are provided by the business.

ⁱⁱFor use with work top appliances. Excludes any electrical sockets used for microwave cookers, refrigerators and other large kitchen appliances.

ⁱⁱⁱThe space below a sink unit is not generally suitable for food storage

^{iv}Kitchen cupboards should be lockable or may be provided in the individual accommodation, where on the same floor as the kitchen. Locks on cupboard doors may be required if problems arise (i.e. theft of food).

^vAn area of work surface (minimum 500 wide by 500 deep)) should also be provided adjoining each cooking appliance.

^{vi}Any area of a worktop on which items such as microwaves are permanently sited is to be excluded from the measurement of “free” worktop area.

^{vii}Provision of microwave ovens and dish washing machines in addition to the standard set of facilities may allow variation to this guidance if a second set of facilities is required within a kitchen.

^{viii}Hot water should be provided from an instantaneous gas water heater, hot water cylinder (hot water from a gas boiler or immersion heater), or 5 litre point of use electric storage water heater. Hot water must be available at all times.

^{ix}There are exceptions to this⁴⁷.

⁴⁷ SI 2006/373Sch 3(4) amended by SI 2007/1903 R12(8). There are exceptions where (a) the landlord is not contractually bound to provide these (b) the occupier is entitled to remove same or (c) the

1.4 - SPACE HEATING

Adequate space heating must be provided to all units of accommodation⁴⁸. Heating must also be provided for bathrooms and shower rooms⁴⁹.

Heating should be provided for all the rooms in each unit of accommodation and all the common parts associated with those units. The heating provision should be controllable by the tenants at all times. Where a fair usage limit is applied within the tenancy, this should not result in the restriction of heating.

Further guidance is given in the section on “Excess Cold” in Part Two.

1.5 - FIRE SAFETY

Appropriate fire precautions must be provided in the property⁵⁰. We recommend that the standards within LACORS Housing – Fire Safety are adopted to minimise the risk of additional works being identified following inspection of a property.⁵¹ Specific provisions apply to shared kitchens; see Facilities for the Storage, Preparation and Cooking of Food and for the Disposal of Wastewater.

The minimum standard we expect in a licensed HMO is:

- Grade D2 System with smoke detection fitted to the ceiling of each landing/hall of the communal parts, extended to include a heat detector in each shared kitchen.
- A fire blanket in a proper container in any shared kitchens. The container should be securely fixed to the wall in a prominent and readily accessible position, sited so as to prevent a user from being trapped in the event of the fire becoming out of control.
- A fire door separating each shared kitchen from the common hallway/stairwell. The fire door should be fitted in accordance with LACORS Fire Safety Guidance.
- Where kitchen facilities are contained within the letting room, a stand-alone smoke detector fitted to the ceiling in close proximity to the kitchen facilities.
- Power to any fire alarm system is to be supplied from a quarterly meter.
- A Fire Risk Assessment carried out by a competent person, and reviewed annually to ensure that appropriate fire safety provisions are present in the HMO.

Further guidance is given in the section on “Fire” in Part Two.

1.6 - ELECTRICITY, GAS AND WATER SUPPLIES

The supplies of electricity, gas (where provided) and water to each letting (and the common parts) must⁵² be sufficient to carry out normal domestic activities.

Sufficient electrical sockets must be provided to units of accommodation and kitchens to avoid the excessive use of extension leads and multi point adaptors⁵³. This includes provision in common areas to allow the use of vacuum cleaners etc.

appliances are otherwise outside the control of the landlord. Generally the landlord would be expected to provide these in licenced HMOs.

⁴⁸ SI 2006/373 Sch 3(1)

⁴⁹ SI 2006/373(2)[4] in relation to shared bathrooms/shower rooms. No explicit provisions apply to single household bath/shower room; inferred by SI 2006/373 Sch 3(1) and HHSRS

⁵⁰ SI 2006/373 Sch 3(5)

⁵¹ <https://www.cieh.org/media/1244/guidance-on-fire-safety-provisions-for-certain-types-of-existing-housing.pdf>

⁵² Implicit requirements for heating, bathroom and kitchen facilities SI 2006/373 Sch 3. Also inferred by S64(3) Housing Act 2004, Management Regulations, HHSRS etc.

⁵³ This is a requirement of the Management Regulations R4(4) and R8. See Part Three

All gas and electrical installations must be safe for use.⁵⁴

Where meals are provided by the business, all electricity and gas should be payable through an inclusive charge for the use of the accommodation.

Where landlord's sub meters are provided, the charge for the power used must be within the limits set for the maximum retail price of electricity and gas⁵⁵.

Where they are provided, prepayment card/key sub meters should be rechargeable by the tenant at his/her convenience. Tokens or cards provided by the landlord may lead to disconnection if the tenant cannot contact the landlord to obtain further credit.

Where lighting,⁵⁶ heating,⁵⁷ ventilation,⁵⁸ hot water,⁵⁹ electrical power,⁶⁰ kitchen facilities⁶¹ or alarm systems⁶² are provided for the shared use of all, or several, households, then:

- These services must be available at all times, and sufficient for the needs of the users in the function being carried out and
- The electricity and gas (where provided) should be provided from quarterly meters. Normally these will be landlords' meters. However, in the case of some smaller shared housing, metering may be the collective responsibility of all the occupiers.

See 'Carbon Monoxide etc', 'Uncombusted Fuel Gas', 'Water Supply', 'Electrical Hazards' in Part Two.

1.7 - CARBON MONOXIDE SAFETY

Solid fuel appliances

If you have a "solid fuel combustion burning appliance" you must install a carbon monoxide alarm in the room containing that appliance and maintain that alarm in good order⁶³. This includes solid fuel cookers, wood burning stoves and fire grates.

⁵⁴ This is a requirement of the Management Regulations R4(4) and R7; see Part Three. Also see gas safety regulations SI 1998/2451, and electrical safety regulations SI2020/312

⁵⁵ These are requirements set out in the legislation covering gas and electricity supply <https://www.ofgem.gov.uk/>

⁵⁶ Re lighting for kitchens; this must be available to satisfy "adequately enable those to ...prepare food" (etc). This infers continuous supplies to achieve this 2006/373Sch 3(3)[a]. Under the requirements of the Management Regulations there is a duty to ensure the availability of artificial lighting. See Part Three.

⁵⁷ Re heating; for common bathrooms/shower rooms these must be adequately heated (by inference at all times) 2006/373Sch 3(2)[4]. Otherwise HHSRS

⁵⁸ Re ventilation; 2006/373Sch 3(2)[4] and 2006/373Sch 3(3)[b][ix] which refer to adequate ventilation in bathrooms and in kitchens. This infers that ventilation is available for use at all times. No comparable provision for ventilators in WCs; however S64(3) Housing Act 2004 and HHSRS in these cases

⁵⁹ Re hot water in shared amenities: SI 2006/373 Sch 3(2)[3] and (3)[b][ii] refer to constant supplies of hot water in shared facilities.

⁶⁰ Inferred under S64(3) housing Act 2004

⁶¹ Re power for cooking; this must be available to satisfy "adequately enable those to ...prepare food" (etc). This infers continuous supplies to achieve this 2006/373Sch 3(3)[a]. For Refrigeration sockets should be live at all times to ensure food safety (HHSRS).

⁶² Sch 4 requires the alarms to be operable. Under the requirements of the Management Regulations there is a duty to ensure the operating condition of the fire alarm system. See Part Three.

⁶³ Schedule 4(4A) as inserted by R4 The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

Gas, LPG and oil fired appliances

You are advised to install a carbon monoxide alarm in the room containing that appliance, **especially where the appliance is not room sealed** (that is it takes combustion air from, or through, the room containing the appliance rather than directly from the exterior).

1.8 - REFUSE STORAGE AND DISPOSAL

Refuse storage facilities must be provided sufficient for the needs of the number of people occupying the house and of a type acceptable to the Local Authority (and in accordance with its recycling requirements)⁶⁴. If additional bins are required, this will likely need the co-operation of the tenant/s to set up a self-service account, with Plymouth City Council, to request additional bins. If there is an associated cost with this, then the HMO Licence Holder or HMO Manager should support the tenant/s with this element.

The licence holder must comply with any scheme which is provided by Plymouth City Council to the licence holder and relates to the storage and disposal of household waste at the HMO pending collection. For further information on waste management, please visit <https://www.plymouth.gov.uk/binsrecyclingandwaste>

Also see 'Domestic Hygiene, Pests and Refuse' in Part Two.

1.9 – Planning Permissions

It is the Licence Holder's responsibility to ensure that the property, for which an HMO licence application has been submitted, has the correct planning permissions in place for use as an HMO. If you are in doubt, please contact our Planning department on 01752 304366 or by emailing planningconsents@plymouth.gov.uk.

If it is found that the property does not have the correct planning permissions in place, when deciding whether to grant a licence, we may look to issue a licence with a shorter licence period. We would expect the licence holder to make application to obtain the relevant permissions and notify this department.

If the relevant planning permissions are not subsequently obtained, a decision will be taken on the most appropriate course of action. This action may include:

- Restricting the permitted level of occupancy
- Revocation of the licence, requiring a new licence to be submitted

Plymouth City Council's Planning department are notified when new HMO licence applications have been submitted. This presents an opportunity to review at the earliest stage if the correct planning permissions are in place. In addition, we also periodically share the HMO register with planning to ensure that planning permissions are correct. Where there are discrepancies, we will notify the relevant person/s and work with them to identify the most appropriate course of action to take, on a case by case basis.

⁶⁴ This is a requirement of the Management Regulations R9. See Part Three

Part Two – Housing Health and Safety Rating System (HHSRS)

Guidance on the HHSRS introduced by the Housing Act 2004 which may in some circumstances override the indicative standards given. This system applies to all dwellings not just licenced properties or HMOs and is a method of assessing the risk to health and safety to occupiers and visitors.

There are no 'set' standards in this section. The following are all 'hazards' that need to be assessed in each property. Improvement will be required where the hazards are found to give rise to unacceptable risks. Some hazards occur frequently and others very rarely. Those that occur most regularly are indicated with an asterisk.

Damp and Mould*

The property must be reasonably free from damp and mould that would be prejudicial to health. This includes the presence of black spot mould resulting from condensation. Typically this requires that there is adequate heating, ventilation and insulation and that these provisions and the property as a whole are maintained in good order.

Excess Cold*

Each unit of accommodation, including associated bathrooms, must be provided with an adequate fixed heating system. Associated common areas should also be adequately heated. This must be sufficient to maintain the internal temperature at 19°C when the external temperature is -1 °C.⁶⁵

The outputs of the system should reflect the thermal characteristics of the accommodation which include the heat losses through walls (including walls to the stairwell) etc, draughts and the volume of the room.

On inspection an HHSRS assessment will be carried out to determine the risk from excess cold and where this is unacceptable, improvement will be required. The assessment will include consideration of heating provision, its control, and the thermal characteristics of the property.

A properly designed gas central heating system, throughout the property, which is controllable by the individual occupiers, combined with adequate insulation, would meet this requirement. Systems of equivalent efficiency (when combined with insulation measures and including consideration of costs to run) will be acceptable.

Also note information on metering in Part One "Electricity, Gas and Water Supplies".

Excess Heat

Provision must be made to allow heat to disperse from the property and prevent excessive heat gain for example in loft conversions.

Asbestos

Any asbestos in the property must be adequately protected against damage and dispersal of fibres into the air. Particular care must be taken when contractors are on site and their work may disturb asbestos. Note also the requirements of the **Control of Asbestos Regulations 2006** which apply to the common areas of HMOs.⁶⁶

⁶⁵ SI 2006/373 sch3(1) and 3(2)[4]

⁶⁶ Management Regs.

Biocides

This covers threats to health from those chemicals used to treat timber and mould growth in dwellings.

Carbon Monoxide and fuel combustion products

This category includes hazards resulting from the presence of excess levels in the atmosphere of carbon monoxide, nitrogen dioxide, sulphur dioxide and smoke. These are products associated with the combustion or incomplete combustion of gas, oil and solid fuel for heating and cooking. Problems can arise with poor installation and inadequate servicing/maintenance.

Lead

This covers threats to health from the ingestion of lead – mainly relates to small children unless there is still lead piping in the water supply.

Radiation

This covers the threats to health from radon gas and its progeny⁶⁷, primarily airborne, but also radon dissolved in water. Plymouth is a Radon Affected Area and there may be problems in some lower ground floor/ground floor rooms.

Uncombusted Fuel Gas

This category covers the threat of asphyxiation resulting from the escape of fuel gas into the atmosphere within a dwelling.

Volatile Organic Compounds

These are a diverse group of organic chemicals, which includes formaldehyde, that are gaseous at room temperature, and are found in a wide variety of materials in the home. This is more likely to be a problem when materials have been used without due regard to safety or where there is inadequate ventilation.

Crowding and Space

There must be adequate space for normal household activities to be undertaken safely. This relates to room sizes and numbers of people occupying the property⁶⁸. In addition the Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018 amend Schedule 4 of the Housing Act 2004 to specify mandatory conditions for room sizes.⁶⁹ There is further guidance on overcrowding that can also be found in LACORS – Regulation of ‘Crowding and Space’ in residential premises, and this document is freely downloadable from the internet. Depending upon the type and size of the accommodation, an HHSRS assessment may be required to determine suitability.

Entry by Intruders*

The property must have a reasonable level of security. A higher level may be required in some areas than others depending on the crime statistics for that area. Areas with high numbers of HMOs typically have a higher incidence of crime.

⁶⁷ http://www.ccnr.org/radon_chart.html

⁶⁸ S65 Housing Act 2004

⁶⁹ SI 2018/616 R2. Amends schedule 4 of HA2004

Lighting

Adequate artificial lighting must be provided in all areas sufficient for (a) the safe use of the accommodation (including external and common areas) (b) the maintenance of its cleanliness and (c) the carrying out of normal domestic activities⁷⁰. Adequate natural lighting and outlook should also be available. This can be a problem in lower ground floor rooms.

Also note information on metering in Part One “Electricity, Gas and Water Supplies”.

Noise

This covers threats to physical and mental health resulting from exposure to noise inside the dwelling or within its curtilage.

Domestic Hygiene, Pests and Refuse*

This covers hazards which can result from:

- Poor design, layout and construction such that the dwelling cannot be readily kept clean and hygienic
- Access into, and harbourage within, the dwelling for pests; and
- Inadequate and unhygienic provision for storing and disposal of household waste.

Food Safety

This covers threats of infection resulting from inadequacies in provision and facilities for the storage, preparation and cooking of food.

Personal Hygiene, Sanitation and Drainage*

This covers threats of infection and threats to mental health associated with personal hygiene, including personal washing and clothes washing facilities, sanitation and drainage. This can arise where poorly designed, installed or maintained facilities dissuade occupiers from their use. Defects become more serious where facilities are shared, in particular where these concern hand washing in shared WCs.

Also note information on metering in Part One “Electricity, Gas and Water Supplies”.

Water Supply

This category covers the quality and adequacy of the supply of water within the dwelling for drinking and for domestic purposes such as cooking, washing, cleaning and sanitation. It includes threats to health from contamination by bacteria, protozoa, parasites, viruses and chemical pollutants.

Falls*

This covers hazards which can result from falls:

- Associated with baths, showers or similar
- On level surfaces – where any change in level is less than 300 mm
- On stairs/steps/ramps etc. – where any change in level is more than 300 mm
- Between levels – where the change is more than 300 mm – this refers to falls from windows, balconies, landings, roofs etc.

⁷⁰ S64(3) Housing Act 2004. SI 2006/373 Sch 3(3)[a] inferred for shared kitchens. Management regulations. R4 and R7

Typical problems include lack of handrails, uneven steps, steps different in height, unguarded landings/roofs, low window sills, windows without restrictors, slippery surfaces and lack of external lighting.

Also note metering guidance in Part One “Electricity, Gas and Water Supplies”.

Electrical Hazards*

This category covers hazards from shock and burns resulting from exposure to electricity, including from lightning strikes (protection would be required in buildings with significant risk of lightning strike only).

Fire*

Appropriate fire precautions must be provided in the property. The minimum standard we expect in a licensed HMO is:

- Grade D2 System with smoke detection fitted to the ceiling of each landing/hall of the communal parts, extended to include a heat detector in each shared kitchen.
- A fire blanket in a proper container in any shared kitchens⁷¹. The container should be securely fixed to the wall in a prominent and readily accessible position, sited so as to prevent a user from being trapped in the event of the fire becoming out of control.
- A fire door separating each shared kitchen from the common hallway/stairwell⁷². The fire door should be fitted in accordance with LACORS Fire Safety Guidance.
- Where kitchen facilities are contained within the letting room, a stand-alone smoke detector fitted to the ceiling in close proximity to the kitchen facilities.
- Power to any fire alarm system is to be supplied from a quarterly meter.
- A Fire Risk Assessment carried out by a competent person, and reviewed annually to ensure that appropriate fire safety provisions are present in the HMO.

On inspection an HHSRS assessment may be carried out to determine the risk from fire and where this is unacceptable improvement may be required. It is possible that the minimum requirements quoted above will not be sufficient for your property. The assessment will take account of what fire precautions are provided, the layout and size of the property and whether there are any factors which increase the likelihood of fire.

The Council has adopted the standard of fire safety described in the document “Housing – Fire Safety” published by LACORS (July 2008). This document is freely downloadable from the internet.

Also note information on metering in Part One “Electricity, Gas and Water Supplies”.

Flames and hot surfaces*

This category covers threats of:

- Burns – injuries caused by contact with a hot flame or fire, and contact with hot objects or hot non water based liquids and
- Scalds – injuries caused by contact with hot liquids and vapours.

It includes burns caused by clothing catching fire from a controlled fire or flame e.g. by reaching across a gas flame.

⁷¹ SI 2006/373 Sch3(3)

⁷² SI 2006/373 Sch3(3)

Typically these are problems associated with poorly designed kitchen layouts; see Part One “Facilities for the Storage, Preparation and Cooking of Food and for the Disposal of Waste Water”.

Collision and entrapment

This category includes risks of physical injury from:

- Trapping body parts in architectural features, such as trapping limbs or fingers in doors or windows; and
- Striking (colliding with) objects such as architectural glazing, windows, doors, low ceilings and walls.

Explosions

This category covers the threat from the blast of an explosion, from debris generated by the blast, and from the partial or total collapse of a building as the result of an explosion.

Position and operability of amenities etc.

This category covers threats of physical strain associated with functional space and other features at dwellings. An example would be having to stand on a chair to open a window or operate a switch.

Structural collapse and falling elements.

This category covers the threat of whole dwelling collapse, or of an element or a part of the fabric being displaced or falling because of inadequate fixing, disrepair or as a result of adverse weather conditions. Structural failure may occur internally or externally within the curtilage threatening occupants, or externally outside the curtilage putting at risk members of the public.

PART THREE - MANAGEMENT OF THE PROPERTY

Summary of the requirements of the Management Regulations and expectations of the Manager of a licensed HMO, including dealing with Anti-Social Behaviour.

A Manager of a house in multiple occupation (HMO) has a duty to properly manage that house. This section explains:

- Some of the requirements and
- Who is responsible for complying with them

If you are employing a property management company to manage your HMO you need to consider how well they will meet these obligations. It is recommended that you review a number of companies to see which one will meet your needs. In addition you should check to see whether they are 'accredited' by a professional organisation and what protection there is for your money should the company fail.

More detail on the relationship between landlords and their agents and the different types of contracts available can be found in the government's "How to let" leaflet that can be downloaded from the web link below:

<https://www.gov.uk/government/publications/how-to-let>

The Management of Houses in Multiple Occupation (England) Regulations 2006 apply to all licenced HMOs.

The purpose of the regulations is to ensure that "the manager" exercises proper standards of management. These duties include ensuring the house is in and maintained in a good state of repair, all facilities are kept in proper working order and all steps are taken to protect tenants from risk of injury

The main requirements are as follows:

- The manager is to provide his name, address and telephone number to all the occupiers, and display this in a prominent position
- All means of escape from fire to be kept free from obstruction
- Fire alarms and firefighting equipment to be kept in good order
- Take all reasonable steps to ensure the safety of the occupiers. This includes protecting occupiers from falls (e.g. from low windows, off flat roofs and into light-wells as well as other hazards), but will also cover electrical, gas and other safety
- The water supply is maintained, tanks covered and fittings protected from frost. The water supply is not to be unreasonably interrupted
- The drainage system (including rainwater drainage) is maintained
- The manager must supply a copy of the latest gas certificate within seven days of the Council requiring it
- Ensure that the electrical wiring is tested at no less than five yearly intervals, and supply a copy of the test certificate within seven days of the Council requiring it
- Ensure that the supply of gas and electricity to each tenant is not unreasonably interrupted
- Maintain the common parts and fittings of the HMO in good order, clean decorative repair and free from obstruction. This includes handrails, stair-carpets, windows, light fittings and appliances
- Common parts lighting is to be adequate and lighting available at all times

- The common outbuildings, yards etc. are kept in good order
- The boundary walls, fences etc. are kept safe and in good order
- The doors to each letting are kept in good order
- Each unit of accommodation, and any furniture provided with it, should be clean at the beginning of the occupation
- Each unit of accommodation, its windows and ventilators are to be kept in good repair, and working order. The fittings and appliances are to be kept clean and in good working order. There are exceptions where problems arise from poor tenant behaviour
- Proper facilities and arrangements are provided for the storage and disposal of refuse. This may require greater provision than the Council may ordinarily make.

Full copies the regulations can be obtained from <http://www.legislation.gov.uk>

Who is the Manager?

The manager can be:

- The owner of the property
- A person receiving rent or other monies (for example meter money)

It is important that if you delegate some management duties to someone else, you are each clear about your respective responsibilities. If you are an agent collecting rent or other monies you may be held responsible for complying with the regulations. This applies even if the function falls outside your management role as defined in your contract with the owner.

What happens if things go wrong?

When there is a failure to comply with a requirement of these regulations, we would normally seek your agreement to deal with the problem. Where this is not possible:

- The Council may prosecute
- The Council may issue a civil penalty and/or take other action/s as considered appropriate under the Housing and Planning act 2016.
- (In the case of a licensed HMO) there may be grounds to revoke the licence.

Isn't the Tenant responsible?

Tenants may be responsible under the terms of the tenancy agreement, but under the regulations the manager is responsible for ensuring that things are put right when problems do occur. This is because the failure of one tenant can result in all the others being put at risk.

Under the regulations tenants do have some legal responsibilities; these are to:

- Take care not to hinder the manager in the performance of their duties under these regulations
- Allow access to the manager at reasonable times so that he can carry out his duties
- Provide information which the manager may require to comply with his duties
- Take care and avoid damaging the property
- Comply with the manager's arrangements for the storage and disposal of rubbish and
- Comply with the manager's reasonable instructions in respect of means of escape from fire, prevention of fire and the use of fire equipment.

Although the Council can prosecute the tenant for failing to comply with these requirements, it will usually be more appropriate, and effective, for the manager to use his powers under the tenancy agreement.

General advice on management practice

These are some of the factors that will help you to determine how frequently you need to visit the house and what to look for.

You will know the physical nature of your property. You will be aware that the fire alarm system needs to be checked at regular intervals, when light bulbs need to be replaced, that the parapet gutters are liable to obstruction, etc. etc. You will also be aware of the nature of your tenants, and whether any are likely to cause problems in the management of the property. Disposal of refuse can be a problem, so visiting after the refuse collection can be helpful.

You will need to balance your duties as a manager with a tenant's right to "quiet enjoyment" of their home. Inspection of their accommodation must be with their knowledge and consent. Except in emergencies you must always give at least 24 hours' notice that you would like access to the accommodation. This notice, does not give you an automatic right of entry into the accommodation if it is not convenient for your tenant. (If reasonable access is refused you should obtain advice from your solicitor or a professional organisation before taking any action.)

Management records

You should keep records of your visits and any repairs or action taken, as this will help demonstrate an effective management system. You also need to keep certificates and other records to demonstrate that the necessary maintenance checks (e.g. gas safety checks and servicing of fire alarm systems) have been carried out. You may be asked to produce these documents on inspection and as required by the Council.

You should encourage your tenants to report problems and respond promptly when they do.

It is a requirement to display your (and your manager's), name, address and telephone contact number, so that in the event of an emergency, contact can be made and the appropriate action taken. Although not a requirement of the regulations, it is good practice to have a notice board displaying information on tenancy rules, how to reset the alarm system, copies of certificates and how to report any problems to the landlord. This board can also be used to display documents as required by any HMO licence.

Common parts lighting

The manager is responsible for ensuring that the light fittings are in working order. This includes light bulbs, so it is worth considering a lighting system where the fittings have a long life, and bulbs are protected from theft. The switches are to be properly sited, and all the lighting must be supplied from a single quarterly meter, which will usually be in the control of the manager.

Services

The water, gas or electricity supplies must not be cut off unannounced. For repair work, residents must be notified in advance and the supply restored as soon as possible. Where necessary, alternative facilities should be provided until the supply is restored.

Heating

Lack of an adequate fixed heating system is a major contributory factor to both fire and illness. It increases the use of portable gas heaters, electric fires and extension leads. These also contribute to dampness, electrocution and falls. The Council will require improvement to the heating and insulation of the property, usually to a minimum standard of full central heating and 270mm of loft insulation (or equivalent standard). Further guidance can be found in 'The Domestic Private Rented Property Minimum Standard' document that is freely downloadable from the internet.⁷³

Gas safety

Each year people are known to die from carbon monoxide poisoning caused by poorly installed or badly maintained gas appliances and flues. It is believed that the number of deaths and non-fatal illness is considerably higher.

The Gas Safety (Installation and Use) Regulations 1998 place wide-ranging duties on landlords of all rented property to ensure that the gas appliances, flues and supply are:

- installed and maintained in a safe condition, works only being carried out by a competent contractor whose name appears on the "Gas Safety Register" (the "GSR" replaced CORGI),
- annual safety checks must be carried out; the contractor has to be a competent GSR fitter
- certificates are issued to tenants and
- records are kept for 2 years.

Electrical safety

A landlord of any rented property has a duty to ensure that the electrical installation is safe and in good order; a current electrical installation test certificate will demonstrate this. In HMOs the possession of such a certificate is a requirement (see above), as is the need to show this to every new tenant from 1st July 2020. Every landlord must ensure that the condition of the electrical installation is safe and that they are compliant with the *Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020*.

We also advise you that to avoid trailing cables and overloading, it is recommended that at least two twin 13A power points are available in each room and are conveniently located. Consideration should be given to latest product developments (e.g. combination sockets that provide 2 x 13A power points and 2 x additional USB points). It is also recommended that two additional twin 13A sockets are conveniently located above a kitchen worktop.

Landlords' electrical appliances must also be safe, and a yearly test certificate will help demonstrate this.

Maintenance of fire precautions

- Fire alarm systems, escape lighting and firefighting equipment should be maintained in accordance with the relevant British standards. Guidance is available from the Housing Improvement Team; it is recommended that you enter into a maintenance contract with a specialist contractor.
- Fire doors must be kept in good condition, including the integrity and effectiveness of the smoke seals, and should be checked on a regular basis

⁷³ SI 2015/962

- The protected (or escape) route must be kept free of all obstruction and flammable items or sources of ignition. Tenants should be advised of this requirement and the area checked on a regular basis.

Expectations of you as a Manager or Licence Holder

- You will comply with the Management Regulations above and any licence conditions that are imposed.
- You will issue your tenants with:
 - comprehensive written agreements (i.e. tenancy, or licence) that set out the rights and obligations of both parties and include requirements prohibiting anti-social behaviour. You will also make sure that they are aware of the contents of the agreement they are signing.
 - a 'how to rent' guidance leaflet (freely downloadable from the internet)
 - details of the deposit protection scheme, where their deposit will be placed.
 - a copy of the latest Gas Safety Certificate pertaining to the property (if applicable)
- You will fully comply with the 'Right to Rent' requirements unless the property qualifies for an exemption.⁷⁴
- You will be aware of the requirements for the production and provision of an Energy Performance Certificate (EPC) for the property and fully comply with the requirements under *The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015*. These include requirements relating to restrictions and offences when letting F or G energy rated accommodation.
- You will be aware of, and fully comply with, the requirements placed on landlords to remain compliant with *The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020*.
- You will have a clear process for tenants to report faults and procedures for responding to these reports and undertaking repairs. Responses should be appropriate to the urgency of the repair.
- You will have a programme of planned maintenance work in order to prevent break downs, failures and elements falling into disrepair.
- You will have a list of contractors who are available to deal with problems as they arise and to carry out planned maintenance work.
- You will provide information on when household waste and recyclable waste will be collected and how it should be put out for collection. You will also ensure there is sufficient storage for waste awaiting collection.
- You will provide information on the operation of facilities within the property e.g. heating system, alarm system and landlords appliances,
- You will comply with the Anti-Social Behaviour Code and work with statutory bodies to resolve issues in your properties and
- You will have adequate procedures for commencing and ending tenancies/licenses and addressing any tenancy/licensee problems as they may arise. If you are uncertain of the complexities of tenancy issues, we recommend that you join a landlords association so that you have access to expert advice and support. They can also assist you with additional training and accreditation.

⁷⁴ <https://www.gov.uk/check-tenant-right-to-rent-documents>

Failure to maintain a good standard of management would be an indication that you are not a 'Fit and Proper' person to hold a licence or be a manager of a licenced property.

Advice on complying with Condition 9 of your licence – dealing with anti-social behaviour.

Condition 9 states: The licence holder shall investigate complaints of anti-social behaviour arising from this HMO and being caused by occupiers or occupiers' visitors. Where appropriate, the licence holder will caution, seek legal advice or lawfully evict to address the problem. Anti-social behaviour is defined in Section 57(5) of the Housing Act 2004.

Anti-social behaviour is defined as:

Conduct on the part of occupiers of, or visitors to, residential premises—

- (a) which causes or is likely to cause a nuisance or annoyance to persons residing, visiting or otherwise engaged in lawful activities in the vicinity of such premises, or
- (b) which involves or is likely to involve the use of such premises for illegal purposes.

The City Council wishes to support landlords who have to deal with anti-social behaviour in their properties. Most commonly this arises as noise from the property and poor management of household waste e.g. accumulations of waste in the garden or in the lanes, leaving bins out in the street. This could be in the form of advice or practical support in taking specific actions. Contact details are below.

General Advice – Housing Improvement Team – 01752 398500

Noise Problems – Public Protection – 01752 304147

Anti-Social Behaviour – Safer Communities – 01752 398500

The following sections set out advice and guidance for landlords in order to help them meet their responsibility.

The Written Statement of the Terms of the Tenancy.

Any new tenancy agreement should include an express prohibition on anti-social behaviour. This should include the following points. The government has published a model agreement and accompanying guidance that you may consider useful.⁷⁵

1. Anti-social behaviour is anything which causes:
 - a nuisance or annoyance to other occupiers and nearby neighbours,
 - harassment to anyone in the local area (because of their race, colour, nationality, ethnic origin, sexuality, sex, religion, politics, age, medical condition, or disability) or
 - violence (including domestic abuse) against any person (including the landlord or persons acting on their behalf).
2. Anti-social behaviour also includes:
 - interfering with security or safety equipment,
 - using the property (including all communal areas bin stores, yards and gardens etc) for any criminal, immoral or illegal purpose, including buying, selling or using any illegal drugs, or storing or handling stolen goods, or
 - damaging any part of the premises.

⁷⁵https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/695945/Model_Agreement_for_an_Assured_Shorthold_Tenancy_and_Accompanying_Guidance.pdf

3. It is also anti-social behaviour to encourage anyone else to carry out or threaten to carry out any of the above. The occupier, under the terms of the tenancy, is responsible for the behaviour of themselves, their family and their visitors.
4. The terms of the tenancy should also state that the landlord will not tolerate anti-social behaviour and include a warning that legal action against the occupiers breaching the terms of tenancy may be taken. This could lead to them losing their accommodation.

Dealing with Anti-Social Behaviour

1. The licence holder or his/her manager shall fix, in a prominent position, within the communal area, a sign containing a statement that anti-social behaviour will not be tolerated and encouraging the reporting of those responsible (should it arise). The appropriate contact details for reporting incidents to be included.
2. It is recommended that contact details for the licence holder or his/her manager are given to neighbours who may be affected and can give you early notice of problems at the house.
3. The licence holder or his/her manager should keep a record of all complaints received from occupiers, neighbours etc about noise and anti-social behaviour.
The record will contain the following information:
 - Date of complaint
 - Name and address of complainant
 - Details of the complaint
 - Name and address of the alleged 'perpetrator'
 - Action taken by the landlord to resolve the problem
(Note action could include making contact with the 'alleged perpetrator' face to face or by letter or both)
4. The licence holder or his/her manager should encourage the complainant to complete diary sheets as a record of the frequency and seriousness of the incidents.
5. The licence holder and/or his/her manager should liaise cooperatively with officers from Plymouth City Council when they are investigating complaints of anti-social behaviour, (including noise) from members of the public.
6. The licence holder or his/her manager shall inform the police or City Council's Anti Social Behaviour Unit where he has reason to believe that a criminal offence has been, or is being, committed on the premises.
7. The licence holder or his/her manager will take action to evict tenants who do not cooperate with requests to modify behaviour.

Signs

The Licence Holder shall affix in a prominent position, within the communal area, a sign containing a statement that the licence holder will not tolerate anti-social behaviour and to encourage the reporting of those responsible, including a telephone number or an address to which complaints should be made. This sign shall be replaced if it is torn, defaced or removed.

**NOISE AND ANTI SOCIAL BEHAVIOUR
NOTICE TO TENANTS AND THEIR VISITORS**

Whilst you occupy this property you and your guests must respect the rights of other people and not do anything (either in or near the property or on the street where the property is) which would cause a nuisance or annoyance, including harassment of other people.

In particular (but not limited to the examples given) please:

- Be respectful of your neighbours into whose community you have moved.
- Be conscious of the level of noise coming from the house and garden at all times but especially after 10pm at night. This includes playing music, raised voices, door banging, running up and down stairs etc. Please keep noise levels down at all times and especially if a neighbour lets you know that you are disturbing them.
- Be conscious of the level of noise you may be making as a group on the street when you are going out or coming home after an evening out. Try not to disturb people in the houses you pass, especially late at night when they will be sleeping.
- Ensure that you store refuse appropriately in the bins provided and put it out for collection on the correct day. You should also bring the bins in after collection. Do not allow refuse to accumulate inside or outside the property.

Your tenancy agreement prohibits behaviour which causes nuisance or annoyance to others and such behaviour will not be tolerated.

If complaints are received you will be reminded of your obligations under your tenancy agreement. If conditions continue to be broken, or in the case of serious incidents, legal action may be taken to evict you from the property.

If you are suffering from the noisy or anti-social behaviour of others within the property you can report them to:

Name:

Tel No:

Email:

PART FOUR – FIRE SAFETY ORDER

Regulatory Reform (Fire Safety) Order 2005

Fire risk assessments are required in housing covered by the above (the FSO) which is administered by the Devon and Somerset Fire and Rescue Service (DSFRS). It applies to buildings occupied as bedsits, self-contained flats, non-self-contained flats, hostels and bed and breakfast premises.

The aims of a fire risk assessment are to:

- identify the fire hazards,
- reduce the risks of those hazards to as low as reasonably practicable and
- decide what physical fire precautions and management arrangements are necessary to ensure the safety of people in the premises if a fire does start.

The duties under the FSO (where it applies) are for the “responsible person” (the landlord or a managing agent acting on his behalf) to:

- complete a fire risk assessment,
- carry out/instigate remedial and management improvements as identified and
- record the risk assessment where:
 - the HMO is licensable or
 - 5 or more people are employed in the course of the business, either at the property or elsewhere

The Order does not apply to HMOs let as shared houses. These are properties occupied by persons who collectively have a single tenancy and also comprise a clearly identifiable group. Typically these might be students, work colleagues or friends. Further guidance on what constitutes a ‘shared house’ can be found on page 39 of LACORS Housing - Fire Safety guidance document which is freely downloadable from the internet.

Although it may not be a requirement that a fire risk assessment is carried out in all cases, it is a recommendation.

Further information is available from DSFRS, the Council’s web pages and reading the document “LACORS Housing - Fire Safety; guidance on fire safety provisions for certain types of existing housing”. The following links may be helpful:

<http://www.plymouth.gov.uk/>

<http://www.dsfire.gov.uk>

Annex B – Form of Licence**Property Licence**

Under **Housing Act 2004 Section 64** Plymouth City Council has given a licence to the House in Multiple Occupation (HMO) known as:

I Any Road, Plymouth, PL1 2AA.

This licence permits the occupation of this House in Multiple Occupation by a maximum of **7** persons in **6** households in the following lettings:

Room	No of Persons	No of Households
Ground floor front bedroom	1	1
First floor front bedroom	2	1
First floor rear bedroom	1	1
Second floor front bedroom	1	1
Second floor rear bedroom	1	1
Second floor tenement bedroom	1	1

(Left and right are taken from viewing the property from the front)

The licence will expire on **30th June 2025**

The licence holder for this HMO is: **Mr A Name**

The following parts of the property are prohibited from being occupied: **N/A**

PLEASE NOTE THIS LICENCE IS NOT TRANSFERABLE TO A NEW OWNER. THE LICENCE HOLDER NAMED ABOVE REMAINS RESPONSIBLE UNDER THE TERMS OF THIS LICENCE UNTIL SUCH TIME AS THE LICENCE EXPIRES OR IS REVOKED BY THE LOCAL AUTHORITY.

The above persons are considered to be fit and proper persons to perform their duties under Part II of the Housing Act 2004.

The Conditions of the licence, numbered 1 to 15 are attached.

Signed: **A N Officer**

Dated: **1st July 2020**

A N Officer

Senior Community Connections Officer

Should any person wish to make enquiries concerning this licence they should contact A Officer, telephone no 398500, or write to Housing Improvement, Community Connections, Ballard House, West Hoe Road, Plymouth, PL1 3BJ, or Email a.officer@plymouth.gov.uk.

Note: This is a house in multiple occupation that is required to be licensed under the provisions of Part II of the Housing act 2004. The granting of this licence does not imply that the use and condition of the property are lawful under other legislation. It is a requirement that the house is managed in accordance with the attached conditions; failure to do so is an offence, which may result in prosecution and/or the withdrawal of the licence.

The conditions of the licence for **1 Any Road, Plymouth, PL1 2AA** are as follows:

1. The licence holder shall produce to the Council annually for their inspection a gas safety certificate obtained in respect of the house within the last 12 months (if gas is supplied at the house).
2. The licence holder shall ensure that (1) a carbon monoxide alarm is installed in any room in the house which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance (2) that this alarm is kept in proper working order and (3) to supply to the Council, on demand, a declaration by him as the condition and position of any such alarm.
3. The licence holder shall (1) keep all electrical appliances made available by him within the house in a safe condition and (2) supply to the Council, on demand, a declaration as to the safety of such appliances.
4. The licence holder shall (1) keep all furniture made available by him within the house in a safe condition and (2) supply to the Council, on demand, a declaration as to the safety of such furniture.
5. The licence holder shall ensure that (1) smoke alarms are installed in the house on each storey of the house used wholly or partly for living accommodation (2) keep them in proper working order and (3) supply to the Council, on demand, a declaration by him of the condition and positioning of such alarms.
6. The licence holder shall ensure that a written statement of terms of occupancy is supplied to each occupier.
7. The licence holder shall notify the Council's Community Connections (Housing Improvement) Team of any change of manager of the property and, in respect of the new manager, provide contact details and information to verify their fit and proper status and competence to manage the HMO.
8. The licence holder shall notify the Council's Community Connections (Housing Improvement) Team of any changes of their address, telephone number and email address.
9. The licence holder shall investigate complaints of antisocial behaviour arising from this HMO and being caused by occupiers or occupiers' visitors. Where appropriate, the licence holder will caution, seek legal advice or lawfully evict to address the problem. Antisocial behaviour is defined in Housing Act 2004 Section 57(5).
10. The licence holder shall;
 - (a) ensure that the floor area of any room in the HMO used as sleeping accommodation by one person aged over 10 years is not less than 6.51 square metres;
 - (b) to ensure that the floor area of any room in the HMO used as sleeping accommodation by two persons aged over 10 years is not less than 10.22 square metres;

(c) to ensure that the floor area of any room in the HMO used as sleeping accommodation by one person aged under 10 years is not less than 4.64 square metres;

(d) to ensure that any room in the HMO with a floor area of less than 4.64 square metres is not used as sleeping accommodation.

11. The licence holder shall ensure that;

(a) where any room in the HMO is used as sleeping accommodation by persons aged over 10 years only, it is not used as such by more than the maximum number of persons aged over 10 years specified in the licence;

(b) where any room in the HMO is used as sleeping accommodation by persons aged under 10 years only, it is not used as such by more than the maximum number of persons aged under 10 years specified in the licence;

(c) where any room in the HMO is used as sleeping accommodation by persons aged over 10 years and persons aged under 10 years, it is not used as such by more than the maximum number of persons aged over 10 years specified in the licence and the maximum number of persons aged under 10 years so specified.

12. The licence holder shall notify the local housing authority of any room in the HMO with a floor area of less than 4.64 square metres.

13. The licence holder shall comply with any scheme which is provided by the local housing authority to the licence holder and which relates to the storage and disposal of household waste at the HMO pending collection.”

14. The licence holder shall ensure that every electrical installation in the house is in proper working order and safe for continued use; and will supply the authority, on demand, with a declaration by him as to the safety of such installations;

Note: “electrical installation” has the meaning given in regulation 2(1) of the Building Regulations 2010.

15. The licence holder will carry out the following works, within the times set out below, to the satisfaction of the Council and in accordance with the following specification: etc...

N.B. Further works (in addition to any described above) may be required at the property to meet the requirements of other housing legislation. In particular:

- **Housing Act 2004, Part I (Housing Health and Safety Rating System), and**
- **The Management of Houses in Multiple Occupation (England) Regulations 2006**

Should this be the case, you will be advised of these works in further correspondence which may include the service of formal notice/s.

Annex C1 HMO Licensing Fees: New Licence Application

New licence applications refers to applications where:

- The property has not been previously licensed as an HMO or
- The property was previously licensed, but not to the licence holder in respect of which the current application is being made.

Table of fees

The fees set out in the table below reward good practice. The fee for Landlords who submit complete applications first time, and/or have undertaken proficiency texts, or are accredited landlords, is £50 to £200 less than the fee for others.

A Technical Lead (Housing Improvement) may reduce or waive the fee payable in exceptional circumstances.

Category of application – New Licence Fee	Basic Fees	Fees Including additional discounts
Stage 1 – Application Processing Fee (Fixed)	£225	N/A
Stage 2 – Continued Administration of Licensing Scheme Fee (Variable)		
Where no discretionary discounts are to be applied (no reduction)	£700	N/A
Where only the complete 'first time' discretionary discount applies (£50 discount applies)	N/A	£650
Where only the 'landlord proficiency' discretionary discount applies (£50 discount applies)	N/A	£650
Where both the 'landlord proficiency' and 'first time' discretionary discounts apply. (£100 discount)	N/A	£600
Where only the 'landlord accreditation' discretionary discount applies (£150 discount)	N/A	£550
Where both the 'landlord accreditation' and 'first time' discretionary discounts apply. (£200 discount)	N/A	£500

Annex C2 HMO Licensing Fees: Renewal Licence Application

Renewal licence applications refers to applications where:

- The property has been previously licensed as an HMO and
- The proposed licence holder is the same person, or body, named as licence holder on the licence to be replaced.

Please note that all three bullet points must apply.

Table of fees

The fees set out in the table below reward good practice. The fee for Landlords who submit complete applications first time, and/or have undertaken proficiency texts, or are accredited landlords, is £50 to £200 less than the fee for others.

A Technical Lead (Housing Improvement) may reduce or waive the fee payable in exceptional circumstances.

Category of application – New Licence Fee	Basic Fees	Fees Including additional discounts
Stage 1 – Application Processing Fee (Fixed)	£200	N/A
Stage 2 – Continued Administration of Licensing Scheme Fee (Variable)		
Where no discretionary discounts are to be applied (no reduction)	£675	N/A
Where only the complete ‘first time’ discretionary discount applies (£50 discount applies)	N/A	£625
Where only the ‘landlord proficiency’ discretionary discount applies (£50 discount applies)	N/A	£625
Where both the ‘landlord proficiency’ and ‘first time’ discretionary discounts apply. (£100 discount)	N/A	£575
Where only the ‘landlord accreditation’ discretionary discount applies (£150 discount)	N/A	£525
Where both the ‘landlord accreditation’ and ‘first time’ discretionary discounts apply. (£200 discount)	N/A	£475

Annex C3 HMO Licensing Fees:
Multiple HMOs (in a block) Application

Multiple HMOs in block licence applications refers to applications where:

- There are 5 or more licensable HMOs contained in the same block/building and
- The licence applications are made at the same time

Please note that both bullet points must apply.

Table of fees

At present there is a singular fee level that has been calculated for licences of this nature, to take into account the economies of scale around inspections, travelling etc.

A Technical Lead (Housing Improvement) may reduce or waive the fee payable in exceptional circumstances.

Category of application – Multiple HMOs in a Block Fee	Basic Fees	Fees Including additional discounts
Stage 1 – Application Processing Fee (Fixed)	£225	N/A
Stage 2 – Continued Administration of Licensing Scheme Fee (Fixed)	£385	N/A

Annex C4 Fees: Providing a copy of the HMO Register
Public Register

The register of HMO Licences is a public document. There is no charge for viewing the register

A copy of the register can be provided, on demand, for an administrative fee of £40. Enquiries about a single property will not be charged for.

A Technical Lead (Housing Improvement) may reduce or waive the fee payable in exceptional circumstances.

It is our aim to develop an automatically populating, online accessible, version that will be free to access for the public and not requiring officer time to produce.

Annex D Background to Specific Policy Decisions

In making the policy decisions set out in this document we have considered the contents of legislation, guidance given by Government organisations/publications and judicial decisions. This section of the report explains how we have used this information to inform our decisions. The introductory numbers refer to the paragraphs in Appendix 2.

Section 2: Policy – Licensable HMO

2.2

In respect of HMOs occupied by their owners, we will consider that the owner (and their household) only comprise one nominal person. In practice this will mean that such an HMO will not be licensable unless it is occupied by four (or more) other persons. The Government have provided specific guidance on this point which is set out in the document “Licensing of Houses in Multiple Occupation in England; A guide for landlords and managers (DCLG 2007).

2.3

Following the changes to the prescribed description effective from 1st October 2018, the storey condition was removed from the criteria of what makes a licensable HMO. This change now negates previous challenges and case law, under the previous description, such as London Borough of Islington v The Unite Group PLC.

2.4

A self-contained flat is a “separate set of premises” which contains its own toilet, personal washing and cooking facilities. “Separate set” means premises which have all rooms accessible through a single front flat entrance door, which means the occupier does not have to cross the common parts to gain access to any other part of his accommodation. This accords with Section 257 Housing Act 2004, together with Residential Property Tribunal decision Camden, 30 Mornington Crescent/93 Judd Street December 2006. This interpretation is supported in para. 16 “A guide to the licensing and management provisions in Parts 2, 3 and 4 of the Housing Act 2004” (Draft Guidance, DCLG, January 2010).⁷⁶

Section 3: Policy - Fit and Proper Person

3.5

In the context of fit and proper status, “person” includes a corporate body (for example, a limited company). As the licence holder can be a corporate body, and (in all cases) must be a fit and proper “person”, it is difficult to interpret this in any other way. This complies with advice given by LACORS. This interpretation is also supported in para. 98 “A guide to the licensing and management provisions in Parts 2, 3 and 4 of the Housing Act 2004” (Draft Guidance, DCLG, January 2010).

⁷⁶https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/7813/1446472.pdf

Section 5: Policy – Licence Holder

5.1

The licence holder must be the most appropriate person to fill this role. This will normally be the person having control of the HMO (usually the owner). In the case of corporate bodies, the licence holder will normally be that body rather than a named person. Normally, where a corporate body is involved, no individual will have the responsibility and resources to comply with the licence holders' duties. This complies with advice given by LACORS. This interpretation is also supported in para. 98 "A guide to the licensing and management provisions in Parts 2, 3 and 4 of the Housing Act 2004" (Draft Guidance, DCLG, January 2010).

Section 9: Policy – Fees

9.2

The licensing fee reflects the chargeable costs associated with licensing. Chargeable activities include processing applications, variations, revocations, annual certification, inspection and enforcement actions. The licence fee may not be used to fund other Council activities.

A previous judgement (Hemming v Westminster) has determined that only enforcement activities in connection with licensed HMOs are chargeable. The identification of non-licensed HMOs, and subsequent enforcement activity in respect of them, is not chargeable. Hemming relates to the interpretation of an EU directive (and the UK legislation that enabled this). This legislation became operative on 28 December 2009. At that time it became unlawful to collect licence fees which would be used for non-allowable purposes. The applicant can demand the return of any overpayment.

Officers administering HMO licensing can also carry out other private housing functions; so it can be challenging to assess HMO licensing costs in terms of actual staff deployed in these activities. Accordingly fees were (and are) calculated from proportional representation, taken from a cross section study of HMO licence cases, where time for HMO licensing activities (undertaken per officer/grade level) and support costs were assessed under the Council's Cost Recovery model to establish a representative cost to the Council, per licence for the scheme.

Periodically scheduled reviews will highlight the position of costs vs income and then provide justification for future variations (i.e. increase / decrease) as necessary to deliver a self-funding scheme.

9.7

A charge will be made where a copy of the register of licensed HMOs is requested (See Annex C4). Other than this (and the licence fee) no other charge will be made in respect of licensing functions.

Section 63 Enables a Council to charge an HMO licence application fee. The decision Crompton V Oxford clarified that subsequent charges could not be made for other licensing activities (in particular, the issuing of variations to licences) under Section 63. However, Section 232 enables a charge to be made for providing a copy of the HMO Register.

LICENSING OF HOUSES IN MULTIPLE OCCUPATION) 2014

Homes and Communities



1.0 Introduction

- 1.1 This report reviews the application of the mandatory scheme for the licensing of houses in multiple occupation (HMOs) in Plymouth. It sets out a new policy to replace the previous Licensing of Houses in Multiple Occupation policy 20 July 2011. This new policy sets out the standards, procedures and fees for mandatory licensing.
- 1.2 HMO licensing was introduced in 2006. There are about 700 HMOs currently licenced. As each licence has a maximum duration of five years, most licences have now been renewed.
- 1.3 The 2011 HMO policy recommended a review on change of circumstances. Recent legal judgements have altered the detail of HMO licensing; the revisions to this policy clarify the effect of these changes. The main changes relate to the definitions of a “licensable HMO” and the extent to which the HMO licence fee may be used to recover costs associated with licensing. Details of these judgements, their impact, and the response to them are described in the policy.
- 1.4 These changes have provided an opportunity for minor amendments and clarifications.

2.0 Background

- 2.1 HMOs provide valuable accommodation for a range of people. These include students, young professional people and those on benefits. However, HMOs can present a number of problems to both the health and safety of the occupiers and the general neighbourhood. A balance needs to be struck to address these issues whilst encouraging the provision of sufficient accommodation. Owners need to be made aware of their obligations and encouraged in their compliance.
- 2.2 HMO licensing was introduced in April 2006 under the provisions of the Housing Act 2004. Its aim was to target those HMOs which were perceived to be of the highest risk and ensure that these attained the appropriate standards. The Act enables local housing authorities to declare areas of additional, or selective, licensing of other residential property. These powers have not been adopted in Plymouth, and this report only refers to HMOs within the mandatory licensing scheme.
- 2.3 Mandatory licensing only applies to a small part of the total HMO stock in Plymouth. Less than 15 percent of the HMOs in Plymouth require a licence.
- 2.4 The number of HMOs that still require licensing is unknown. The licensing scheme is complex; in some cases landlords may not realise that their property is in fact licensable. However, there may well be some landlords, and their managing agents, who are knowingly evading their responsibilities.

- 2.5 Accommodation can readily change between use as a single family dwelling and that of an HMO. Changes to Housing Benefit and the Local Housing Allowance will reduce many tenants' entitlements to that of the "Shared Room Rate"; this may result in the creation of more HMOs, some of which may be licensable.
- 2.6 Licensing cannot be used to support planning enforcement issues. Nor can it be used to control situations where a property is being occupied contrary to the conditions of mortgage, lease or restrictive covenant.
- 2.7 Conditions of licence may be imposed; these can require improvement to the standards of the HMO and its management.
- 2.8 Licensing decisions are subject to appeal through the Residential Property Tribunal. Offences against licensing requirements may be subject to prosecution. The licensing policy must be sufficiently robust to withstand legal challenge; it must have the authority of the Council.
- 2.9 The licensing policy will help ensure that decisions are considered, fair, reasonable, consistent and transparent.
- 2.10 Legislation enables the reasonable costs of licensing to be recovered through a licence fee. The income generated must be ring-fenced to HMO licensing activity.
- 3.0 Strategic considerations**
- 3.1 The current financial situation means that the Council must recover the costs of licensing where it is legal, and practical, to do so.
- 3.2 Many local housing authorities have raised their licensing fees since 2006. In some cases this is due to an initial under estimation of the complexity involved in administering the scheme. In other cases authorities may have decided that their previous policy of subsidising licensing is no longer sustainable.
- 3.3 It is recognised that the licence fee will be passed on to the tenants. Their position may be precarious, especially those housing benefit claimants who are most vulnerable. However, the typical weekly cost of licensing (for each tenant) is minimal (36p) over the typical five year licence.
- 3.4 The legal requirements for re-licensing are basically the same as those for initial licensing. However, our previous involvement should mean that there is less work required in re-licensing; the fee can be correspondingly less.
- 3.5 Pressures placed on landlords, be they financial or bureaucratic, may result in some landlords withdrawing from the market or changing their market niche. This could have different effects on the various segments of the housing market. Those landlords wishing to maintain good standards in the more problematical markets may be the most affected.
- 3.6 Licensing policies should reward good practice and deter poor management and inadequate standards.

- 3.7 It is recognised that areas with a higher incidence of HMOs have problems with noise, antisocial behaviour, acquisitive crime and refuse. What is less clear is the extent to which the presence of HMOs exacerbate the underlying problems which may already have been present in such areas. Regardless of the causes of these problems, licensing cannot be used to limit the presence of HMOs or significantly reduce the impact of many of the issues perceived to be associated with them.
- 3.8 This report reviews the licensing fee, processes, procedures, standards and conditions; it reconsiders the policies and their effectiveness in addressing the requirements of current licensing legislation.
- 3.9 This report complies with (and has regard to) the Private Sector Housing Enforcement Policy.
- 4.0 Consultation**
- 4.1 The contents of this report, and the revised policy, were subject to consultation with landlords and other stakeholders. The consultation processes, and results, are set out in Appendix 1 of this report.
- 5.0 Recommendations**
- 5.1 That the licensing policy, together with the, form of licence, fees and standards (as set out in Appendix 2 to this report) are adopted with effect from 1 June 2014.

5.2 Appendix I

Consultation

Copies of the report were sent to the members of the Private Rented Forum (PRF) on 4 March 2014; the closing date was 21 March 2014. The PRF comprises a group of landlords, letting agents and other agencies involved in the private rented sector in Plymouth.

Before this consultation, matters relating to the fees had been discussed at the PRF in their meeting in December 2013.

Consultation Comments

No comments were received following this consultation.

Appendix 2

Housing Act 2004 - Mandatory Scheme for the Licensing of Houses in Multiple Occupation

HMO Licensing Policy

1.0 Outline of Licensing Legislative Requirements and Powers

- 1.1 The Act required local housing authorities to licence houses in multiple occupation (HMOs) of a specific description, i.e. those:
- of an occupancy of 5 persons or more and
 - with accommodation on three or more storeys and
 - that are not buildings that have been fully converted into self contained flats.
- 1.2 The licensing requirements are that:
- those persons involved in the property are fit and proper (this includes matters relating to offences connected with drugs, violence, breaches of housing law etc),
 - there is sufficient funding and expertise to manage the property and
 - the property will be reasonably suitable for occupation. Minimum standards are set out in prescribed regulations.
- 1.3 The application form is not prescribed by legislation, although some of the contents are. The application must ask for specified information, and statute requires the insertion of specified text within it. On a practical level, the application form is a part of the process which provides the information to make licensing decisions. The legislation allows local housing authorities to prescribe both a form and a fee; this latter may be demanded at the time of application.
- 1.4 The HMO licensing fee is not capped. However, the Act and The Provision of Services Regulations 2009, restrict the activities for which a fee may be charged, when fees may be levied, and how income from licence fees may be used.
- 1.5 The licence holder must be the most appropriate person to fill this role. This will normally be a person who has control of the property. The conditions of the licence are only binding upon the licence holder (unless some other person has agreed to be bound by them).
- 1.6 The licence must include certain mandatory conditions relating to the safety of furniture, electrical appliances, gas installations and fire precautions, and the need to provide written terms of occupation.
- 1.7 The licence may include conditions to make the house suitable for occupation by the number of persons stated. There is an alternative of reducing the occupancy of the house to a level whereby the housing conditions are suitable for that number.
- 1.8 The licence may also include other conditions which relate to the occupancy, management, use, condition and contents etc.

- 1.9 The application of discretionary conditions (paragraphs 1.7 and 1.8 above) is limited by the need to consider each property specifically, and the prohibition on applying any condition which may alter a condition of tenancy.
- 1.10 The licence must specify the number of people who can occupy the HMO.
- 1.11 HMOs must be reasonably safe for occupation within the terms of the Housing Health and Safety Rating System (Part I of the Housing Act 2004). Local housing authorities must take steps to verify this; in practice this will require an inspection of the HMO.
- 1.12 The maximum period of the licence is 5 years, but the duration can be less.
- 1.13 The licence may need to be changed during its term. The licence holder may wish to alter the occupancy, or there may be matters identified at inspection which require the imposition of licensing conditions. A formal licence variation may be needed to address these issues. Any variation must be based upon standards no higher than those adopted at the time the original licence was approved (unless there has been a change to the legally prescribed minimum standards).
- 1.14 Where a landlord wishes to remove a property from the licensing requirements (for instance by carrying out works of self-containment) he may apply for a Temporary Exemption Notice (TEN). This exempts the property from licensing requirements for three months; a further TEN can be applied for in exceptional circumstances.
- 1.15 A licence application can be refused where the criteria for granting a licence are not met. A licence can also be revoked where it is subsequently found that the circumstances require this action.
- 1.16 There is a range of sanctions available to penalise licence holders, landlords and managers who fail to comply with licensing requirements. These include prosecution, Rent Repayment Orders, property management orders and restrictions on the use of Section 21 notices for lawful eviction.
- 1.17 There is a requirement to maintain a register of licensed HMOs. This is a public document.

2.0 Policy – Licensable HMO

- 2.1 The following policies will be used to determine whether an HMO requires a licence. The legal background for these interpretations is explained further in Annex D.
- 2.2 In respect of HMOs occupied by their owners, we will consider that the owner (and their household) only comprise one nominal person. In practice this will mean that such an HMO will not be licensable unless it is occupied by four (or more) other persons.
- 2.3 In counting the number of storeys in a flat in multiple occupation we will consider the number of storeys in the flat rather than the number in the building containing that flat.

- 2.4 The word “storey” will normally exclude those floors of a flat in multiple occupation which solely comprise a staircase. An example of this would be a three storey building comprising two flats where the upper flat contains two floors of living accommodation at first and second floor level and this accommodation is served by a dedicated staircase at ground floor level. However, paragraphs 2.5 and 2.6 will also be considered.
- 2.5 Buildings which are used for mixed residential and commercial purposes require specific consideration. In these cases the number of (above ground level) commercial storeys will be counted when the number of storeys in the HMO is being assessed.
- 2.6 In some cases attics and basements will be counted as storeys. This means that the following attic and basement storeys will be included:
- Those which have rooms or services available for the use of the occupiers (or which should be available for their use) or
 - Areas that have been constructed or adapted for residential use and have not been permanently secured. Permanent securing would involve, for example, the partitioning off of the area (although permitting an access panel for maintenance which must be screwed shut).
 - Basement storeys that provide sole access to the HMO
- 2.7 In Plymouth, a large number of HMO properties are built with the front part of the building being arranged slightly higher, or lower, than the rear. This height difference will not be considered in assessing the storey height. An HMO with two storeys at the front and two at the rear will be considered a two storey property regardless of any mismatch in heights to the front and the rear parts of the property.
- 2.8 A self-contained flat is a “separate set of premises” which contains its own toilet, personal washing and cooking facilities. “Separate set” means premises which have all rooms accessible through a single front flat entrance door, that is the occupier does not have to cross the common parts to gain access to any other part of his accommodation.

3.0 Policy – Fit and Proper Persons

- 3.1 The Council is required to assess whether persons associated with the management of the property are fit and proper for this function. The application form must include a list of questions relating to specified offences and acts. The list of offences and failures is not exhaustive; other matters may be considered if they are relevant to the management of the HMO.
- 3.2 It is not necessary to have proved to a court or tribunal that an offence or failure has been committed. Where there is evidence of an alleged relevant breach or failure this should be considered.

3.3 The circumstances of the offence or failure will be examined in the light of how this may affect the future conduct of the HMO. An offence or failure may not prevent the granting of the licence. Any decision to accept a person as being fit and proper will be based upon:

- The severity of the breach
- The number of breaches
- The time which has elapsed since the last breach, and subsequent conduct since
- The relevance of the breach to the proper operation of the HMO
- The evidence that the applicant has accepted the need to conduct his business in accordance with the appropriate standards (including whether there has been satisfactory arrangements for the repayment of any debts associated with the failure to meet statutory responsibilities)
- The training received since the breach occurred

3.4 Fit and proper status will normally be determined by self certification, together with consideration of any other relevant information in the Council. Where there are other properties outside Plymouth, enquiries may be made of the relevant local housing authority. In some cases it may be appropriate to ask for a criminal records check.

3.5 In the context of fit and proper status, “person” includes a corporate body (for example, a limited company). See Annex D.

4.0 Policy – Management Arrangements

4.1 Appropriate management arrangements, including financial arrangements, must be present.

4.2 Management of the HMO must comply with the standards of management set out in the Management of Houses in Multiple Occupation (England) Regulations 2006.

4.3 The manager is defined as a person who receives rent or other income from the occupiers. This will be the licence holder but can also include a managing agent. Where there is a separate manager they must be employed by, or appointed as an agent¹, by the person having control of the HMO.

4.4 In all cases a manager (whether this is the same person as the licence holder or otherwise) must be available to act proactively (inspect the property to identify problems) and reactively (to respond to problems as they arise). They would normally be expected to reside/work sufficiently close to the HMO to carry out these functions. There must be proper property management and decisions about this will be informed by the inspection of the property and its management history.

4.5 The manager must have appropriate arrangements to deal with an emergency at any time.

4.6 There must be access to a pool of competent tradesmen capable of dealing with all aspects of HMO maintenance in a timely fashion.

4.7 There must be sufficient finance available to deal with any emergency situation. Finance should also be available to support any works necessary to protect the health and safety of the occupiers, visitors and neighbours and/or otherwise meet any statutory requirements.

¹ This is a specific requirement of Section 64(3) the Housing Act 2004

4.8 Occupiers should be provided with the information necessary for them to:

- take appropriate steps in the event of a fire
- take appropriate steps in the event of the fire alarm activating
- use the heating and hot water system
- use all appliances provided
- notify the licence holder of any problems that may arise and
- properly store and arrange for the collection of refuse

4.9 There should be systems in place to identify and address anti-social behaviour, on the part of the occupiers or their visitors, arising from the property.

4.10 Annex A sets out the standards of management that apply.

5.0 Policy – Licence Holder

5.1 The licence holder must be the most appropriate person to fill this role. This will normally be the person having control of the HMO (usually the owner). In the case of corporate bodies, the licence holder will normally be that body rather than a named person. See Annex D.

5.2 The licence holder will have the powers and financial resources to:

- manage tenancies
- authorise repairs and improvements as necessary to comply with statutory obligations and Part I of the Housing Act 2004² and
- comply with the conditions of any licence which is proposed to be granted either directly or through an agent (for which the licence holder is responsible)

5.3 The fact that a person lives abroad may not bar them from being a licence holder. Consideration will be given to management arrangements of the property, and the level of confidence that such standards will be maintained with, or without, the imposition of licence conditions on the proposed licence holder or some other person.

6.0 Policy – Property Standards

6.1 The HMO must be suitable for the accommodation of the number of persons who will occupy it. Where an HMO is unsuitable, it is usually possible to improve it by the imposition of licensing conditions specifying appropriate works. Where it is not possible to improve the HMO, the occupancy should be restricted to a level that would be satisfactory with the existing amenities and room sizes etc.

6.2 Minimum property standards are set in the regulations. However, the local housing authority may adopt standards higher than the prescribed standards. Annex A sets out the standards which apply. These standards incorporate minimum room sizes and expand on the requirements of the prescribed regulations.

7.0 Policy – Licence Conditions

7.1 All HMO licences must include specific conditions (see paragraph 1.6). In addition, the licence may also include other conditions which relate to the occupancy, management, use, condition and contents etc. See Annex B for the form of licence and typical conditions.

² The Housing Health and Safety Rating System (HHSRS)

- 7.2 There is an overlap between the standards which can be demanded through the imposition of licence conditions and those addressing the broader health and safety issues (which are imposed under HHSRS). Decisions will be made on a case by case basis, but in general, matters relating to HHSRS will be dealt with under Part I of the Act rather than as licence conditions, and simple point defects will tend to be dealt with through licensing conditions.
- 7.3 Licence conditions are imposed upon the licence holder. However, it may be appropriate to impose some conditions upon another person with their consent (paragraphs 5.2/5.3).
- 7.4 Discretionary licence conditions may not be applied automatically; each condition must be considered in accordance with the specific circumstances of the property to be licensed. However, the licence conditions described in paragraph 7.5 will apply to most licensable HMOs. Paragraph 7.5 also explains their purpose and relevance. Their appropriateness will be considered as part of the approval process.
- 7.5 The following discretionary conditions relate to matters which will apply to most HMOs:
- Requirements to notify the Council of any change of manager, and, in respect of the new manager, to provide details to verify their fit and proper status and competence to manage. This is to aid communication with the manager and ensure that the management arrangements continue to fulfil the requirements for licensing. Previous experience indicates that the manager will often change within the licence period.
 - Requirements for the licence holder to notify the Council of a change of their address, telephone number and email address. This is to ensure that the Council can properly communicate with the licence holder and apply the conditions of licence. Previous experience indicates that many owners change their address or other contact details within the licence period.
 - Requirements to take reasonable steps to minimise anti-social behaviour. Over the period the licence occupancy will change; there is the risk that one or more future occupiers may give rise to a problem with antisocial behaviour.

8.0 Policy – Duration of licence

- 8.1 The duration of all licence will normally be 5 years (subject to paragraphs 8.2 to 8.5 below).
- 8.2 In some cases there may be less certainty about the adequacy of the management arrangements, fit and proper status of the licence holder or other licensing requirements. In these situations the licence may be approved for a lesser period. The appropriate licence fee remains payable as a part of the licence. Subject to satisfactory performance, a further licence will be issued; the combined duration of the first and second licences will not exceed five years, and no further fee will be required for the second licence.
- 8.3 For re-licensing, the licence period for the new licence will end five years from the date of expiry of the previous licence. This will ensure that there is no incentive to delay in applying for renewal. The licence holder will have been previously notified of the requirements to re-licence; accordingly a “period of grace” is inappropriate.

- 8.4 Re-licensing refers to applications where all the following apply:
- The property has been previously licenced as an HMO and
 - The licence is due to expire, or has recently expired and
 - The proposed licence holder is the same person, or body, named as licence holder on the licence to be replaced.
- 8.5 In respect of initial licensing, the period of the licence will be reduced in those cases where the HMO has been operating without a licence application having been made. In these cases the licence will expire 5 years from the date that the HMO first required a licence.
- 8.6 In exceptional circumstances the Private Sector Housing Manager or Senior Private Sector Housing Officer (Policy and Procedures) may approve a licence of 5 years where the circumstances would normally fall within paragraphs 8.2 to 8.5 above.
- 9.0 Policy –Fees**
- 9.1 The licence fees and discounts are set out in Annex C1 to C3. The fees remain the same as those applied in the 2011 policy.
- 9.2 We have reviewed the 2011 policy licence fees following a recent court judgements (see Annex D). Revised average costs have been obtained for licensing activities associated with both initial and renewal licences. These costs have been compared with the licence fee income for approvals made after the policy came into effect.
- 9.3 The results indicated that the average licence fee was £503, and the average licence cost (as determined by the revised toolkit) was £508. There was a small shortfall in licensing income over the 632 licences approved. On the basis of the above calculations, there has been no overpayment of licence moneys.
- 9.4 The shortfall is less than 1% of the predictive costs (although it is possible that this will increase slightly as more applicants take advantage of the discounts offered). The nature of the calculations, and the limited shortfall, indicate that it would be disproportionate to increase the fees.
- 9.5 A standard fee is charged to those who delay in complying with their licensing obligations, and a discounted fee applies to those who apply promptly. Prompt applicants are likely to manage their HMOs to a higher standard, resulting in a lesser demand on the Council's licensing resources. The reverse is likely to apply to when the application is delayed.
- 9.6 The fee charged for re-licensing is lower, representing the anticipated lower resource implications required for a second application. (See paragraph 8.4 which defines re-licensing applications).

- 9.7 A discount will usually be offered where the licence holder demonstrates higher levels of management expertise through:
- Having past the Landlord Proficiency Test (an on-line test operated by the West of England Private Housing Partnership) or
 - Being accredited through National Landlords Association or
 - Being accredited within the National Landlord Accreditation Scheme or
 - Being accredited with Landlord Accreditation South West
 - Being accredited with the London Landlord Accreditation Scheme
 - Having their name appearing on the register of any other scheme which incorporates a test of proficiency, a code of conduct and a disciplinary code of practice (as may be approved by the Private Sector Housing Manager for this purpose).

It is expected that this expertise will be manifested in the better management of the HMO, resulting in lesser demands being placed upon the Council's licensing resources. Accordingly this discount will only apply where a prompt application is submitted.

- 9.8 The licence fee will be demanded at the time of the licence application and the application will not be considered complete until the appropriate licence fee is paid. The licence fee will be assessed as of the time that the application becomes complete. This means that a delay in providing a certificate or other information may result in the full fee being charged, even though the applicant may have previously made a fee payment.
- 9.9 A charge will be made where a copy of the register of licensed HMOs is requested (See Annex C3). Other than this (and the licence fee) no other charge will be made in respect of licensing functions.
- 9.10 It is not considered appropriate to refund any part of the fee when a licence is revoked (for example, following sale of the property). The return of the fee would increase the overall cost of licensing. In addition, the majority of the licensing costs are incurred prior to the granting of the licence, thus making any return of minimal value.
- 9.11 It is not appropriate to refund any part of the fee where a licence is to be refused. The costs associated with refusing a licence are likely to be significantly greater than the fee paid.
- 9.12 The Private Sector Housing Manager or Senior Private Sector Housing Officer (Policies and Procedures) may reduce or waive the fee payable in exceptional circumstances.

10.0 Policy – Applications

- 10.1 Application for an HMO licence must be made on the Plymouth City Council application form (appropriate at the date of application) or the online form available at <http://www.businesslink.gov.uk>. This latter form has been devised by the Government in compliance with EU services directive which requires online access to licensing.

10.2 The application will not be considered complete unless:

- The correct application form has been properly and fully completed
- All appropriate certificates and attachments have been submitted (as specified within the form and guidance)
- The correct fee has been paid (as calculated at the date the completed application is received)

11.0 Policy – Licence variations and changes to licence holder

11.1 The need to vary the licence may arise following an inspection of the property or a request from the licence holder.

11.2 Variations will be considered in accordance with standards no higher than those used to assess the HMO at the time that the licence was issued. This is subject to any changes in the standards set by regulation.

11.3 As the licence is unique to both the property address and the licence holder, it is not possible to vary a licence to permit the change of licence holder (typically on sale of the HMO). In such cases a new licence must be applied for and the current licence revoked. Such a revocation would generally be considered to be voluntary and not an enforcement issue within paragraph 13.4.

12.0 Policy –Temporary Exemption Notices and death of licence holder

12.1 Landlords can apply for Temporary Exemption Notices (TENs) when they propose to take steps to remove an HMO from the remit of licensing. The TEN allows the HMO to operate legally for three months whilst the appropriate changes are taking place.

12.2 In deciding whether to issue a Temporary Exemption Notice, we will have regard to whether:

- the proposals will remove the HMO from the remit of licensing,
- the proposals are practical and likely to be completed within the three month period of the TEN and
- any evidence which suggests that an Interim Management Order may be appropriate

12.3 A second TEN will only be issued in exceptional circumstances.

12.4 In the event of the death of the licence holder the Council is required to treat the HMO as if a TEN had been granted at the time of that death. This gives the personal representative (of the deceased) three months in which to take control of the HMO. The representative may ask for this period to be extended by a further three months, and any such application will be considered on its merits.

13.0 Policy –Enforcement Issues

13.1 The failures to apply for a licence or comply with the conditions of licence are offences. The Private Sector Housing Enforcement Policy will be used to determine how breaches of licensing requirements are to be addressed.

- 13.2 Other enforcement options are available where there has been a failure to apply for a licence. The Council can apply for a Rent Repayment Order (RRO) to recover housing benefit payments. Generally RROs will be applied for as it is not appropriate for anyone to benefit from a criminal offence.
- 13.3 In some situations, tenants may also apply for an RRO in respect of non housing benefit payments. We will advise tenants of this right in appropriate cases.
- 13.4 A licence application may be refused, or a previously issued licence revoked. Generally this will be a last resort following the failure to secure the required changes/improvements by agreement. Such enforcement decisions are made in consultation with the Assistant Director (Homes and Communities). (See also paragraph 11.3).
- 13.5 Statutory provisions apply where the Council is unable to grant an HMO licence, either because no application has been made, or the circumstances of application require its refusal. Legislation requires that the Council take over the management of the HMO through an Interim Management Order. This is an action of last resort; all reasonable steps will be taken to enable a licence to be granted prior to any decision to make an IMO.
- 13.6 There are restrictions on the use of Section 21 notice of eviction where licensing requirements have not been met. Section 21 notices may only be used for licensable HMOs where:
- A full licence application has been made but not decided or
 - An application for a TEN has been made but not decided or
 - An HMO licence has been approved and is current or
 - A TEN has been approved and is current.

The Private Rented Team and Housing Options Team will work together to ensure that occupiers are properly advised and information on unlicensed HMOs is acted upon.

14.0 Policy – Process

- 14.1 The report Delegated Authorities for Officers with Statutory Duties specifies the officers authorised to take decisions in connection with this policy.
- 14.2 Although the need for HMOs to be licensed is widely known, information will continue to be made available on the Council's webpages, through landlord's associations and other sources.
- 14.3 Licence holders will be individually informed that their licences is about to expire; the letter will also advise of the steps which need to be taken to renew the licence.
- 14.4 The licence fees reward good practice, in particular landlord accreditation. Details of these schemes will be published on the Council's webpages.
- 14.5 The public register of licensed HMOs will be available to view at the Councils' main office by appointment. A full copy will be available on payment of the fee (See Annex C3). Enquiries about a single property entry will not be charged for.

- 14.6 The register will not be made available on the Council's webpages. This is because of the difficulty of continually updating the webpage as the register content changes. This document can only be relied upon if it is fully up to date; we cannot ensure this by web publication. Few requests are received for a copy of this document; these are best dealt with as they arise in order to give information accurate at the time of the request.

Annexes

Annex A	Property and Management Standards
Annex B	Form of Licence
Annex C1	Licensing Fees; Initial Licence Application
Annex C2	Licensing Fees; Application to Re-licence
Annex C3	Fees for Accessing HMO Register
Annex D	Background to Specific Policy Decisions

PART ONE - AMENITY STANDARDS

Indicative standards for room sizes, provision of bathrooms, WCs and kitchens and other requirements for HMOs.

PART TWO - HOUSING HEALTH AND SAFETY RATING SYSTEM (HHSRS)

Guidance on the HHSRS introduced by the Housing Act 2004 which may in some circumstances override the indicative standards given. This system applies to all dwellings not just licenced properties or HMOs and is a method of assessing the risk to health and safety to occupiers and visitors.

PART THREE - MANAGEMENT OF THE PROPERTY.

Summary of the requirements of the Management Regulations and expectations of the Manager of a licensed HMO, including dealing with Anti-Social Behaviour. These requirements apply to ALL HMOs regardless of whether or not they are licensable.

PART FOUR – FIRE SAFETY ORDER

Which properties this applies to and the duties it imposes. The order applies to certain HMOs regardless of whether or not they are licensable.

Please note that your property does not necessarily have to meet all these standards to allow a licence to be issued. The property will be inspected prior to issue of the licence and you will be advised of any necessary works and the timescales in which they must be completed.

Please contact us if you have any queries about property standards or managing an HMO. In addition, more detailed information on your responsibilities as a landlord can be found in our Landlord Manual. Contact us for a copy or download it from the web link below:

http://www.plymouth.gov.uk/landlords_manual.pdf

Contact Details:

Telephone: 01752 307075

Email: private.rent@plymouth.gov.uk

Website: <http://www.plymouth.gov.uk>

PART ONE - AMENITY STANDARDS

Indicative standards for room sizes, provision of bathrooms, WCs and kitchens and other requirements for HMOs.

Room Sizes

Bedrooms

Bedrooms			
Number of people	Shared Lounge	Shared Kitchen	Room Size (m ²)
1	Yes	Yes	6.5
1	No	Yes	10
1	No	No	13
2	Yes	Yes	10
2	No	Yes	14
2	No	No	20.5

A single room should not be occupied by more than one household.

It is not normally acceptable for a bedroom to be occupied by more than two people in one household. Please consult the Private Rented Team for advice in this situation. An assessment using the Housing Health and Safety Rating System (HHSRS) will be carried out to determine the risk from 'Crowding and Space'. Where this is unacceptable improvement will be required.

Shared Lounges

Shared lounges must be of sufficient size and have sufficient soft furnishings, to allow at least two thirds of occupiers to sit together and socialise. Occupiers should be able to use this room to relax without interference from other activities. This may arise if the lounge or 'communal area' is adjacent to the kitchen. Dining, sitting areas adjacent to kitchens are acceptable as provision of 'shared lounge' providing both areas are large enough to comfortably allow the use of both areas at the same time.

Dining Rooms/Dining Areas

See "Facilities for Storage, Preparation and Cooking of Food and for the Disposal of Waste Water". Dining areas may be required where shared kitchen facilities are poorly sited in relation to some of the letting rooms they serve. Dining rooms will also be required in premises where meals are provided as a part of the business.

The dining area is to be on the same floor, and adjacent to, the shared kitchen facilities.

Dining areas should be of sufficient size to accommodate a dining table and seating to serve all the occupiers using the shared kitchen facilities. Where the dining area is a part of a room, the room should be arranged so that all its functions can be carried out with reasonable safety and comfort.

Measurement of Rooms

Room sizes are calculated by taking wall to wall measurements directly above the height of the skirting board. In general, where the layout of the room prevents some parts of it being properly used, these areas will be excluded from the assessment of size. This includes areas which can only be used for access (e.g. some "L" shaped rooms with a narrow area in front of a doorway) are excluded. Also excluded are all parts of rooms located below sloping ceilings etc where the maximum ceiling height is less than 1.5m. (NB this is not a minimum ceiling height and the ceiling throughout the dwelling should be reasonable for normal usage). The minimum standards apply to each room and the equivalent amount of space cannot be made up by using two smaller rooms.

Provision of Bathrooms, Toilets and Wash Hand Basins

Preferably each separate occupancy should be provided with its own bath (or shower), WC and wash hand basin. Where this is not practicable, for all sharing occupants there must be readily accessible bathrooms or shower rooms and WCs in the following ratios.

Number of people^{1,4}	Minimum Bathroom and toilet requirements³
1-4	1 bathroom, 1 WC can be combined ^{2,5}
5	1 bathroom and 1 separate WC ^{2,5}
6-8	2 bathrooms and 2 WC's (separate WC not required) ^{2,5}
9-10	2 bathrooms and 2 WC's (1 WC must be separate) ^{2,5}
11-12	3 bathrooms and 3 WC's (separate WC not required) ^{2,5}
13-15	3 bathrooms and 3 WC's (1WC must be separate) ^{2,5}

¹This refers to the number of people using shared facilities.

²All compartments/rooms containing a WC must contain a wash hand basin.

³External water closets cannot be included for this purpose. Baths or showers cannot be provided in kitchens

⁴Numbers over 16 will be considered in accordance with the above principles.

⁵ Specific provisions apply in premises where meals are provided as a part of the business. In these cases a bath must be provided available for the use of all occupiers. This bathroom must be of a sufficient size for parents to assist in the bathing of their children.

Every sharing occupant must have access to such a shared bathroom and toilet within one floor's distance of his or her letting.

In some circumstances wash hand basins may be required within sleeping rooms. This may be to compensate for a lack of a wash hand basin in a WC compartment or bathroom (due to restricted space) or because there is an excessive distance of travel to the nearest wash hand basin for example.

Specific requirements for all baths, showers, toilets and wash hand basins:

- All baths, showers and WCs must be located in a proper room of adequate size and layout and the room and fittings must be fit for their purpose.
- The room must also be fitted with a privacy lock. Where glazing is provided, suitable steps must be taken to protect the privacy of the occupiers.
- In bath/shower rooms there must be sufficient room for washing/bathing, drying, dressing and the placing of dry clothing.
- The hot water supply must be of sufficient capacity, temperature and flow for any wash hand basin, bath or shower and be available at all times. In the case of showers the water temperature must be thermostatically controlled. In the case of wash hand basins the cold

water supply must be potable (drinking water quality). All fittings must be permanently plumbed into the hot/cold water system and properly connected to mains drainage.

- An effective means of natural/artificial ventilation must be provided. Any water closet sited so as to open directly and immediately on to a space intended for the storage or preparation of food shall be provided with mechanical ventilation.
- Flooring must be water resistant, readily cleansable and suitably sealed to adjoining surfaces. When choosing floor coverings consideration must also be given to the possibility of slips and falls. On inspection an assessment using HHSRS will be carried out to determine the risk of slips and falls, where this is unacceptable improvement will be required.
- Electricity, hot and cold water supplies: please see section “Electricity, Gas and Water Supplies” which applies to metering of energy supplies.
- Heating: see later section on “Space Heating” and “Excess Cold” in Part Two. Note that all bath/shower rooms shall be provided with adequate heating.
- Baths: a 300 mm splashback shall be provided to each wall adjacent to the bath.
- Showers: a suitable waterproof covering is to be fitted to the walls to ceiling height or at least 2.1 metres above the base of the shower, whichever is the lesser. A suitable shower curtain or screen must be provided.
- Wash hand basins: a 300 mm splashback must be provided immediately above each wash hand basin.

See also ‘Personal Hygiene, Sanitation and Drainage’ in Part Two.

Facilities for the Storage, Preparation and Cooking of Food and for the Disposal of Waste Water

Generally

Satisfactory and safe kitchen facilities must be provided for the preparation of food and hot drinks. These facilities must be available for all occupiers at all times (even when the business provides meals).

Preferably each household shall have for its own exclusive use a proper kitchen. Where this is not possible a shared kitchen may be provided.

Kitchens must be provided as close to living accommodation as possible, to a maximum of one floor distance, unless there is a dining area within the kitchen or on the same floor as the kitchen, and there is sufficient dry and refrigerated storage space within the kitchen.

The layout of the kitchen facilities provided must permit the safe preparation of food and hot drinks. The size, layout and location of these facilities must be satisfactory and safe for the numbers of occupiers using them. Although no minimum size has been set you should aim to provide around 3m² for each person using any shared kitchen. The amount of space needed will depend on the layout of the facilities, shape of the room etc and whether or not there are associated dining facilities.

On inspection kitchens will be assessed using HHSRS to determine if there are risks of burns and scalds, collision, falls, fire or poor ergonomics with regard to size, layout and potential number of users. Where risks are considered to be unacceptably high improvements will be required.

Electricity, hot and cold water supplies: please see section “Electricity, Gas and Water Supplies” which applies to metering of energy supplies.

Flooring

Flooring must be water resistant, readily cleansable and suitably sealed to adjoining surfaces. When choosing floor coverings consideration must also be given to the possibility of slips and falls.

Ventilation

Adequate ventilation must be provided including artificial ventilation where necessary.

Lighting

There must be adequate artificial lighting to safely use, and cleanse, the kitchen and its fittings. Light switches need to be suitably located.

Kitchen Facilities

A table showing the minimum requirements is set out overleaf.

Fittings	Single household use kitchen	Shared kitchen (for every 5 persons using unless otherwise stated) ¹
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Electrical sockets	2 number 13 amp sockets ²	2 number 13 amp sockets ²
Refrigeration	A refrigerator with freezer compartment ⁹	A refrigerator with freezer compartment
Dry food store	0.1m ³ storage (i.e. a 500 wall unit) for each person using the kitchen ³	0.1m ³ storage (i.e. a 500 wall unit) for each person using the kitchen ^{3,4}
Storage for cooking utensils, etc.	0.15m ³ cupboard (i.e. a 500 base unit) storage for cooking utensils, crockery and cutlery	0.15m ³ cupboard (i.e. a 500 base unit) storage for cooking utensils, crockery and cutlery
Fixed cleansable worktop(s)	A minimum total of two metres run with a minimum depth of 500mm ^{5,6}	A minimum total of two metres run with a minimum depth of 500mm ^{5,6}
Cooking appliance	For a single person, an appliance with two rings/hotplates together with either an oven or a grill ⁹ Otherwise an appliance with three or four rings/hotplates together with a grill and oven ⁹	An appliance with three or four rings/hotplates together with a grill and oven ⁷
Sink and disposal of waste water	A sink (with drainer) with its own permanently connected supplies of hot and cold (drinking) water and suitably connected to mains drainage and with a splashback of at least 300 mm ⁸	A sink (with drainer) with its own permanently connected supplies of hot and cold (drinking) water and suitably connected to mains drainage and with a splashback of at least 300 mm ^{7,8}
Waste bin		A lidded refuse storage container sufficient for the numbers of people using the facilities.

¹In some cases this may be reduced to one set to ten persons where meals are provided by the business.

²For use with work top appliances. Excludes any electrical sockets used for microwave cookers, refrigerators and other large kitchen appliances.

³The space below a sink unit is not suitable for food storage

⁴Kitchen cupboards should be lockable or may be provided in the individual accommodation, where on the same floor as the kitchen. Locks on cupboard doors may be required if problems arise (i.e. theft of food).

⁵An area of work surface (minimum 500 wide by 500 deep)) must also be provided adjoining each cooking appliance.

⁶Any area of a worktop on which items such as microwaves are permanently sited is to be excluded from the measurement of “free” worktop area.

⁷Provision of microwave ovens and dish washing machines in addition to the standard set of facilities may allow variation to the specified standard if a second set of facilities is required within a kitchen.

⁸Hot water is to be provided from an instantaneous gas water heater, hot water cylinder (hot water from a gas boiler or immersion heater), or 5 litre point of use electric storage water heater. Hot water must be available at all times.

⁹In some cases the landlord may not be contractually bound to provide some kitchen facilities. In such cases there is no licensing requirement to provide cooking and refrigeration appliances.

However, provision of these facilities is included within the HHSRS assessment. In this type of property it would be considered normal for the landlord to provide the facilities. As a minimum, there should be an adequate and suitably located space for such a fitting together with an adequate, properly located, energy supply; in most cases these fittings will be required.

Space Heating

Adequate space heating must be provided to all units of accommodation, including common areas (i.e. shared kitchens, lounges, bathrooms, halls and stairs). See 'Excess Cold' in Part Two for details of the standard that will be required.

Fire Safety

Appropriate fire precautions must be provided in the property. See 'Fire' in Part Two for details of the standards that will be required.

Electricity, Gas and Water Supplies

The supplies of electricity, gas (where provided) and water to each letting (and the common parts) shall be sufficient to carry out normal domestic activities.

Sufficient electrical sockets must be provided to units of accommodation and kitchens to avoid the excessive use of extension leads and multi point adaptors. This includes provision in common areas to allow the use of vacuum cleaners etc.

All gas and electrical installations must be safe for use.

Where meals are provided by the business, all electricity and gas must be payable through an inclusive charge for the use of the accommodation.

Where landlord's sub meters are provided, the charge for the power used shall be within the limits set for the maximum retail price of electricity and gas.

It is recommended that, where they are provided, prepayment sub meters are operated by a key or card which is rechargeable by the tenant at his/her convenience. Tokens or cards provided by the landlord may lead to disconnection if the tenant cannot contact the landlord to obtain further credit.

Where lighting, heating, ventilation, kitchen, hot water, electrical sockets or alarm systems are provided for the shared use of all, or several, households, then:

- These services must be available at all times, and sufficient for the needs of the users in the function being carried out and
- The electricity and gas (where provided) must be provided from quarterly meters. Normally these will be landlords' meters. However, in the case of some smaller shared housing, metering may be the collective responsibility of all the occupiers.

Also see 'Carbon Monoxide etc', 'Uncombusted Fuel Gas', 'Water Supply', 'Electrical Hazards' in Part Two.

Refuse Storage and Disposal

Refuse storage facilities must be provided sufficient for the needs of the number of people occupying the house and of a type acceptable to the Local Authority (and in accordance with its recycling requirements).

All containers should be located on hard standing with suitable access for cleansing of the area and removal of containers.

Also see 'Domestic Hygiene, Pests and Refuse' in Part Two.

Part Two – Housing Health and Safety Rating System (HHSRS)

Guidance on the HHSRS introduced by the Housing Act 2004 which may in some circumstances override the indicative standards given. This system applies to all dwellings not just licenced properties or HMOs and is a method of assessing the risk to health and safety to occupiers and visitors.

There are no 'set' standards in this section. The following are all 'hazards' that need to be assessed in each property. Improvement will be required where the hazards are found to give rise to unacceptable risks. Some hazards occur frequently and others very rarely. Those that occur most regularly are indicated with an asterisk.

Damp and Mould*

The property needs to be reasonably free from damp and mould that would be prejudicial to health. This includes the presence of black spot mould resulting from condensation. Typically this requires that there is adequate heating, ventilation and insulation and that these provisions and the property as a whole are maintained in good order.

Excess Cold*

Each unit of accommodation, including associated bathrooms and other common areas must be provided with an adequate fixed heating system. This needs to be sufficient to maintain the temperature at 19°C when the external temperature is -1 °C.

The outputs of the system need to reflect the thermal characteristics of the accommodation which include the heat losses through walls (including walls to the stairwell) etc, draughts and the volume of the room.

On inspection an HHSRS assessment will be carried out to determine the risk from excess cold and where this is unacceptable, improvement will be required. The assessment will include consideration of heating provision, its control, and the thermal characteristics of the property.

A properly designed gas central heating system, throughout the property, which is controllable by the individual occupiers, combined with adequate insulation, would meet this requirement. Systems of equivalent efficiency (when combined with insulation measures and including consideration of costs to run) will be acceptable.

Also note metering requirements in Part One "Electricity, Gas and Water Supplies".

Excess Heat

Provision must be made to allow heat to disperse from the property and prevent excessive heat gain for example in loft conversions.

Asbestos

Any asbestos in the property must be adequately protected against damage and dispersal of fibres into the air. Particular care must be taken when contractors are on site and their work may disturb asbestos. Note also the requirements of the **Control of Asbestos Regulations 2006** which apply to the common areas of HMOs.

Biocides

This covers threats to health from those chemicals used to treat timber and mould growth in dwellings.

Carbon Monoxide and fuel combustion products

This category includes hazards resulting from the presence of excess levels in the atmosphere of carbon monoxide, nitrogen dioxide, sulphur dioxide and smoke. These are products associated with the combustion or incomplete combustion of gas, oil and solid fuel for heating and cooking. Problems can arise with poor installation and inadequate servicing/maintenance.

Lead

This covers threats to health from the ingestion of lead – mainly relates to small children unless there is still lead piping in the water supply.

Radiation

This covers the threats to health from radon gas and its daughters, primarily airborne, but also radon dissolved in water. Plymouth is a Radon Affected Area and there may be problems in some lower ground floor/ground floor rooms.

Uncombusted Fuel Gas

This category covers the threat of asphyxiation resulting from the escape of fuel gas into the atmosphere within a dwelling.

Volatile Organic Compounds

These are a diverse group of organic chemicals, which includes formaldehyde, that are gaseous at room temperature, and are found in a wide variety of materials in the home. This is more likely to be a problem when materials have been used without due regard to safety or where there is inadequate ventilation.

Crowding and Space

There must be adequate space for normal household activities to be undertaken safely. This relates to room sizes and numbers of people occupying the property.

Entry by Intruders*

The property must have a reasonable level of security. A higher level may be required in some areas than others depending on the crime statistics for that area. Areas with high numbers of HMOs typically have a higher incidence of crime.

Lighting

Adequate artificial lighting shall be provided in all areas sufficient for (a) the safe use of the accommodation (including external and common areas) (b) the maintenance of its cleanliness and (c) the carrying out of normal domestic activities. Adequate natural lighting and outlook should also be available. This can be a problem in lower ground floor rooms.

Also note metering requirements in Part One “Electricity, Gas and Water Supplies”.

Noise

This covers threats to physical and mental health resulting from exposure to noise inside the dwelling or within its curtilage.

Domestic Hygiene, Pests and Refuse*

This covers hazards which can result from:

- Poor design, layout and construction such that the dwelling cannot be readily kept clean and hygienic
- Access into, and harbourage within, the dwelling for pests; and
- Inadequate and unhygienic provision for storing and disposal of household waste.

Food Safety

This covers threats of infection resulting from inadequacies in provision and facilities for the storage, preparation and cooking of food.

Personal Hygiene, Sanitation and Drainage*

This covers threats of infection and threats to mental health associated with personal hygiene, including personal washing and clothes washing facilities, sanitation and drainage. This can arise where poorly designed, installed or maintained facilities dissuade occupiers from their use. Defects become more serious where facilities are shared, in particular where these concern hand washing in shared WCs.

Also note metering requirements in Part One “Electricity, Gas and Water Supplies”.

Water Supply

This category covers the quality and adequacy of the supply of water within the dwelling for drinking and for domestic purposes such as cooking, washing, cleaning and sanitation. It includes threats to health from contamination by bacteria, protozoa, parasites, viruses and chemical pollutants.

Falls*

This covers hazards which can result from falls:

- Associated with baths, showers or similar
- On level surfaces – where any change in level is less than 300 mm
- On stairs/steps/ramps etc – where any change in level is more than 300 mm
- Between levels – where the change is more than 300 mm – this refers to falls from windows, balconies, landings, roofs etc.

Typical problems include lack of handrails, uneven steps, steps different in height, unguarded landings/roofs, low window sills, windows without restrictors, slippery surfaces and lack of external lighting.

Also note metering requirements in Part One “Electricity, Gas and Water Supplies”.

Electrical Hazards*

This category covers hazards from shock and burns resulting from exposure to electricity, including from lightning strikes (protection would be required in buildings with significant risk of lightning strike only).

Fire*

Appropriate fire precautions must be provided in the property. The minimum requirements for the granting of an HMO licence are:

- A 10 year sealed battery operated smoke alarm fixed to the ceiling of each hall and landing.
- A fire blanket in a proper container in any shared kitchens. The container shall be securely fixed to the wall in a prominent and readily accessible position, sited so as to prevent a user from being trapped in the event of the fire becoming out of control.
- A fire door separating each shared kitchen from the common hallway/stairwell. The fire door is to be fitted in accordance with LACORS Fire Safety Guidance.

On inspection an HHSRS assessment will be carried out to determine the risk from fire and where this is unacceptable improvement will be required. It is unlikely that the minimum requirements quoted above will be sufficient. The assessment will take account of what fire precautions are provided, the layout and size of the property and whether there are any factors which increase the likelihood of fire.

The Council has adopted the standard of fire safety described in the document “Housing – Fire Safety” published by LACORS (July 2008). A copy of this can be downloaded from the from the private housing fire safety pages of the Council website www.plymouth.gov.uk.

Also note metering requirements in Part One “Electricity, Gas and Water Supplies”.

Flames and hot surfaces*

This category covers threats of:

- Burns – injuries caused by contact with a hot flame or fire, and contact with hot objects or hot non water based liquids and
- Scalds – injuries caused by contact with hot liquids and vapours.

It includes burns caused by clothing catching fire from a controlled fire or flame e.g. by reaching across a gas flame.

Typically these are problems associated with poorly designed kitchen layouts; see Part One “Facilities for the Storage, Preparation and Cooking of Food and for the Disposal of Waste Water”.

Collision and entrapment

This category includes risks of physical injury from:

- Trapping body parts in architectural features, such as trapping limbs or fingers in doors or windows; and
- Striking (colliding with) objects such as architectural glazing, windows, doors, low ceilings and walls.

Explosions

This category covers the threat from the blast of an explosion, from debris generated by the blast, and from the partial or total collapse of a building as the result of an explosion.

Position and operability of amenities etc

This category covers threats of physical strain associated with functional space and other features at dwellings. An example would be, having to stand on a chair to open a window or operate a switch.

Structural collapse and falling elements.

This category covers the threat of whole dwelling collapse, or of an element or a part of the fabric being displaced or falling because of inadequate fixing, disrepair or as a result of adverse weather conditions. Structural failure may occur internally or externally within the curtilage threatening occupants, or externally outside the curtilage putting at risk members of the public.

PART THREE - MANAGEMENT OF THE PROPERTY

Summary of the requirements of the Management Regulations and expectations of the Manager of a licensed HMO, including dealing with Anti-Social Behaviour.

A Manager of a house in multiple occupation (HMO) has a duty to properly manage that house. This section explains:

- Some of the requirements and
- Who is responsible for complying with them

If you are employing a property management company to manage your HMO you need to consider how well they will meet these obligations. It is recommended that you review a number of companies to see which one will meet your needs. In addition you should check to see whether they are 'accredited' by a professional organisation and what protection there is for your money should the company fail. More detail on the relationship between landlords and their agents and the different types of contracts available can be found in the Landlord Manual. The manual can be downloaded from the link below:

http://www.plymouth.gov.uk/landlords_manual.pdf

The Management of Houses in Multiple Occupation (England) Regulations 2006 apply to all licenced HMOs.

The purpose of the regulations is to ensure that "the manager" exercises proper standards of management. These duties include ensuring the house is in and maintained in a good state of repair, all facilities are kept in proper working order and all steps are taken to protect tenants from risk of injury

The main requirements are as follows:

- The manager is to provide his name, address and telephone number to all the occupiers, and display this in a prominent position
- All means of escape from fire to be kept free from obstruction
- Fire alarms and fire fighting equipment to be kept in good order
- Take all reasonable steps to ensure the safety of the occupiers. This includes protecting occupiers from falls (e.g. from low windows, off flat roofs and into light-wells as well as other hazards), but will also cover electrical, gas and other safety
- The water supply is maintained, tanks covered and fittings protected from frost. The water supply is not to be unreasonably interrupted
- The drainage system (including rainwater drainage) is maintained
- The manager must supply a copy of the latest gas certificate within seven days of the Council requiring it
- Ensure that the electrical wiring is tested at no less than five yearly intervals, and supply a copy of the test certificate within seven days of the Council requiring it
- Ensure that the supply of gas and electricity to each tenant is not unreasonably interrupted
- Maintain the common parts and fittings of the HMO in good order, clean decorative repair and free from obstruction. This includes handrails, stair-carpets, windows, light fittings and appliances
- Common parts lighting is to be adequate and lighting available at all times
- The common outbuildings, yards etc are kept in good order

- The boundary walls, fences etc are kept safe and in good order
- The doors to each letting are kept in good order
- Each unit of accommodation, and any furniture provided with it, should be clean at the beginning of the occupation
- Each unit of accommodation, its windows and ventilators are to be kept in good repair, and working order. The fittings and appliances are to be kept clean and in good working order. There are exceptions where problems arise from poor tenant behaviour
- Proper facilities and arrangements are provided for the storage and disposal of refuse. This may require greater provision than the Council may ordinarily make.

Full copies the regulations can be obtained from <http://www.legislation.gov.uk>

Who is the Manager?

The manager can be:

- The owner of the property
- A person receiving rent or other monies (for example meter money)

It is important that if you delegate some management duties to someone else, you are each clear about your respective responsibilities. If you are an agent collecting rent or other monies you may be held responsible for complying with the regulations. This applies even if the function falls outside your management role as defined in your contract with the owner.

What happens if things go wrong?

When there is a failure to comply with a requirement of these regulations, we would normally seek your agreement to deal with the problem. Where this is not possible:

- The Council may prosecute and
- (In the case of a licensed HMO) there may be grounds to revoke the licence.

Isn't the Tenant responsible?

Tenants may be responsible under the terms of the tenancy agreement, but under the regulations the manager is responsible for ensuring that things are put right when problems do occur. This is because the failure of one tenant can result in all the others being put at risk.

Under the regulations tenants do have some legal responsibilities; these are to:

- Take care not to hinder the manager in the performance of their duties under these regulations
- Allow access to the manager at reasonable times so that he can carry out his duties
- Provide information which the manager may require to comply with his duties
- Take care and avoid damaging the property
- Comply with the manager's arrangements for the storage and disposal of rubbish and
- Comply with the manager's reasonable instructions in respect of means of escape from fire, prevention of fire and the use of fire equipment.

Although the Council can prosecute the tenant for failing to comply with these requirements, it will usually be more appropriate, and effective, for the manager to use his powers under the tenancy agreement.

General advice on management practice

These are some of the factors that will help you to determine how frequently you need to visit the house and what to look for.

You will know the physical nature of your property. You will be aware that the fire alarm system needs to be checked at regular intervals, when light bulbs need to be replaced, that the parapet gutters are liable to obstruction, etc. etc. You will also be aware of the nature of your tenants, and whether any are likely to cause problems in the management of the property. Disposal of refuse can be a problem, so that visiting after the refuse collection can be helpful.

You will need to balance your duties as a manager with a tenant's right to "quiet enjoyment" of their home. Inspection of their accommodation must be with their knowledge and consent. Except in emergencies you must always give at least 24 hours' notice that you would like access to the accommodation. This notice, does not give you an automatic right of entry into the accommodation if it is not convenient for your tenant. (If reasonable access is refused you should obtain advice from your solicitor or a professional organisation before taking any action.)

Management records

You should keep records of your visits and any repairs or action taken, as this will help demonstrate an effective management system. You also need to keep certificates and other records to demonstrate that the necessary maintenance checks (e.g. gas safety checks and servicing of fire alarm systems) have been carried out. You may be asked to produce these documents on inspection and as required by the Council.

You should encourage your tenants to report problems and respond promptly when they do.

It is a requirement to display your (and your manager's), name, address and telephone contact number, so that in the event of an emergency, contact can be made and the appropriate action taken. Although not a requirement of the regulations, it is good practice to have a notice board displaying information on tenancy rules, how to reset the alarm system, copies of certificates and how to report any problems to the landlord. This board can also be used to display documents as required by any HMO licence.

Common parts lighting

The manager is responsible for ensuring that the light fittings are in working order. This includes light bulbs, so it is worth considering a lighting system where the fittings have a long life, and bulbs are protected from theft. The switches are to be properly sited, and all the lighting must be supplied from a single quarterly meter, which will usually be in the control of the manager.

Services

The water, gas or electricity supplies must not be cut off unannounced. For repair work, residents must be notified in advance and the supply restored as soon as possible. Where necessary, alternative facilities should be provided until the supply is restored.

Heating

Lack of an adequate fixed heating system is a major contributory factor to both fire and illness. It increases the use of portable gas heaters, electric fires and extension leads. These also contribute to dampness, electrocution and falls. The Council will require improvement to the heating and insulation of the property, usually to a minimum standard of full central heating and 250mm of loft insulation (or equivalent standard).

Gas safety

Each year about 30 people are known to die from carbon monoxide poisoning caused by poorly installed or badly maintained gas appliances and flues. It is believed that the number of deaths and non-fatal illness is considerably higher.

The Gas Safety (Installation and Use) Regulations 1998 place wide-ranging duties on landlords of all rented property to ensure that the gas appliances, flues and supply are:

- installed and maintained in a safe condition, works only being carried out by a competent contractor whose name appears on the "Gas Safety Register" (the "GSR" replaced CORGI),
- annual safety checks must be carried out; the contractor has to be a competent GSR fitter
- certificates are issued to tenants and
- records are kept for 2 years.

Electrical safety

A landlord of any rented property has a duty to ensure that the electrical installation is safe and in good order; a current electrical installation test certificate will demonstrate this. In HMOs the possession of such a certificate is a requirement (see above). To avoid trailing cables and overloading, it is recommended that at least two twin 13A power points are available in each room and are conveniently located. It is recommended that two additional twin 13A sockets are conveniently located above a kitchen worktop.

Landlords' electrical appliances should be safe, and a yearly test certificate will help demonstrate this. This is a requirement in licenced HMOs.

Maintenance of fire precautions

- Fire alarm systems, escape lighting and fire fighting equipment must be maintained in accordance with the relevant British standards. Guidance is available from the Private Rented Team; it is recommended that you enter into a maintenance contract with a specialist contractor
- Fire doors must be kept in good condition, including the integrity and effectiveness of the smoke seals, and should be checked on a regular basis
- The protected (or escape) route must be kept free of all obstruction and flammable items or sources of ignition. Tenants must be advised of this requirement and the area checked on a regular basis.

Expectations of you as a Manager or Licence Holder

- You will comply with the Management Regulations above and any licence conditions that are imposed.
- You will issue your tenants with comprehensive tenancy agreements that set out the rights and obligations of both parties and include requirements prohibiting anti-social behaviour. You will also make sure that they are aware of the contents of the agreement they are signing.
- You will have a clear process for tenants to report faults and procedures for responding to these reports and undertaking repairs. Responses should be appropriate to the urgency of the repair.
- You will have a programme of planned maintenance work in order to prevent break downs, failures and elements falling into disrepair.
- You will have a list of contractors who are available to deal with problems as they arise and to carry out planned maintenance work.
- You will provide information on when household waste and recyclable waste will be collected and how it should be put out for collection. You will also ensure there is sufficient storage for waste awaiting collection.
- You will provide information on the operation of facilities within the property e.g. heating system, alarm system and landlords appliances,
- You will comply with the Anti-Social Behaviour Code and work with statutory bodies to resolve issues in your properties and
- You will have adequate procedures for commencing and ending tenancies/licenses and addressing any tenancy/licensee problems as they may arise.

Failure to maintain a good standard of management would be an indication that you are not a 'Fit and Proper' person to hold a licence or be a manager of a licenced property.

Advice on complying with Condition 8 of your licence – dealing with anti-social behaviour.

Condition 8 states: The licence holder shall investigate complaints of anti-social behaviour arising from this HMO and being caused by occupiers or occupiers' visitors. Where appropriate, the licence holder will caution, seek legal advice or lawfully evict to address the problem. Anti-social behaviour is defined in Section 57(5) of the Housing Act 2004.

Anti-social behaviour is defined as:

Conduct on the part of occupiers of, or visitors to, residential premises—

- (a) which causes or is likely to cause a nuisance or annoyance to persons residing, visiting or otherwise engaged in lawful activities in the vicinity of such premises, or
- (b) which involves or is likely to involve the use of such premises for illegal purposes.

The City Council wishes to support landlords who have to deal with anti-social behaviour in their properties. Most commonly this arises as noise from the property and poor management of household waste e.g. accumulations of waste in the garden or in the lanes, leaving bins out in the street. This could be in the form of advice or practical support in taking specific actions. Contact details are below.

General Advice – Private Rented Team – 01752 307075

Noise Problems – Public Protection – 01752 304147

Anti-Social Behaviour – Anti Social Behaviour Unit – 01752 307049

The following sets out what is expected of landlords in order to meet this responsibility.

The Written Statement of the Terms of the Tenancy.

Any new tenancy agreement should include an express prohibition on anti-social behaviour. This should include the following points.

1. Anti-social behaviour is anything which causes:
 - a nuisance or annoyance to other occupiers and nearby neighbours,
 - harassment to anyone in the local area (because of their race, colour, nationality, ethnic origin, sexuality, sex, religion, politics, age, medical condition, or disability) or
 - violence (including domestic abuse) against any person (including the landlord or persons acting on their behalf).
2. Anti-social behaviour also includes:
 - interfering with security or safety equipment,
 - using the property (including all communal areas bin stores, yards and gardens etc) for any criminal, immoral or illegal purpose, including buying, selling or using any illegal drugs, or storing or handling stolen goods, or
 - damaging any part of the premises.
3. It is also anti-social behaviour to encourage anyone else to carry out or threaten to carry out any of the above. The occupier, under the terms of the tenancy, is responsible for the behaviour of themselves, their family and their visitors.
4. The terms of the tenancy should also state that the landlord will not tolerate anti-social behaviour and include a warning that legal action against the occupiers breaching the terms of tenancy may be taken. This could lead to them losing their accommodation.

Dealing with Anti-Social Behaviour

1. The licence holder or his/her manager shall fix, in a prominent position, within the communal area, a sign containing a statement that anti-social behaviour will not be tolerated and encouraging the reporting of those responsible (should it arise). The appropriate contact details for reporting incidents to be included.
2. It is recommended that contact details for the licence holder or his/her manager are given to neighbours who may be affected and can give you early notice of problems at the house.
3. The licence holder or his/her manager should keep a record of all complaints received from occupiers, neighbours etc about noise and anti-social behaviour.

The record will contain the following information:

- Date of complaint
- Name and address of complainant
- Details of the complaint
- Name and address of the alleged 'perpetrator'
- Action taken by the landlord to resolve the problem

(Note action could include making contact with the 'alleged perpetrator' face to face or by letter or both)

4. The licence holder or his/her manager should encourage the complainant to complete diary sheets as a record of the frequency and seriousness of the incidents.
5. The licence holder and/or his/her manager should liaise cooperatively with officers from Plymouth City Council when they are investigating complaints of anti-social behaviour, (including noise) from members of the public.
6. The licence holder or his/her manager shall inform the police or City Council's Anti-Social Behaviour Unit where he has reason to believe that a criminal offence has been, or is being, committed on the premises.
7. The licence holder or his/her manager will take action to evict tenants who do not cooperate with requests to modify behaviour.

Signs

The Licence Holder shall affix in a prominent position, within the communal area, a sign containing a statement that the licence holder will not tolerate anti-social behaviour and to encourage the reporting of those responsible, including a telephone number or an address to which complaints should be made. This sign shall be replaced if it is torn, defaced or removed.

**NOISE AND ANTI SOCIAL BEHAVIOUR
NOTICE TO TENANTS AND THEIR VISITORS**

Whilst you occupy this property you and your guests must respect the rights of other people and not do anything (either in or near the property or on the street where the property is) which would cause a nuisance or annoyance, including harassment of other people.

In particular (but not limited to the examples given) please:

- Be respectful of your neighbours into whose community you have moved.
- Be conscious of the level of noise coming from the house and garden at all times but especially after 10pm at night. This includes playing music, raised voices, door banging, running up and down stairs etc. Please keep noise levels down at all times and especially if a neighbour lets you know that you are disturbing them.
- Be conscious of the level of noise you may be making as a group on the street when you are going out or coming home after an evening out. Try not to disturb people in the houses you pass, especially late at night when they will be sleeping.
- Ensure that you store refuse appropriately in the bins provided and put it out for collection on the correct day. You should also bring the bins in after collection. Do not allow refuse to accumulate inside or outside the property.

Your tenancy agreement prohibits behaviour which causes nuisance or annoyance to others and such behaviour will not be tolerated.

If complaints are received you will be reminded of your obligations under your tenancy agreement. If conditions continue to be broken, or in the case of serious incidents, legal action may be taken to evict you from the property.

If you are suffering from the noisy or anti-social behaviour of others within the property you can report them to:

Name:

Tel No:

Email:

PART FOUR – FIRE SAFETY ORDER

Regulatory Reform (Fire Safety) Order 2005

Fire risk assessments are required in housing covered by the above (the FSO) which is administered by the Devon and Somerset Fire and Rescue Service (DSFRS). It applies to buildings occupied as bedsits, self-contained flats, non-self-contained flats, hostels and bed and breakfast premises.

The aims of a fire risk assessment are to:

- identify the fire hazards,
- reduce the risks of those hazards to as low as reasonably practicable and
- decide what physical fire precautions and management arrangements are necessary to ensure the safety of people in the premises if a fire does start.

The duties under the FSO (where it applies) are for the “responsible person” (the landlord or a managing agent acting on his behalf) to:

- complete a fire risk assessment,
- carry out/instigate remedial and management improvements as identified and
- record the risk assessment where:
 - the HMO is licensable or
 - 5 or more people are employed in the course of the business, either at the property or elsewhere

The Order does not apply to HMOs let as shared houses. These are properties occupied by persons who collectively have a single tenancy and also comprise a clearly identifiable group. Typically these might be students, work colleagues or friends.

Although it may not be a requirement that a fire risk assessment is carried out in all cases, it is a recommendation.

Further information is available from DSFRS, the Council’s web pages and reading the document “LACORS Housing - Fire Safety; guidance on fire safety provisions for certain types of existing housing”. The following links may be helpful:

<http://www.plymouth.gov.uk/>

<http://www.dsfire.gov.uk>



Property Licence

Under **Housing Act 2004 Section 64** Plymouth City Council has given a licence to the House in Multiple Occupation (HMO) known as:

I Any Road Plymouth PLI 2AA

This licence permits the occupation of this House in Multiple Occupation by a maximum of **6** persons in **5** households in the following lettings:

Room	No of Persons	No of Households
Room 1 - Ground floor front bedroom	1	1
Room 2 – First floor front bedroom	2	1
Room 3 – Second floor rear right bedroom	1	1
Room 4 – Second floor rear left bedroom	1	1
Room 5 – Second floor front bedroom	1	1

(Left and right are taken from viewing the property from the front)

The licence will expire on **1 April 2019**

The licence holder for this HMO is: **Mr A Name**

The following parts of the property are prohibited from being occupied:

PLEASE NOTE THIS LICENCE IS NOT TRANSFERABLE TO A NEW OWNER. THE LICENCE HOLDER NAMED ABOVE REMAINS RESPONSIBLE UNDER THE TERMS OF THIS LICENCE UNTIL SUCH TIME AS THE LICENCE EXPIRES OR IS REVOKED BY THE LOCAL AUTHORITY.

The above persons are considered to be fit and proper persons to perform their duties under Part II of the Housing Act 2004.

The Conditions of the licence, numbered 1 to 8 are attached.

Signed _____ Dated 2 April 2014

A N Officer

Private Sector Housing Officer

Should any person wish to make enquiries concerning this licence they should contact A Officer, telephone no 308989, or write to Private Rented Team, Homes and Communities, Civic Centre, Plymouth, PLI 2AA, or Email a.officer@plymouth.gov.uk.

Note: This is a house in multiple occupation that is required to be licensed under the provisions of Part II of the Housing act 2004. The granting of this licence does not imply that the use and condition of the property are lawful under other legislation. It is a requirement that the house is managed in accordance with the attached conditions; failure to do so is an offence, which may result in prosecution and/or the withdrawal of the licence.

The conditions of the licence for **1 Any Road, Plymouth PL1 2AA** are as follows:

1. The licence holder shall produce to the Council's Private Rented Team annually for their inspection a gas safety certificate obtained in respect of the house within the last 12 months (if gas is supplied at the house).
2. The licence holder shall (1) keep all electrical appliances made available by him within the house in a safe condition and (2) supply to the Council's Private Rented Team, on demand, a declaration as to the safety of such appliances.
3. The licence holder shall (1) keep all furniture made available by him within the house in a safe condition and (2) supply to the Council's Private Rented Team, on demand, a declaration as to the safety of such furniture.
4. The licence holder shall (1) ensure that smoke alarms are installed in the house and keep them in proper working order and (2) supply to the Council's Private Rented Team, on demand, a declaration by him of the condition and positioning of such alarms.
5. The licence holder shall ensure that a written statement of terms of occupancy is supplied to each occupier.
6. The licence holder shall notify the Council's Private Rented Team of any change of manager of the property and, in respect of the new manager, provide contact details and information to verify their fit and proper status and competence to manage the HMO.
7. The licence holder shall notify the Council's Private Rented Team of any changes of their address, telephone number and email address.
8. The licence holder shall investigate complaints of antisocial behaviour arising from this HMO and being caused by occupiers or occupiers' visitors. Where appropriate, the licence holder will caution, seek legal advice or lawfully evict to address the problem. Antisocial behaviour is defined in Housing Act 2004 Section 57(5).
9. The licence holder will carry out the following works, within the times set out below, to the satisfaction of the Council and in accordance with the following specification:

Annex C1 HMO Licensing Fees: Initial Licence Application

Initial licence applications refers to applications where:

- The property has not been previously licensed as an HMO or
- The property was previously licensed, but not to the licence holder in respect of which the current application is being made.

Table of fees

The fees set out in the table below reward good practice. The fee for Landlords who promptly comply with legislation is £260 to £320 less than the fee for those who have delayed in making application. However, to benefit from this discount a full application, complete with correct fee and all supporting information and documents, has to be submitted promptly.

The Private Sector Housing Manager or Senior Private Sector Housing Officer (Policy and Procedures) may reduce or waive the fee payable in exceptional circumstances.

Table of Fees – Initial Licence Application

Category of Application	Basic Fees	Fees including additional discounts
Standard Fee (See discounted rates available below)	£800	
Fee where full application is received within six weeks of becoming licensable and: <ul style="list-style-type: none"> ▪ None of the further discounts apply or ▪ The licence holder has passed the Landlord Proficiency Test (an on-line test operated by the West of England Private Housing Partnership) or ▪ The licence holder is accredited through: <ul style="list-style-type: none"> ▪ The National Landlords Association or ▪ The National Landlord Accreditation Scheme or ▪ Landlord Accreditation South West or ▪ The London Landlord Accreditation Scheme or ▪ Any other scheme approved by Plymouth City Council 	£540	£510 £480
Fees where HMO operating outside licensing requirements for longer than six weeks	£800	N/A

Annex C2 HMO Licensing Fees: Application to Re-licence

This refers to applications where:

- The property has been previously licensed as an HMO and
- The licence is due to expire, or has recently expired and
- The proposed licence holder is the same person, or body, named as licence holder on the licence to be replaced.

Please note that all three bullet points must apply.

Table of fees

The fees set out in the table below reward good practice. The fee for Landlords who promptly comply with legislation is £330 to £390 less than the fee for those who have delayed in making application. However, to benefit from this discount a full application, complete with correct fee and all supporting information and documents, has to be submitted promptly.

The Private Sector Housing Manager or Senior Private Sector Housing Officer (Policy and Procedures) may reduce or waive the fee payable in exceptional circumstances.

Table of Fees – Application to Re-licence

Category of Application	Basic Fees	Fees including additional discounts
Standard Fee (See discounted rates available below)	£800	
Fees where full application received on or before the date of expiry of the current licence and: <ul style="list-style-type: none"> ▪ None of the further discounts apply or ▪ The licence holder has passed the Landlord Proficiency Test (an on-line test operated by the West of England Private Housing Partnership) or ▪ The licence holder is accredited through: <ul style="list-style-type: none"> ▪ The National Landlords Association or ▪ The National Landlord Accreditation Scheme or ▪ Landlord Accreditation South West or ▪ The London Landlord Accreditation Scheme or ▪ Any other scheme approved by Plymouth City Council 	£470	£440 £410
Full application received after the date of expiry of the current licence	£800	N/A

Annex C3 Fees for Accessing HMO Register**Public Register**

The register of HMO Licences is a public document. There is no charge for viewing the register

A copy of the register can be provided, on demand, for an administrative fee of £40.

Enquiries about a single property will not be charged for.

The Private Sector Housing Manager or Senior Private Sector Housing Officer (Policy and Procedures) may reduce or waive the fee payable in exceptional circumstances.

Annex D Background to Specific Policy Decisions

In making the policy decisions set out in this report we have considered the contents of legislation, guidance given by Government organisations/publications and judicial decisions. This section of the report explains how we have used this information to inform our decisions. The introductory numbers refer to the paragraphs in Appendix 2.

Section 2: Policy – Licensable HMO

2.2

In respect of HMOs occupied by their owners, we will consider that the owner (and their household) only comprise one nominal person. In practice this will mean that such an HMO will not be licensable unless it is occupied by four (or more) other persons. The Government have provided specific guidance on this point which is set out in the document “Licensing of Houses in Multiple Occupation in England; A guide for landlords and managers (DCLG 2007).

2.3

In counting the number of storeys in a flat in multiple occupation we will consider the number of storeys in the flat rather than the number in the building containing that flat. This accords with the judgement London Borough of Islington v The Unite Group PLC.

2.4

The word “storey” will not normally include those floors of a flat in multiple occupation which solely comprise a staircase. An example of this would be a three storey building comprising two flats where the upper flat contains two floors of living accommodation at first and second floor level and this accommodation is served by a dedicated staircase at ground floor level. However, paragraphs 2.5 and 2.6 will also be considered.

This follows the decision of Bristol City Council v Digs (Bristol) Ltd (which may be subject to appeal). The implications of this decision are that, where a licence fee has been paid on such a property it must be returned. This applies even if the fee was paid in 2006. In practice, we are unaware of any case where this has arisen, but will check on renewal (or where a licence holder requests) and will reimburse applicants where this is appropriate.

2.5

Buildings which are used for mixed residential and commercial purposes require specific consideration. In these cases the number of (above ground level) commercial storeys will be counted when the number of storeys in the HMO is being assessed. The requirement to include commercial storeys is set out in the Licensing of Houses in Multiple Occupation (Prescribed Descriptions)(England) Order 2006 (SI 2006/371). Government guidance is that this applies to the ground floor level, and above, commercial storeys only (Explanatory Memorandum to The Licensing of Houses in Multiple Occupation (Prescribed Descriptions)(England) Order 2006 para. 7.8).

2.6

In some cases attics and basements will be counted as storeys. This means that the following attic and basement storeys will be included:

- Those which have rooms or services available for the use of the occupiers (or which should be available for their use) or
- Areas that have been constructed or adapted for residential use and have not been permanently secured. Permanent securing would involve, for example, the partitioning off of the area (although permitting an access panel for maintenance which must be screwed shut).
- Basement storeys that provide sole access to the HMO

These requirements are set out in SI 2006/371. The third bullet point (as it describes parts of the HMO which have been permanently secured) is a pragmatic approach to the issue of landlords wishing to remove their HMOs from the remit of licensing (often in conjunction with a TEN application).

2.7

In Plymouth, a large number of HMO properties are built with the front part of the building being arranged slightly higher, or lower, than the rear. This height difference will not be considered in assessing the storey height. An HMO with two storeys at the front and two at the rear will be considered a two storey property regardless of any mismatch in heights to the front and the rear parts of the property. This is a pragmatic decision; the vast majority of HMOs are older buildings of this style. This form of construction does not add to the risks to the occupiers of the properties. Although SI 2006/371 specifically includes “mezzanine” storeys, it does not define them. Locally, such storeys are commonly known as mezzanines; however a more technical building definition would exclude them from this term.

2.8

A self-contained flat is a “separate set of premises” which contains its own toilet, personal washing and cooking facilities. “Separate set” means premises which have all rooms accessible through a single front flat entrance door, that is the occupier does not have to cross the common parts to gain access to any other part of his accommodation. This accords with Section 257 Housing Act 2004, together with Residential Property Tribunal decision Camden, 30 Mornington Crescent/93 Judd Street December 2006. This interpretation is supported in para. 16 “A guide to the licensing and management provisions in Parts 2, 3 and 4 of the Housing Act 2004” (Draft Guidance, DCLG, January 2010).

Section 3: Policy - Fit and Proper Person

3.5

In the context of fit and proper status, “person” includes a corporate body (for example, a limited company). As the licence holder can be a corporate body, and (in all cases) must be a fit and proper “person”, it is difficult to interpret this in any other way. This complies with advice given by LACORS. This interpretation is also supported in para. 98 “A guide to the licensing and management provisions in Parts 2, 3 and 4 of the Housing Act 2004” (Draft Guidance, DCLG, January 2010).

Section 5: Policy – Licence Holder

5.1

The licence holder must be the most appropriate person to fill this role. This will normally be the person having control of the HMO (usually the owner). In the case of corporate bodies, the licence holder will normally be that body rather than a named person. Normally, where a corporate body is involved, no individual will have the responsibility and resources to comply with the licence holders' duties. This complies with advice given by LACORS. This interpretation is also supported in para. 98 "A guide to the licensing and management provisions in Parts 2, 3 and 4 of the Housing Act 2004" (Draft Guidance, DCLG, January 2010).

Section 9: Policy – Fees

9.2 to 9.4

The licensing fee reflects the chargeable costs associated with licensing. Chargeable activities include processing applications, variations, revocations, annual certification, inspection and enforcement actions. The licence fee may not be used to fund other Council activities.

A recent judgement (Hemming v Westminster) has determined that only enforcement activities in connection with licensed HMOs are chargeable. The identification of non-licensed HMOs, and subsequent enforcement activity in respect of them, is not chargeable. Hemming relates to the interpretation of an EU directive (and the UK legislation that enabled this). This legislation became operative on 28 December 2009. At that time it became unlawful to collect licence fees which would be used for non-allowable purposes. The applicant can demand the return of any overpayment.

Officers administering HMO licensing also carry out other private housing functions; it is not possible to assess HMO licensing costs in terms of actual staff deployed in these activities. Accordingly fees were (and are) calculated from the toolkit released through the Government organisation LACORS. The Housing Act, toolkit and 2011 policy all predate Hemming.

We have reviewed the 2011 policy licence fees following this judgement. Revised average costs have been obtained for licensing activities associated with both initial and renewal licences. These costs have been compared with the licence fee income for approvals made after the policy came into effect.

The results indicated that the average licence fee was £503, and the average licence cost (as determined by the revised toolkit) was £508. There was a small shortfall in licensing income over the 632 licences approved. On the basis of the above calculations, there has been no overpayment of licence moneys.

The shortfall is less than 1% of the predictive costs (although it is possible that this will increase slightly as more applicants take advantage of the discounts offered). The nature of the calculations, and the limited shortfall, indicate that it would be disproportionate to increase the fees at this time.

9.10

A charge will be made where a copy of the register of licensed HMOs is requested (See Annex C3). Other than this (and the licence fee) no other charge will be made in respect of licensing functions.

Section 63 Enables a Council to charge an HMO licence application fee. The decision Crompton V Oxford clarified that subsequent charges could not be made for other licensing activities (in particular, the issuing of variations to licences) under Section 63. However, Section 232 enables a charge to be made for providing a copy of the HMO Register.

EQUALITY IMPACT ASSESSMENT

Community Connections – Changes in HMO and Energy Efficiency



STAGE I: WHAT IS BEING ASSESSED AND BY WHOM?

What is being assessed - including a brief description of aims and objectives?

The mandatory HMO licensing scheme of large HMO's came into force on 6th April 2006 with the implementation of Statutory Instrument 2006 No.373 'The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006'.

Legislative changes made to the 'prescribed description' of licensable HMOs, effective from 1st October 2018, <https://www.legislation.gov.uk/uk/si/2018/221/article/4/made>, have removed the 'storey condition' from the pre-existing description. This change has led to a significant increase in the number of licensable HMOs in our city, doubling from an average of Circa 650 to an Average of Circa 1300. In addition it has also opened up the opportunity to look at flats in block style accommodation that meet the criterion of a licensable HMO.

Legislative changes brought about by the European Services Directive 2006, and the Provision of Services Regulations 2009, along with more recent case law, identified that licences under Parts 2 and 3 of the Housing Act 2004 (i.e. Mandatory HMO Licensing, and Selective HMO Licensing schemes) should be charged in two stages.

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 as amended are designed to tackle the least energy-efficient properties in England and Wales – those rated F or G on their Energy Performance Certificate (EPC). The Regulations establish a minimum standard for both domestic and non-domestic privately rented property.

The objective implement the Local Authority's MEES policy and procedure in enforcing these standards. It provides advice and guidance to interested parties that may be subject to enforcement which include:

- A civil penalty up to a maximum of £5,000.
- Publication of details of the landlord's breach on a publicly accessible part of the PRS Exemptions register.

Changes being introduced aim raise the standards of privately rented accommodation by permitting PCC to comply with duties and enforce legislation.

The communities affected by the legislation (and this policy) are:

	<ul style="list-style-type: none"> tenants. There are approximately 22,000 privately rented houses and flats in Plymouth. Using the English Housing Survey Households 2013/14 average of 2.5 persons/household in this sector, this suggests about 55,000 people. landlords. It is estimated that there are about 12,000 landlords letting property in Plymouth. Of these, about 50% reside in Plymouth.
Author	Dave Ryland, Strategic Manager
Department and service	Community Connections
Date of assessment	12 th October 2020

STAGE 2: EVIDENCE AND IMPACT

Protected characteristics (Equality Act)	Evidence and information (eg data and feedback)	Any adverse impact See guidance on how to make judgement	Actions	Timescale and who is responsible
Age	<p>Age profile data of those living in HMO accommodation or those landlords of HMO accommodation is not specifically available.</p> <p>However, it is known that the average age in Plymouth (39 years) is about the same as the rest of England (39.3 years), but less than the South West (41.6 years).</p> <p>The proportion of the working age population (16-64 years) is higher (66.1%) than regionally (62.8%) and nationally (64.7%).</p> <p>It is understood that majority of people occupying HMO accommodation are young adults of working age.</p>	<p>It is recognised that older people and the very young living in poor housing conditions may be more susceptible to conditions resulting from poor heating or damp and mould for example.</p> <p>Rising house prices, and a shortage of properties and changes to housing benefit are making it hard for young people to find suitable accommodation, and hence may be more likely to live in an HMO.</p>	<p>HMO Licensing is not dependent on the occupant, but the size and arrangement of the physical dwelling.</p> <p>Excess cold could be classified as a category I hazards via the Housing Health and Safety Rating System is influenced by a 'vulnerable group' that does not necessarily reflect the occupation of the property. Best endeavours will be used to negotiate improvements with a</p>	<p>Strategic Manager and Technical Lead (Housing Improvement), Community Connections</p>

	<p>The removal of automatic entitlement to housing costs for 18-21 year olds in universal credit, may mean that a higher proportion of young people may occupy an HMO. A report published in January 2018 by DWP states that 96% of 18-21 year olds who applied for support for housing costs were awarded it.</p> <p>https://www.gov.uk/government/statistics/removal-of-automatic-entitlement-to-housing-costs-for-18-to-21-year-olds-in-universal-credit</p>		<p>landlord where enforcement is not proportionate or possible.</p> <p>Staff have been trained in Equality & Diversity and comply with the requirements. They are able to identify specific needs and requirements, apply a suitable style of communication and modify the application of the policy in appropriate cases.</p>	
<p>Disability</p>	<p>Disability profile data of those living in HMO accommodation or those landlords of HMO accommodation is not available.</p> <p>It is suggested that 1 in 3 households with a disabled person live in non-decent accommodation and 1 in 5 disabled people requiring adaptations to their home believe their accommodation is not suitable.</p> <p>A total of 31,164 people declared themselves as having a long-term health problem or disability, compared with the total number with disabilities in UK (11,600,000).</p> <p>1297 adults registered with a GP in Plymouth have some form of learning disability (2013/14).</p>	<p>The very nature of HMO accommodation would not lend itself easily to people with physical disabilities and would be less likely to be able to be adapted to meet someone's physical needs.</p> <p>However, there may be people with non-physical disabilities, including learning disabilities living in private rented accommodation.</p> <p>The provisions set out an assessment method for the</p>	<p>HMO Licensing is not dependent on the occupant, but the size and arrangement of the physical dwelling.</p> <p>Excess cold could be classified as a category I hazards via the Housing Health and Safety Rating System. This system is influenced by what may be deemed a 'vulnerable group' which does not necessarily reflect the occupation of the property. Best endeavours will be used to negotiate</p>	<p>Strategic Manager and Technical Lead (Housing Improvement), Community Connections</p>

		<p>condition of accommodation which means that improvements can be made if required, either by negotiation or enforcement of the landlord.</p>	<p>improvements with a landlord where enforcement is not proportionate or possible.</p>	
<p>Faith/religion or belief</p>	<p>It is recognised that occupants of HMO accommodation may include people who would be protected under the Equality Act in regard to their faith, religion or belief.</p> <p>84,326 of the Plymouth population stated they had no religion, and those with a Hindu, Buddhist, Jewish or Sikh religion combined total less than 1%.</p>	<p>Private rented accommodation is available across the city however due to the city's development HMO accommodation may be more central and thus more accessible to those visiting places of worship on regular basis.</p>	<p>HMO Licensing is not dependent on the occupant, but the size and arrangement of the physical dwelling.</p> <p>Excess cold could be classified as a category I hazards via the Housing Health and Safety Rating System. This system is influenced by what may be deemed a 'vulnerable group' which does not necessarily reflect the occupation of the property. Best endeavours will be used to negotiate improvements with a landlord where enforcement is not proportionate or possible.</p> <p>There may be some more specific housing requirements in regard to accommodation that</p>	<p>Strategic Manager and Technical Lead (Housing Improvement), Community Connections</p>

			<p>is not addressed by the HHSRS, for example additional/separate washing facilities.</p>	
<p>Gender - including marriage, pregnancy and maternity</p>	<p>Overall 50.6% of the population are women, and 49.4% are men. This reflects the national figure of 50.8% women and 49.2% men.</p> <p>In Plymouth in 2017 the mean difference between average hourly earnings of men and women as a proportion of average hourly earnings of men was 11.3% the median difference was 14.9%.</p> <p>In Plymouth 61.3% of women are working and 38.9% of men are working, however, a larger proportion of men work full time in comparison to women.</p>	<p>Gender pay gap, and issues relating to domestic abuse may see occupants of HMO accommodation more affected by this characteristic.</p> <p>Those on lower incomes may seek cheaper accommodation.</p>	<p>HMO Licensing is not dependent on the occupant, but the size and arrangement of the physical dwelling.</p> <p>Excess cold could be classified as a category 1 hazard via the Housing Health and Safety Rating System. This system is influenced by what may be deemed a 'vulnerable group' which does not necessarily reflect the occupation of the property. Best endeavours will be used to negotiate improvements with a landlord where enforcement is not proportionate or possible.</p> <p>There may be some more specific housing requirements in regard to accommodation that is not addressed by the HHSRS, for example additional/separate washing facilities.</p>	<p>Strategic Manager and Technical Lead (Housing Improvement), Community Connections</p>

<p>Gender reassignment</p>	<p>Recent surveys have put the prevalence of transgender people between 0.6 and 1% of the population.</p> <p>Over the last 8 years the prevalence of transgender people in the UK has been increasing at an average rate of 20% per annum in adults and 50% in children.</p> <p>A study funded by the home office suggests that there are between 300k and 500k people aged 16 and over in the UK who are experiencing some degree of gender variance. This could mean that of Plymouths 16 + population, we can estimate between 1287 and 2146 adults in the city that are experiencing some degree of gender variance.</p> <p>The average age presentation for male to female is 40-49, and for female to male is 20-29.</p> <p>More than 28% of trans people in a relationship in the last year have faced domestic abuse from a partner.</p>	<p>Many young people experience gender variance and will transition around the onset of puberty and this can bring them into conflict with parents who may find it difficult to accept their gender identity. This may lead to a displacement in the young person's housing thus cheaper accommodation becoming more attractive, and HMO accommodation providing this.</p> <p>The demographic information could suggest that those experiencing gender variance or transitioning may be likely to require cheaper accommodation, even if simply in the short term, due to discrimination in the workplace, fleeing domestic abuse in the home, and displacement from home setting.</p>	<p>HMO Licensing is not dependent on the occupant, but the size and arrangement of the physical dwelling.</p> <p>Excess cold could be classified as a category I hazards via the Housing Health and Safety Rating System. This system is influenced by what may be deemed a 'vulnerable group' which does not necessarily reflect the occupation of the property. Best endeavours will be used to negotiate improvements with a landlord where enforcement is not proportionate or possible.</p> <p>There may be some more specific housing requirements in regard to accommodation and shared facilities that is not addressed by the HHSRS.</p>	<p>Strategic Manager and Technical Lead (Housing Improvement), Community Connections</p>
<p>Race</p>	<p>92.9% of Plymouth's population identify themselves as White British.</p>	<p>Across the country 17% of households living in private rented accommodation. As a group, ethnic minority</p>	<p>HMO Licensing is not dependent on the occupant, but the size</p>	<p>Strategic Manager and Technical Lead (Housing</p>

	<p>7.1% identify themselves as Black and Minority Ethnic with White Other (2.7%), Chinese (0.5%) and other Asian (0.5%) the most common ethnic groups.</p> <p>Plymouth BAME population rose from 3% in 2001 to 6.7% in 2011, and therefore has more than doubled since the 2001 census.</p> <p>Four neighbourhoods have a population of school age children where 20% or more are from a BAME background. They are City Centre (38%), Greenbank and University (32.3%) Stonehouse (29.9%) and East End (23.4%). All of these areas have a high concentration of HMO accommodation.</p>	<p>households are more likely to rent privately than white British households and to spend a higher proportion of their incomes on rent.</p> <p>Given the proximity of HMO accommodation and the % of residents in those areas being from a BAME background, it could be a fair assumption that some HMO accommodation may be occupied by people from a BAME background.</p> <p>All publications are available in translated formats.</p>	<p>and arrangement of the physical dwelling.</p> <p>Excess cold could be classified as a category I hazards via the Housing Health and Safety Rating System. This system is influenced by what may be deemed a 'vulnerable group' which does not necessarily reflect the occupation of the property. Best endeavours will be used to negotiate improvements with a landlord where enforcement is not proportionate or possible.</p>	<p>Improvement), Community Connections</p>
<p>Sexual orientation - including civil partnership</p>	<p>There is no definitive data on sexual orientation at a local or a national level. A recent estimate from the 2015 ONS annual population survey suggests that 1.7% of the UK population is lesbian, gay or bisexual, if this figure is applied to Plymouth it would mean there are approximately 3649 LGB people in the city.</p>	<p>There is little evidence to suggest that LGB people would be more likely to occupy private rented accommodation specifically.</p>	<p>HMO Licensing is not dependent on the occupant, but the size and arrangement of the physical dwelling.</p> <p>Excess cold could be classified as a category I hazards via the Housing Health and Safety Rating System. This system is influenced by what may</p>	<p>Strategic Manager and Technical Lead (Housing Improvement), Community Connections</p>

			be deemed a 'vulnerable group' which does not necessarily reflect the occupation of the property. Best endeavours will be used to negotiate improvements with a landlord where enforcement is not proportionate or possible.	
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STAGE 3: ARE THERE ANY IMPLICATIONS FOR THE FOLLOWING? IF SO, PLEASE RECORD ACTIONS TO BE TAKEN

Local priorities	Implications	Timescale and who is responsible
Reduce the gap in average hourly pay between men and women by 2020.	None	N/A
Increase the number of hate crime incidents reported and maintain good satisfaction rates in dealing with racist, disablist, homophobic, transphobic and faith, religion and belief incidents by 2020.	None	N/A
Good relations between different communities (community cohesion)	Identifying and supporting good quality housing where people can live their lives in safe and secure accommodation, supporting good relations between communities.	5 yearly license renewals and hence inspection regime. Strategic Manager and Technical Lead (Housing Improvement), Community Connections
Human rights Please refer to guidance	Structures will be fair and will not differential on the basis of any protected characteristic or any grounds that we cannot objectively justify.	

STAGE 4: PUBLICATION

Responsible Officer 

Date
15/10/2020

Director, Assistant Director or Head of Service

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EXECUTIVE DECISION

made by a Cabinet Member



REPORT OF ACTION TAKEN UNDER DELEGATED AUTHORITY BY AN INDIVIDUAL CABINET MEMBER

Executive Decision Reference Number – HCD05 20/21


Decision	
1	Title of decision: Approval of Licence Fee Structure for licensable HMOs contained in Block Style Accommodation.
2	Decision maker (Cabinet member name and portfolio title): Councillor Chris Penberthy (Cabinet Member for Housing and Co-operative Development)
3	Report author and contact details: Mark Chubb 01752 308989
4	Decision to be taken: To approve a new HMO licence fee that is applicable to licensable HMO's, where there are 5 or more, contained in a Block Style Accommodation.
5	<p>Reasons for decision:</p> <p>Legislative changes to the 'prescribed description' of licensable HMOs, effective from 1st October 2018, removed the storey condition. This change saw a significant increase in the number of licensable HMOs in the city, doubling from an average of Circa 650 to an Average of Circa 1300. In addition it has also opened up the opportunity to look at flats in block style accommodation that meet the criterion of a licensable HMO.</p> <p>In Plymouth we have a number of large blocks of accommodation that contain multiple self-contained flats (each consisting of 5 or more letting rooms). Primarily this type of accommodation is occupied by students attending one of the universities in the city. Whilst some student accommodation is exempt from being considered a HMO, and therefore cannot be considered a licensable HMO, in the Housing Act 2004 (under section 4 of schedule 14), there are stipulations that include the requirement for the HMO to be under the management and/or control of the educational establishment the students attend. In addition there are HMO tests under section 254 ((2) Standard Test, (3) Self-contained Flat test, (4) Converted building Test) that help us to identify types of building that can be considered HMOs. Where we have identified blocks as purpose built (i.e. Discovery Heights and Alexandra Works) these are exempt, but many others are not. Unfortunately 'purpose-built' is not defined in the legislation, which leaves this open to interpretation. Our consideration is that any building that has not been built from the ground-up as accommodation (i.e. retains any part of original structure), it should not be considered 'purpose-built' and should be considered as a 'converted building'.</p> <p>A review of block style accommodation across the city has so far identified 113 licensable HMOs in block style accommodation that we believe would be considered HMOs following the</p>

	<p>section 254 tests, and would not be exempt under Schedule 14 of the Housing Act 2004. In these cases we believe that the blocks contain accommodation that should be considered as licensable HMOs and should therefore be licensed in accordance with Part 2 (Mandatory HMO Licensing) of the Housing Act 2004.</p> <p>When we reached the point that we considered these premises as licensable we then had a duty, under section 63 (3) and (7) of the Housing Act 2004, to consider the application process and what fixed fee should apply for HMO licences of this type of accommodation. We felt the best way to do this was to create a new application form (bespoke to block style accommodation), and run test cases on two block style accommodations and analyse the inspection data against our traditional style HMOs. This highlighted that there are economies of savings for time and travel that apply when there are 5 or more licensable HMOs in one block style accommodation. The analysis of this data was then applied to Plymouth City Council's cost recovery model with the outcome of £610 being identified as the correct fee level.</p>																				
6	<p>Alternative options considered and rejected:</p> <p>In theory we could consider doing nothing in respect of licensing this type of HMO, because of the lack of definition of purpose-built. However, we have rejected this option, as we believe our understanding is correct, and that in not licensing these HMOs we would be failing a statutory duty under section 55 of the Housing Act 2004.</p> <p>There are no other options available for consideration, it is either these HMOs are licensable, and should be licensed, or they are not licensable and should not be licensed.</p>																				
7	<p>Financial implications:</p> <p>There are no additional financial implications brought about by this introduction as the increase in revenue is matched against the costs of undertaking the works associated.</p>																				
8	<table border="1"> <thead> <tr> <th data-bbox="236 1240 767 1800">Is the decision a Key Decision? (please contact Democratic Support for further advice)</th> <th data-bbox="767 1240 863 1800">Yes</th> <th data-bbox="863 1240 975 1800">No</th> <th data-bbox="975 1240 1503 1800">Per the Constitution, a key decision is one which:</th> </tr> </thead> <tbody> <tr> <td data-bbox="236 1339 767 1503"></td> <td data-bbox="767 1339 863 1503"></td> <td data-bbox="863 1339 975 1503">X</td> <td data-bbox="975 1339 1503 1503">in the case of capital projects and contract awards, results in a new commitment to spend and/or save in excess of £3million in total</td> </tr> <tr> <td data-bbox="236 1503 767 1653"></td> <td data-bbox="767 1503 863 1653"></td> <td data-bbox="863 1503 975 1653">X</td> <td data-bbox="975 1503 1503 1653">in the case of revenue projects when the decision involves entering into new commitments and/or making new savings in excess of £1 million</td> </tr> <tr> <td data-bbox="236 1653 767 1800"></td> <td data-bbox="767 1653 863 1800"></td> <td data-bbox="863 1653 975 1800">X</td> <td data-bbox="975 1653 1503 1800">is significant in terms of its effect on communities living or working in an area comprising two or more wards in the area of the local authority.</td> </tr> <tr> <td data-bbox="236 1800 767 1935">If yes, date of publication of the notice in the Forward Plan of Key Decisions</td> <td colspan="3" data-bbox="767 1800 1503 1935">N/A</td> </tr> </tbody> </table>	Is the decision a Key Decision? (please contact Democratic Support for further advice)	Yes	No	Per the Constitution, a key decision is one which:			X	in the case of capital projects and contract awards, results in a new commitment to spend and/or save in excess of £3million in total			X	in the case of revenue projects when the decision involves entering into new commitments and/or making new savings in excess of £1 million			X	is significant in terms of its effect on communities living or working in an area comprising two or more wards in the area of the local authority.	If yes, date of publication of the notice in the Forward Plan of Key Decisions	N/A		
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If yes, date of publication of the notice in the Forward Plan of Key Decisions	N/A																				
9	<p>Please specify how this decision is linked to the Council's corporate plan/Plymouth Plan and/or the <u>Corporate Plan</u></p>																				

	<p>policy framework and/or the revenue/capital budget:</p>	<p>Values – Fairness – The consideration of applying HMO licensing in these cases ensures that landlords are treated equally and that additional regulation can be applied to support improving, or maintaining, standards of accommodation for the residents.</p> <p>Caring Council – The application of HMO licensing in these cases will not only support improving, or maintaining, standards of accommodation for the residents, it will also add further opportunities for the Local Authority to tackle landlords or managers who fail to comply with specified legislation. Hitting ‘Rogue Landlords’ hard will help drive standards and management improvements to accommodation across the city. Provision of safer rented accommodation to the citizens of Plymouth can help to address/reduce health inequalities.</p> <p><u>Plymouth Plan for Homes 3</u></p> <p>Improving Housing Conditions in PRS – The application of HMO licensing in these cases can support improving, or maintaining, standards of accommodation for the residents. It also enables the Local Authority to take robust enforcement action (i.e. Civil Penalties) when failures to meet statutory duties are identified. Improvements to accommodation can be physical in terms of the building but can also be in the management of the property.</p> <p>Revenue raised through the application of HMO licensing is directly used to recover the Local Authorities costs associated with running the HMO licensing scheme.</p>
<p>10</p>	<p>Please specify any direct environmental implications of the decision (carbon impact)</p>	<p>The increased number of inspection and licences to be issued would result in raised carbon usage. However, with the provision of Electric Pool cars, which the team are actively encouraged to use, this can be reduced. In addition the buildings subject to these changes are generally located very close to our main hub (Ballard House) and it is anticipated that many inspections can/will be commuted to by walking.</p> <p>With regards to the issuing of licences, we are reviewing the possibilities of sending information electronically where possible to reduce our carbon footprint as a service.</p>

Urgent decisions			
I 1	Is the decision urgent and to be implemented immediately in the interests of the Council or the public?	Yes	(If yes, please contact Democratic Support Support (democraticsupport@plymouth.gov.uk) for advice)
		No	X (If no, go to section I 3a)
I 2a	Reason for urgency:		
I 2b	Scrutiny Chair Signature:		Date
	Scrutiny Committee name:		
	Print Name:		
Consultation			
I 3a	Are any other Cabinet members' portfolios affected by the decision?	Yes	
		No	X (If no go to section I 4)
I 3b	Which other Cabinet member's portfolio is affected by the decision?	N/A	
I 3c	Date Cabinet member consulted	N/A	
I 4	Has any Cabinet member declared a conflict of interest in relation to the decision?	Yes	If yes, please discuss with the Monitoring Officer
		No	X
I 5	Which Corporate Management Team member has been consulted?	Name	Craig McArdle
		Job title	Strategic Director for People
		Date consulted	13/10/2020
Sign-off			
I 6	Sign off codes from the relevant departments consulted:	Democratic Support (mandatory)	DS44 20/21

		Finance (mandatory)	djn.20.21.102						
		Legal (mandatory)	35411/hm						
		Human Resources (if applicable)	N/A						
		Corporate property (if applicable)	N/A						
		Procurement (if applicable)	N/A						
Appendices									
17	Ref.	Title of appendix							
	A	Briefing report for publication							
	B	Block HMOs Application Form							
	C	Block HMOs Report							
	D	EIA							
Confidential/exempt information									
18a	Do you need to include any confidential/exempt information?		Yes		If yes, prepare a second, confidential ('Part II') briefing report and indicate why it is not for publication by virtue of Part I of Schedule 12A of the Local Government Act 1972 by ticking the relevant box in 18b below. (Keep as much information as possible in the briefing report that will be in the public domain)				
		No	X						
			Exemption Paragraph Number						
			1	2	3	4	5	6	7
18b	Confidential/exempt briefing report title:								
Background Papers									
19	Please list all unpublished, background papers relevant to the decision in the table below. Background papers are <u>unpublished</u> works, relied on to a material extent in preparing the report, which disclose facts or matters on which the report or an important part of the work is based. If some/all of the information is confidential, you must indicate why it is not for								

	publication by virtue of Part I of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.						
Title of background paper(s)	Exemption Paragraph Number						
	1	2	3	4	5	6	7
Proposed HMO Licensing Policy 2020							
http://www.legislation.gov.uk/ukpga/2004/34/section/55 Mandatory HMO licensing							
http://www.legislation.gov.uk/ukpga/2004/34/section/63 HMO licensing Applications and Fees							
http://www.legislation.gov.uk/ukpga/2004/34/section/254 HMO tests							
http://www.legislation.gov.uk/ukpga/2004/34/schedule/14/paragraph/4 HMO exemptions							
http://www.legislation.gov.uk/uksi/2018/221/article/4/made Licensable HMO 'prescribed description'							
Cabinet Member Signature							
20	I agree the decision and confirm that it is not contrary to the Council's policy and budget framework, Corporate Plan or Budget. In taking this decision I have given due regard to the Council's duty to promote equality of opportunity, eliminate unlawful discrimination and promote good relations between people who share protected characteristics under the Equalities Act and those who do not. For further details please see the EIA attached.						
Signature			Date of decision	14/10/2020			
Print Name	Councillor Chris Penberthy (Cabinet Member for Housing and Co-operative Development)						

BRIEFING - EXECUTIVE DECISION FOR BLOCK FEES (HMO LICENSING)



This briefing note sets out the reasons for applying ‘Mandatory’ HMO licensing to accommodation containing 5 or more unrelated persons, contained within a converted block of accommodation in Plymouth. The appropriate fee level calculated is matched to expected expenditure for a cost neutral service.

I. Reasons for decision:

Legislative changes made to the ‘prescribed description’ of licensable HMOs, effective from 1st October 2018, <https://www.legislation.gov.uk/ukxi/2018/221/article/4/made>, have removed the ‘storey condition’ from the pre-existing description. This change led to a significant increase in the number of licensable HMOs in our city, doubling from an average of Circa 650 to an Average of Circa 1300. In addition it has also opened up the opportunity to look at flats in block style accommodation that meet the criterion of a licensable HMO.

In Plymouth we have a number of large blocks of accommodation that contain multiple self-contained flats (each consisting of 5 or more letting rooms). Primarily this type of accommodation is occupied by students attending one of the universities in the city. Whilst some student accommodation is exempt from being considered a HMO, and therefore cannot be considered a licensable HMO, in the Housing Act 2004 (under section 4 of schedule 14), there are stipulations that include the requirement for the HMO to be under the management and/or control of the educational establishment the students attend. In addition there are HMO tests under section 254 ((2) Standard Test, (3) Self-contained Flat test, (4) Converted building Test) that help us to identify types of building that can be considered HMOs. Where we have identified blocks as purpose built (i.e. Discovery Heights and Alexandra Works) these are exempt, but many others are not. Unfortunately ‘purpose-built’ is not defined in the legislation, which leaves this open to interpretation. Our consideration is that any building that has not been built from the ground-up as accommodation (i.e. retains any part of original structure), it should not be considered ‘purpose-built’ and should be considered as a ‘converted building’.

A review of block style accommodation across the city has so far identified 113 licensable HMOs in block style accommodation that we believe would be considered HMOs following the section 254 tests, and would not be exempt under Schedule 14 of the Housing Act 2004. In these cases we believe that the blocks contain accommodation that should be considered as licensable HMOs and should therefore be licensed in accordance with Part 2 (Mandatory HMO Licensing) of the Housing Act 2004.

When we reached the point that we considered these premises as licensable we then had a duty, under section 63 (3) and (7) of the Housing Act 2004, to consider the application process and what fixed fee should apply for HMO licences of this type of accommodation. We felt the best way to do this was to create a new application form (bespoke to block style accommodation), and run test cases on two block style accommodations and analyse the inspection data against our traditional style HMOs. This highlighted that there are

economies of savings for time and travel that apply when there are 5 or more licensable HMOs in one block style accommodation. The analysis of this data was then applied to Plymouth City Council's cost recovery model with the outcome of £610 being identified as the correct fee level.

2. Actions taken: We started this latest process of review in Autumn 2019 with the following actions being taken:

- Identification of purpose-built and converted blocks of accommodation across the city.
- Written communication to owners of converted blocks that may be subject to licensing.
- Ongoing consultations with Portfolio Holder, Cllr Penberthy.
- Posting on RIAMS, a Professional Forum for Local Authorities
- Attempted consultation with LGA proved unsuccessful.
- Run test-cases over two blocks of accommodation, containing a combined 15 licensable units with an agreed discretionary fee.
- Ongoing discussions with PCC Finance department.
- Ongoing discussions with PCC Legal department.
- Consultation with both Strategic Manager and Director of Service for Community Connections.

There have been a few bumps in the road and shifting of priorities that have affected the timescale for delivery of both business as usual and strategic service improvements (i.e. development of a new customer relationship management system, and COVID-19). However, we are now in a position to move forward and implement the necessary changes to our licensing scheme once approved.

3. Financial implications:

There are no financial implications brought about by this introduction as the increase in revenue is matched against the costs of undertaking the works associated. The revenue has been budgeted already. The following financial breakdown is just for reference

1) Fees/Revenue expected: £67,000 fees income generation over a 5 year period, raised from these licences to support and sustain Community Connections Housing Improvement Team delivering its HMO licensing service, and meeting statutory duties.

Considering the 113 identified, what we believe to be, licensable HMO's contained within block style accommodation. 15 of these properties, across 2 buildings, formed the test cases which had an agreed discretionary fee of £520 to be able to gather the data necessary. The remaining 98 properties would be subject to the agreed new fee level of £610. The licences would last 5 years and it is very probable, given the nature of these buildings, that they would remain licensable in the future.

Financial Year	Number of New	Predicted Income
2019-2020	15	£7,800 (received)
2020-2021	98	£59,780

2021-2022	0	£0
2022-2023	0	£0
2023-2024	0	£0
2024-2025	15	£7,800
2025-2026	98	£59,780

These amounts are in addition to our core business of HMO's which is Circa 1300. At present we would not be able to integrate these licences into a 2-stage payment process but would look to incorporate as soon as is reasonably practicable.

2) Potential reimbursement: £7,800 fees to be returned to test case examples if it is considered that these properties were, exempt from licensing. This figure could rise to whatever income is generated from these properties should a later ruling, override our interpretation.

4. Resourcing Implications:

The resourcing impact of this change has been financially calculated in the above section to ensure that the local authority can recover its costs. As a department we have recently appointed 2 team members to replace positions that had been void for a while. There is a huge resourcing demand in HMO licensing to ensure that we meet our duties and this is something that we continuously monitor with service management.

5. Risks:

As 'purpose-built' is not defined in the legislation, which leaves this open to interpretation. Our consideration is that any building that has not been built from the ground-up as accommodation (i.e. retains any part of original structure), it should not be considered 'purpose-built' and should be considered as a 'converted building'.

Whilst we have had positive communication with landlords of blocks, they do have the opportunity to appeal our decision to licence and the matter could be heard at First-tier Tribunal (F-tT). If the F-tT found a case not in favour of our interpretation then we may need to refund the licence fees paid at that point for this type of accommodation.

6. Benefits:

It appears that we, as a local authority, may be leading the way with this application of the 'prescribed description' to converted blocks of accommodation. It was hoped that consultation with the LGA would have elicited some further details in respect of this, but unfortunately there was a lack of response. This could bring positive attention to the council in the way it is operating.

Applying the 'prescribed description' to block style accommodation increases regulation in the sector, and any improvements in management and standards of HMOs in the city can contribute to the reduction in health inequalities in our society.

7. Alternative options considered and rejected:

In theory we could consider doing nothing in respect of licensing this type of HMO, because of the lack of definition of purpose-built. However, we have rejected this option, as we believe our understanding is correct, and that in not licensing these HMOs we would be failing a statutory duty under section 55 of the Housing Act 2004.

There are no other options available for consideration, it is either these HMOs are licensable, and should be licensed, or they are not licensable and should not be licensed.

APPLICATION FOR HMO LICENCE
NEW APPLICATION - FOR A FLAT IN MULTIPLE OCCUPATION
WITHIN A BLOCK WITH 5 OR MORE LICENSABLE FLATS



When completed, please return this form to Housing Improvement Team, Community Connections, Plymouth City Council, Ballard House, West Hoe Road, Plymouth, PL1 3BJ. You can also submit the application form and certificates by email communityconnections@plymouth.gov.uk and pay the fee by telephone (01752 398500).

This application is for use when a building/block contains **only** self-contained flats. In these circumstances each flat may be an HMO in its own right (see section 254(3) Housing Act 2004). These HMOs are known as an FMO (Flat in Multiple Occupation). If the flat meets the prescribed description then it will need a mandatory HMO licence.

Please note that each FMO, that meets the prescribed description, within a building/block will require a separate application/licence. If there are 5 or more flats that require a licence then this form should be used. If less than 5 flats require a licence please use our online HMO licence form. If you have any queries please email communityconnections@plymouth.gov.uk or telephone (01752 398500).

Completing this form

This application may be completed by the owner, manager, proposed licence holder or some other person acting on their behalf.

In all cases both applicant and proposed licence holder (where different) must sign and date the declaration at the end of the application form. Where the applicant and/or licence holder is a limited company or partnership, the person signing the application must be authorised to sign on behalf of it.

If you are not sure how to answer a question, please contact us as above. If there is insufficient space to answer any question on this form please provide the information on a separate piece of paper. Please indicate that you have done this in the relevant answer box.

The proposed licence holder

We need information about the people involved in running the building/block, the FMO and the applicant. We have to decide who, if anyone, is the most appropriate person to be the licence holder. This will normally be the owner (unless there is good reason to decide otherwise).

Where the owner is a limited company we will normally expect the licence holder to be the company rather than any individual within that company. Where the owner is a partnership, we will normally expect the licence holder to be one, or more, members of that partnership.

The Council will expect the licence holder to have the financial resources and control of the FMO in order to:

1. Create, terminate and manage tenancies (or licences to occupy)
2. Access all parts of the premises to the same extent as the owner
3. Ensure that appropriate measures are taken to deal with antisocial behaviour
4. Comply with all other licence conditions
5. Ensure the proper management of the HMO
6. Ensure the health, safety and wellbeing of the occupiers and others who may be effected by the property (including neighbours and passers-by)

7. Comply with all relevant legislation
8. Accept responsibility for the activity of any manager or other person acting on their behalf.

Where licence holders fail to comply with legal requirements they can be prosecuted and the licence revoked. They remain responsible for the FMO until the licence expires or is revoked.

INFORMATION STATEMENT

The information requested will be used to process applications for licensing of houses in multiple occupation (HMOs). It will also be used to comply with the legislative requirements of the Housing Act 2004 in relation to HMOs. We may also let you know about other Council services or seek your views about Council activities.

This form also requires your consent to use other information available to the Council. This may be used to verify the information you have provided in this form. Any discrepancy may result in a more detailed investigation; this could result in legal action being taken against someone named in this form. Such action may be taken under housing law or other matters as referred to in the "Privacy Notice" below.

Please contact the Housing Improvement Team if you would prefer us not to send you information or ask for your views.

PRIVACY NOTICE

The personal information that you provide will be held securely and will only be shared for:

- Planning the provision of services, providing a service to you, informing you about Council services, seeking your views and to enable auditing of Council activities
- Verification with other agencies such as the Police, the University and other councils as well as other Council departments
- Assisting other councils in their administration of housing licensing schemes
- Complying with the statutory requirements to provide a public register
- Providing information for tax and other purposes
- Complying with other legal obligations imposed upon the Council and
- Assisting with research projects.

Anonymous statistical information may also be passed to other organisations to assist in the planning and monitoring of services.

In addition Plymouth City Council must cooperate with the prevention and detection of crime which may result in information about you being passed to others.

If this form is completed on behalf of someone else, or personal details or contact data about a third party are provided, then it is your responsibility to make sure that you have informed the other person of what you have told the Council.

Information Lead Officers act as the Data Controller for the Council and can be contacted about the use of your personal information. Email: info@plymouth.gov.uk or write to Plymouth City Council, Ballard House, West Hoe Road, Plymouth, PL1 3BJ.

PART ONE – GENERAL

Address of Flat in Multiple Occupancy to be licensed e.g Flat 4, 1 London Rd, Plymouth, PL1 2AA	Postcode:
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In addition to the form you should submit:	Notes	Please tick if submitted
Plans of the property	Not required on renewal unless layout has changed.	
An Electrical Inspection Condition Report (for the wiring installation)	No older than five years old; the report must be for the Flat being licensed.	
A Gas Safety Certificate	Where there is a gas supply. No older than twelve months. For the Flat being licenced.	
An Electrical Appliances Test certificate	Unless all landlord's appliances are less than twelve months old (or none are provided). Certificate to be no older than twelve months. For the Flat being licenced.	
A Fire Alarm Test certificate	Where there is a grade A alarm system, or mixed grade A/D system. No older than twelve months. For the system that covers the Flat.	
An Emergency Lighting Test certificate	Where there is an emergency lighting system. No older than twelve months. For the system covers the flat.	
Additional sheets used	Please state number of additional sheets used (if any).	
The appropriate fee	See licence fee document. Please tick if you enclose the fee with the application or you have already paid the fee.	
Current accreditation certificate for the proposed licence holder.	Where discount being claimed.	
All certificates must be original and current. Certificates will be copied and returned. Alternatively you may scan your original certificates and email them to us. Photocopies will not be accepted.		

Eligibility for discounted licence fee

Please refer to the licence fee document for information about these schemes and discounts.

Is the proposed licence holder accredited? Please tick	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If yes, please answer the following questions:		
Accreditation scheme/number?		
You must provide a copy of your current accreditation certificate.		

Has the proposed licence holder passed the "Landlord Proficiency Test" Please tick	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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PART TWO – PEOPLE INVOLVED

This part of the form requires information about the applicant, proposed licence holder, property owner and manager. Where these are limited companies please enter the name of that company rather than an individual's name.

Please cross out or enter "N/A" (non applicable) in sections which do not apply. Please refer to the HMO standards and standard HMO licence conditions when completing this part of the form.

Please give details of the person or people completing this form ("the applicant"). For joint applicants, please complete the details for each person.

	Applicant	Joint applicant
Name		
Address		
Please state your role in the property (for example, owner)		
Telephone number		
Email address		

Please give details of the proposed licence holder(s). For joint licence holders, please complete the details for each person. Where this is the same as the applicant, please write "as applicant".

	Proposed licence holder	Joint proposed licence holder
Name		
Address		
Telephone number		
Email address		
Do they require leave to enter or remain in the United Kingdom?		

<p>10. The licence holder shall;</p> <p>(a) ensure that the floor area of any room in the HMO used as sleeping accommodation by one person aged over 10 years is not less than 6.51 square metres;</p> <p>(b) to ensure that the floor area of any room in the HMO used as sleeping accommodation by two persons aged over 10 years is not less than 10.22 square metres;</p> <p>(c) to ensure that the floor area of any room in the HMO used as sleeping accommodation by one person aged under 10 years is not less than 4.64 square metres;</p> <p>(d) to ensure that any room in the HMO with a floor area of less than 4.64 square metres is not used as sleeping accommodation.</p>	<input type="checkbox"/> <input type="checkbox"/>
<p>11. The licence holder shall ensure that;</p> <p>(a) where any room in the HMO is used as sleeping accommodation by persons aged over 10 years only, it is not used as such by more than the maximum number of persons aged over 10 years specified in the licence;</p> <p>(b) where any room in the HMO is used as sleeping accommodation by persons aged under 10 years only, it is not used as such by more than the maximum number of persons aged under 10 years specified in the licence;</p> <p>(c) where any room in the HMO is used as sleeping accommodation by persons aged over 10 years and persons aged under 10 years, it is not used as such by more than the maximum number of persons aged over 10 years specified in the licence and the maximum number of persons aged under 10 years so specified.</p>	<input type="checkbox"/> <input type="checkbox"/>
<p>12. The licence holder shall notify the local housing authority of any room in the HMO with a floor area of less than 4.64 square metres.</p>	<input type="checkbox"/> <input type="checkbox"/>
<p>13. The licence holder shall comply with any scheme which is provided by the local housing authority to the licence holder and which relates to the storage and disposal of household waste at the HMO pending collection.”</p>	<input type="checkbox"/> <input type="checkbox"/>
<p>14. The licence holder shall comply with any other conditions which may be imposed to meet the HMO licensing standards.</p>	<input type="checkbox"/> <input type="checkbox"/>

If the owner wants a manager or agent to be the licence holder please give reasons:

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Please give details of the freeholder(s) of the building. For joint owners, please complete the details for each person. Where this is the same as the applicant, please write “as applicant”.

FREEHOLDER(S)	Owner	Joint owner(s)
Name		
Address		
Telephone number		
Email address		

Please give details of the leaseholder(s) of the FMO to be licensed. For joint owners, please complete the details for each person. Where this is the same as the applicant, please write “as applicant”. If there is no leaseholder, please write “N/A”

LEASEHOLDER(S)	Owner	Joint owner(s)
Name		
Address		
Telephone number		
Email address		

Please give details of the manager(s) of the FMO. For joint managers, please complete the details for each person. Where this is the same as the applicant, please write “as applicant”.

	Manager	Joint manager
Name		
Address		
Telephone number		
Email address		

PART THREE – NOTIFICATIONS

Notifications of application

You must let certain persons know in writing that you have made this application or give them a copy of it. The persons who need to know about it are -

1. Any mortgagee of the property (mortgage lender)
2. Any owner of the property to which the application relates (if that is not you). This includes the freeholder and any head lessors who are known to you
3. Any other person who is a tenant or long leaseholder of the property or any part of it (including any flat) who is known to you other than a statutory tenant or other tenant whose lease or tenancy is for less than three years (including a periodic tenancy)
4. The proposed licence holder (if that is not you)
5. The proposed managing agent (if any) (if that is not you)
6. Any person who has agreed that he will be bound by any condition or conditions in a licence if it is granted

You must tell each of these persons -

7. Your name, address, telephone number and e-mail address or fax. number (if any)
8. The name, address, telephone number and e-mail address or fax. number (if any) of the proposed licence holder (if it will not be you)
9. Whether this is an application for an HMO licence under Part 2, or for a house licence under Part 3 of the Housing Act 2004
10. The address of the property to which the application relates
11. The name and address of the local housing authority to which the application will be made
12. The date the application will be submitted

You must tell all the persons, or organisations, described in points one to six (of the previous page) that you have made this application. You must give them all the information set out in points seven to twelve (of the previous page).

In addition you must tell us who you have notified (other than Licence Holder, FMO Manager and Owner/s), in relation to points 1 to 6 above, by listing the relevant details in the table below.

When you sign your application you are signing that the following declaration is true. **I/We declare that I/We have served a notice of this application on the following persons who are the only persons known to me/us that are required to be informed that I/We have made this application:**

Name	Address	Description of person's interest in the property or the application	Date of service

Please note that we will advise all these people, and organisations, that the application has been made and of our proposal to grant (or refuse to grant) the licence.

PART FOUR – PROPOSED LICENCE HOLDER’S OTHER PROPERTY

<p>How many properties does the proposed licence holder have within this local housing authority (Plymouth City Council) area which, under Parts 2 or 3 of the Housing Act 2004, require licensing? (Part 2 of the Housing Act refers to HMO licensing, and Part 3 refers to “selective licensing” of other housing.)</p>	
<p>How many properties does the proposed licence holder have within other local housing authority areas which, under Parts 2 or 3 of the Housing Act 2004, require licensing?</p>	
<p>Please give the address of each licensable property. You must also give the address of the local housing authority (council) in which each property is located. This includes licences under Parts 2 or 3 of the Housing Act 2004.</p>	
<p>Property address</p>	<p>Local housing authority (council)</p>

PART FIVE – ABOUT THE PROPERTY (BLOCK)

This collects information regarding the property / block as a whole.		
How many storeys are there within the property?		This is for the building as a whole.
Does the property consist of only self-contained flats?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
How many self-contained flats are there within the property?		A self-contained flat has its own kitchen, bathroom and washing facilities. The whole flat is behind a single flat entrance door.
How many non-self-contained flats are there within the property?		
Are any kitchens, toilet or personal washing facilities accessed directly off the communal parts?	Yes <input type="checkbox"/> No <input type="checkbox"/>	This is for the communal parts of the building as a whole. It does not include where these are accessed from the communal parts within a shared flat.
Please indicate the approximate age of the original construction of the property.	Pre 1919 <input type="checkbox"/> 1919 to 1944 <input type="checkbox"/> 1945 to 1964 <input type="checkbox"/> 1965 to 1980 <input type="checkbox"/> After 1980 <input type="checkbox"/>	
Was the building designed, and originally constructed, only for residential purposes.	Yes <input type="checkbox"/> No <input type="checkbox"/>	i.e. purpose built, as is, from the foundations up.
If not originally constructed only for residential purposes please indicate the original and / or other purposes.		e.g. commercial, mixed commercial / residential etc.
Has 1 or more units of accommodation been created since the building was originally constructed.	Yes <input type="checkbox"/> No <input type="checkbox"/>	i.e. a converted building, where changes to the original purpose/layout have been made.

<p>Is the property accredited with either?</p> <p>If yes please provide a copy of the accreditation certificate.</p>	<p>The National Code of Standards for Larger Developments – This is for student halls managed and controlled by private accommodation providers.</p> <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>The ANUK/Unipol Code of Standards for Larger Residential Developments – for student accommodation managed and controlled by education establishments.</p> <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>
<p>When was the property purchased?</p>		
<p>State approximately when the building first became a house in multiple occupation.</p>		
<p>Please state which of the following fire detection systems cover the main property / block.</p>	<p>Grade A <input type="checkbox"/></p> <p>Grade D <input type="checkbox"/></p> <p>If Grade A or Grade A and D please submit the test certificate.</p>	
<p>Please confirm that the fire detection within the property / block is in good working order</p>	<p>Grade A and D <input type="checkbox"/></p> <p>Battery <input type="checkbox"/></p> <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	

Please provide any additional comments you feel are relevant:

PART SIX – DESCRIPTION OF FLAT IN MULTIPLE OCCUPANCY (FMO)

This collects information about the flat in multiple occupancy (FMO) to be licensed.		
Please indicate the levels within the FMO		e.g. 4 th floor, or 2 nd & 3 rd floor
Does the FMO have a gas supply?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Do all the gas fittings, whether owned by the landlord or otherwise, meet all safety requirements contained in any enactment? Please tick	Yes <input type="checkbox"/>	No <input type="checkbox"/> N/A <input type="checkbox"/>
Are there any appliances for burning solid fuel?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If yes, is a carbon monoxide alarm fitted in every room containing such an appliance? Please tick	Yes <input type="checkbox"/>	No <input type="checkbox"/> N/A <input type="checkbox"/>
If you have answered no, please explain why no alarm has been provided		
Are any electrical appliances provided by the landlord or manager? Please tick	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If electrical appliances are provided, are they all less than a year old? Please tick	Yes <input type="checkbox"/>	No <input type="checkbox"/> N/A <input type="checkbox"/>
If furniture in the FMO is provided under the terms of any tenancy, or licence, does it meet any safety requirements contained in any enactment? Please tick	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	None provided	<input type="checkbox"/>
Please state which of the following fire detection systems are in the FMO. Please tick	Grade A <input type="checkbox"/>	Grade A and D <input type="checkbox"/>
	Grade D <input type="checkbox"/>	Battery <input type="checkbox"/>
Is this part of the system for the main property/block?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If a separate Grade A or Grade A and D are present in the FMO please submit the test certificate.		

Are smoke alarms provided on every storey of the FMO? Please tick	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Please confirm that the fire detection within the FMO is in good working order Please tick	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Do you provide the tenants with information regarding the fire alarm and/or fire safety training? Please tick	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Is there an emergency lighting system? Please tick	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If yes, please submit the test certificate		

Please confirm the following provision within the Flat in Multiple Occupancy (FMO)		
Number of living and dining rooms		Exclude combined kitchen dining rooms
Number of bedrooms		Exclude bedsits
Number of bedsits		Combined living room bedrooms (which may include kitchens)
Number of shared kitchens		Include combined kitchen dining rooms
Number of shared sinks		Exclude wash hand basins
Number of shared dishwashers		
Number of shared baths		
Number of shared showers		
Number of shared toilets		Shared toilets should be provided with a wash hand basin.
Please indicate any WC that does not contain a wash hand basin.		e.g. ground floor WC

We need to ensure that all rooms within the FMO are suitable for occupation. Please confirm;	
Where there is adequate provision of additional living space	
All single occupancy bedrooms are at least 6.51m ² in size	Yes <input type="checkbox"/> No <input type="checkbox"/>
All double occupancy bedrooms are at least 10.22m ² in size	Yes <input type="checkbox"/> No <input type="checkbox"/>
or	
Where there is a lack of provision of additional living space	
All single occupancy bedrooms are at least 10m ² in size	Yes <input type="checkbox"/> No <input type="checkbox"/>
All double occupancy bedrooms are at least 14m ² in size	Yes <input type="checkbox"/> No <input type="checkbox"/>
If in doubt, please refer to section I.1 'Amenity Standards' of our Guidance on HMO Standards	Please tick
Please also indicate if there are any rooms that do not meet the above requirements (e.g. first floor middle room)	

PART SEVEN – DETAILS OF OCCUPATION

Please state the number of people currently occupying the Flat/HMO.	
Please state total number of people intended to occupy the Flat/HMO.	
Please state the number of households currently occupying the Flat/HMO (a household is a single person, or a family, or a couple living together as husband and wife or a same sex partnership).	
Please state the number of households intended to occupy the Flat/HMO.	

Please give the name of the occupiers currently living in the Flat/HMO. This information is needed to allow us to give notice to the occupiers prior to inspection.

Name(s) of occupier(s)	Flat or room occupied

PART EIGHT – THE LICENCE HOLDER, MANAGER AND ANY ASSOCIATED PERSONS

The following information will be used to decide whether the proposed licence holder and manager are suitable. The questions relate to all properties within the proposed licence holder and manager's portfolios, and the other matters specified, whether within Plymouth or elsewhere.

As a part of this assessment we need to know about other people associated with, or formerly associated with, the proposed licence holder and manager on a work, personal or other basis. This includes employees and contractors, business associates and family members.

We need to know whether the proposed licence holder or manager, or any person associated with or formally associated with the licence holder or manager (see above), have:	(Please tick. If you answer "Yes" or "Not Sure" please provide details on the following page)		
	Yes	No	Not Sure
Any unspent convictions in respect of any of the following:			
<ul style="list-style-type: none"> ▪ Fraud or dishonesty (including benefit fraud) 			
<ul style="list-style-type: none"> ▪ Violence or drugs 			
<ul style="list-style-type: none"> ▪ Any offences listed in Schedule 3 to the Sexual Offences Act 2003(1) and 			
Practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in or in connection with the carrying on of any business?			
Contravened any of provisions of the following: <ul style="list-style-type: none"> ▪ Landlord and tenant law ▪ Housing law ▪ Public health law or ▪ Environmental health law? which led to civil or criminal proceedings resulting in a judgement made against them.			
Managed or owned a property for which a licence has been refused, or a licence revoked, under the Housing Act 2004?			
Breached the conditions of a licence issued under Housing Act 2004?			
Been served with a statutory notice relating to residential property you own or manage? Or acquired a property with an outstanding notice? <ul style="list-style-type: none"> ▪ If yes, has there been a failure to comply with the notice within the specified time period? ▪ If not complied with in the specified time, has a council undertaken works in default in respect of above notices? 			
Has the proposed Licence Holder, or Manager, owned or managed a property which has been subject to a Control Order, an Interim or Final Management Order?			

Acted in contravention of any code of practice approved under section 233 (Management Regulations) of the Housing Act 2004?			
<p>Any other matter to disclose relevant to the fitness to manage the property? For example;</p> <ul style="list-style-type: none"> • Being issued with a Civil/Financial Penalty in relation to housing legislation. • Being the subject of a Banning Order • Being the subject of a Rent Repayment Order <p>If necessary, please use an additional sheet to provide further details</p>			

If you answered "Yes" or "Not Sure" to any of the questions on the last page please give details below. Please identify the person concerned and their involvement with the HMO. Please provide details of any findings of the court or tribunal. Continue on a separate sheet if necessary.

PART NINE – MANAGEMENT OF THE PROPERTY

The Council must satisfy itself that the management arrangements for the house are satisfactory. The following questions will help assess the management of the property.

Does the proposed licence holder require leave to enter or remain in the United Kingdom?	Yes <input type="checkbox"/> No <input type="checkbox"/> Please tick
Does the proposed licence holder have adequate financial resources to maintain all the residential property: <ul style="list-style-type: none"> ▪ they own, and/or ▪ act as licence holder for, ensuring the health, safety and welfare of the occupiers in addition to fulfilling all their other statutory obligations?	Yes <input type="checkbox"/> No <input type="checkbox"/> Please tick
Is the proposed licence holder insolvent or an undischarged bankrupt?	Yes <input type="checkbox"/> No <input type="checkbox"/> Please tick
Is each occupier provided with a true copy of the written terms of agreement (of their occupation)?	Yes <input type="checkbox"/> No <input type="checkbox"/> Please tick
Is a deposit taken from occupiers?	Yes <input type="checkbox"/> No <input type="checkbox"/> Please tick
If a deposit is taken, is it protected within an approved deposit protection scheme? By law, all assured shorthold tenancy deposits must be protected under a statutory scheme.	Yes <input type="checkbox"/> No <input type="checkbox"/> Please tick. If “yes” please state which scheme. If “no”, state why the deposit is not protected:
What procedures are there for dealing with any complaints occupiers have concerning conditions in the property?	

<p>What arrangements are in place to ensure the occupiers can contact the licence holder or manager in the event of an emergency, regardless of when this might occur?</p>	
<p>What procedures are adopted where an occupier is found to be carrying out anti-social behaviour towards people sharing the house or people living in the neighbourhood?</p>	
<p>What arrangements are there to ensure that:</p> <ul style="list-style-type: none">▪ Facilities and amenities are in good working order ▪ Rooms are in good order ▪ Common parts are clean ▪ The HMO is reasonably safe ▪ The HMO is in reasonable repair?	

PART TEN – DECLARATION AND CONSENT

All the applicants must sign the following declaration/consent. In addition, all the proposed licence holders must sign the declaration/consent (where they are not the applicants).

I/we declare that the information contained in this application is correct to the best of my/our knowledge. I/we understand that I/we commit an offence if I/we supply any information to a local housing authority in connection with any of their functions under any of Parts 1 to 4 of the Housing Act 2004 that is false or misleading and which I/we know is false or misleading or I/we are reckless as to whether it is false or misleading.

I/we also give my/our consent to the Council to refer to:

- information provided by me, and others, in connection with Housing Benefit and Council Tax
- and any other information held by the Council or available to the Council

for the purposes of determining this application.

I/we also understand that the information given in this form may be used for the purposes set out in the Privacy Notice on page 2 of this form.

<p>Applicant</p> <p>Signed:</p> <p>Dated:</p> <p>Full name of person signing this form:</p>	<p>Joint applicant/s</p> <p>Signed:</p> <p>Dated:</p> <p>Full name of person signing this form:</p>
<p>Proposed licence holder (where not an applicant)</p> <p>Signed:</p> <p>Dated:</p> <p>Full name of person signing this form:</p>	<p>Proposed joint licence holder/s (where not an applicant)</p> <p>Signed:</p> <p>Dated:</p> <p>Full name of person signing this form:</p>

When completed, please return this form to Housing Improvement Team, Community Connections, Plymouth City Council Ballard House, West Hoe Road, Plymouth, PL1 3BJ. You can also submit the application form and certificates by email communityconnections@plymouth.gov.uk and pay the fee by telephone (01752 398500).




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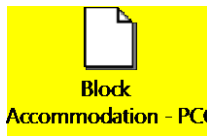
LICENSED HMO

Fee Review – Blocks vs Standard

January 2020



Item No	Item Description	Data Source																																																																																																																														
1	<p><u>HMO licence costs of Traditional style Licensable HMOs</u></p> <p>The 2019 HMO Licensing fees report concluded that the Local Authority cost of licensing, in traditional style licensable HMOs, was:</p> <ul style="list-style-type: none"> • New Licence = £898.98 per licence • Renewal Licence = £848.06 per licence <p>This was based on the data analysis breakdown of time and associated costs to perform tasks in relation to the HMO licensing process. The data analysis identified:</p> <p style="text-align: center;">HMO Licence - existing customer</p> <table border="1" data-bbox="311 1160 912 1288"> <thead> <tr> <th>Part</th> <th>Description</th> <th>Hours</th> <th>Rate</th> <th>Staff Cost</th> <th>Expenses</th> <th>Total Cost</th> <th>Price</th> <th>HRS</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>CCA (HMO)</td> <td>5</td> <td>£41.79</td> <td>£208.94</td> <td></td> <td>£208.94</td> <td>£208.94</td> <td>801</td> </tr> <tr> <td>2</td> <td>SCCO</td> <td>9.25</td> <td>£47.48</td> <td>£439.16</td> <td></td> <td>£439.16</td> <td>£439.16</td> <td>1481.85</td> </tr> <tr> <td>3</td> <td>TL (H) casework</td> <td>1.75</td> <td>£50.42</td> <td>£88.23</td> <td></td> <td>£88.23</td> <td>£88.23</td> <td>280.35</td> </tr> <tr> <td>4</td> <td>Travel Time 20 mins e/w</td> <td>1</td> <td>£47.48</td> <td>£47.48</td> <td>£5.43</td> <td>£52.91</td> <td>£52.91</td> <td>160.2</td> </tr> <tr> <td>5</td> <td>TL (H) enforce, prevent, educ</td> <td>1</td> <td>£50.42</td> <td>£50.42</td> <td></td> <td>£50.42</td> <td>£50.42</td> <td></td> </tr> <tr> <td colspan="2">TOTAL Cost of Providing Service</td> <td>18</td> <td>237.58</td> <td>834.23</td> <td>5.43</td> <td>£839.66</td> <td>£839.66</td> <td></td> </tr> </tbody> </table> <p style="text-align: right;">allowance for 19/20 1% inflationary inc</p> <p style="text-align: right;">Current Price £800.00 £850.00</p> <p style="text-align: right;">Increase % 5.0% 6.3%</p> <p style="text-align: center;">HMO Licence - new customer</p> <table border="1" data-bbox="311 1444 912 1572"> <thead> <tr> <th>Part</th> <th>Description</th> <th>Hours</th> <th>Rate</th> <th>Staff Cost</th> <th>Expenses</th> <th>Total Cost</th> <th>Price</th> <th>HRS</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>CCA (HMO)</td> <td>5</td> <td>£41.79</td> <td>£208.94</td> <td></td> <td>£208.94</td> <td>£208.94</td> <td>801</td> </tr> <tr> <td>2</td> <td>SCCO</td> <td>9.25</td> <td>£47.48</td> <td>£439.16</td> <td></td> <td>£439.16</td> <td>£439.16</td> <td>1481.85</td> </tr> <tr> <td>3</td> <td>TL (H) casework</td> <td>1.75</td> <td>£50.42</td> <td>£88.23</td> <td></td> <td>£88.23</td> <td>£88.23</td> <td>280.35</td> </tr> <tr> <td>4</td> <td>Travel Time 20 mins e/w</td> <td>1</td> <td>£47.48</td> <td>£47.48</td> <td>£5.43</td> <td>£52.91</td> <td>£52.91</td> <td>160.2</td> </tr> <tr> <td>5</td> <td>TL (H) enforce, prevent, educ</td> <td>2</td> <td>£50.42</td> <td>£100.84</td> <td></td> <td>£100.84</td> <td>£100.84</td> <td></td> </tr> <tr> <td colspan="2">TOTAL Cost of Providing Service</td> <td>19</td> <td>237.58</td> <td>884.65</td> <td>5.43</td> <td>£890.08</td> <td>£890.08</td> <td></td> </tr> </tbody> </table> <p style="text-align: right;">allowance for 19/20 1% inflationary inc</p> <p style="text-align: right;">Current Price £800.00 £900.00</p> <p style="text-align: right;">Increase % 11.3% 12.5%</p> <p>The outcome of the 2019 HMO Licensing fees report was that we had sufficient information to justify the current licence fee rates of:</p> <ul style="list-style-type: none"> • New Licence = £900 per licence • Renewal Licence = £850 per licence <p>Please see the attached document/s for more information.</p>	Part	Description	Hours	Rate	Staff Cost	Expenses	Total Cost	Price	HRS	1	CCA (HMO)	5	£41.79	£208.94		£208.94	£208.94	801	2	SCCO	9.25	£47.48	£439.16		£439.16	£439.16	1481.85	3	TL (H) casework	1.75	£50.42	£88.23		£88.23	£88.23	280.35	4	Travel Time 20 mins e/w	1	£47.48	£47.48	£5.43	£52.91	£52.91	160.2	5	TL (H) enforce, prevent, educ	1	£50.42	£50.42		£50.42	£50.42		TOTAL Cost of Providing Service		18	237.58	834.23	5.43	£839.66	£839.66		Part	Description	Hours	Rate	Staff Cost	Expenses	Total Cost	Price	HRS	1	CCA (HMO)	5	£41.79	£208.94		£208.94	£208.94	801	2	SCCO	9.25	£47.48	£439.16		£439.16	£439.16	1481.85	3	TL (H) casework	1.75	£50.42	£88.23		£88.23	£88.23	280.35	4	Travel Time 20 mins e/w	1	£47.48	£47.48	£5.43	£52.91	£52.91	160.2	5	TL (H) enforce, prevent, educ	2	£50.42	£100.84		£100.84	£100.84		TOTAL Cost of Providing Service		19	237.58	884.65	5.43	£890.08	£890.08		<p>(2018-19)</p> <p> 2019 HMO Licensing Data Analysis - V1.xls</p> <p> Cost recovery HMO service.pdf</p> <p> Accounts Summary of HMO Licence Review</p>
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2	<p><u>How does this fee apply to Block style Licensable HMOs?</u></p> <p><u>Test cases</u></p> <p>To understand how we can justify the HMO licence fee structure, when applying to block style licensable HMOs (i.e. a converted block, containing flats of multiple occupation, each by 5 or more persons) we needed to undertake some test case scenarios. For this we agreed an independent rate of £520 per licence, for 15 licences, across two block style accommodation properties.</p> <p><u>Test Case 1</u> On 22nd July 2019 – we inspected 5 out of 6 x licensable flats at Cornwall Heights, 75-77 Cornwall Street, Plymouth, a property that is under the HMO management of Clever Student Lets.</p> <p><u>Test Case 2</u> On 5th September 2019 – we inspected 9 x licensable flats at Ocean House, 10 Kinterbury Street, Plymouth, a property that is also under the HMO management of Clever Student Lets.</p> <p>Following a review of the data analysis from the test cases, we are able to see variations, mainly in respect of time for inspection and associated travel costs.</p> <p>These findings have highlighted a significant reduction in the time required by Senior Community Connections Officers in undertaking their specific duties/tasks. Some factors that contribute to this are;</p> <ol style="list-style-type: none"> 1. The units of accommodation are close in proximity 2. They have shared communal areas 3. There is commonly a Single Point of Contact 4. There are commonly well organised facilities maintenance contracts leading to better standards and less hazards <p>Please see the attached document/s for more information.</p>	 <p>HMO Fees Blocks v Standard data analysis:</p>
3	<p><u>So, what should the HMO licence fee be?</u></p> <p>Firstly we must acknowledge that there is a difference, in terms of costs, when comparing ‘Single Property Licensing’ (i.e. Standard) and ‘Multiple Property Licensing’ (i.e. Blocks containing 5 or more LHMOs).</p> <p>I have run the data analysis through the same framework that was used by PCC Accounts for ‘Single Property Licensing’ costs in the 2019 Fees Review. This has indicated an estimated reduction of 32.6%. These figures were sent to be ratified by PCC Accounts (Helen/Becky) on 27.11.19 with my initial estimation/findings that a licence fee should be Circa £606.30 for initial licence. (please see below)</p>	

HMO Licence - new customer									
Part	Description	Hours	Rate	Staff Cost	Expenses	Total Cost	Contingency	Price	
1	CCA (HMO)	4.64	£48.00	£223.02		£223.02		£223.02	
2	NCCO	4.29	£52.95	£227.17		£227.17		£227.17	
3	TL (H) casework	1.59	£50.37	£80.09		£80.09		£80.09	
4	Travel Time 30 mins e/w	0.2	£50.44	£10.09	£5.43	£15.52		£15.52	include % if required.
5	TL (H) enforce, prevent, educ	1.2	£50.42	£60.50		£60.50		£60.50	Additional hour added for new clients
TOTAL Cost of Providing Service		11.92	237.58	600.07	5.43	£606.30	0%	£606.30	allowance for 19/20 1% inflationary increase
								Current Price	£900.00
								Increase %	-32.0%

I have received confirmation from Becky Sampson on 21.01.20 (email attached) that my estimated figures are correct.

I therefore propose that we charge a fee of £610 (Flat rate with no discounts) for licensable HMO's, contained in a block, where 5 or more require licensing. This is a paper based application that sits outside of the online process. It is the intention to process these licences and then look how to integrate it into an online process ahead of the next renewal period. These licences would therefore not be subject to change in costs of split fees when this affects the core business this year.


4 What is the projection over the next 5 years of licence fees to be received, on current rates, through renewal of HMO licences?

Unlike the standard HMO portfolio, we are not able to estimate growth in the market of Block Accommodation HMO's, as this is generally based on planning and development of the city.

What we can say is that we have identified 113, what we believe to be licensable HMO's contained within block style accommodation. 15 of these properties formed the test cases which had an agreed fee of £520. The remaining 98 properties would be subject to the agreed new fee level of £610. The licences would last 5 years and it is very probable, given the nature of these buildings, that they would remain licensable in the future.

Financial Year	Number of New	Predicted Income
2019-2020	15	£7,800 (received)
2020-2021	98	£59,780
2021-2022	0	£0
2022-2023	0	£0
2023-2024	0	£0
2024-2025	15	£7,800
2025-2026	98	£59,780

These amounts are in addition to our core business of HMO's which is Circa 1250.

5	<p style="text-align: center;"><u>Would we be able to justify this?</u></p> <p>The Local Authority is currently facing unprecedented times of fiscal challenge, and therefore it is necessary to evaluate all options of increased revenue.</p> <p>There has been careful consideration given to the stock levels of converted block style accommodation in the city. The legislation does not support that HMO's in converted buildings are exempt from HMO licensing (if they are not managed by a University) and therefore we needed to look at this area. For due diligence we have also run test cases to formally assess the resourcing requirements and differences to our business as usual HMOs.</p> <p>If challenged on our licence fees, we would look to respond by advising of the calculated time per licence and that when the Authority's cost recovery model is applied (for associated direct costs, onward costs and support services) this has culminated in the current fee structure that will be reviewed on an annual basis.</p>	
6	<p style="text-align: center;"><u>What are the risks? (minimal)</u></p> <p>The fundamental arguments that will underpin if a block style accommodation contains licensable HMO's are:</p> <ol style="list-style-type: none"> 1) Does the building contain accommodation that would be considered licensable under The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018 2) Definition of a self-contained flat (see attached document) 3) Definition of a converted building (see attached document) <p>If a property we have identified as licensable, could successfully defend that the building is not a converted building, then we would not be able to proceed.</p> <p>However, there is minimal cost to the council in respect of this and we have given consideration to what we believe are the factors making a property licensable.</p>	 <p>HMO licensing additional guidance.doc</p>
7	<p style="text-align: center;"><u>What challenges were faced when producing this report?</u></p> <ol style="list-style-type: none"> 1) The lack of clear definition of what is 'purpose built' has meant that we have needed to apply a logical reasoning, that if any of the original structure remains, but the internal layout has changed, this is conversion. If the property had been completely demolished and a new structure built, this is purpose-built. 2) Recognising that there would be resourcing differences between this style of accommodation and our standard HMOs meant that we needed new data. The only way to achieve this was to run test cases and agree a notional fee for doing so. We achieved this with Cornwall Heights and 	

	<p>Ocean House from Clever Student Lets at an agreed fee of £520 per licence for 15 licences. The information gather was invaluable to help us assess the realistic costs to apply to licensable HMO's in a block containing 5 or more HMOs.</p> <p>3) Another challenge is that we are unable at present to integrate the application process for block style accommodation into our online system. This is for the following reasons:</p> <ul style="list-style-type: none"> a) To integrate would allow discounts to apply but we believe the £610 should be a fixed fee. b) We are in the transition of moving to Esuasive who are integrating the application form into the new system and as such, changes are difficult to achieve at this time. c) We will have upcoming changes to incorporate a 2-stage payment system that need to be integrated as a greater priority. <p>To mitigate the above we have already developed a paper based application for the Blocks that can be used on these initial applications which would afford us a long time period to understand how best to integrate blocks into the online application system ahead of renewals.</p>	
8	<p style="text-align: center;"><u>Summary</u></p> <p>I believe that the proposed HMO licence fee of £610 per HMO licence application submitted (where there are 5 or more licensable HMOs in the same building), is an appropriate fee level for Plymouth City Council to recover its costs. This is a view that is also shared by Helen Foote and Rebecca Sampson who have been consulted as part of bringing this report together.</p> <p>If you have any questions that rise, when reviewing this report, please do not hesitate to contact me so we can discuss these further.</p>	
9	<p><u>Horizon Scanning – Item (2) 2-Stage Payment Process</u></p> <p>This is a piece of work that has required a lot of development. To effectively implement a 2 stage payment structure (i.e. to be considered lawful in accordance with the European Services Directive) I need to canvass other Local Authorities, who have already adopted this, to see what impact this has had/will have on:</p> <ul style="list-style-type: none"> • Additional time required to process a HMO licence application? • Additional resource required? • Licence fee level setting? 	

- Dealing with challenges and being robust to challenges?
- Communication of changes to the sector?
- What impact, if any, Brexit may have?

The above has been reliant upon other LA's being happy to support with information, whilst already under significant time demands. This will also be at the behest of availability of persons to share information, not necessarily at a time of my choosing.

I have gathered the information, and am in the process of completing a report for senior manager review which will suggest a solution plan, which will include;

- Proposed required resourcing levels (projected over 5 years, based on renewal numbers and an assumed no further changes to legislation).
- Proposed structure of resourcing levels (to ascertain effective management of service delivery and control of costs so as not to negatively impact on Licence Fee setting and robustness to challenges).
- Proposed income generation (projected over 5 years, based on renewal numbers and an assumed no further changes to legislation).

Following review and initial approval from Community Connections Service Director, we would then have to put the proposal out to consultation. For this I would suggest that the Private Rented Sector Partnership Group is the ideal forum to utilise. Consultation period would be advised to be 1 month as a means to try and keep a tighter hold on timescales for project delivery.

My initial targets were to try and achieve the following project timelines;

- LA consultations by mid-November 2019
Completed late-November 2019
- Initial Report to CC managers by end-November 2019
New target end-January 2020
- PFH review early-December 2019
New target end-January/early-February 2020
- PRSPG Consultation mid-Dec 2019 to end-Jan 2020
New target February 2020 to March 2020
- Re-iteration reviews mid-Feb 2020
Subject to requirement
- Submission for Board Approval end-Feb 2020
To be advised
- Implementation for start of new financial year in April 2020

This may now be difficult to achieve.

Strengths

- As a result we would comply with the European Services Directive and have a 'lawful' 2-stage payment process for HMO licensing.
- We would have a reasonable justification to incorporate a HMO licence fee rise in 2020.

Weaknesses

- It is a lot of work in a short space of time and if one element falls down, it could jeopardise project delivery for the start of the next financial year.

Opportunities

- There is an opportunity to review our current delivery structure for the application and payment stage of HMO licensing, including effective management and maximising potential.
- Additional resource will create learning and development opportunities for individuals and potentially career progression.

Threats

- This is going to increase the licence fee for all applicants, when only a very small number of licences are actually not granted at application stage. Therefore I would anticipate some resistance from the sector.

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EQUALITY IMPACT ASSESSMENT

Community Connections – Changes in HMO and Energy Efficiency



STAGE I: WHAT IS BEING ASSESSED AND BY WHOM?

What is being assessed - including a brief description of aims and objectives?

The mandatory HMO licensing scheme of large HMO's came into force on 6th April 2006 with the implementation of Statutory Instrument 2006 No.373 'The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006'.

Legislative changes made to the 'prescribed description' of licensable HMOs, effective from 1st October 2018, <https://www.legislation.gov.uk/uksi/2018/221/article/4/made>, have removed the 'storey condition' from the pre-existing description. This change has led to a significant increase in the number of licensable HMOs in our city, doubling from an average of Circa 650 to an Average of Circa 1300. In addition it has also opened up the opportunity to look at flats in block style accommodation that meet the criterion of a licensable HMO.

Legislative changes brought about by the European Services Directive 2006, and the Provision of Services Regulations 2009, along with more recent case law, identified that licences under Parts 2 and 3 of the Housing Act 2004 (i.e. Mandatory HMO Licensing, and Selective HMO Licensing schemes) should be charged in two stages.

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 as amended are designed to tackle the least energy-efficient properties in England and Wales – those rated F or G on their Energy Performance Certificate (EPC). The Regulations establish a minimum standard for both domestic and non-domestic privately rented property.

The objective implement the Local Authority's MEES policy and procedure in enforcing these standards. It provides advice and guidance to interested parties that may be subject to enforcement which include:

- A civil penalty up to a maximum of £5,000.
- Publication of details of the landlord's breach on a publicly accessible part of the PRS Exemptions register.

Changes being introduced aim raise the standards of privately rented accommodation by permitting PCC to comply with duties and enforce legislation.

The communities affected by the legislation (and this policy) are:

	<ul style="list-style-type: none"> tenants. There are approximately 22,000 privately rented houses and flats in Plymouth. Using the English Housing Survey Households 2013/14 average of 2.5 persons/household in this sector, this suggests about 55,000 people. landlords. It is estimated that there are about 12,000 landlords letting property in Plymouth. Of these, about 50% reside in Plymouth.
Author	Dave Ryland, Strategic Manager
Department and service	Community Connections
Date of assessment	12 th October 2020

STAGE 2: EVIDENCE AND IMPACT

Protected characteristics (Equality Act)	Evidence and information (eg data and feedback)	Any adverse impact See guidance on how to make judgement	Actions	Timescale and who is responsible
Age	<p>Age profile data of those living in HMO accommodation or those landlords of HMO accommodation is not specifically available.</p> <p>However, it is known that the average age in Plymouth (39 years) is about the same as the rest of England (39.3 years), but less than the South West (41.6 years).</p> <p>The proportion of the working age population (16-64 years) is higher (66.1%) than regionally (62.8%) and nationally (64.7%).</p> <p>It is understood that majority of people occupying HMO accommodation are young adults of working age.</p>	<p>It is recognised that older people and the very young living in poor housing conditions may be more susceptible to conditions resulting from poor heating or damp and mould for example.</p> <p>Rising house prices, and a shortage of properties and changes to housing benefit are making it hard for young people to find suitable accommodation, and hence may be more likely to live in an HMO.</p>	<p>HMO Licensing is not dependent on the occupant, but the size and arrangement of the physical dwelling.</p> <p>Excess cold could be classified as a category I hazards via the Housing Health and Safety Rating System is influenced by a 'vulnerable group' that does not necessarily reflect the occupation of the property. Best endeavours will be used to negotiate improvements with a</p>	<p>Strategic Manager and Technical Lead (Housing Improvement), Community Connections</p>

	<p>The removal of automatic entitlement to housing costs for 18-21 year olds in universal credit, may mean that a higher proportion of young people may occupy an HMO. A report published in January 2018 by DWP states that 96% of 18-21 year olds who applied for support for housing costs were awarded it.</p> <p>https://www.gov.uk/government/statistics/removal-of-automatic-entitlement-to-housing-costs-for-18-to-21-year-olds-in-universal-credit</p>		<p>landlord where enforcement is not proportionate or possible.</p> <p>Staff have been trained in Equality & Diversity and comply with the requirements. They are able to identify specific needs and requirements, apply a suitable style of communication and modify the application of the policy in appropriate cases.</p>	
<p>Disability</p>	<p>Disability profile data of those living in HMO accommodation or those landlords of HMO accommodation is not available.</p> <p>It is suggested that 1 in 3 households with a disabled person live in non-decent accommodation and 1 in 5 disabled people requiring adaptations to their home believe their accommodation is not suitable.</p> <p>A total of 31,164 people declared themselves as having a long-term health problem or disability, compared with the total number with disabilities in UK (11,600,000).</p> <p>1297 adults registered with a GP in Plymouth have some form of learning disability (2013/14).</p>	<p>The very nature of HMO accommodation would not lend itself easily to people with physical disabilities and would be less likely to be able to be adapted to meet someone's physical needs.</p> <p>However, there may be people with non-physical disabilities, including learning disabilities living in private rented accommodation.</p> <p>The provisions set out an assessment method for the</p>	<p>HMO Licensing is not dependent on the occupant, but the size and arrangement of the physical dwelling.</p> <p>Excess cold could be classified as a category 1 hazards via the Housing Health and Safety Rating System. This system is influenced by what may be deemed a 'vulnerable group' which does not necessarily reflect the occupation of the property. Best endeavours will be used to negotiate</p>	<p>Strategic Manager and Technical Lead (Housing Improvement), Community Connections</p>

		<p>condition of accommodation which means that improvements can be made if required, either by negotiation or enforcement of the landlord.</p>	<p>improvements with a landlord where enforcement is not proportionate or possible.</p>	
<p>Faith/religion or belief</p>	<p>It is recognised that occupants of HMO accommodation may include people who would be protected under the Equality Act in regard to their faith, religion or belief.</p> <p>84,326 of the Plymouth population stated they had no religion, and those with a Hindu, Buddhist, Jewish or Sikh religion combined total less than 1%.</p>	<p>Private rented accommodation is available across the city however due to the city's development HMO accommodation may be more central and thus more accessible to those visiting places of worship on regular basis.</p>	<p>HMO Licensing is not dependent on the occupant, but the size and arrangement of the physical dwelling.</p> <p>Excess cold could be classified as a category I hazards via the Housing Health and Safety Rating System. This system is influenced by what may be deemed a 'vulnerable group' which does not necessarily reflect the occupation of the property. Best endeavours will be used to negotiate improvements with a landlord where enforcement is not proportionate or possible.</p> <p>There may be some more specific housing requirements in regard to accommodation that</p>	<p>Strategic Manager and Technical Lead (Housing Improvement), Community Connections</p>

			<p>is not addressed by the HHSRS, for example additional/separate washing facilities.</p>	
<p>Gender - including marriage, pregnancy and maternity</p>	<p>Overall 50.6% of the population are women, and 49.4% are men. This reflects the national figure of 50.8% women and 49.2% men.</p> <p>In Plymouth in 2017 the mean difference between average hourly earnings of men and women as a proportion of average hourly earnings of men was 11.3% the median difference was 14.9%.</p> <p>In Plymouth 61.3% of women are working and 38.9% of men are working, however, a larger proportion of men work full time in comparison to women.</p>	<p>Gender pay gap, and issues relating to domestic abuse may see occupants of HMO accommodation more affected by this characteristic.</p> <p>Those on lower incomes may seek cheaper accommodation.</p>	<p>HMO Licensing is not dependent on the occupant, but the size and arrangement of the physical dwelling.</p> <p>Excess cold could be classified as a category 1 hazard via the Housing Health and Safety Rating System. This system is influenced by what may be deemed a 'vulnerable group' which does not necessarily reflect the occupation of the property. Best endeavours will be used to negotiate improvements with a landlord where enforcement is not proportionate or possible.</p> <p>There may be some more specific housing requirements in regard to accommodation that is not addressed by the HHSRS, for example additional/separate washing facilities.</p>	<p>Strategic Manager and Technical Lead (Housing Improvement), Community Connections</p>

<p>Gender reassignment</p>	<p>Recent surveys have put the prevalence of transgender people between 0.6 and 1% of the population.</p> <p>Over the last 8 years the prevalence of transgender people in the UK has been increasing at an average rate of 20% per annum in adults and 50% in children.</p> <p>A study funded by the home office suggests that there are between 300k and 500k people aged 16 and over in the UK who are experiencing some degree of gender variance. This could mean that of Plymouths 16 + population, we can estimate between 1287 and 2146 adults in the city that are experiencing some degree of gender variance.</p> <p>The average age presentation for male to female is 40-49, and for female to male is 20-29.</p> <p>More than 28% of trans people in a relationship in the last year have faced domestic abuse from a partner.</p>	<p>Many young people experience gender variance and will transition around the onset of puberty and this can bring them into conflict with parents who may find it difficult to accept their gender identity. This may lead to a displacement in the young person's housing thus cheaper accommodation becoming more attractive, and HMO accommodation providing this.</p> <p>The demographic information could suggest that those experiencing gender variance or transitioning may be likely to require cheaper accommodation, even if simply in the short term, due to discrimination in the workplace, fleeing domestic abuse in the home, and displacement from home setting.</p>	<p>HMO Licensing is not dependent on the occupant, but the size and arrangement of the physical dwelling.</p> <p>Excess cold could be classified as a category I hazards via the Housing Health and Safety Rating System. This system is influenced by what may be deemed a 'vulnerable group' which does not necessarily reflect the occupation of the property. Best endeavours will be used to negotiate improvements with a landlord where enforcement is not proportionate or possible.</p> <p>There may be some more specific housing requirements in regard to accommodation and shared facilities that is not addressed by the HHSRS.</p>	<p>Strategic Manager and Technical Lead (Housing Improvement), Community Connections</p>
<p>Race</p>	<p>92.9% of Plymouth's population identify themselves as White British.</p>	<p>Across the country 17% of households living in private rented accommodation. As a group, ethnic minority</p>	<p>HMO Licensing is not dependent on the occupant, but the size</p>	<p>Strategic Manager and Technical Lead (Housing</p>

	<p>7.1% identify themselves as Black and Minority Ethnic with White Other (2.7%), Chinese (0.5%) and other Asian (0.5%) the most common ethnic groups.</p> <p>Plymouth BAME population rose from 3% in 2001 to 6.7% in 2011, and therefore has more than doubled since the 2001 census.</p> <p>Four neighbourhoods have a population of school age children where 20% or more are from a BAME background. They are City Centre (38%), Greenbank and University (32.3%) Stonehouse (29.9%) and East End (23.4%). All of these areas have a high concentration of HMO accommodation.</p>	<p>households are more likely to rent privately than white British households and to spend a higher proportion of their incomes on rent.</p> <p>Given the proximity of HMO accommodation and the % of residents in those areas being from a BAME background, it could be a fair assumption that some HMO accommodation may be occupied by people from a BAME background.</p> <p>All publication are available in translated formats.</p>	<p>and arrangement of the physical dwelling.</p> <p>Excess cold could be classified as a category I hazards via the Housing Health and Safety Rating System. This system is influenced by what may be deemed a 'vulnerable group' which does not necessarily reflect the occupation of the property. Best endeavours will be used to negotiate improvements with a landlord where enforcement is not proportionate or possible.</p>	<p>Improvement), Community Connections</p>
<p>Sexual orientation - including civil partnership</p>	<p>There is no definitive data on sexual orientation at a local or a national level. A recent estimate from the 2015 ONS annual population survey suggests that 1.7% of the UK population is lesbian, gay or bisexual, if this figure is applied to Plymouth it would mean there are approximately 3649 LGB people in the city.</p>	<p>There is little evidence to suggest that LGB people would be more likely to occupy private rented accommodation specifically.</p>	<p>HMO Licensing is not dependent on the occupant, but the size and arrangement of the physical dwelling.</p> <p>Excess cold could be classified as a category I hazards via the Housing Health and Safety Rating System. This system is influenced by what may</p>	<p>Strategic Manager and Technical Lead (Housing Improvement), Community Connections</p>

			be deemed a 'vulnerable group' which does not necessarily reflect the occupation of the property. Best endeavours will be used to negotiate improvements with a landlord where enforcement is not proportionate or possible.	
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STAGE 3: ARE THERE ANY IMPLICATIONS FOR THE FOLLOWING? IF SO, PLEASE RECORD ACTIONS TO BE TAKEN

Local priorities	Implications	Timescale and who is responsible
Reduce the gap in average hourly pay between men and women by 2020.	None	N/A
Increase the number of hate crime incidents reported and maintain good satisfaction rates in dealing with racist, disablist, homophobic, transphobic and faith, religion and belief incidents by 2020.	None	N/A
Good relations between different communities (community cohesion)	Identifying and supporting good quality housing where people can live their lives in safe and secure accommodation, supporting good relations between communities.	5 yearly license renewals and hence inspection regime. Strategic Manager and Technical Lead (Housing Improvement), Community Connections
Human rights Please refer to guidance	Structures will be fair and will not differential on the basis of any protected characteristic or any grounds that we cannot objectively justify.	

STAGE 4: PUBLICATION

Responsible Officer 

Date
15/10/2020

Director, Assistant Director or Head of Service

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EXECUTIVE DECISION

made by a Cabinet Member



REPORT OF ACTION TAKEN UNDER DELEGATED AUTHORITY BY AN INDIVIDUAL CABINET MEMBER

Executive Decision Reference Number – HCD06 20/21

Decision	
1	Title of decision: Approval of moving to a 2-stage payment Licence Fee Structure for licensable HMOs, and adapting our discretionary discounts available.
2	Decision maker (Cabinet member name and portfolio title): Councillor Chris Penberthy (Cabinet Member for Housing and Co-operative Development)
3	Report author and contact details: Mark Chubb 01752 308989
4	Decision to be taken: Approval of moving to a 2-stage payment process for HMO licensing, to ensure that the scheme is in accordance with legislation (European Services Directive 2006, and Provision of Services Regulations 2009) and case law. To be considered a 'lawful scheme', fees need to be charged in 2 stages, (1) application processing only, and (2) continued administration of licence scheme. Approval of amendments to discretionary discounts that we offer.
5	Reasons for decision: <u>2-stage payment process</u> Legislative changes brought about by the European Services Directive 2006, and the Provision of Services Regulations 2009, along with more recent case law, identified that licences under Parts 2 and 3 of the Housing Act 2004 (i.e. Mandatory HMO Licensing, and Selective HMO Licensing schemes) should be charged in two stages. https://www.londonpropertylicensing.co.uk/court-decides-property-licensing-fees-must-be-charged-two-stages-and-names-occupants-cannot-be A three Judge Divisional Court has decided that the HMO licensing scheme under Part 2, Housing Act 2004, is an authorisation scheme for the purposes of the EU Services Directive 2006 (EU Directive 2006/123/EC) and the Provision of Services Regulations 2009/2999 which implemented the Directive in the UK. The Hemming approach (R (Hemming t/a Simply Pleasure v Westminster CC [2017] 3 WLR 317), therefore applies to licensing under Part 2 and, it would seem, Part 3, 2004 Act, meaning that licensing fees must be charged in two stages – an application fee to cover only the costs of obtaining authorisation under the scheme, and a licence fee levied only on successful applicants to cover the remaining costs of administration and enforcement etc.

During this project there were multiple other Local Authority websites reviewed and contacts made. Direct engagement was achieved 5 out of 6 Local Authorities that were contacted directly for more information. Posts about this subject were also placed on RIAMS, a professional forum for Local Authority housing professionals to try and gather feedback.

The review, and subsequent research, has highlighted that unless the EU Services Directive 2006 is 'repealed', or there is a "no deal" Brexit, it will remain in force. Subsequently there has been a visible trend of more Local Authorities adopting a 2-stage payment process (whether in place, or in development). It was also seen that there was significant variation from Authority to Authority on how they were going to adopt the process, and as usual the engagement levels of contact with other authorities was mixed.

This leads us to a position of looking to adopt the changes and applying our own interpretation on how best to split the fee, whilst remaining robust to challenge. I believe this has been achieved, thanks to the data gathered in annual HMO licence fees reviews of recent years.

Amendment to discretionary discounts we offer

In 2018 we last reviewed the discretionary discounts, and the current offer is:

- a) £100 early application discount (within 6 weeks of property becoming licensable)
- b) Additional £50, if (a) applies and the landlord has undertaken the LLRD proficiency test
or
- c) Additional £150, if (a) applies and the landlord has undertaken the LLRD accreditation course with a recognised provider

We are proposing the following as an alternative:

If the HMO licence application is received on, or before, the date the property becomes licensable then the following discretionary discounts may apply;

- a) £50 if the application is submitted complete, and without the need for further contact from the team to obtain additional information and/or certification.
- b) £50 if the landlord has undertaken the LLRD proficiency test
or
- c) £150, if the landlord has undertaken the LLRD accreditation course with a recognised provider

The original intention of applying an 'early application discount' was to encourage people to apply as early as possible, which would then help to negate some of the relative resourcing costs the team would incur by having to identify and chase more cases. The reason we are proposing the changes is that the the original intention was also at a time when the Local Authority had fewer powers in tackling offences of failing to licence.

	<p>Unfortunately this meant that an applicant could be causing an offence for a period of up to 6 weeks and then still obtain a discounted HMO licence. Now that we have more robust enforcement for non-compliance we would like to shift the reward focus to good practice, and licence holders who demonstrate effective management and order of their education, properties, and information.</p>
<p>6</p>	<p>Alternative options considered and rejected:</p> <p>In theory we could consider doing nothing in respect of introducing a 2-stage payment process. However, we would remain open to challenge. Although this has been a remote possibility, the likelihood may increase as more local authorities adopt similar schemes as there will be increased knowledge within the sector. In the event of doing nothing and subsequently being in receipt of a challenge, to a single payment scheme, we may lose the challenge and this could cause reputational damage to the Local Authority.</p> <p>Similarly, in respect of discretionary discounts, we could consider doing nothing in respect of making changes. However, doing nothing would;</p> <ol style="list-style-type: none"> 1. Create a contradiction in terms that we may be seen to permit non-compliance for a period of 6 Weeks at application stage, whilst at the same time having the Civil Penalties Policy that could be enacted in the case of a licensable HMO operating without a licence. 2. We would miss an opportunity to ensure that the discretionary discounts reward good practice. <p>There are no reasonable other options available for consideration.</p>
<p>7</p>	<p>Financial implications:</p> <p><u>2-Stage Payment Process</u></p> <p>There are no additional financial implications brought about by the change as the HMO licence fee is calculated to match the revenue raised in fees, with the costs incurred by providing the service.</p> <p>The additional stage of the process has been calculated from a resourcing point of view, and has indicated a potential increase of 0.51 hours, per licence (both New and Renewal). This time was calculated across the roles of Business Support, Senior Community Connections Officers, and Technical Lead input (i.e. the only relevant persons involved) and the associated cost values.</p> <p>In response to this an increase in the HMO licensing fees structure, of £25 increase to the maximum fee per licence has been put in to place to take account of the additional costs. Information on how this is broken down is included in Appendix B.</p> <p><u>2-Stage Payment Process & Amendment to Discretionary Discount</u></p> <p>At this juncture I have taken the opportunity to forecast the revenue expected over the next 5-6 year period of HMO licensing. This is created by understanding the HMO licence lifecycle and</p>

	<p>expected renewals. Appendix C shows the breakdown of financial forecast for FY 20/21 to FY 25/26.</p> <p>The changes to the fee structure should result in additional payments by the end of FY 25/26 to cover the additional costs of the 2nd payment stage. Appendix B breaks this figure down as well as giving the most up to date forecasting of baseline income for HMO licensing between now and end of FY 25/26.</p>			
8	<p>Is the decision a Key Decision? (please contact Democratic Support for further advice)</p>	Yes	No	Per the Constitution, a key decision is one which:
			X	in the case of capital projects and contract awards, results in a new commitment to spend and/or save in excess of £3million in total
			X	in the case of revenue projects when the decision involves entering into new commitments and/or making new savings in excess of £1 million
		X	is significant in terms of its effect on communities living or working in an area comprising two or more wards in the area of the local authority.	
	<p>If yes, date of publication of the notice in the Forward Plan of Key Decisions</p>	N/A		
9	<p>Please specify how this decision is linked to the Council's corporate plan/Plymouth Plan and/or the policy framework and/or the revenue/capital budget:</p>	<p>Corporate Plan</p> <p>Values – Fairness – Introducing the 2-stage payment process is directly in line with our values on fairness. By aligning our HMO licence payment process to comply with the relevant legislation (i.e. European Services Directive 2006, and Provision of Services Regulations 2009), the scheme changes promote fairness as a refused applicant will not need to contribute to the continued administration of a scheme that they cannot be a part of.</p> <p>Priorities - Caring Council – HMO licensing supports improving, or maintaining, standards of accommodation for residents through increased regulation. Having a robust licensing fees scheme means that we can appropriately resource for service delivery. In addition, the recognition of appropriate 'discretionary discounts' enables us to reward good practice and drive up standards further as other landlords and agents will need to raise their professional organisation/administration, as well as knowledge and expertise to qualify for the discounts. As standards</p>		


		<p>improve across the city, we should see a decrease in health inequalities.</p> <p><u>Plymouth Plan for Homes 3</u></p> <p>Improving Housing Conditions in PRS – The application of 2-stage payment process and amendments to the ‘discretionary discounts’ enables us to reward good practice and drive up standards as landlords and agents will need to raise their professional organisation/administration, as well as knowledge and expertise to qualify for the discounts. As standards improve across the city, we should see a decrease in health inequalities. Improvements to accommodation can be physical in terms of the building but can also be in the management of the property.</p> <p>Sustainability – The revenue raised through the application of HMO licensing fees is directly used to recover the Local Authorities costs associated with running the HMO licensing scheme.</p>
10	Please specify any direct environmental implications of the decision (carbon impact)	None. The additional process will be digital and therefore it is not expected to generate an increased carbon usage.

Urgent decisions

11	Is the decision urgent and to be implemented immediately in the interests of the Council or the public?	Yes		(If yes, please contact Democratic Support Support (democraticsupport@plymouth.gov.uk) for advice)
		No	X	(If no, go to section 13a)
12a	Reason for urgency:			
12b	Scrutiny Chair Signature:		Date	
	Scrutiny Committee name:			
	Print Name:			

Consultation			
I3a	Are any other Cabinet members' portfolios affected by the decision?	Yes	
		No	X (If no go to section I4)
I3b	Which other Cabinet member's portfolio is affected by the decision?	N/A	
I3c	Date Cabinet member consulted	N/A	
I4	Has any Cabinet member declared a conflict of interest in relation to the decision?	Yes	If yes, please discuss with the Monitoring Officer
		No	
I5	Which Corporate Management Team member has been consulted?	Name	Craig McArdle
		Job title	Strategic Director for People
		Date consulted	13/10/2020
Sign-off			
I6	Sign off codes from the relevant departments consulted:	Democratic Support (mandatory)	DS46 20/21
		Finance (mandatory)	djn.20.21.103
		Legal (mandatory)	35409/hm
		Human Resources (if applicable)	N/A
		Corporate property (if applicable)	N/A
		Procurement (if applicable)	N/A
Appendices			
I7	Ref.	Title of appendix	
	A	Briefing report for publication	
	B	Data Analysis & Estimation document	
	C	Financial Considerations & Forecasting document	

	D	EIA							
Confidential/exempt information									
18a	Do you need to include any confidential/exempt information?	Yes		<p>If yes, prepare a second, confidential ('Part II') briefing report and indicate why it is not for publication by virtue of Part I of Schedule 12A of the Local Government Act 1972 by ticking the relevant box in 18b below.</p> <p>(Keep as much information as possible in the briefing report that will be in the public domain)</p>					
		No	X						
			Exemption Paragraph Number						
			1	2	3	4	5	6	7
18b	Confidential/exempt briefing report title:								
Background Papers									
19	<p>Please list all unpublished, background papers relevant to the decision in the table below.</p> <p>Background papers are <u>unpublished</u> works, relied on to a material extent in preparing the report, which disclose facts or matters on which the report or an important part of the work is based. If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part I of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.</p>								
Title of background paper(s)			Exemption Paragraph Number						
			1	2	3	4	5	6	7
http://www.legislation.gov.uk/ukpga/2004/34/section/55 Mandatory HMO licensing									
http://www.legislation.gov.uk/ukpga/2004/34/section/63 HMO licensing Applications and Fees									
https://www.gov.uk/guidance/eu-services-directive#information-for-competent-authorities European Services Directive 2006									

<p>https://www.londonpropertylicensing.co.uk/court-decides-property-licensing-fees-must-be-charged-two-stages-and-names-occupants-cannot-be</p> <p>Case Law - R (Gaskin) v Richmond-upon-Thames LBC [2018] EWHC 1996</p>							
Cabinet Member Signature							
20	I agree the decision and confirm that it is not contrary to the Council's policy and budget framework, Corporate Plan or Budget. In taking this decision I have given due regard to the Council's duty to promote equality of opportunity, eliminate unlawful discrimination and promote good relations between people who share protected characteristics under the Equalities Act and those who do not. For further details please see the EIA attached.						
Signature		Date of decision	14/10/2020				
Print Name	Councillor Chris Penberthy (Cabinet Member for Housing and Co-operative Development)						

BRIEFING - EXECUTIVE DECISION FOR 2-STAGE PAYMENT PROCESS (HMO LICENSING)



This briefing note sets out the reasons for progressing from a single-stage payment process to a 2-stage payment process for our HMO Licensing Scheme in Plymouth.

1. It is believed that a single stage payment fee, for a licensing scheme, such as HMO licensing, can be considered 'unlawful' in accordance with the European Services Directive 2006.

European Services Directive 2006

<https://www.gov.uk/guidance/eu-services-directive#information-for-competent-authorities>

To be lawful, fees need to be charged in 2 stages, (1) application processing only, and (2) continued administration of licence scheme. This essentially identifies that those applicants who are refused at application stage should not be contributing to continued administration of a scheme that they cannot be a part of.

This is a subject that I have monitored with Helen Morris in legal over the past couple of years. We acknowledged and considered that moving to a 2-stage payment process would minimally raise the costs of a HMO licence for all that apply. We also took into consideration the very low numbers of licences that have been refused since HMO licensing began, as well as minimal movement from other Local Authorities to implement such a scheme. There was also the potential that the legislation may have been impacted by 'Brexit' negotiations.

The review, and subsequent research, has highlighted that unless the EU Services Directive 2006 is 'repealed', or there is a "no deal" Brexit, it will remain in force. Subsequently there has been a visible increase in the number of local authorities implementing, or considering the implementation of, a 2-stage payment scheme shows that this is the right time for Plymouth to do so as well. We are currently working through an updated HMO licensing Policy and as such this seems like the most appropriate time to include potential changes to how we operate.

2. We started this latest process of review in September 2019 with the following actions being taken:

- Posting on RIAMS, a Professional Forum for Local Authorities
- Online analysis of other Local Authorities schemes
- Direct consultation with other Local Authorities (including Leeds, Bristol, Bath & NE Somerset, S. Gloucester, Hull, Exeter and York).
- Ongoing discussions with PCC Finance department.
- Ongoing discussions with PCC Legal department.
- Ongoing discussions with PCC Digital Services department.
- Consultation with both Strategic Manager and Director of Service for Community Connections.

There have been a few bumps in the road and shifting of priorities that have affected the timescale for delivery of both business as usual and strategic service improvements (i.e. development of a new customer relationship management system, and COVID-19). However, we are now in a position to move forward and implement the necessary changes to our licensing scheme once approved.

3. The resourcing impact of the additional stage has been calculated to increase processing time of a HMO licence by 0.51 hours. The resulting increase of resource leads to an increase in costs that need to be recovered through the HMO licence fee. This associated increase in fee has been calculated by taking the time and role requirements of the changes, and then utilising Plymouth City Council's Cost Recovery Model to identify the appropriate level of increase. This process resulted in an indicative licence increase of £25 per licence.

The typical HMO licence lasts 5 years and therefore the cost of this increase equates to no more than £5 per year. For a property to be considered a licensable HMO, it must be occupied by 5 or more unrelated persons. If we were to apply the Local housing Allowance rate of a shared room (£73.50 per week), a 5 bed licensed HMO would generate £95,550 of rental income, if it were let to capacity for the full duration of the licence. The current maximum licence fee stands at £900 and represents just under 1% of the rental income, over the course of the licence, in this scenario. With a proposed increase to £925, this would still represent just under 1% of the rental income in this scenario. Therefore it is unlikely to have any real economic impact on landlords and agents across the city, but would enable the local authority to appropriately recover its costs in accordance with Sections 63(3) and 63(7) of the Housing Act 2004.

<https://www.legislation.gov.uk/ukpga/2004/34/section/63>

4. For a number of years we have offered discretionary discounts to licence holders where they have:

- (1) submitted an early application (i.e. within 6 weeks of becoming licensable)
- (2) increased their knowledge by undertaking a landlord proficiency test
- (3) increased their knowledge by undertaking a landlord accreditation course

It is recognised that this needs to be updated following subsequent changes in legislation and increased enforcement measures brought about by the Housing and Planning Act 2016.

Discretionary discount (1) was to incentivise/encourage compliance of licence holders to not avoid the scheme. It also recognised that there is a significant cost to the local authority for having to retrospectively seek and identify non-compliance. Unfortunately the concern is that it technically permits and rewards offences being committed for up to 6 weeks. Following the introduction of Civil Penalties as an alternative to prosecution, we feel that it is no longer right to reward in this way. Therefore we propose to change from an 'early' discount to an 'application completed first time' discount. This encourages licence holders and agents to have their management and administration organised, which can only benefit the properties and tenants that they are responsible for. It also recognises a reduction in local authority resourcing requirements to chase defects in applications. Discretionary discounts (2) and (3) are being retained as their purpose is not altered.

A significant benefit of adopting a 2-stage payment process is that the application of discretionary discounts moves from automated (under the control of the applicant), to manual selection (by the officers determining the application). This also reduces unnecessary resourcing that results from occasions where licence holders/applicants manually enter discounts in error.

5. Applying a 2-stage payment process, and amending the discretionary discounts, increases fairness and rewards good practice in the private rented sector. Improvements in management and standards of HMOs in the city can contribute to the reduction in health inequalities in our society.

APPENDIX B
HMO Licensing 2 Stage Payment Process
& Updating of Discretionary Discounts

Data Analysis and Estimation

(on resource demand increase when implementing a 2-stage payment process)

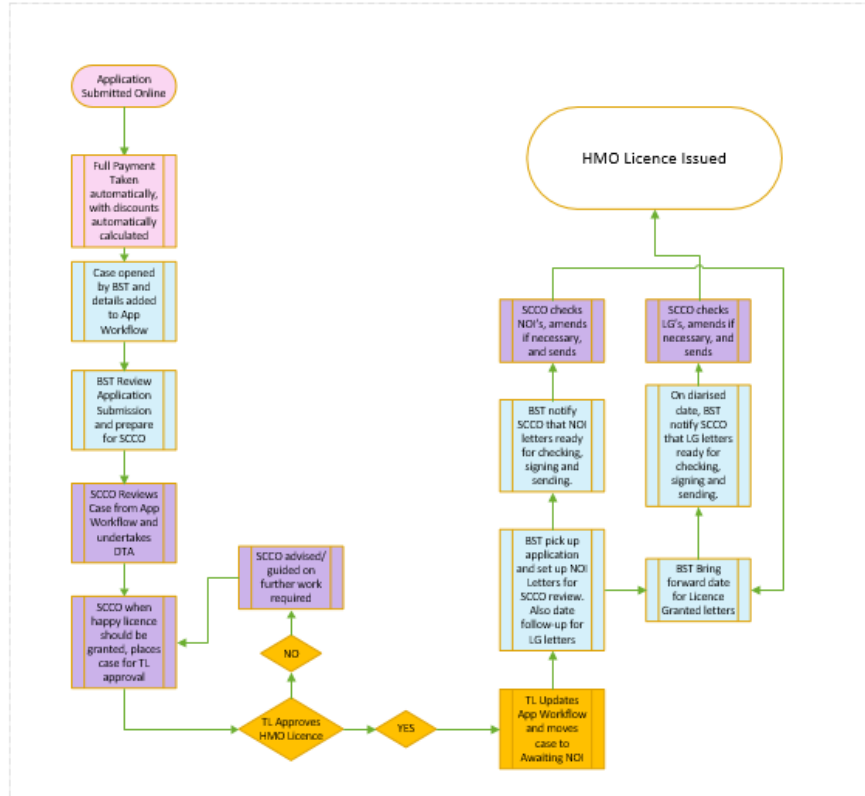
The Licensing Data Analysis, of the Licence Fees Review 2019, shows a sample of the average resource time required to process a 'single payment' HMO licence, with the data split by per task and by role. The Accounts Summary highlights the fee levels proposed that were ratified by PCC Accounts as part of the HMO Licence Fees review in 2019.

HMO Licence - existing customer									
Part	Description	Hours	Rate	Staff Cost	Expense s	Total Cost	Contingenc y	Price	
1	CCA (HMO)	4.77	£48.06	£229.12		£229.12		£229.12	
2	SCCO	8.20	£52.95	£433.95		£433.95		£433.95	
3	TL (HI) casework	1.57	£50.37	£79.11		£79.11		£79.11	
4	Travel Time 30 mins etw	1	£50.46	£50.46	£5.43	£55.89		£55.89	
5	TL (HI) enforce, prevent,	1	£50.42	£50.42		£50.42		£50.42	
TOTAL Cost of Providing Service		16.533	252.27	843.06	5.43	£848.49	0%	£848.49	
								Current Price	£850.00
								Increase %	-0.2%
HMO Licence - new customer									
Part	Description	Hours	Rate	Staff Cost	Expense s	Total Cost	Contingenc y	Price	
1	CCA (HMO)	4.77	£48.06	£229.12		£229.12		£229.12	
2	SCCO	8.20	£52.95	£433.95		£433.95		£433.95	
3	TL (HI) casework	1.57	£50.37	£79.11		£79.11		£79.11	
4	Travel Time 30 mins etw	1	£50.46	£50.46	£5.43	£55.89		£55.89	
5	TL (HI) enforce, prevent,	2	£50.42	£100.84		£100.84		£100.84	
TOTAL Cost of Providing Service		17.533	237.58	893.48	5.43	£898.91	0%	£898.91	
								Current Price	£900.00
								Increase %	-0.1%

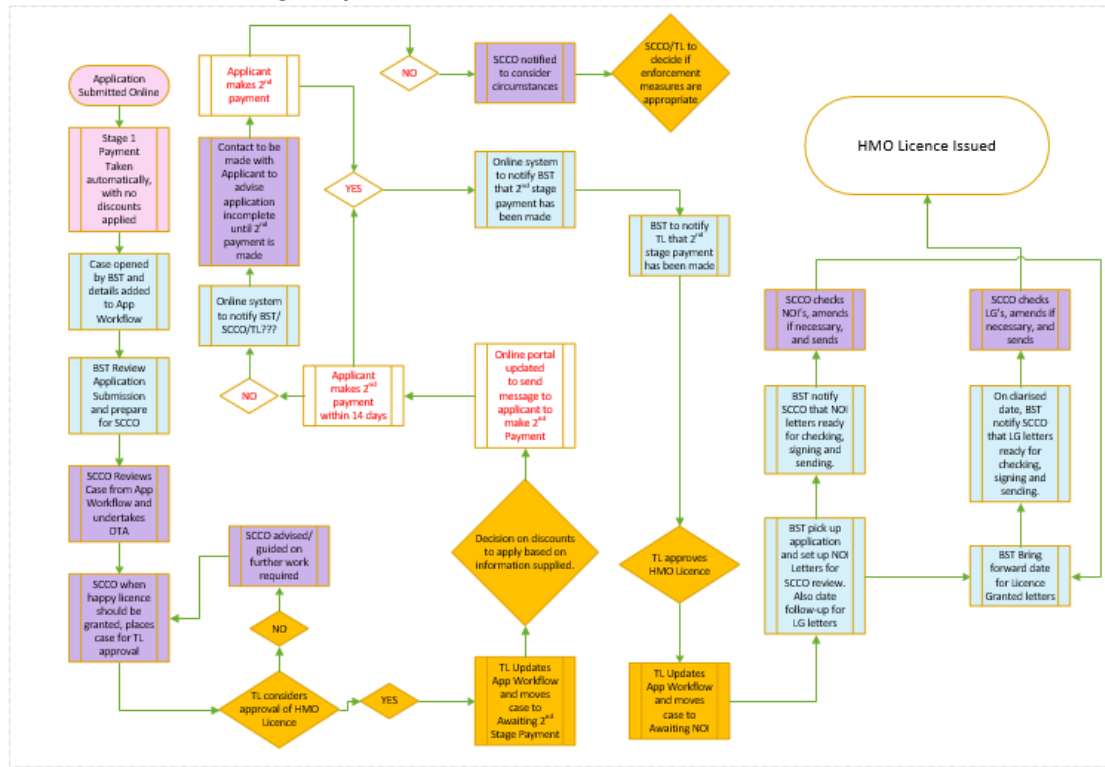
So, what differences will there be if we look to adopt a 2 stage payment process?

The following flowcharts offer an indication of how we can look to adopt the changes. See Draft Flow Chart 1 (single stage payment) and Draft Flow Chart 2 (two stage payment) for more information.

Flow chart 1 – ‘Single Stage Payment’



Flow chart 2 – ‘2-Stage Payment’



The increased processes identified in Flow Chart 2 are estimated to lead to an increase of 10 minutes per licence for each role (BS/SCCO/TL), and as such 30 minutes increase in total time per licence. Working on the resourcing costs has highlighted a rise, of £25.00, in the maximum fee calculation. Please see below, some tables of comparison for both current licence charges, and proposed licence charges:

Current Licence Charges for a New Licence

Business Support	4.77 Hours	£229.12
Senior Community Connections Officer	8.20 Hours	£433.95
Technical Lead	1.57 Hours	£79.11
Travel	1 Hour	£55.89
TL Enforce, Prevent, Educate	2 Hours	£100.84
Total Licence Time	17.54 Hours Per Licence	£898.91 (Rounded to £900)

Proposed Charges for a New Licence

Business Support	4.94 Hours	£237.29
Senior Community Connections Officer	8.37 Hours	£442.95
Technical Lead	1.74 Hours	£87.68
Travel	1 Hour	£55.89
TL Enforce, Prevent, Educate	2 Hours	£100.84
Total Licence Time	18.05 Hours Per Licence	£924.65 (rounded to £925)

Current Licence Charges for a Renewal Licence

Business Support	4.77 Hours	£229.12
Senior Community Connections Officer	8.20 Hours	£433.95
Technical Lead	1.57 Hours	£79.11
Travel	1 Hour	£55.89
TL Enforce, Prevent, Educate	1 Hour	£50.42
Total Licence Time	16.54 Hours Per Licence	£848.49 (Rounded to £850)

Proposed Charges for a Renewal Licence

Business Support	4.94 Hours	£237.29
Senior Community Connections Officer	8.37 Hours	£442.95
Technical Lead	1.74 Hours	£87.68
Travel	1 Hour	£55.89
TL Enforce, Prevent, Educate	1 Hour	£50.42
Total Licence Time	17.05 Hours Per Licence	£874.23 (Rounded to £875)

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APPENDIX C
HMO Licensing 2 Stage Payment Process
& Updating of Discretionary Discounts

Finance Considerations

Now that we know the relative cost of incorporating an additional payment stage, we need to understand how to appropriately apportion the fee splits between Stage 1, and Stage 2.

To calculate the % separation of fee levels for the two different stages of payment, I have taken the following information from the 'Timing Analysis 2018-19 Tab in the HMO Licence Fee Report 2019 (Appendix C).

Stage 1

Application Stage: Columns D49, E49 & J49 taken from HMO Licence Fee Report 2019 equate to a total time taken average of 3.41 hours per licence (Column R49).

Stage 1 Time / Total Time (R49) = 23.5% of overall time taken per licence.

- Fee Level 1 (New) = £225
- Fee Level 1 (Renewal) = £205

Stage 2

Administration of Scheme: Columns F49-I49 & K49-Q49 (11.12 hours)

Stage 2 Time / Total Time (R49) = 76.5% of overall time

- Fee Level 1 (New) = £700
where no discretionary discounts apply
- Fee Level 2 (New) = £650
where landlord proficiency discount applies
- Fee Level 3 (New) = £600
where landlord proficiency discount applies and application was submitted as complete with no further chasing required.
- Fee Level 4 (New) = £550
where landlord accreditation discount applies
- Fee Level 5 (New) = £500
where landlord accreditation discount applies and application was submitted as complete with no further chasing required.
- Fee Level 6 (Renewal) = £670
where no discretionary discounts apply
- Fee Level 7 (Renewal) = £620
where landlord proficiency discount applies
- Fee Level 8 (Renewal) = £570

where landlord proficiency discount applies and application was submitted as complete with no further chasing required.

- Fee Level 9 (Renewal) = £ 520
where landlord accreditation discount applies
- Fee Level 10 (Renewal) = £470
where landlord accreditation discount applies and application was submitted as complete with no further chasing required.

These changes would ensure that as a service we are able to recover our costs for operating the licensing scheme with a 2-stage payment process. These values will be periodically reviewed, and analysed, in the HMO Licensing Fee reviews which may highlight further changes as required (increase or decrease) to ensure we remain robust to challenge. The figures above are rounded to appropriate whole numbers that are considered 'reasonable and proportionate', as well as enable us to clearly distinguish between the types of licensing on fees reports.

Financial Forecasting (not including blocks)

What impact is this likely to have on finances? Well, essentially nothing as fees are matched against costs. However, I have taken this opportunity to produce a revenue projection below, based on renewal numbers expected of our currently licensed HMOs. On **18th September 2020** I ran a HMO register and identified 1281 licensed HMOs. I looked at the renewal dates and also where they have previously had discounts applied to give as sound a projection as possible of the financial implications of the change to a 2-stage payment process.

*I have not included licences that are in the process of determination, or blocks as they sit outside of the standard process.

Financial Year	Number of Renewals	Predicted Income on existing structure	Predicted Income on proposed structure
2020-21	55	£38,170 Based on all renewals; 12% no discount £850 £5,610 42% early only £750 £17,325 7% early + proficient £700 £2,695 38% early + accredited £600 £12,540	£39,531.25 Based on all renewals; 12% no discount £875 £5,775 42% compFT only £775 £17,902.50 7% compFT + proficient £725 £2,791.25 38% compFT + accredited £625 £13,062.50
2021-2022	162	£112,428 Based on all renewals;	£116,437.50 Based on all renewals;

		12% no discount £850 £16,524 42% early only £750 £51,030 7% early + proficient £700 £7,938 38% early + accredited £600 £36,936	12% no discount £875 £17,010 42% compFT only £775 £52,731 7% compFT + proficient £725 £8,221.50 38% compFT + accredited £625 £38,475
2022-2023	261	£181,134 Based on all renewals; 12% no discount £850 £26,622 42% early only £750 £82,215 7% early + proficient £700 £12,789 38% early + accredited £600 £59,508	£187,593.75 Based on all renewals; 12% no discount £875 £27,405 42% compFT only £775 £84,955.50 7% compFT + proficient £725 £13,245.75 38% compFT + accredited £625 £61,987.50
2023-2024	601	£417,094 Based on all renewals; 12% no discount £850 £61,302 42% early only £750 £189,315 7% early + proficient £700 £29,449 38% early + accredited £600 £137,028	£431,968.75 Based on all renewals; 12% no discount £875 £63,105 42% compFT only £775 £195,625.50 7% compFT + proficient £725 £30,500.75 38% compFT + accredited £625 £142,737.50
2024-2025	188	£130,472 Based on all renewals; 12% no discount £850 £19,176 42% early only £750 £59,220 7% early + proficient £700 £9,212 38% early + accredited £600 £42,864	£135,125 Based on all renewals; 12% no discount £875 £19,740 42% compFT only £775 £61,194 7% compFT + proficient £725 £9,541 38% compFT + accredited £625 £44,650
2025-2026	69	£47,886	£49,593.75

<p>this section also takes into account the 55 licences that will be renewed before end of FY20/21 (hence 69, rather than 14)</p>		<p>Based on all renewals; 12% no discount £850 £7,038 42% early only £750 £21,735 7% early + proficient £700 £3,381 38% early + accredited £600 £15,732</p>	<p>Based on all renewals; 12% no discount £875 £7,245 42% compFT only £775 £22,459.50 7% compFT + proficient £725 £3,501.75 38% compFT + accredited £625 £16,387.50</p>
<p>Totals</p>	<p>1336 (1281 + 55 renewals to hit again in FY 25/26)</p>	<p>£927,184</p>	<p>£960,250</p>
<p>Variations in finance</p>	<p>N/A</p>	<p>N/A</p>	<p>Total £33,111.00 Y1 £1,361.25 Y2 £4,009.50 Y3 £6,459.75 Y4 £14,874.75 Y5 £4,653.00 Y6 £1,707.75</p>

EQUALITY IMPACT ASSESSMENT

Community Connections – Changes in HMO and Energy Efficiency



STAGE I: WHAT IS BEING ASSESSED AND BY WHOM?

What is being assessed - including a brief description of aims and objectives?

The mandatory HMO licensing scheme of large HMO's came into force on 6th April 2006 with the implementation of Statutory Instrument 2006 No.373 'The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006'.

Legislative changes made to the 'prescribed description' of licensable HMOs, effective from 1st October 2018, <https://www.legislation.gov.uk/uk/si/2018/221/article/4/made>, have removed the 'storey condition' from the pre-existing description. This change has led to a significant increase in the number of licensable HMOs in our city, doubling from an average of Circa 650 to an Average of Circa 1300. In addition it has also opened up the opportunity to look at flats in block style accommodation that meet the criterion of a licensable HMO.

Legislative changes brought about by the European Services Directive 2006, and the Provision of Services Regulations 2009, along with more recent case law, identified that licences under Parts 2 and 3 of the Housing Act 2004 (i.e. Mandatory HMO Licensing, and Selective HMO Licensing schemes) should be charged in two stages.

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 as amended are designed to tackle the least energy-efficient properties in England and Wales – those rated F or G on their Energy Performance Certificate (EPC). The Regulations establish a minimum standard for both domestic and non-domestic privately rented property.

The objective implement the Local Authority's MEES policy and procedure in enforcing these standards. It provides advice and guidance to interested parties that may be subject to enforcement which include:

- A civil penalty up to a maximum of £5,000.
- Publication of details of the landlord's breach on a publicly accessible part of the PRS Exemptions register.

Changes being introduced aim raise the standards of privately rented accommodation by permitting PCC to comply with duties and enforce legislation.

The communities affected by the legislation (and this policy) are:

	<ul style="list-style-type: none"> tenants. There are approximately 22,000 privately rented houses and flats in Plymouth. Using the English Housing Survey Households 2013/14 average of 2.5 persons/household in this sector, this suggests about 55,000 people. landlords. It is estimated that there are about 12,000 landlords letting property in Plymouth. Of these, about 50% reside in Plymouth.
Author	Dave Ryland, Strategic Manager
Department and service	Community Connections
Date of assessment	12 th October 2020

STAGE 2: EVIDENCE AND IMPACT

Protected characteristics (Equality Act)	Evidence and information (eg data and feedback)	Any adverse impact See guidance on how to make judgement	Actions	Timescale and who is responsible
Age	<p>Age profile data of those living in HMO accommodation or those landlords of HMO accommodation is not specifically available.</p> <p>However, it is known that the average age in Plymouth (39 years) is about the same as the rest of England (39.3 years), but less than the South West (41.6 years).</p> <p>The proportion of the working age population (16-64 years) is higher (66.1%) than regionally (62.8%) and nationally (64.7%).</p> <p>It is understood that majority of people occupying HMO accommodation are young adults of working age.</p>	<p>It is recognised that older people and the very young living in poor housing conditions may be more susceptible to conditions resulting from poor heating or damp and mould for example.</p> <p>Rising house prices, and a shortage of properties and changes to housing benefit are making it hard for young people to find suitable accommodation, and hence may be more likely to live in an HMO.</p>	<p>HMO Licensing is not dependent on the occupant, but the size and arrangement of the physical dwelling.</p> <p>Excess cold could be classified as a category I hazards via the Housing Health and Safety Rating System is influenced by a 'vulnerable group' that does not necessarily reflect the occupation of the property. Best endeavours will be used to negotiate improvements with a</p>	<p>Strategic Manager and Technical Lead (Housing Improvement), Community Connections</p>

	<p>The removal of automatic entitlement to housing costs for 18-21 year olds in universal credit, may mean that a higher proportion of young people may occupy an HMO. A report published in January 2018 by DWP states that 96% of 18-21 year olds who applied for support for housing costs were awarded it.</p> <p>https://www.gov.uk/government/statistics/removal-of-automatic-entitlement-to-housing-costs-for-18-to-21-year-olds-in-universal-credit</p>		<p>landlord where enforcement is not proportionate or possible.</p> <p>Staff have been trained in Equality & Diversity and comply with the requirements. They are able to identify specific needs and requirements, apply a suitable style of communication and modify the application of the policy in appropriate cases.</p>	
<p>Disability</p>	<p>Disability profile data of those living in HMO accommodation or those landlords of HMO accommodation is not available.</p> <p>It is suggested that 1 in 3 households with a disabled person live in non-decent accommodation and 1 in 5 disabled people requiring adaptations to their home believe their accommodation is not suitable.</p> <p>A total of 31,164 people declared themselves as having a long-term health problem or disability, compared with the total number with disabilities in UK (11,600,000).</p> <p>1297 adults registered with a GP in Plymouth have some form of learning disability (2013/14).</p>	<p>The very nature of HMO accommodation would not lend itself easily to people with physical disabilities and would be less likely to be able to be adapted to meet someone's physical needs.</p> <p>However, there may be people with non-physical disabilities, including learning disabilities living in private rented accommodation.</p> <p>The provisions set out an assessment method for the</p>	<p>HMO Licensing is not dependent on the occupant, but the size and arrangement of the physical dwelling.</p> <p>Excess cold could be classified as a category I hazards via the Housing Health and Safety Rating System. This system is influenced by what may be deemed a 'vulnerable group' which does not necessarily reflect the occupation of the property. Best endeavours will be used to negotiate</p>	<p>Strategic Manager and Technical Lead (Housing Improvement), Community Connections</p>

		<p>condition of accommodation which means that improvements can be made if required, either by negotiation or enforcement of the landlord.</p>	<p>improvements with a landlord where enforcement is not proportionate or possible.</p>	
<p>Faith/religion or belief</p>	<p>It is recognised that occupants of HMO accommodation may include people who would be protected under the Equality Act in regard to their faith, religion or belief.</p> <p>84,326 of the Plymouth population stated they had no religion, and those with a Hindu, Buddhist, Jewish or Sikh religion combined total less than 1%.</p>	<p>Private rented accommodation is available across the city however due to the city's development HMO accommodation may be more central and thus more accessible to those visiting places of worship on regular basis.</p>	<p>HMO Licensing is not dependent on the occupant, but the size and arrangement of the physical dwelling.</p> <p>Excess cold could be classified as a category I hazards via the Housing Health and Safety Rating System. This system is influenced by what may be deemed a 'vulnerable group' which does not necessarily reflect the occupation of the property. Best endeavours will be used to negotiate improvements with a landlord where enforcement is not proportionate or possible.</p> <p>There may be some more specific housing requirements in regard to accommodation that</p>	<p>Strategic Manager and Technical Lead (Housing Improvement), Community Connections</p>

			<p>is not addressed by the HHSRS, for example additional/separate washing facilities.</p>	
<p>Gender - including marriage, pregnancy and maternity</p>	<p>Overall 50.6% of the population are women, and 49.4% are men. This reflects the national figure of 50.8% women and 49.2% men.</p> <p>In Plymouth in 2017 the mean difference between average hourly earnings of men and women as a proportion of average hourly earnings of men was 11.3% the median difference was 14.9%.</p> <p>In Plymouth 61.3% of women are working and 38.9% of men are working, however, a larger proportion of men work full time in comparison to women.</p>	<p>Gender pay gap, and issues relating to domestic abuse may see occupants of HMO accommodation more affected by this characteristic.</p> <p>Those on lower incomes may seek cheaper accommodation.</p>	<p>HMO Licensing is not dependent on the occupant, but the size and arrangement of the physical dwelling.</p> <p>Excess cold could be classified as a category 1 hazard via the Housing Health and Safety Rating System. This system is influenced by what may be deemed a 'vulnerable group' which does not necessarily reflect the occupation of the property. Best endeavours will be used to negotiate improvements with a landlord where enforcement is not proportionate or possible.</p> <p>There may be some more specific housing requirements in regard to accommodation that is not addressed by the HHSRS, for example additional/separate washing facilities.</p>	<p>Strategic Manager and Technical Lead (Housing Improvement), Community Connections</p>

<p>Gender reassignment</p>	<p>Recent surveys have put the prevalence of transgender people between 0.6 and 1% of the population.</p> <p>Over the last 8 years the prevalence of transgender people in the UK has been increasing at an average rate of 20% per annum in adults and 50% in children.</p> <p>A study funded by the home office suggests that there are between 300k and 500k people aged 16 and over in the UK who are experiencing some degree of gender variance. This could mean that of Plymouths 16 + population, we can estimate between 1287 and 2146 adults in the city that are experiencing some degree of gender variance.</p> <p>The average age presentation for male to female is 40-49, and for female to male is 20-29.</p> <p>More than 28% of trans people in a relationship in the last year have faced domestic abuse from a partner.</p>	<p>Many young people experience gender variance and will transition around the onset of puberty and this can bring them into conflict with parents who may find it difficult to accept their gender identity. This may lead to a displacement in the young person's housing thus cheaper accommodation becoming more attractive, and HMO accommodation providing this.</p> <p>The demographic information could suggest that those experiencing gender variance or transitioning may be likely to require cheaper accommodation, even if simply in the short term, due to discrimination in the workplace, fleeing domestic abuse in the home, and displacement from home setting.</p>	<p>HMO Licensing is not dependent on the occupant, but the size and arrangement of the physical dwelling.</p> <p>Excess cold could be classified as a category I hazards via the Housing Health and Safety Rating System. This system is influenced by what may be deemed a 'vulnerable group' which does not necessarily reflect the occupation of the property. Best endeavours will be used to negotiate improvements with a landlord where enforcement is not proportionate or possible.</p> <p>There may be some more specific housing requirements in regard to accommodation and shared facilities that is not addressed by the HHSRS.</p>	<p>Strategic Manager and Technical Lead (Housing Improvement), Community Connections</p>
<p>Race</p>	<p>92.9% of Plymouth's population identify themselves as White British.</p>	<p>Across the country 17% of households living in private rented accommodation. As a group, ethnic minority</p>	<p>HMO Licensing is not dependent on the occupant, but the size</p>	<p>Strategic Manager and Technical Lead (Housing</p>

	<p>7.1% identify themselves as Black and Minority Ethnic with White Other (2.7%), Chinese (0.5%) and other Asian (0.5%) the most common ethnic groups.</p> <p>Plymouth BAME population rose from 3% in 2001 to 6.7% in 2011, and therefore has more than doubled since the 2001 census.</p> <p>Four neighbourhoods have a population of school age children where 20% or more are from a BAME background. They are City Centre (38%), Greenbank and University (32.3%) Stonehouse (29.9%) and East End (23.4%). All of these areas have a high concentration of HMO accommodation.</p>	<p>households are more likely to rent privately than white British households and to spend a higher proportion of their incomes on rent.</p> <p>Given the proximity of HMO accommodation and the % of residents in those areas being from a BAME background, it could be a fair assumption that some HMO accommodation may be occupied by people from a BAME background.</p> <p>All publications are available in translated formats.</p>	<p>and arrangement of the physical dwelling.</p> <p>Excess cold could be classified as a category I hazards via the Housing Health and Safety Rating System. This system is influenced by what may be deemed a 'vulnerable group' which does not necessarily reflect the occupation of the property. Best endeavours will be used to negotiate improvements with a landlord where enforcement is not proportionate or possible.</p>	<p>Improvement), Community Connections</p>
<p>Sexual orientation - including civil partnership</p>	<p>There is no definitive data on sexual orientation at a local or a national level. A recent estimate from the 2015 ONS annual population survey suggests that 1.7% of the UK population is lesbian, gay or bisexual, if this figure is applied to Plymouth it would mean there are approximately 3649 LGB people in the city.</p>	<p>There is little evidence to suggest that LGB people would be more likely to occupy private rented accommodation specifically.</p>	<p>HMO Licensing is not dependent on the occupant, but the size and arrangement of the physical dwelling.</p> <p>Excess cold could be classified as a category I hazards via the Housing Health and Safety Rating System. This system is influenced by what may</p>	<p>Strategic Manager and Technical Lead (Housing Improvement), Community Connections</p>

			be deemed a 'vulnerable group' which does not necessarily reflect the occupation of the property. Best endeavours will be used to negotiate improvements with a landlord where enforcement is not proportionate or possible.	
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STAGE 3: ARE THERE ANY IMPLICATIONS FOR THE FOLLOWING? IF SO, PLEASE RECORD ACTIONS TO BE TAKEN

Local priorities	Implications	Timescale and who is responsible
Reduce the gap in average hourly pay between men and women by 2020.	None	N/A
Increase the number of hate crime incidents reported and maintain good satisfaction rates in dealing with racist, disablist, homophobic, transphobic and faith, religion and belief incidents by 2020.	None	N/A
Good relations between different communities (community cohesion)	Identifying and supporting good quality housing where people can live their lives in safe and secure accommodation, supporting good relations between communities.	5 yearly license renewals and hence inspection regime. Strategic Manager and Technical Lead (Housing Improvement), Community Connections
Human rights Please refer to guidance	Structures will be fair and will not differential on the basis of any protected characteristic or any grounds that we cannot objectively justify.	

STAGE 4: PUBLICATION

Responsible Officer 

Date
15/10/2020

Director, Assistant Director or Head of Service

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EXECUTIVE DECISION

made by a Cabinet Member



REPORT OF ACTION TAKEN UNDER DELEGATED AUTHORITY BY AN INDIVIDUAL CABINET MEMBER


Executive Decision Reference Number – HCD04 20/21

Decision	
1	Title of decision: Minimum Energy Efficiency Standards (MEES) (Private Rented) Policy
2	Decision maker (Cabinet member name and portfolio title): Councillor Chris Penberthy (Cabinet Member for Housing and Co-operative Development)
3	Report author and contact details: Andrew Elvidge (Technical Lead – Housing Improvement) 01752 398255
4	Decision to be taken: Implementation of policy for enforcement of the minimum energy efficiency standards.
5	Reasons for decision: To implement the Local Authority's MEES policy and procedure in enforcing these standards. It provides advice and guidance to interested parties that may be subject to enforcement which include: <ul style="list-style-type: none"> • A civil penalty up to a maximum of £5,000. • Publication of details of the landlord's breach on a publicly accessible part of the PRS Exemptions register.
6	Alternative options considered and rejected: This policy has been produced following the implementation of primary legislation which the Local Authority is responsible for enforcing as such other options have not been considered or rejected.
7	Financial implications: There are no additional costs as enforcement of this policy will be absorbed into the existing resource of the Housing Improvement Team. There is expected to be a small amount of income generated through fines, which is currently forecast in FY20/21, as an approximate £6000. However, this is not expected to be a sustainable source of income as once fined, it is unlikely that an offender will re-offend.

8	<p>Is the decision a Key Decision? (please contact Democratic Support for further advice)</p>	Yes	No	<p>Per the Constitution, a key decision is one which:</p>
			X	<p>in the case of capital projects and contract awards, results in a new commitment to spend and/or save in excess of £3million in total</p>
			X	<p>in the case of revenue projects when the decision involves entering into new commitments and/or making new savings in excess of £1million</p>
			X	<p>is significant in terms of its effect on communities living or working in an area comprising two or more wards in the area of the local authority.</p>
<p>If yes, date of publication of the notice in the Forward Plan of Key Decisions</p>		N/A		
9	<p>Please specify how this decision is linked to the Council's corporate plan/Plymouth Plan and/or the policy framework and/or the revenue/capital budget:</p>	<p><u>Corporate Plan</u></p> <p>Values – Fairness – The policy sets out how all persons renting domestic dwellings should have a minimum level of energy efficiency and should reduce those that are being disadvantaged. The policy sets out how the Local Authority will apply the legislation in a consistent and fair manner.</p> <p>Caring Council – The imposition of Civil Penalties is to penalise where landlords have failed to comply with specified legislation. Hitting ‘Rogue Landlords’ hard will help drive standards and management improvements to accommodation across the city. Keeping our citizens in safer rented accommodation, and will help to address/reduce health inequalities.</p> <p><u>Plymouth Plan for Homes 3</u></p> <p>Improving Housing Conditions in PRS – The application of Civil Penalties is enforcement when other measures to secure improvements have failed. It also does not remove the requirement to undertake improvements. Improvements to accommodation can be physical in terms of the building but can also be in the management of the property.</p> <p>The policy is part of a toolkit of policies aimed at securing improvements to rented housing within the city to improve our citizens’ health and wellbeing.</p> <p>Revenue raised through these Penalty fines can then be used to support further enforcement functions in relation to the Private Rented Sector.</p>		

10	Please specify any direct environmental implications of the decision (carbon impact)	The policy supports the drive to improve energy efficiency within the housing stock which in turn will deliver carbon emission reductions.		
Urgent decisions				
11	Is the decision urgent and to be implemented immediately in the interests of the Council or the public?	Yes		(If yes, please contact Democratic Support Support (democraticsupport@plymouth.gov.uk) for advice)
		No	X	(If no, go to section 13a)
12a	Reason for urgency:			
12b	Scrutiny Chair Signature:		Date	
	Scrutiny Committee name:			
	Print Name:			
Consultation				
13a	Are any other Cabinet members' portfolios affected by the decision?	Yes		
		No	X	(If no go to section 14)
13b	Which other Cabinet member's portfolio is affected by the decision?	N/A		
13c	Date Cabinet member consulted	N/A		
14	Has any Cabinet member declared a conflict of interest in relation to the decision?	Yes		If yes, please discuss with the Monitoring Officer
		No	X	
15	Which Corporate Management Team member has been consulted?	Name	Craig McArdle	
		Job title	Strategic Director for People	
		Date consulted	13/10/2020	

Sign-off								
16	Sign off codes from the relevant departments consulted:	Democratic Support (mandatory)	DS45 20/21					
		Finance (mandatory)	djn.20.21.104					
		Legal (mandatory)	34508/hm					
		Human Resources (if applicable)	N/A					
		Corporate property (if applicable)	N/A					
		Procurement (if applicable)	N/A					
Appendices								
17	Ref.	Title of appendix						
	A	Briefing report						
	B	MEES Policy						
	C	MEES Penalties calculation tool						
	D	Civil Penalties Policy						
E	EIA							
Confidential/exempt information								
18a	Do you need to include any confidential/exempt information?	Yes	If yes, prepare a second, confidential ('Part II') briefing report and indicate why it is not for publication by virtue of Part I of Schedule 12A of the Local Government Act 1972 by ticking the relevant box in 18b below.					
		No	X	(Keep as much information as possible in the briefing report that will be in the public domain)				
		Exemption Paragraph Number						
		1	2	3	4	5	6	7
18b	Confidential/exempt briefing report title:							

Background Papers								
19	<p>Please list all unpublished, background papers relevant to the decision in the table below.</p> <p>Background papers are <u>unpublished</u> works, relied on to a material extent in preparing the report, which disclose facts or matters on which the report or an important part of the work is based. If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part I of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.</p>							
Title of background paper(s)		Exemption Paragraph Number						
		1	2	3	4	5	6	7
Existing Civil Penalty Policy								
http://www.legislation.gov.uk/ukpga/2004/34/section/249A								
http://www.legislation.gov.uk/ukpga/2004/34/schedule/13A								
http://www.legislation.gov.uk/ukpga/2016/22/schedule/9								
Cabinet Member Signature								
20	<p>I agree the decision and confirm that it is not contrary to the Council's policy and budget framework, Corporate Plan or Budget. In taking this decision I have given due regard to the Council's duty to promote equality of opportunity, eliminate unlawful discrimination and promote good relations between people who share protected characteristics under the Equalities Act and those who do not. For further details please see the EIA attached.</p>							
Signature				Date of decision	14/10/2020			
Print Name	Councillor Chris Penberthy (Cabinet Member for Housing and Co-operative Development)							

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BRIEFING - EXECUTIVE DECISION FOR MINIMUM ENERGY EFFICIENCY STANDARDS (MEES) (PRIVATE RENTED)



This policy sets out our approach to enforcing the minimum energy standards within domestic rented dwellings within Plymouth.

It is worth noting that the enforcement of this policy will be absorbed into the existing resource of the Housing Improvement Team. There is expected to be a small amount of income, which is currently forecast in FY20/21 as an approximate £6000. However, this is not expected to be sustainable source of income as once fined, it is unlikely that an offender will re-offend.

1.1 The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 as amended are designed to tackle the least energy-efficient properties in England and Wales – those rated F or G on their Energy Performance Certificate (EPC). The Regulations establish a minimum standard for both domestic and non-domestic privately rented property.

The current domestic regulations aim to drive improvements to F or G rated homes

The minimum standard will apply to any domestic privately rented property which is legally required to have an EPC and which is let on certain tenancy types.

The minimum level of energy efficiency means that, subject to certain requirements and exemptions:

- a) From the 1st April 2018, landlords of relevant domestic private rented properties may not grant a tenancy to new or existing tenants if their property has an EPC rating of band F or G (as shown on a valid Energy Performance Certificate for the property);
- b) From 1 April 2020, landlords must not continue letting a relevant domestic property which is already let if that property has an EPC rating F or G (as shown on a valid EPC for the property). Landlords are encouraged to take action as soon as possible to ensure that their properties reach EPC E by the deadline of 1 April 2020. These requirements are referred to in the Regulations and in this guidance as “the prohibition on letting of sub-standard property”. Where a property is sub-standard, landlords must normally make energy efficiency improvements which raise the EPC rate to minimum E before they let the property.

In certain circumstances, landlords may be able to claim an exemption from this prohibition on letting sub-standard property.

Where a valid exemption applies, landlords must register the exemption on the PRS Exemptions Register.

1.2 Local authorities are responsible for enforcing compliance with the domestic minimum level of energy efficiency. They may check whether a property meets the minimum level of energy efficiency and may issue a compliance notice requesting information where it appears

to them that a property has been let in breach of the Regulations (or an invalid exemption has been registered in respect of it).

1.3 Where a local authority is satisfied that a property has been let in breach of the Regulations it may serve a notice on the landlord imposing financial penalties (up to £5,000). The authority may also publish details of the breach on the PRS Exemptions Register.

The Authority will decide the amount of penalty up to the maximum within the regulations. These are:

Infringement	Penalty (under 3 months in breach)	Penalty (three months or more in breach)
Renting out a non-compliant property	(A) Up to £2,000, and/or Publication penalty.	(B) Up to £4,000, and/or Publication penalty.
Providing false or misleading information on the PRS Exemptions Register	(C) Up to £1,000, and/or Publication penalty	
Failing to comply with a compliance notice	(D) Up to £2,000, and/or Publication penalty	

It is important to note that the maximum penalty amounts apply **per property, and per breach** of the Regulations.

The Authority will not impose a financial penalty under both (A) and (B) above in relation to the same breach of the Regulations. But it may impose a financial penalty under either (A) or (B), together with financial penalties under (C) and (D), in relation to the same breach. Where penalties are imposed under more than one of these paragraphs, the total amount of the financial penalty may not be more than £5,000.

The proposed penalty structure is attached.

1.4 The legislation is unusual in that the Authority may serve a compliance notice on a landlord up to 12 months after the suspected breach and may serve a penalty notice on a landlord up to 18 months after the suspected breach. This means that a person may be served with a compliance notice after they have ceased to be the landlord of the property.

1.5 There is an overlap of legislation with the Housing Act 2004. A property may be subject to a penalty under this policy and be inspected under the Housing Act 2004 and served with a notice requiring improvements to reduce hazards identified under the Housing Health & Rating System. The works requested under the Housing Act 2004 may be in excess of any figure for relevant energy improvements/self-funding under MEEs, (currently £3,500).

1.6 The penalties in respect of breaches of this legislation sit outside of, but are aligned with, Plymouth City Council's Civil Penalty Policy in that they consider whether it is a first or subsequent offence and consider culpability where there are multiple offenders. Failing to comply with a notice served under the Housing Act 2004 may result in enforcement (prosecution or civil penalty up to £30,000) in addition to any penalty under MEES.

1.7 If a landlord does not pay a financial penalty imposed on them, the enforcement authority may take the landlord to court to recover the money.

1.8 The policy aims to inform interested parties, and those that may be subject to enforcement.

1.9 This policy takes into account national guidance

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/788145/domestic-private-rented-property-minimum-standard-guidance-landlords-las.pdf

Further guidance is available here:

<https://www.gov.uk/guidance/domestic-private-rented-property-minimum-energy-efficiency-standard-landlord-guidance>

2.0 The majority of landlords are good and comply with the law, however, the Government is clear that the small minority of rogue landlords and property agents who knowingly flout their legal obligations, rent out accommodation which is substandard and harass their tenants should be prevented from managing or letting housing. The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 are a measure to promote improvements to rented accommodation which are to the benefit of the occupiers and reduce carbon emissions to improve the environment for all.

PROPOSED PENALTY STRUCTURE:

Track Record	EPC Rating	(A) Renting out a non-compliant property (in breach less than 3 months)
Up to max £2000		
1st Offence	F	£1,250
	G	£1,500
Subsequent Offence(s)	F	£1,750
	G	£2,000
Track Record	EPC Rating	(B) Renting out a non-compliant property (in breach for 3 months or more)
Up to max £4000		
1st Offence	F	£2,500
	G	£3,000
Subsequent Offence(s)	F	£3,500
	G	£4,000

Track Record	EPC Rating	(C) Providing false, or misleading, information
Up to max £1000		
1st Offence	N/A	£750
Subsequent Offence(s)	N/A	£1,000

Offences	(D) Failing to comply with a compliance notice
up to max £2000	
Failure to provide documents requested by LA in Compliance Notice	£1,500
Failure to register an exemption on the PRS exemptions register	£500
Failure to provide documents requested by LA, and failure to register an exemption	£2,000

The penalty will be raised against the individual who lets the domestic private rented property to the tenant, where there are multiple individuals who have let the property the penalty will be apportioned between them taking into account an assessment of culpability. This will be determined on a case by case basis in relation to the evidence.

**MINIMUM ENERGY
EFFICIENCY STANDARDS
(MEES) (PRIVATE RENTED)
(HOUSING IMPROVEMENT POLICY)**



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1.0 INTRODUCTION

The Department for Business, Energy & Industrial Strategy has issued guidance for Landlords and Local Authorities on the minimum level of energy efficiency required to let domestic property under the *Energy Efficiency (Private Rented Property)(England and Wales) Regulations 2015*, as amended.

The latest version, at time of this policy, is available here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/788145/domestic-private-rented-property-minimum-standard-guidance-landlords-las.pdf

Further guidance is available here:

<https://www.gov.uk/guidance/domestic-private-rented-property-minimum-energy-efficiency-standard-landlord-guidance>

These guidance documents and the extracts thereof may be subject to change. It is recommended to check for the latest versions to be read in accordance with the policy.

2.0 KEY EXTRACTS FROM THE GUIDANCE:

The *Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015* as amended are designed to tackle the least energy-efficient properties in England and Wales – those rated F or G on their Energy Performance Certificate (EPC). The Regulations establish a minimum standard for both domestic and non-domestic privately rented property, effecting new tenancies from 1 April 2018. This policy relates to domestic property only.

The current domestic regulations aim to drive improvements to F or G rated homes.

The Regulations have been amended twice, and this guidance reflects the most up to date requirements. The most recent amendments, made on 15 March 2019, introduced a new self-funding element for domestic landlords, which takes effect if landlords are unable to access third-party funding to improve any EPC F or G properties they let to EPC E. This spend element is capped at £3,500 (inc. VAT) per property; chapter two describes the funding requirements in detail.

Benefits of Energy Efficiency

EPC F and G rated properties waste energy. They impose unnecessary cost on tenants and the wider economy, and they contribute to avoidable greenhouse gas emissions. Increasing the energy efficiency of our domestic rental stock can help:

- manage the energy costs of tenants, including some of the most vulnerable;
- improve the condition of properties and help reduce maintenance costs;
- smooth seasonal peaks in energy demand, and thereby increase our energy security;
- reduce greenhouse gas emissions at relatively low cost.

Tenants and Landlords

The Regulations are designed to ensure that those tenants who most need more thermally efficient homes, particularly vulnerable people and the fuel poor, are able to enjoy a more comfortable living environment and lower energy bills. Although newly built homes in the private rented sector (PRS) tend to have higher energy-efficiency ratings than the average, there remains a stock of older, often pre-1919 properties, which are less efficient and are difficult and costly to heat. These less efficient properties result in higher tenant energy bills, and for many, the likelihood of living in fuel poverty.

Average Annual Cost of Energy

Data shows that in the PRS, the average modelled annual cost of energy for an EPC band G property is £3,105, and £2,124 for an EPC F rated property. This contrasts with an average annual cost of £1,425 for an EPC band E property¹. Therefore, a tenant whose home is improved from EPC band F to EPC band E could expect to see their energy costs reduced by £700 a year so long as there were no wider changes in how they use energy in the property.

While tenants will benefit in terms of reduced energy bill spend, or through increased warmth, comfort and the associated health benefits, energy efficiency improvements also benefit landlords. When the Regulations were being designed, a number of landlords associations identified a range of benefits for landlords including increased tenant satisfaction and reduced void periods; reduced long-term property maintenance costs; and making properties more attractive and easier to let.

¹ Energy Cost data based on analysis of the 2016-17 English Housing Survey, using the Standard Assessment Procedure (SAP) methodology.

A 2016 report by Sustainable Homes on social housing, for instance, demonstrated that improving the energy efficiency of rental housing reduces both rent arrears and voids². The research showed that:

- as homes become more efficient, they are void for a shorter period of time (31% less for band B properties than E or F);
- Cold homes have an average of 2 more weeks of rent arrears each year than higher efficiency homes,
- the wider costs of tackling rent arrears and voids are significant and can be reduced. Costs related to chasing overdue rent payments (including legal and court costs) decline by 35% for more efficient homes.

The Regulations set out the **minimum level of energy efficiency** for private rented property in England and Wales. In relation to the domestic private rented sector the minimum level is an energy performance certificate (EPC) rating of **band E**. Landlords who are installing relevant energy efficiency improvements may, of course, aim above and beyond this current requirement if they wish.

Prohibition on letting sub-standard property

The minimum standard will apply to *any* domestic privately rented property which is legally required to have an EPC and which is let on certain tenancy types. Where these two conditions are met the landlord must ensure that the standard is met (or exceeded); this is discussed in greater detail in chapter one.

Landlords of domestic property for which an EPC is not a legal requirement are not bound by the prohibition on letting sub-standard property.

The minimum level of energy efficiency means that, subject to certain requirements and exemptions:

- a) from the 1st April 2018, landlords of relevant domestic private rented properties may not grant a tenancy to new or existing tenants if their property has an EPC rating of band F or G (as shown on a valid Energy Performance Certificate for the property);
- b) from 1 April 2020, landlords must not continue letting a relevant domestic property which is already let if that property has an EPC rating F or G (as shown on a valid EPC for the property). Landlords are encouraged to take action as soon as possible to ensure that their properties reach EPC E by the deadline of 1 April 2020. These requirements are referred to in the Regulations and in this guidance as “the prohibition on letting of sub-standard property”. Where a property is sub-

² www.sustainablehomes.co.uk/research-project/rent-arrears/

standard, landlords must normally make energy efficiency improvements which raise the EPC rate to minimum E before they let the property.

In certain circumstances, landlords may be able to claim an exemption from this prohibition on letting sub-standard property.

Where a valid exemption applies, landlords must register the exemption on the PRS Exemptions Register.

Enforcement of the Minimum Level of Energy Efficiency

Local authorities are responsible for enforcing compliance with the domestic minimum level of energy efficiency. They may check whether a property meets the minimum level of energy efficiency and may issue a compliance notice requesting information where it appears to them that a property has been let in breach of the Regulations (or an invalid exemption has been registered in respect of it).

Where a local authority is satisfied that a property has been let in breach of the Regulations it may serve a notice on the landlord imposing financial penalties. The authority may also publish details of the breach on the PRS Exemptions Register. The landlord may ask the Local authority to review the penalty notice and, if the penalty is upheld on review, the landlord may then appeal the penalty notice to the First-tier Tribunal.

A local authority may also serve a penalty notice for the lodging of false information on the PRS Exemptions Register. (For more information see section 3.0)

Properties covered by the minimum level of energy efficiency provisions

The Regulations apply to domestic privately rented properties in England and Wales which are:

- a. let under certain types of domestic tenancy (Regulation 19)
- b. which are legally required to have an Energy Performance Certificate (EPC)

For the avoidance of doubt, this means that where a domestic private rented property meets these two conditions, it will be covered by the Regulations, irrespective of property type, length of tenancy, location, listed status, property size or any other characteristic. Conversely, where a property is let on a relevant tenancy type but is not legally required to have an EPC, or if it is required to have an EPC but is not let on a relevant tenancy, that property will not be covered and will not be required to comply with the Regulations.

EPC – Ten Year Validity

Once an EPC is lodged on the EPC register (the EPC assessor is responsible for ensuring this happens) it is valid for a period of ten years. A new EPC is not required each time there is a change of tenancy (or even when the property is sold), provided the earlier certificate is no more than ten years old. An owner, landlord or tenant will be free to commission a further EPC within that ten-year period if they choose. If a voluntary EPC of this type is produced and lodged for a property which is already legally required to have a valid EPC, then this new EPC will become the current one for the property, replacing the earlier one.

Once an EPC reaches the ten-year point and expires, there is no automatic requirement for a new one to be commissioned. A further EPC will only be required the next time a trigger point is reached.

There is also no requirement to produce a new EPC after carrying out energy efficiency improvement works to comply with the Regulations. However, for the purposes of the Regulations, it is recommended that landlords do commission a fresh, post installation EPC. A new EPC will reflect the improvements made, alongside any change to the energy efficiency rating of the property. A post installation EPC will, in all likelihood, be the easiest way for a landlord to demonstrate that they have complied with the Regulations³.

EPCs relate to the property rather than to the owner or occupier and remain valid irrespective of the owner. Therefore, an EPC obtained by a previous owner of the property will remain valid after a property is sold on, so long as it is less than ten years old. EPCs relate to the property rather than how it is used or occupied. Therefore, an EPC obtained by a previous owner of the property will remain valid after a property is sold on, so long as it is less than ten years old.

³ Alternatively, a landlord would be able to demonstrate compliance by providing evidence that any energy efficiency improvements made since the EPC was carried out, were assumed to deliver the necessary SAP (standard assessment procedure) points to improve the property to band E or above. So, for instance, on the EPC Energy Efficiency Rating, a property will be rated F or G if it has a SAP score of between 1 and 38; an E rating meanwhile will be awarded to a property with a SAP score of between 39 and 54. If a landlord did not wish to commission a fresh post-improvement EPC they would, at the very least, need to be able to demonstrate that the improvement, or improvements, they had made were sufficient to boost the SAP score to a minimum of 39. The recommendations report which accompanies a standard EPC sets out the rating a property is expected to achieve after installing individual recommended measures.

EPCs and multi-let buildings

Houses in Multiple Occupation (HMO)

Please note that currently there is no legal requirement to obtain an EPC upon the letting of an individual non-self-contained unit within a property, such as a bedsit or a room in a house in multiple occupation (HMO). However, the property in which the unit/room is situated may already have its own EPC covering that property as a whole; this could be because the property had been bought within the past ten years, or because it had previously been rented out on a whole-property basis. If a property as a whole has a valid, legally required EPC and that EPC shows an energy efficiency rating of F or G, then the owner/landlord will not be able to issue new tenancies for non-self-contained units/rooms within the property until steps are taken to comply with the Regulations.

In some cases, particularly for buildings which may contain multiple self-contained units which are let to different tenants, there may be multiple EPCs covering varying parts of the building. There may also be a separate EPC relating to the envelope of the building as a whole. These separate EPCs may provide varying energy efficiency ratings and, depending on circumstances, may have been produced at different times.

For the purposes of the minimum standard Regulations, the minimum EPC requirement is linked to the “property” being let which can be either a “[whole] building or part of a building”. In cases where the property being let is a discrete unit within a building (for example a room in a house share which is rented out on an individual basis), rather than the entire building, and where there is an EPC for the entire building, but also one for the discrete space being let, then the relevant EPC will be the one for the discrete space. Where there is only an EPC for the entire building (and where an EPC for the discrete space is not legally required) then that whole-building EPC will be the relevant EPC.

The landlord, then, should identify which EPC relates to the “property” that is subject to the relevant tenancy (or tenancies) and take action to improve the energy efficiency rating to the minimum standard, if necessary. A landlord should seek independent legal advice if they are in any doubt about which EPC is required.

As the relevant EPC will be the one related to the property being let, the landlord will only be required to install relevant measures which improve the energy performance of that property. In some cases, measures installed to improve the energy efficiency of a discrete space may also improve the energy efficiency of other spaces or units within a multi-let building. This is entirely acceptable.

Circumstances where an EPC may not be required

Guidance⁴ issued by the Ministry of Housing, Communities and Local Government (MHCLG) notes that an EPC is not required where the landlord (or the seller, if relevant) can demonstrate that the building is any of the following:

- a building that is officially protected⁵ as part of a designated environment or because of their special architectural or historic merit where compliance with certain minimum energy efficiency requirements would unacceptably alter their character or appearance;
- a building used as places of worship and for religious activities;
- a temporary building with a planned time of use of two years or less;
- Industrial sites, workshops, non-residential agricultural buildings with low energy demand and non-residential agricultural buildings which are in use by a sector covered by a national sectorial agreement on energy performance;
- stand-alone buildings with a total useful floor area of less than 50m² (i.e. buildings entirely detached from any other building); or
- HMO's (Houses in Multiple Occupation, for example these can be bedsits, hostels, shared houses etc) which have not been subject to a sale in the previous ten years, or which have not been let as a single rental in the past ten years.

A building will also not need an EPC where the landlord can demonstrate that it is furnished holiday accommodation as defined by HMRC and the holiday-maker is not responsible for meeting the energy costs. Under certain circumstances buildings may also be exempt from the requirement to obtain an EPC where it may be demonstrated that they are to be demolished. This is subject to a number of strict conditions as set out in regulation 8 of the Energy Performance of Buildings (England and Wales) Regulations 2012.

There are no other exceptions to the EPC obligations although there may be some transactions which do not qualify as a sale or a letting. If in doubt, legal advice should be sought.

Listed Buildings and EPC Compliance

There is a common misunderstanding regarding listed buildings and whether they are exempt from the legal requirement to obtain an EPC. Listed properties, and buildings within a conservation area, will not necessarily be exempt from the requirement to

⁴ www.gov.uk/government/publications/energy-performance-certificates-for-the-construction-sale-and-let-of-dwellings

⁵ Listed buildings on the Historic England (or Welsh equivalent) at: <https://historicengland.org.uk/listing/the-list/>

have an EPC when they are sold or let and it will be up to the owner of a listed building to understand whether or not their particular property is required to have one. Where a listed domestic private rented property, or a property within a conservation area, is required to have an EPC, that property will be within scope of the minimum energy efficiency standard and will need to be compliant (complying means either being at a minimum of EPC band E, or having a valid exemption registered for it). If a property is not legally required to have an EPC, then that property will not be covered by the minimum standard Regulations, and no exemption will be necessary.

Guidance issued by the Ministry of Housing, Communities and Local Government (MHCLG) on EPC requirements⁶ states:

Buildings protected as part of a designated environment or because of their special architectural or historical merit are exempt from the requirements to have an energy performance certificate insofar as compliance with minimum energy performance requirements would unacceptably alter their character or appearance.

To comply with minimum energy performance requirements, many of the recommendations in an EPC report e.g. double glazing, new doors and windows, external wall insulation, and external boiler flues would likely result in unacceptable alterations in the majority of historic buildings. These can include buildings protected as part of a designated environment or because of their special architectural or historical merit (e.g. listed buildings or buildings within a conservation area). In these cases, an EPC would not be required.

Building owners will need to take a view as to whether this will be the case for their buildings. If there is any doubt as to whether works would unacceptably alter the character or appearance of a building, building owners may wish to seek the advice of their local authority's conservation officer.

In all cases it is vital that a landlord understands whether their property is legally required to have an EPC at any time from 01 April 2018 onwards, and whether it is or is not exempt from having to comply with the minimum level of energy efficiency provisions. If there is any doubt about whether a property (or the building it is in) is legally required to have an EPC (or whether an existing EPC is legally required or voluntary), or about any of the other criteria described above, advice should be sought from the local trading standards team.

Some examples of EPC requirements, Ten year Validity and the Minimum Energy Efficiency Standards are contained within the guidance starting on page 23.

⁶ www.gov.uk/government/publications/energy-performance-certificates-for-the-construction-sale-and-let-of-dwellings

Subletting of domestic property

The responsibility for not letting a domestic property below EPC E applies to any person who lets, or proposes to let, a domestic private rented property. If the original tenancy allows a tenant to sublet the property, and that tenant proposes to enter into a sub-tenancy as a new landlord to a sub-tenant, then that original tenant/new landlord should not let the property until the minimum standard is reached, or until a valid exemption has been registered.

In the case of subletting, an original tenant/new landlord may (subject to the terms of their tenancy) need to obtain consent from their superior landlord before making improvements to meet the minimum standard. Note that from 01 April 2020, there is a continuing obligation on all domestic landlords to ensure the requirements of the Regulations are met (even where there has been no change or renewal of a tenancy), so the superior landlord should have already taken steps to improve a property to E before a post April 2020 subletting occurs.

The extent to which a tenant is allowed to sublet a property will depend on the specific provisions of their particular tenancy. Even where subletting is permitted, the tenancy may make specific provision for which party would be liable for improvement costs in any given situation. For this reason, superior landlords, sub-landlords and tenants are advised to consult their tenancy, and seek their own advice, when considering their rights and responsibilities under their tenancy.

The Housing Health and Safety Rating System (HHSRS)

While not directly related to the minimum level of energy efficiency, landlords should be aware of the Housing Health and Safety Rating System (HHSRS). The HHSRS is used to assess health and safety in residential properties, and was introduced by the *Housing Act 2004*. It assesses a range of potential hazards, including damp, excess cold and excess heat and categorises them according to seriousness.

Local authorities have strong powers under the *Housing Act 2004* to tackle poor property conditions which may impact peoples' health. They must take enforcement action where the most serious hazards are present.

If a local authority identifies a serious "category 1" hazard, it has a duty to take the most appropriate action. It may also take action for less serious category 2 hazards where this is considered the most satisfactory course of action. The HHSRS does not deal with a property being inefficient from an energy point of view; rather, action can be taken if there is excess cold or damp at the property, for example, but these two hazards can overlap in a situation where a property needs improvement from an energy efficiency perspective.

Depending on the case, local authorities may aim to deal with problems informally at first, but if this is unsuccessful they may take legal action against a landlord requiring them to carry out improvements to the property; for example, by installing central

heating and/or insulation to improve cold properties. Where a legal notice is served under the *Housing Act 2004*, the landlord will have to meet the cost of the required work.

While some landlords of F and G rated rental properties may be able to claim valid exemptions from the requirement to improve a property to EPC E, this exemption will not excuse them from meeting the existing obligation keep their property free from serious hazards. Failure to do so may result in enforcement action regardless of the fact that the property may be exempt from the minimum level of energy efficiency.

Because the HHSRS is so important to local authority enforcement of decent standards, and thereby the protection of peoples' health, the Government has commissioned a scoping review to assess how well the HHSRS works in practice and ensure it is fit for purpose.

The Government has also supported the *Homes (Fitness for Human Habitation) Act 2018* which came into force on 20th March 2019 and requires landlords to ensure that their properties are kept free of potentially serious hazards at the start of and throughout a tenancy. Where a landlord fails to do so, their tenants will be able to seek redress in the courts.

Relevant energy efficiency improvements and recommendations reports (regulation 24)

For the purposes of the Regulations, “relevant energy efficiency improvements” which a landlord may choose to install to enable a sub-standard property to reach EPC E (either a single measure, or a combination of measures as appropriate) are any energy efficiency improvements recommended for the property through any of the following:

- an energy efficiency recommendations report (including the recommendations report accompanying a valid EPC)⁷, or
- a report prepared by a surveyor⁸, or
- a Green Deal Advice Report (GDAR)

A recommended energy efficiency measure will only be a “relevant energy efficiency improvement” for the purposes of the Regulations if:

- third-party funding is available to cover the full cost of purchasing and installing the improvement(s); or

⁷ “Recommendations report” has the meaning given in Part 1, section 4 (1) of The Energy Performance of Buildings (England and Wales) Regulations 2012: “recommendations made by an energy assessor for the cost-effective improvement of the energy performance of a building or building unit”.

⁸ A qualified surveyor is one who is on the Royal Institution of Chartered Surveyors' register of valuers. The register can be accessed via RICS's website at: www.ricsfirms.com.

- where third-party funding is unavailable, the improvement(s) can be purchased and installed for **£3,500 or less (inclusive of VAT)** using the landlord's own funding; or
- the improvement(s) can be installed through a combination of landlord self-funding and third-party funding with a total cost of £3,500 or less (inclusive of VAT).

Landlord self-funding and the cost cap

If a landlord of an EPC F or G rated property is unable to secure third-party funding, they will need to use their own funds to cover the costs of improving their property to EPC E (or as close as possible). This requirement is subject to a spending cap of **£3,500 (inclusive of VAT)**. This cap applies to the *overall* cost of improving the property, not to the cost of individual measures. Therefore, a landlord of an EPC F or G property need only invest a total sum of money up to the level of the cap in improving their property, and need not invest in multiple measures which, individually, cost £3,500 (or less).

Moreover, the cap is an upper ceiling – it is not a target or a spend requirement. If a landlord can improve their EPC F or G property to E (or higher) for less than £3,500 then they will have met their obligation and need take no further action. (Analysis suggests that the *average* cost of improving an EPC F or G rated property to band E is £1,200.)

In cases where a landlord is unable to improve their property to E within the £3,500 cap, then they should install all measures which can be installed up to the £3,500 cap, and then register an exemption on the basis that “all relevant improvements have been installed and the property remains below E” (see chapters four and five for exemption advice). Analysis suggests that, for F and G rated properties which cannot be improved to band E within the £3,500 cap, the combined *average* cost of the improvement, or improvements, which can be made is £2,000.

The £3,500 cost cap – spending on energy efficiency improvements incurred on or after 01 October 2017

When calculating their spend within the cost cap, landlords may take account of any energy efficiency improvement costs incurred since 01 October 2017, including where funding was obtained through a third party. Therefore, where energy efficiency improvements have been made to an EPC F or G rated property since 01 October 2017, the landlord may subtract the cost of these previous energy efficiency improvements from the £3,500 limit (inclusive of VAT) to determine the value of the remaining energy efficiency improvements must make.

Exclusions and Exemptions

Any exemptions from the prohibition on letting substandard property which are claimed by a landlord may not pass over to a new owner or landlord upon sale or other transfer of that property. If a let property is sold or otherwise transferred with an exemption in place, the exemption will cease to be effective and the new owner will need to either improve the property to the minimum standard at that point, or register an exemption themselves where one applies, if they intend to continue to let the property.

If a landlord is intending to register an exemption because a “relevant energy efficiency improvement” cannot be installed, the exemption may only be registered if the improvement in question is the only “relevant improvement” which can be made to the property.

For example, if several “relevant improvements” have been identified, and one of these would require planning consent, and planning consent is subsequently sought and refused, the landlord should take steps to make the other improvements which do not require planning consent, rather than register a “consent exemption” and neglect those improvements which are viable.

- Where all the “relevant energy efficiency improvements” for the property have been made (or there are none that can be made) but the property remains substandard (regulation 25) - if the measure or package of measures purchased and installed by the landlord does not improve the property to EPC E, the landlord need not take any further action if there are no additional measures which can be selected without pushing the overall costs above the £3,500 cap (inc. VAT). The situation must be registered on the PRS Exemptions Register and supported by the necessary evidence. The exemption will last five years; after five years it will expire and the landlord must try again to improve the property’s EPC rating to meet the minimum level of energy efficiency. If this cannot be achieved, a further exemption may be registered.
- Where a recommended measure is not a “relevant energy efficiency improvement” because the cost of purchasing and installing it would exceed the £3,500 cap (inc. VAT) (“high cost” exemption) - The prohibition on letting property below an EPC E does not apply if the cost of making even the cheapest recommended improvement would exceed the £3,500 cap (inc. VAT). This exemption should only be used where there are no improvements which can be made for £3,500 or less. The landlord must register this on the PRS Exemptions Register. To support this exemption, the landlord must provide evidence in the form of three quotations from different installers, each showing that the cost of the cheapest recommended improvement exceeds the £3,500 cap (inc. VAT). Copies of these three quotes must be uploaded onto the Exemptions Register. Once registered, the exemption will be

valid for five years; after which time it will expire and the landlord must try again to improve the property's EPC rating to meet the minimum level of energy efficiency. If this still cannot be achieved, then a further exemption may be registered. If one or more recommended improvements can be made for £3,500 or less, and these improvements fail to improve the property to EPC E, then the exemption which should be registered is the one described above where: 'All the "relevant energy efficiency improvements" for the property have been made but the property remains sub-standard'.

- **Relevant energy efficiency improvements - wall insulation (regulation 24(3))** - The Regulations recognise that certain wall insulation systems cannot, or should not, be installed in certain cases even where they have been recommended and where the costs do not exceed £3,500 (or where third-party funding can be secured to cover the costs of installing them). If a landlord intends to rely on the special provisions relating to wall insulation in order to let a sub-standard property, they must register the property and all required information on the PRS Exemptions Register.
- **Third party consent exemption (regulation 31)** - It is not practical to provide an exhaustive list of all situations where third party consent could apply. Information on when and where consent is required will be contained within relevant documentation for the property, for example in the landlord's lease or mortgage condition documents, or within the current tenancy agreement. If a landlord is in any doubt about whether consent is required for a measure in their property, they should seek appropriate advice.

Landlords are also strongly advised to speak to their local authority planning department if they are in any doubt about whether planning consent is needed to implement a particular improvement, particularly where the building to be improved is listed or within a conservation area.

- **Property devaluation exemption (regulation 32 and regulation 36 (2))** - An exemption of five years from meeting the minimum standard will apply where the landlord has obtained a report from an independent surveyor who is on the Royal Institution of Chartered Surveyors (RICS) register of valuers advising that the installation of specific energy efficiency measures would reduce the market value of the property, or the building it forms part of, by more than five per cent. After five years the exemption will expire and the landlord will again need to try to improve the property to meet the minimum standard, or register another valid exemption.
- **Temporary exemption due to recently becoming a landlord (regulation 33 & regulation 36 (2))** - The Regulations acknowledge that there are some limited circumstances where a person may have become a landlord suddenly and as such it would be inappropriate or unreasonable for them to be required to comply with the Regulations immediately. Check the guidance for the circumstances. In particular, from 01 April 2020, when the minimum standard applies to all domestic private rented properties that are occupied by tenants, a temporary exemption of six

months will apply from the date from which a person became a landlord on purchasing an interest in a property and, on the date of the purchase, it was let on an existing tenancy.

The PRS Exemptions Register

If a landlord considers that an exemption applies allowing them to continue to let a property below the minimum energy efficiency standard, that landlord will need to upload details and evidence of the exemption to the PRS Exemptions Register - a centralised self-certification register.

Only those domestic F and G rated properties which are covered by the Regulations, and which qualify for a valid exemption, should be registered. This means that landlords need not register domestic F or G properties which are not covered by the Regulations (for example buildings which are not legally required to have an EPC - see section 1.1.4 - or which have not been subject to a new tenancy agreement - during the period 01 April 2018 to 01 April 2020 only).

Exemptions are registered on a self-certification basis, and registration of an exemption does not attract a fee or charge. Exemptions are valid from their date of registration. Enforcement authorities will monitor and audit to ensure that exemptions comply with the Regulations, but a landlord does not have to wait to hear from their local authority before they can rely on the exemption (and they may never be contacted by their enforcing authority if the authority is satisfied that the exemption is compliant).

The information requirements for each exemption are set out in the guidance document and vary by exemption.

If a let property is sold or otherwise transferred with an exemption registered, the exemption will cease to be effective and the new owner will need to either improve the property to the minimum standard at that point, or register an exemption where one applies, if they intend to continue to let the property.

3.0 ENFORCEMENT OF THE DOMESTIC MINIMUM LEVEL OF ENERGY EFFICIENCY

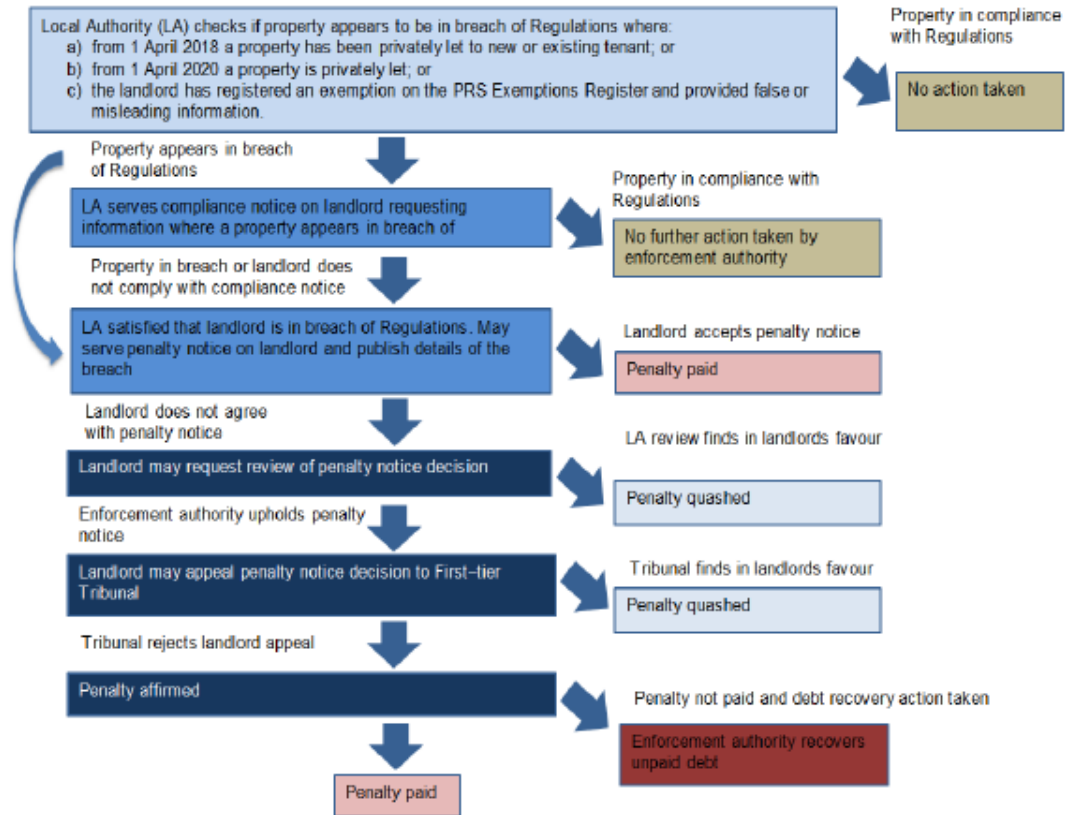
In all cases it is recommended that a landlord contacts the Authority and attempt to resolve any dispute informally first. Both parties may take expert advice before the matter progresses to the First-tier Tribunal.

Where it is believed that a landlord may be in breach of the prohibition on letting a sub-standard property or a landlord has been in breach of the prohibition at any time in the past 12 months, the Authority may serve a compliance notice that requests information from that landlord to help decide whether that landlord has in fact breached the prohibition.

The Authority may serve a compliance notice on a landlord up to 12 months after the suspected breach. This means that a person may be served with a compliance notice after they have ceased to be the landlord of the property.

Any enforcement will follow the following process, (subject to legislative changes):

Compliance and Enforcement Flow Chart



Service of compliance notice:

Any notice served will be in writing and may be sent in hard copy and/or electronically.

Where a notice is served on a corporate body it may be given to the secretary or clerk of that body if a suitable named individual cannot be identified.

Where a notice is served on a partnership, it may be addressed to any partner, or to a person who has control or management of the partnership business.

Compliance notice:

A compliance notice may request either original, or copies of;

- the EPC that was valid for the time when the property was let;
- any other EPC for the property in the landlord's possession;
- the current tenancy agreement used for letting the property;
- any Green Deal Advice Report in relation to the property;
- any other relevant document that the enforcement authority requires in order to carry out its compliance and enforcement functions.

The compliance notice will specify:

- the name and address of the person that a landlord must send the requested information to;
- the date by which the requested information must be supplied (the notice must give the landlord at least one calendar month to comply).

The compliance notice may also:

- require the landlord to register copies of the requested information on the PRS exemptions register
- be amended or withdrawn at any time in writing, for example where new information comes to light.

The Authority may use the documents provided by the landlord or any other information it holds to decide whether the landlord is in breach of the regulations.

Penalties

Failure to provide documents or information requested by a compliance notice, or failure to register information on the PRS Exemptions Register as required by a compliance notice, may result in a penalty notice being served.

The Authority may serve a Financial Penalty and / or a Publication Penalty.

Financial Penalty

The Authority will decide the amount of penalty up to the maximum within the regulations. These are:

Infringement	Penalty (under 3 months in breach)	Penalty (three months or more in breach)
Renting out a non-compliant property	(A) Up to £2,000, and/or Publication penalty.	(B) Up to £4,000, and/or Publication penalty.
Providing false or misleading information on the PRS Exemptions Register	(C) Up to £1,000, and/or Publication penalty	
Failing to comply with a compliance notice	(D) Up to £2,000, and/or Publication penalty	

It is important to note that the maximum penalty amounts apply **per property, and per breach** of the Regulations.

The Authority will not impose a financial penalty under both (A) and (B) above in relation to the same breach of the Regulations. But it may impose a financial penalty under either (A) or (B), together with financial penalties under (C) and (D), in relation to the same breach. Where penalties are imposed under more than one of these paragraphs, the total amount of the financial penalty may not be more than £5,000.

Calculation of penalty:

The penalty will be calculated taking into account whether it is a first or subsequent offence. This is in relation to the occurrence of an offence for a specific property.

Any offence in relation to a property will be considered a first offence unless:

- A penalty notice has already been issued in respect of that property, and
- The individual committing the offence is the individual who was served the penalty notice.

It will, in respect of the penalty for renting out a property, take into account whether the EPC indicates a F or G rating. The letting of a G rated property, as indicated by the registered EPC, will carry a higher penalty.

The following are indicative penalties but the Local Authority will consider any other factors that it feels are relevant

Track Record	EPC Rating	Renting out a non-compliant property (in breach less than 3 months)
Up to max £2000		
1st Offence	F	£1,250
	G	£1,500
Subsequent Offence(s)	F	£1,750
	G	£2,000
Track Record	EPC Rating	Renting out a non-compliant property (in breach for 3 months or more)
Up to max £4000		
1st Offence	F	£2,500
	G	£3,000
Subsequent Offence(s)	F	£3,500
	G	£4,000

Track Record	EPC Rating	Providing false, or misleading, information
Up to max £1000		
1st Offence	N/A	£750
Subsequent Offence(s)	N/A	£1,000

Offences	Failing to comply with a compliance notice
up to max £2000	
Failure to provide documents requested by LA in Compliance Notice	£1,500
Failure to register an exemption on the PRS exemptions register	£500
Failure to provide documents requested by LA, and failure to register an exemption	£2,000

The penalty will be raised against the individual who lets the domestic private rented property to the tenant, where there are multiple individuals who have let the property

the penalty will be apportioned between them taking into account an assessment of culpability.

This will be determined on a case by case basis in relation to the evidence.

Publication Penalty

The Authority will publish some details of the landlord's breach on a publicly accessible part of the PRS Exemptions Register. The information will be available for at least 12 months up to a time decided by the Authority.

The information that may be published is:

- the landlord's name (except where the landlord is an individual);
- details of the breach;
- the address of the property in relation to which the breach occurred; and
- the amount of any financial penalty imposed

The Authority will not publish the information until after the end of the appeal period, or in the event the notice is appealed after the appeal has been decided.

Penalty Notice:

The Authority may serve a penalty notice (relating to a financial penalty, a publication penalty or both) on the landlord where they are satisfied that the landlord is, or has been in the last 18 months:

- in breach of the prohibition on letting sub-standard property (which may include continuing to let the property after 1 April 2020) or
- in breach of the requirement to comply with a compliance notice or
- has uploaded false or misleading information to the Exemptions Register.

The Authority may serve a penalty notice on a landlord up to 18 months after the suspected breach. A person may be served with a penalty notice after they have ceased to be the landlord of a property.

The penalty notice may include a financial penalty, a publication penalty or both. The penalty notice will:

- explain which of the provisions of the Regulations the enforcement authority believes the landlord has breached;
- give details of the breach;
- tell the landlord whether they must take any action to remedy the breach and, if so, the date within which this action must be taken (the date must be at least a month after the penalty notice is issued);

- explain whether a financial penalty is imposed and if so, how much and, where applicable, how it has been calculated;
- explain whether a publication penalty has been imposed
- where a financial penalty is imposed, tell the landlord the date by which payment must be made, the name and address of the person to whom it must be paid and the method of payment (the date must be at least a month after the penalty notice is issued)
- explain the review and appeals processes, including the name and address of the person to whom a review request must be sent, and the date by which the request must be sent and
- explain that if the landlord does not pay any financial penalty within the specified period, the enforcement authority may bring court proceedings to recover the money from the landlord.

A further penalty notice may be issued if the action required in the penalty notice is not taken in the time specified.

When the Authority issues a penalty notice which carries a right of appeal, it will inform the landlord about that right of appeal. Typical wording might be:

“You have a right of appeal against this decision to the General Regulatory Chamber (GRC) of the First Tier Tribunal. If you wish to appeal you should do so within 28 days of the date of this letter by writing to (Leicester address).

You can obtain an appeal form from that address or from the tribunal website at (website address).”

Review of Penalty Notice

The Authority may review its decision to serve a penalty notice.

Where a request is made to the Authority in writing, and within the timescale indicated on the penalty notice it will consider everything the landlord has said in the request and decide whether or not to withdraw the penalty notice.

The Authority may decide to:

- waive or reduce the penalty,
- allow the landlord additional time to pay, or
- Modify the publication penalty

The Authority will withdraw the penalty notice if:

- they are satisfied that the landlord has not committed the breach set out in the penalty notice;

- although they still believe the landlord committed the breach, they are satisfied that the landlord took all reasonable steps, and exercised all due diligence to avoid committing the breach; or
- they decide that because of the circumstances of the landlord's case, it was not appropriate for the penalty notice to be served.

The Authority will inform the landlord of their decision in writing at the earliest opportunity.

Recovery of financial penalty

If a landlord does not pay a financial penalty imposed on them, the enforcement authority may take the landlord to court to recover the money. It will not do this during the period for review stipulated on the notice, while reviewing their decision, or during the period in which the landlord could appeal to the First-tier Tribunal or while there is an ongoing tribunal appeal.

Appeals to the First-tier Tribunal (General Regulatory Chamber)

Where a landlord asks the enforcement authority to review a decision to serve a penalty notice and, on review, they decide to uphold the penalty notice, the landlord may then appeal to the First-tier Tribunal against that decision if they think that:

- the penalty notice was based on an error of fact or an error of law
- the penalty notice does not comply with a requirement imposed by the Regulations or
- it was inappropriate to serve a penalty notice on them in the particular circumstances.

If a landlord does appeal, the penalty notice will not have effect while the appeal is ongoing.

The First-tier Tribunal may decide to quash, confirm or modify the penalty notice. If the penalty notice is quashed, the enforcement authority must reimburse the landlord for any financial penalty already paid under the notice.

General Approach

Addressing health and safety issues in housing is a key function of all local authorities. As such the use, and enforcement, of the Minimum Energy Efficiency Standards (MEES) will be considered in conjunction with other legislative tools open to the Authority under its Housing Improvement Policy.

In particular there is crossover between MEES and The Housing Health and Safety Rating System (HHSRS) which is a tool for identifying those hazards to health and safety which pose an unacceptable risk to occupiers.

Properties with poor energy efficiency are likely to have defects contributing to the hazards of Excess Cold and / or damp and mould.

The preferred method of approach is action that will reduce the risk to the occupants, deter non-compliance and encourage others to make relevant improvements. This could be considered a “Prevent and Penalise” approach and may include:

Following the compliance and enforcement flow chart (page 17):

- Service of a Compliance notice
- Service of a Penalty notice (Financial and/or Publishing Penalty)
- Publicising enforcement activities other than in the PRS Exemptions Register via media.
- Where a property is believed to require an EPC but there is no entry on the public EPC register then we will refer the matter to Trading Standards for further investigation and enforcement where appropriate.

In addition:

The property may be inspected in accordance with Part I of the Housing Act 2004. This will be in accordance with Plymouth City Council’s Housing Improvement Policy 2018 (or subsequent iterations) and may lead to:

- Service of a Notice under Part I of the Housing Act 2004. This may incur a charge for service of the notice. A notice would likely require improvements to the property. The notice may require works in excess of the £3,500 limitation under the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015, as amended.
- The Notice under Part I of the Housing Act 2004 may require works to reduce hazards identified that would not fall under the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015, as amended
- Where there is failure to comply with a Notice served under Part I of the Housing Act there will be consideration for work in default, and a prosecution (unlimited fine) / or civil penalty (up to £30,000).
- The inspection may also identify hazards or breaches of legislation other than those relating to MEES. This may result in:
 - Service of notices requiring works under relevant legislation
 - Other actions in line with Plymouth City Council’s Housing Improvement Policy 2018 (or subsequent iterations),

- Referrals to other enforcement authorities, e.g. HSE, Police etc.

We will identify possible breaches of MEES legislation by various methods including:

HMO licensing – the online application process requests submission of an EPC as part of the application. This is not a mandatory requirement as it is recognised that some HMOs may not have legally required an EPC to have been created.

Reactive work – the online request for assistance asks if an EPC have been provided and allows the applicant to indicate what the EPC banding was.

Proactive work – we may undertake targeted checks. This would include geographical checks, working with partners, random checking of entries on the EPC exemptions register etc.

Where an individual has committed an offence we may look at their wider portfolio of property to determine if other offences have occurred in relation to other properties.

Supporting third parties – giving of advice and support to other agencies/parties to highlight the legislation, its requirements, how to identify potential breaches and how to make referrals into the service for investigation.

Where notices are served under legislation other than the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015, (as amended), it will include relevant information on rights to appeal such notices.

4.0 CHANGES TO LEGISLATION / GUIDANCE

The guidance extracts may be subject to change and the extracts above may be superseded. Individuals will be expected to check current guidance. Any changes will be considered to see if they impact upon the policy. Revisions /updates to Policy will be made as appropriate.

5.0 RESOURCES

Council resources, both financial and human, are always limited. Strategy will be used to guide overall financial and staffing allocation. Even with this targeting of resources, a system of prioritisation will be needed to direct these to address the highest need and achieve the greatest benefit.

6.0 PUBLICITY

The Council will always aim to publicise successful convictions and details of civil penalties to reassure compliant businesses or regulated persons that economic competition is a 'level playing field'.

To ensure that landlords, managers and other clients are aware of this policy it will be published on the Council's internet WebPages. We will also raise awareness through our partners for example via landlord associations and the Private Rented Charter Group.

7.0 CONSULTATION

The contents of this proposed policy, have been subject to consultation with landlords and other stakeholders, via the Private Rented Sector Partnership Group between 12th June 2020 and 10th July 2020.

There were some clarifications on policy points required by Richard Green of Trading Standards, as they enforce whether or not an EPC has been commissioned. There were a couple of minor textual amendments suggested and these have been incorporated in the final policy.

8.0 IMPLEMENTATION

Once agreed and signed by Cabinet the policy will be announced by publishing it on the Council's website, using social media, dissemination via the local landlord guilds and presentation to the Private Rented Charter Group.

The policy needs to be properly implemented to ensure that there is consistency in its application.

Decisions to take formal enforcement activity are jointly made by the case officer and Housing Improvement (Technical Lead). This enables the process of the case, and the course of action, to be reviewed.

Each closed case is subject to random auditing; this is to ensure that proper procedures have been followed.

9.0 FAIRNESS

The Council's policy is to treat all those that it interacts with fairly and on an equitable basis founded on case by case circumstances, regardless of gender, sexual orientation, marital status, race, nationality (including citizenship), disabilities or religious or political affiliation.

Plymouth's agreement with the Fairness Commission states that Plymouth City Council should commit to fairness in what it does and how it does it.

In this instance the following principles apply:

- The city should give priority to those in greatest need when it allocates resources.
- Things that make the biggest difference to people's lives should get priority when deciding where resources go.
- Preventing inequalities is more effective than trying to eliminate them.
- Services should be provided 'with' people, not 'for' them.

10.0 REVIEW

The Council will keep under review the effectiveness of their chosen regulatory activities in delivering the desired outcomes and make any necessary adjustments accordingly.

11.0 COMPLAINTS AND COMMENTS ABOUT THIS POLICY

Comments, complaints or suggestions about the Policy or any aspect of our work are welcomed. The Council's standard comments, complaints and appeals procedure will be followed. If you would like a copy of this, please contact us on Tel 01752 398500 or go to the website www.plymouth.gov.uk.

If a complaint is about a Freedom of Information request, you can complain to the Information Commissioner, www.ico.org.uk.

Enquiries about this policy can be made by:

Email: communityconnections@plymouth.gov.uk

Tel: 01752 398500

Letter: Community Connections, Plymouth City Council, Ballard House, Plymouth, PL1 3BJ

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Energy Efficiency Regulations Breaches - Penalties

Track Record	EPC Rating	Renting out a non-compliant property (in breach less than 3 months)	
Up to max £2000			
A1	1st Offence	F	£1,250
A2	1st Offence	G	£1,500
A3	2nd Offence	F	£1,750
A4	2nd Offence	G	£2,000
A5	N/A	N/A	£0

Track Record	EPC Rating	Providing false, or misleading, information	
Up to max £1000			
C1	1st Offence	N/A	£750
C2	2nd Offence	N/A	£1,000
C3	N/A	N/A	£0

Offences	Failing to comply with a compliance notice	
up to max £2000		
D1	Failure to provide documents requested by LA in Compliance Notice	£1,500
D2	Failure to register an exemption on the PRS exemptions register	£500
D3	Failure to provide documents requested by LA, and failure to register an exemption	£2,000
D4	N/A	£0

Track Record	EPC Rating	Renting out a non-compliant property (in breach for 3 months or more)	
Up to max £4000			
B1	1st Offence	F	£2,500
B2	1st Offence	G	£3,000
B3	2nd Offence	F	£3,500
B4	2nd Offence	G	£4,000
B5	N/A	N/A	£0

Officers Calculation Tool			
Offence			
Table A	A2		£1,500.00
Table B	B5		£0.00
Table C	C2		£1,000.00
Table D	D4		£0.00
Total Penalty			
			£2,500.00

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CIVIL PENALTY POLICY

Community Connections (Housing Improvement)
Version 2 – 12.03.2020



Civil Penalty Policy

<http://www.legislation.gov.uk/ukpga/2016/22/schedule/9/enacted>

<https://www.legislation.gov.uk/ukpga/2004/34/section/249A>

(HAPA 2016 S.126 Sch9 / HA 2004 S.249A Sch13A)

Maximum Penalty: £30,000

Guidance Document:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/606653/Civil_Penalties_guidance.pdf

Community Connections (Housing Improvement) – Civil Penalty Policy

Policy document setting out how Plymouth City Council will deliver section 249A of The Housing Act 2004 (as implemented by section 126 of the Housing and Planning Act 2016) in order to issue civil penalties as alternative to prosecution

Section 126 and schedule 9 of the Housing and Planning Act 2016 came into force on the 6th April 2017.

These provisions give the local housing authority the power to issue a financial penalty for certain Housing Act 2004 offences as an alternative to prosecution.

The civil penalties option can be used for the following Housing Act 2004 offences:

- S.30 Failure to comply with Improvement Notice
- S.72 Offences in relation to Licensing of HMOs
- S.95 Offences in relation to Licensing of houses under Part 3 HA2004
- S.139(7) Offences in contravention of an overcrowding notice
- S.234 Failure to comply with Management Regulations in respect of HMOs

The council is required to have a policy in place that details when to prosecute and when to consider a civil penalty.

The council must also provide guidance on how the fine levels will be set.

The guidance document issued by DCLG provides details on the considerations that must be taken into account as part of the fine setting process. It places particular emphasis upon the severity of the offence and the landlord's previous record of offending. A scoring mechanism has been devised to reflect the considerations set out in the DCLG guidance. This scoring mechanism is set out below.

When to prosecute and when to consider a civil penalty

The same criminal standard of proof is required for a civil penalty as for prosecution.

Plymouth City Council will firstly satisfy itself that if the case were to be prosecuted in the magistrates' court, there would be a realistic prospect of conviction.

In order to do so Plymouth City Council will consider its own enforcement policy, consult the Crown Prosecution Service Code for Crown Prosecutors', and work closely with our legal department.

Once satisfied that there would be a realistic prospect of conviction a decision will be taken as to whether to prosecute or to issue a civil penalty. All decisions will be taken on a case-by-case basis.

The guidance document issued by DCLG suggests that prosecution may be the most appropriate option where an offence is particularly serious or where the offender has committed similar offences in the past.

It is likely that a civil penalty will be considered as the most appropriate course of action except in the aforementioned circumstances where further consideration will be taken.

A Civil Penalty notice, or notice of intent, will only be served once reviewed and authorised by a Technical Lead (Housing Improvement), Community Connections.

Income from civil penalties

The income received will be applied in accordance with any legislation or guidance published by the government. Currently this is in accordance with <http://www.legislation.gov.uk/ukxi/2017/367/regulation/2/made>

Application of financial penalties recovered

4.—(1) A local housing authority may apply any financial penalty recovered under section 249A of the 2004 Act(1) to meet the costs and expenses (whether administrative or legal) incurred in, or associated with, carrying out any of its enforcement functions in relation to the private rented sector.

(2) Any amount recovered as a financial penalty which is not applied in accordance with paragraph (1) must be paid into the Consolidated Fund.

Enforcement

"enforcement function" means, in relation to a local housing authority(2)—

(a)

any of its functions—

(i) under Parts 1 to 4 of the 2004 Act; or

(ii) under Part 2 of the 2016 Act; or

(b) where paragraph (a) does not apply, any of its functions, conferred on it as local housing authority—

(i) connected with an investigation of, or proceedings relating to, a contravention of the law relating to housing or landlord and tenant; or

(ii) connected with the promotion of compliance with the law relating to housing or landlord and tenant

Levels of fine to be set

The guidance document issued by DCLG provides the following considerations when determining the level of a civil penalty;

a) Severity of the offence - *The more serious the offence, the higher the penalty should be.*

In order to measure the severity of the offence the following criteria will be used;

S.30 Improvement Notice Failing to comply	Nature & Type of Hazards Category 1 hazard present – 5 points Category 2 hazard present – 2 points
	Number of Hazards Each hazard identified is scored to give scale to multiple hazards being more severe
S.72 Licensing of HMOs Failing to licence Over Occupation Breaches of Conditions	Number of Occupants The greater occupancy, the greater responsibility/duty of care for the Licence Holder / HMO Manager 5 to 9 Occupants – 5 points 10 + Occupants – 10 points
S.95 Selective LHMOs Failing to licence Over Occupation Breaches of Conditions	Number of Occupants The greater occupancy, the greater responsibility/duty of care for the Licence Holder / HMO Manager 5 to 9 Occupants – 5 points 10 + Occupants – 10 points
S.139(7) Overcrowding Notice Over Occupation	Nature & Extent of Occupancy Breach Is the occupancy breach 'intentional' (i.e. by landlord actions) or 'unintentional' (i.e. by tenant actions). The % of over occupancy is taken into account in terms of the severity of the offence. Please see appendix 1A.
S.234 Management Regulations Breach of regulations	Location of Breach (communal parts/unit of accommodation) Breach in communal parts – 5 points Breach within a unit of accommodation – 2 points (per unit of accommodation)

Improvement Notices only:

Category 1 Hazards – Serious - A serious and substantial risk to the health and safety of the occupiers, and/or community, with potentially life threatening results. Housing defects posing such a risk may be associated with hazards assessed under the Housing Health & Safety Rating System.

For each Category 1 Hazard a score of 5 will be added.

Category 2 Hazards – Less Serious – A risk of injury or disease to the occupiers potentially resulting in medical treatment. Housing defects posing such a risk may be associated with hazards assessed under the Housing Health & Safety Rating System.

For each Category 2 Hazard a score of 2 will be added.

Where offence is within a House of Multiple Occupancy (HMO) – A one-off premium of 10 points will be added where any hazard or issue would affect more than 1 household i.e. whole building issues or common parts issues in HMO's. This is to ensure that the scope of the hazard or issue is considered in addition to its ability to harm.

b) Culpability and track record of the offender - A higher penalty will be appropriate where the offender has a history of failing to comply with their obligations and/or their actions were deliberate and/or they knew, or ought to have known, that they were in breach of their legal responsibilities. Landlords are running a business and should be expected to be aware of their legal obligations.

In order to assess the culpability of the perpetrator the following factors will be considered;

Portfolio of Properties	How many properties does the offender have control of as Landlord / Licence Holder / HMO Manager
Experience	How many years' experience does the offender have in letting properties? The longer, the more culpable.
Accreditation	Has the offender undertaken the landlord's accreditation scheme? If yes, he/she is informed.
Affiliation	Is the offender a member of a Landlord's Association? If yes – they have had access to guidance and support.
Rogue Landlord Database	Is the offender listed on the Rogue Landlord Database? If yes, then PCC may contact other LA/s for more info and update with new details.
LA Guidance / Contact pre-offence	Has the offender received previous advice, guidance or notification from the LA in respect of this offence?

In order to measure the culpability of the perpetrator the following criteria will be used;

Culpability

Deliberate– An intentional breach by a landlord or property agent or flagrant disregard for the law for example by failing to comply with a notice or regulations.

For Deliberate acts a score of 20 will be added

Reckless– An actual foresight of, or wilful blindness to the risk of offending but decides to take the risk nevertheless for example failing to comply with a strict liability in the HMO regulations.

For Reckless acts a score of 15 will be added

Negligent– The failure of the landlord or property agent to take reasonable care to put in place and enforce proper systems for avoiding the offence, for example partial compliance with a schedule of work to an enforcement notice but failure to fully comply with all schedule items.

For Negligent acts a score of 10 will be added

Low or no culpability– The offence committed has some fault on the part of the landlord or property agent but there are other circumstances for example obstruction by the tenant to allow a contractor access for repairs, or damage caused by tenant negligence.

For Low culpability acts a score of 5 will be added

A premium will be added where the requirement to licence a property under Parts 2 or 3 of the Housing Act 2004 has not been complied with.

Where a person in control, landlord or person managing fails to obtain a licence without direct contact by Plymouth City Council requiring them to do so, a score of 5 will be added.

Where a person in control, landlord or person managing fails to obtain a licence despite direct contact by Plymouth City Council requiring them to do so, a score of 15 will be added.

Track record

In order to assess the culpability of the perpetrator the following factors will be considered;

Penalised or Convicted of the Same Offence Previously	A repeat of the same offence highlights a much greater culpability as the offender is aware of their obligations.
Penalised or Convicted of Other Offences Previously	A history of other offences can highlight an increased culpability as the offender is aware that they have obligations.

In order to measure the culpability of the perpetrator the following criteria will be used;

1st offence – no previous conviction or civil penalty imposition for offences in relation to this policy in the previous four years irrespective of the locality to which the offence relates.

For 1st offences a score of 5 will be added

2nd subsequent offence by same person/company – any conviction or civil penalty imposition for offences in relation to this policy, within four years of the 1st offence, irrespective of the locality to which the initial offence relates.

For 2nd offences a score of 15 will be added

Ongoing non-compliance - any conviction or civil penalty for offences in relation to this, within four years of the previous instance (at least 3rd occurrence), irrespective of the locality to which the initial offence relates.

For ongoing offences a score of 30 will be added

c) The harm caused to the tenant – *This is a very important factor when determining the level of penalty. The greater the harm or the potential for harm (this may be as perceived by the tenant), the higher the amount should be when imposing a civil penalty.*

The Authority will consider the following factors in its decision-making process:

Harm Outcome (Actual Harm has occurred) = 10 Points	Acknowledges both Physical and Mental harm caused or in some cases perceived by the tenant. Where applicable HHSRS assessment outcomes should be taken into consideration.
Vulnerable to Harm Outcome (Vulnerability identified but no Actual Harm has occurred) = 5 Points	Highlights an awareness of the vulnerable age group per hazard and further consideration given to an individual's propensity to harm on a case by case basis, including possible vulnerabilities. Where applicable HHSRS assessment outcomes should be taken into consideration.
Potential for Harm Outcome (No Vulnerability identified or Actual Harm has occurred, however, there is a potential for harm) = 2 Points	Acknowledges that potential hazard/s may be present in the property and that for the occupants there is the potential for harm. This is irrespective of vulnerabilities.

The severity of harm calculation needs to reflect the types of issues encountered, however a premium score will be added for actual harm having occurred and the vulnerability of the tenant as set out in the Housing Health and Safety Rating System and in the table below;

Hazard	Vulnerable age group (age of occupant)
Damp and mould growth	14 and under
Excess Cold	65 or over
Excess Heat	65 or over
Carbon Monoxide	65 or over
Lead	under 3 years
Personal Hygiene, Sanitation and Drainage	under 5 years
Falls associated with baths etc.	60 or over
Falling on level surfaces etc.	60 or over
Falling on stairs etc.	60 or over
Falling between levels	under 5 years
Electrical hazards	under 5 years
Fire	60 or over
Flames, hot surfaces etc.	under 5 years
Collision and entrapment	under 5 years
Collision and entrapment - low headroom	16 or over
Position and operability of amenities etc.	60 or over

Harm Occurred: A score of 10 will be added where the occupier/s have suffered harm due to the defects/hazards noted.

Harm Vulnerability: A score of 5 will be added where the occupiers have not suffered harm but are in the vulnerable age group to the hazard noted.

Harm Potential: A score of 2 will be added where the vulnerable age group are not present.

d) Stage I – Indicative Penalty Charge**Scoring Chart**

The scoring chart below is a reference index for the policy, as set out in the text above. Each offence is attributed points scoring based on the factors of; 'severity', are hazards exposed to 'multiple households', what is the level of 'culpability' for the perpetrator, is the property a 'licensable HMO', what is the perpetrators 'track record', what level of 'harm' is present, and what level of 'vulnerability' is present. Once the overall score has been calculated, this table is referred to for an 'Indicative Penalty Charge'. The officer will then give further consideration to the factors of; 'suitability of punishment', is it a 'deterrent to the offender' (and/or others) and does it suitably 'remove any financial benefit' received from the offence.

Score	Indicative Penalty Charge
14-20	£2,000
21-30	£3,000
31-40	£5,000
41-50	£7,500
51-60	£10,000
61-70	£15,000
71-80	£20,000
81-90	£25,000
91-100+	£30,000

e) Remove any financial benefit the offender may have obtained as a result of committing the offence – *The guiding principle here should be to ensure that the offender does not benefit as a result of committing an offence, i.e. it should not be cheaper to offend than to ensure a property is well maintained and properly managed.*

Following the initial scoring calculation, an estimation of offender costs to resolve the hazard or issue identified will be produced.

In addition an estimation of any financial benefit, which may include rents received, arising from the offence(s) will be produced. Where rents received are considered, this will be over a maximum 12 month period.

Consideration will then be given to the initial scoring calculation as to whether or not this element has been suitably met. If there is a decision to increase the fine level the reasoning behind the decision will be clearly set out in the Notice of Intent and any Final Notice.

f) Multiple offenders

Following Stage 1 considerations (a-e above) an indicative fine level will be calculated, by applying the points total to the scoring chart matrix. Where there are multiple offenders, in relation to the same offence, the most severe outcome will be calculated in the first instance. Then each offender’s culpability score will be divided by the accumulative total of culpability scores to work out a percentage of penalty charge (see example scenario 3), before Stage 2 considerations (g-j below) are made. Where there are multiple offenders, separate notices will be served.

g) Punishment of the offender – *A civil penalty should not be regarded as an easy or lesser option compared to prosecution. While the penalty should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending, it is important that it is set at a high enough level to help ensure that it has a real economic impact on the offender and demonstrates the consequences of not complying with their responsibilities.*

The Authority will consider the following factors in its decision-making process:

Severity of the Offence	The punishment should reflect the severity of the offence as previously determined.
Economic Impact	The punishment should have a sufficient economic impact on the offender. To help determine this consideration may be given to; Credit Checks, Companies House, Portfolio Income & Equity.

Risks	Could the offender continue to operate? Is there a risk of homelessness for the tenants?
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Following the stage 1 scoring calculation, consideration will be given as to whether or not this element has been suitably met. This will be considered separately for each offender. If there is a decision to increase the fine level the reasoning behind the decision will be clearly set out in the Notice of Intent and any Final Notice.

h) Deter the offender from repeating the offence – *The ultimate goal is to prevent any further offending and help ensure that the landlord fully complies with all of their legal responsibilities in future. The level of the penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.*

The Authority will consider the following factors in its decision-making process:

Individual Deterrent	This is a review stage of the above considerations to determine if the level of penalty is appropriate to deter further occurrences?
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Following the stage 1 scoring calculation, consideration will be given as to whether or not this element has been suitably met. This will be considered separately for each offender. If there is a decision to increase the fine level the reasoning behind the decision will be clearly set out in the Notice of Intent and any Final Notice.

i) Deter others from committing similar offences – *While the fact that someone has received a civil penalty will not be in the public domain, it is possible that other landlords in the local area will become aware through informal channels when someone has received a civil penalty. An important part of deterrence is the realisation that (a) the local housing authority is proactive in levying civil penalties where the need to do so exists and (b) that the level of civil penalty will be set at a high enough level to both punish the offender and deter repeat offending.*

The Authority will consider the following factors in its decision-making process:

Wider Deterrent	This is a review stage of the above considerations to determine if the level of penalty is appropriate to deter others, in a similar set of circumstances, from committing offences?
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Following the stage 1 scoring calculation, consideration will be given as to whether or not this element has been suitably met. This will be considered separately for each offender. If there is a decision to increase the fine level the reasoning behind the decision will be clearly set out in the Notice of Intent and any Final Notice.

j) Reductions

Level of compliance by perpetrator, their attitude in doing so, and early payment –

Where the decision has been taken that a prosecution is appropriate, or subsequently a civil penalty notice should be issued, it is unlikely that the perpetrator could be deemed as compliant. However if there is a clear behavioural change and a will to ensure future compliance, followed by a payment within the prescribed 28 days a reduction of 10% may be attributed to the total.

Financial hardship - Local housing authorities should make an assessment of a landlord’s assets and any income (not just rental income) they receive when determining an appropriate penalty. The perpetrator will have the opportunity to make representations following the service of the Notice of Intent and may decide to set out any financial hardship in those representations. It will be for the perpetrator to provide sufficient documented evidence of income when relying upon such representations. The Council reserves the right to request further information to support any financial claim, and where this is incomplete, appears to be inaccurate or is not sufficiently evidenced may determine that the representation should not be considered. It is possible that financial hardship could be a factor when a perpetrator makes representations, particularly for lesser portfolio landlords, but this is not an easily predictable measure and needs to be judged on a case by case basis.

Example Scenarios

Scenario 1 – Failure to comply with an Improvement Notice

This person has failed to comply with an improvement notice containing 4 hazards; Excess Cold, Damp and Mould, Falls on Stairs and Fire Safety (2 x Cat 1 hazards and 2 x Cat 2 hazards). They were also previously prosecuted for failing to comply with an improvement notice 3 years ago at a different address. The occupant is a 67 year old lady who has recently been in hospital with a broken hip suffered from a fall within the home.

Scoring – Scenario 1

Factor	Description	Item Total	Running Total
Severity	1 x Cat 1 Hazard (EC) 1 x Cat 1 Hazard (FOS) 1 x Cat 2 Hazard (D&M) 1 x Cat 2 Hazard (FS)	5 points 5 points 2 Points 2 Points	14 Points
Multiple Households (Improvement Notices only)	N/A – Scenario 1 is a Single Family Dwelling	Nil	14 Points
Culpability	Deliberate – as perpetrator failed to comply with the notice	20 points	34 Points
Licensable HMO	N/A – Scenario 1 is a Single Family Dwelling	Nil	34 Points
Track Record	2 nd offence in 4 years	15 points	49 Points
Harm & Vulnerability	Broken Hip (relative to the hazards of excess cold / falls on stairs)	10 points	59 Points
Scenario 1 - Total Points Accumulation			59 Points
Scenario 1 – Level Of Associated Penalty Charge (for further consideration and deliberation)			£10,000

Following stage 1 calculations, consideration would be given to the financial benefit the perpetrator had by undertaking the offence. This would include, but may not be limited to:

- 1) The costs of works required, £8,000 (GCH - £4000, Banisters/balustrades - £1500, Damp proofing & repair works - £2000, Servicing and repair of faults to Fire System - £500).

Therefore the financial benefit would then be assessed as £8,000.

In this instance, the officer would see that the indicative penalty charge of £10,000 is sufficient to remove the financial benefit of committing the offence and would therefore retain the penalty as **£10,000**. In this instance the officer will justify the charge by detailing reasons in an Enforcement Action Proposal for authorising.

In some instances the penalty may be varied further in accordance with this policy and can be issued for up to a maximum amount of £30,000.

A Civil Penalty notice, or notice of intent, will only be served once reviewed and authorised by a Technical Lead (Housing Improvement), Community Connections.

In addition to the above, Plymouth City Council could give consideration to further enforcement action available through the Housing and Planning Act 2016.

Scenario 2 – Failure to comply with an Improvement Notice in a HMO

This person has failed to comply with an improvement notice containing 4 hazards; Excess Cold, Damp and Mould, Falls on Stairs and Fire Safety (2 x Cat 1 hazards and 2 x Cat 2 hazards). It is a licensed HMO with 8 people. They were also previously prosecuted for failing to comply with an improvement notice 3 years ago at a different address. The occupants include a 67 year old lady who has recently been in hospital with a broken hip suffered from a fall within the home.

Scoring – Scenario 2

Factor	Description	Item Total	Running Total
Severity	1 x Cat 1 Hazard (EC) 1 x Cat 1 Hazard (FOS) 1 x Cat 2 Hazard (D&M) 1 x Cat 2 Hazard (FS)	5 points 5 points 2 Points 2 Points	14 Points
Multiple Households (Improvement Notices only)	Property is a HMO with 8 persons	10 Points	24 Points
Culpability	Deliberate – as perpetrator failed to comply with the notice	20 points	44 Points
Licensable HMO	Licensed	Nil	44 Points
Track Record	2 nd offence in 4 years	15 points	59 Points
Harm & Vulnerability	Broken Hip (relative to the hazards of excess cold / falls on stairs)	10 points	69 Points
Scenario 2 - Total Points Accumulation			69 Points
Scenario 2 – Level Of Associated Penalty Charge (for further consideration and deliberation)			£15,000

Following stage 1 calculations, consideration would be given to the financial benefit the perpetrator had by undertaking the offence. This would include, but may not be limited to:

- 1) The costs of works required, £8,000 (GCH - £4000, Banisters/balustrades - £1500, Damp proofing & repair works - £2000, Servicing and repair of faults to Fire System - £500).

Therefore the financial benefit would then be assessed as £8,000.

In this instance, the officer would see that the indicative penalty charge of £15,000 is sufficient to remove the financial benefit of committing the offence and would therefore retain the penalty as **£15,000**. In this instance the officer will justify the charge by detailing reasons in an Enforcement Action Proposal for authorising.

In some instances the penalty may be varied further in accordance with this policy and can be issued for up to a maximum amount of £30,000.

A Civil Penalty notice, or notice of intent, will only be served once reviewed and authorised by a Technical Lead (Housing Improvement), Community Connections.

In addition to the above, Plymouth City Council could give consideration to further enforcement action available through the Housing and Planning Act 2016.

Scenario 3 – Failure to licence a Licensable HMO – No other offences

This couple have failed to licence a licensable HMO, they are joint owners of the property and also joint directors of the company associated with letting the property. Direct communication was exchanged with the company and one of the couple (Mr X), following a visit, advising that a licence was necessary. The property needs some attention however, no notices have been served and it is not considered that the HMO management regulations have been breached. There is no history of non-compliance in the past.

Scoring – Scenario 3

Factor	Description	Item Total	Running Total
Severity	Failure to licence a licensable HMO for 6 persons.	5 points	5 Points
Multiple Households (Improvement Notices only)	N/A – No Improvement Notice served	Nil	5 Points
Culpability	Reckless – PCC advised offender that a HMO licence was required and what offence would occur by not applying.	15 points	20 Points
Licensable HMO	Licensable HMO for 6 persons in 6 households. A licence has not been applied for, despite direct contact on this matter.	15 points	35 Points
Track Record	1 st Offence	5 Points	40 Points
Harm & Vulnerability	Potential for harm. All homes are potentially hazardous, but there was no record of actual harm.	2 Points	42 Points
Scenario 3 - Total Points Accumulation			42 Points
Scenario 3 – Level Of Associated Penalty Charge (for further consideration and deliberation)			£7,500

Following stage 1 calculations, consideration would be given to the financial benefit the perpetrator had by undertaking the offence. This would include, but may not be limited to:

- 2) The cost of the avoided HMO licence fee (if not subsequently applied)
- 3) The rents received for the 5th or more person in residence (during the period of the offence being committed) over a maximum 12 month period.

Assuming that the current HMO licence fee was £900, and each of the tenants paid £92 per week for their accommodation, which was occupied for 44 weeks of the past year. The financial benefit would then be assessed as £8,996.

In this instance, the officer would see that the indicative penalty charge of £7,500 is not sufficient to remove the financial benefit of committing the offence and would therefore look to increase the penalty to **£8,996**. In this instance the officer will justify the charge by detailing reasons in an Enforcement Action Proposal for authorising.

Direct contact had been made with landlord (Mr X) but not with (Mrs X) therefore, in terms of fairness and proportionality, the penalty charge should reflect this. The rents are received by the company and both parties are equal percentage directors. Therefore the financial benefit is considered to be equally received. Mr X is considered to be 'Reckless' because of the direct contact (carries a penalty of 15 points) but Mrs X is considered to be 'Negligent' (carries a penalty of 10 points). Where there are multiple offenders, each offender's culpability score will be divided by the accumulative total of culpability scores to work out a percentage of penalty charge. In this instance Mr X is 15/25 (60%) **£5397.60** and Mrs X is 10/25 (40%) **£3,598.40**

In some instances the penalty may be varied further in accordance with this policy and can be issued for up to a maximum amount of £30,000.

A Civil Penalty notice, or notice of intent, will only be served once reviewed and authorised by a Technical Lead (Housing Improvement), Community Connections

In addition to the above, Plymouth City Council could give consideration to further enforcement action available through the Housing and Planning Act 2016.

Scenario 4 – Offences in contravention to an Overcrowding Notice

This person lets out a flat that is suitable for a maximum occupation of 2 persons. He was written to following an initial visit where the occupancy level was identified as 4 persons in total. Tenancies were obtained for the property which evidenced that the landlord had intentionally let to 4 persons. The landlord was issued with an overcrowding notice and advised that he would need to take lawful steps to reduce the occupancy. The property needs some attention; however, there is no improvement notice served or management regulation breaches identified. There is a history of non-compliance in the past for overcrowding in connection with another property.

Scoring – Scenario 4

Factor	Description	Item Total	Running Total
Severity	Intentional overcrowding (i.e. not as a result of tenants actions) – 200% Occ (refer to Appendix 1)	10 points	10 Points
Multiple Households (Improvement Notices only)	N/A – no improvement notice served	Nil	10 Points
Culpability	Deliberate – PCC served OC notice but no actions have been taken to comply.	20 points	30 Points
Licensable HMO	N/A the property is not a licensable HMO	Nil	30 Points
Track Record	2 nd Offence	15 Points	45 Points
Harm & Vulnerability	Potential for harm. All homes are potentially hazardous, but there was no record of actual harm.	2 Points	47 Points
Scenario 4 - Total Points Accumulation			47 Points
Scenario 4 – Level Of Associated Penalty Charge (for further consideration and deliberation)			£7,500

Following stage 1 calculations, consideration would be given to the financial benefit the perpetrator had by undertaking the offence. This would include, but may not be limited to:

- 1) The rents received for the 3rd and 4th resident (as this relates to the offence) over a maximum 12 month period

Assuming that each of the tenants paid £80 per week for their accommodation, which was occupied for 52 weeks of the past year. The financial benefit would then be assessed as £8,320.

In this instance, the officer would see that the indicative penalty charge of £7,500 is not sufficient to remove the financial benefit of committing the offence and would therefore look to increase the penalty to **£8,320**. In this instance the officer will justify the charge by detailing reasons in an Enforcement Action Proposal for authorising.

In some instances the penalty may be varied further in accordance with this policy and can be issued for up to a maximum amount of £30,000.

A Civil Penalty notice, or notice of intent, will only be served once reviewed and authorised by a Technical Lead (Housing Improvement), Community Connections

In addition to the above, Plymouth City Council could give consideration to further enforcement action available through the Housing and Planning Act 2016.

Scenario 5 – Failure to comply with Management Regulations in HMOs

This person has a non-licensable HMO. They were written to following an initial visit where a number of Management Regulation breaches were identified. The offender was given an informal period of time to resolve the breaches but only partial works have been undertaken. There is no history of non-compliance.

Scoring – Scenario 5

Factor	Description	Item Total	Running Total
Severity	Breaches of HMO Management Regulations identified in common parts and unit of accommodation	7 points	7 points
Multiple Households (Improvement Notices only)	N/A – no improvement notice served	Nil	7 Points
Culpability	Negligent – PCC advised of HMO regulation breaches and requirements to undertake works.	10 points	17 Points
Licensable HMO	N/A the property is 2-storeys and occupied by 4 persons only.	Nil	17 Points
Track Record	1 st Offence	5 Points	22 Points
Harm & Vulnerability	No actual harm has been caused, however there is the potential for harm in relation to breaches of the management regulations.	2 Points	24 Points
Scenario 5 - Total Points Accumulation			24 Points
Scenario 5 – Level Of Associated Penalty Charge (for further consideration and deliberation)			£3,000

Following stage 1 calculations, consideration would be given to the financial benefit the perpetrator had by undertaking the offence. This would include, but may not be limited to:

- 1) The costs of works outstanding, £700 (Banisters/balustrades - £500, Stair repairs £200).

Therefore the financial benefit would then be assessed as £700.

In this instance, the officer would see that the indicative penalty charge of £3,000 is sufficient to remove the financial benefit of committing the offence and would therefore retain the penalty as **£3,000**. In this instance the officer will justify the charge by detailing reasons in an Enforcement Action Proposal for authorising.

In some instances the penalty may be varied further in accordance with this policy and can be issued for up to a maximum amount of £30,000.

A Civil Penalty notice, or notice of intent, will only be served once reviewed and authorised by a Technical Lead (Housing Improvement), Community Connections

In addition to the above, Plymouth City Council could give consideration to further enforcement action available through the Housing and Planning Act 2016.

Appendix 1A – Occupancy Severity Table

(Occupancy % & Points Scored)

<u>Intended 4 persons</u>	<u>Intended 5 persons</u>	<u>Intended 8 persons</u>	<u>Intended 10 persons</u>
5 = 125%	6 = 120%	9 = 112.5%	11 = 110%
6 = 150%	7 = 140%	10 = 125%	12 = 120%
7 = 175%	8 = 160%	11 = 137.5%	13 = 130%
8 = 200%	9 = 180%	12 = 150%	14 = 140%
	10 = 200%	13 = 162.5%	15 = 150%
		14 = 175%	16 = 160%
		15 = 187.5%	17 = 170%
		16 = 200%	18 = 180%
			19 = 190%
			20 = 200%
	2 points will be applied	5 points will be applied	10 points will be applied

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EQUALITY IMPACT ASSESSMENT

Community Connections – Changes in HMO and Energy Efficiency



STAGE I: WHAT IS BEING ASSESSED AND BY WHOM?

What is being assessed - including a brief description of aims and objectives?

The mandatory HMO licensing scheme of large HMO's came into force on 6th April 2006 with the implementation of Statutory Instrument 2006 No.373 'The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006'.

Legislative changes made to the 'prescribed description' of licensable HMOs, effective from 1st October 2018, <https://www.legislation.gov.uk/uk/si/2018/221/article/4/made>, have removed the 'storey condition' from the pre-existing description. This change has led to a significant increase in the number of licensable HMOs in our city, doubling from an average of Circa 650 to an Average of Circa 1300. In addition it has also opened up the opportunity to look at flats in block style accommodation that meet the criterion of a licensable HMO.

Legislative changes brought about by the European Services Directive 2006, and the Provision of Services Regulations 2009, along with more recent case law, identified that licences under Parts 2 and 3 of the Housing Act 2004 (i.e. Mandatory HMO Licensing, and Selective HMO Licensing schemes) should be charged in two stages.

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 as amended are designed to tackle the least energy-efficient properties in England and Wales – those rated F or G on their Energy Performance Certificate (EPC). The Regulations establish a minimum standard for both domestic and non-domestic privately rented property.

The objective implement the Local Authority's MEES policy and procedure in enforcing these standards. It provides advice and guidance to interested parties that may be subject to enforcement which include:

- A civil penalty up to a maximum of £5,000.
- Publication of details of the landlord's breach on a publicly accessible part of the PRS Exemptions register.

Changes being introduced aim raise the standards of privately rented accommodation by permitting PCC to comply with duties and enforce legislation.

The communities affected by the legislation (and this policy) are:

	<ul style="list-style-type: none"> tenants. There are approximately 22,000 privately rented houses and flats in Plymouth. Using the English Housing Survey Households 2013/14 average of 2.5 persons/household in this sector, this suggests about 55,000 people. landlords. It is estimated that there are about 12,000 landlords letting property in Plymouth. Of these, about 50% reside in Plymouth.
Author	Dave Ryland, Strategic Manager
Department and service	Community Connections
Date of assessment	12 th October 2020

STAGE 2: EVIDENCE AND IMPACT

Protected characteristics (Equality Act)	Evidence and information (eg data and feedback)	Any adverse impact See guidance on how to make judgement	Actions	Timescale and who is responsible
Age	<p>Age profile data of those living in HMO accommodation or those landlords of HMO accommodation is not specifically available.</p> <p>However, it is known that the average age in Plymouth (39 years) is about the same as the rest of England (39.3 years), but less than the South West (41.6 years).</p> <p>The proportion of the working age population (16-64 years) is higher (66.1%) than regionally (62.8%) and nationally (64.7%).</p> <p>It is understood that majority of people occupying HMO accommodation are young adults of working age.</p>	<p>It is recognised that older people and the very young living in poor housing conditions may be more susceptible to conditions resulting from poor heating or damp and mould for example.</p> <p>Rising house prices, and a shortage of properties and changes to housing benefit are making it hard for young people to find suitable accommodation, and hence may be more likely to live in an HMO.</p>	<p>HMO Licensing is not dependent on the occupant, but the size and arrangement of the physical dwelling.</p> <p>Excess cold could be classified as a category I hazards via the Housing Health and Safety Rating System is influenced by a 'vulnerable group' that does not necessarily reflect the occupation of the property. Best endeavours will be used to negotiate improvements with a</p>	<p>Strategic Manager and Technical Lead (Housing Improvement), Community Connections</p>

	<p>The removal of automatic entitlement to housing costs for 18-21 year olds in universal credit, may mean that a higher proportion of young people may occupy an HMO. A report published in January 2018 by DWP states that 96% of 18-21 year olds who applied for support for housing costs were awarded it.</p> <p>https://www.gov.uk/government/statistics/removal-of-automatic-entitlement-to-housing-costs-for-18-to-21-year-olds-in-universal-credit</p>		<p>landlord where enforcement is not proportionate or possible.</p> <p>Staff have been trained in Equality & Diversity and comply with the requirements. They are able to identify specific needs and requirements, apply a suitable style of communication and modify the application of the policy in appropriate cases.</p>	
<p>Disability</p>	<p>Disability profile data of those living in HMO accommodation or those landlords of HMO accommodation is not available.</p> <p>It is suggested that 1 in 3 households with a disabled person live in non-decent accommodation and 1 in 5 disabled people requiring adaptations to their home believe their accommodation is not suitable.</p> <p>A total of 31,164 people declared themselves as having a long-term health problem or disability, compared with the total number with disabilities in UK (11,600,000).</p> <p>1297 adults registered with a GP in Plymouth have some form of learning disability (2013/14).</p>	<p>The very nature of HMO accommodation would not lend itself easily to people with physical disabilities and would be less likely to be able to be adapted to meet someone's physical needs.</p> <p>However, there may be people with non-physical disabilities, including learning disabilities living in private rented accommodation.</p> <p>The provisions set out an assessment method for the</p>	<p>HMO Licensing is not dependent on the occupant, but the size and arrangement of the physical dwelling.</p> <p>Excess cold could be classified as a category 1 hazards via the Housing Health and Safety Rating System. This system is influenced by what may be deemed a 'vulnerable group' which does not necessarily reflect the occupation of the property. Best endeavours will be used to negotiate</p>	<p>Strategic Manager and Technical Lead (Housing Improvement), Community Connections</p>

		<p>condition of accommodation which means that improvements can be made if required, either by negotiation or enforcement of the landlord.</p>	<p>improvements with a landlord where enforcement is not proportionate or possible.</p>	
<p>Faith/religion or belief</p>	<p>It is recognised that occupants of HMO accommodation may include people who would be protected under the Equality Act in regard to their faith, religion or belief.</p> <p>84,326 of the Plymouth population stated they had no religion, and those with a Hindu, Buddhist, Jewish or Sikh religion combined total less than 1%.</p>	<p>Private rented accommodation is available across the city however due to the city's development HMO accommodation may be more central and thus more accessible to those visiting places of worship on regular basis.</p>	<p>HMO Licensing is not dependent on the occupant, but the size and arrangement of the physical dwelling.</p> <p>Excess cold could be classified as a category I hazards via the Housing Health and Safety Rating System. This system is influenced by what may be deemed a 'vulnerable group' which does not necessarily reflect the occupation of the property. Best endeavours will be used to negotiate improvements with a landlord where enforcement is not proportionate or possible.</p> <p>There may be some more specific housing requirements in regard to accommodation that</p>	<p>Strategic Manager and Technical Lead (Housing Improvement), Community Connections</p>

			<p>is not addressed by the HHSRS, for example additional/separate washing facilities.</p>	
<p>Gender - including marriage, pregnancy and maternity</p>	<p>Overall 50.6% of the population are women, and 49.4% are men. This reflects the national figure of 50.8% women and 49.2% men.</p> <p>In Plymouth in 2017 the mean difference between average hourly earnings of men and women as a proportion of average hourly earnings of men was 11.3% the median difference was 14.9%.</p> <p>In Plymouth 61.3% of women are working and 38.9% of men are working, however, a larger proportion of men work full time in comparison to women.</p>	<p>Gender pay gap, and issues relating to domestic abuse may see occupants of HMO accommodation more affected by this characteristic.</p> <p>Those on lower incomes may seek cheaper accommodation.</p>	<p>HMO Licensing is not dependent on the occupant, but the size and arrangement of the physical dwelling.</p> <p>Excess cold could be classified as a category 1 hazard via the Housing Health and Safety Rating System. This system is influenced by what may be deemed a 'vulnerable group' which does not necessarily reflect the occupation of the property. Best endeavours will be used to negotiate improvements with a landlord where enforcement is not proportionate or possible.</p> <p>There may be some more specific housing requirements in regard to accommodation that is not addressed by the HHSRS, for example additional/separate washing facilities.</p>	<p>Strategic Manager and Technical Lead (Housing Improvement), Community Connections</p>

<p>Gender reassignment</p>	<p>Recent surveys have put the prevalence of transgender people between 0.6 and 1% of the population.</p> <p>Over the last 8 years the prevalence of transgender people in the UK has been increasing at an average rate of 20% per annum in adults and 50% in children.</p> <p>A study funded by the home office suggests that there are between 300k and 500k people aged 16 and over in the UK who are experiencing some degree of gender variance. This could mean that of Plymouths 16 + population, we can estimate between 1287 and 2146 adults in the city that are experiencing some degree of gender variance.</p> <p>The average age presentation for male to female is 40-49, and for female to male is 20-29.</p> <p>More than 28% of trans people in a relationship in the last year have faced domestic abuse from a partner.</p>	<p>Many young people experience gender variance and will transition around the onset of puberty and this can bring them into conflict with parents who may find it difficult to accept their gender identity. This may lead to a displacement in the young person's housing thus cheaper accommodation becoming more attractive, and HMO accommodation providing this.</p> <p>The demographic information could suggest that those experiencing gender variance or transitioning may be likely to require cheaper accommodation, even if simply in the short term, due to discrimination in the workplace, fleeing domestic abuse in the home, and displacement from home setting.</p>	<p>HMO Licensing is not dependent on the occupant, but the size and arrangement of the physical dwelling.</p> <p>Excess cold could be classified as a category I hazards via the Housing Health and Safety Rating System. This system is influenced by what may be deemed a 'vulnerable group' which does not necessarily reflect the occupation of the property. Best endeavours will be used to negotiate improvements with a landlord where enforcement is not proportionate or possible.</p> <p>There may be some more specific housing requirements in regard to accommodation and shared facilities that is not addressed by the HHSRS.</p>	<p>Strategic Manager and Technical Lead (Housing Improvement), Community Connections</p>
<p>Race</p>	<p>92.9% of Plymouth's population identify themselves as White British.</p>	<p>Across the country 17% of households living in private rented accommodation. As a group, ethnic minority</p>	<p>HMO Licensing is not dependent on the occupant, but the size</p>	<p>Strategic Manager and Technical Lead (Housing</p>

	<p>7.1% identify themselves as Black and Minority Ethnic with White Other (2.7%), Chinese (0.5%) and other Asian (0.5%) the most common ethnic groups.</p> <p>Plymouth BAME population rose from 3% in 2001 to 6.7% in 2011, and therefore has more than doubled since the 2001 census.</p> <p>Four neighbourhoods have a population of school age children where 20% or more are from a BAME background. They are City Centre (38%), Greenbank and University (32.3%) Stonehouse (29.9%) and East End (23.4%). All of these areas have a high concentration of HMO accommodation.</p>	<p>households are more likely to rent privately than white British households and to spend a higher proportion of their incomes on rent.</p> <p>Given the proximity of HMO accommodation and the % of residents in those areas being from a BAME background, it could be a fair assumption that some HMO accommodation may be occupied by people from a BAME background.</p> <p>All publication are available in translated formats.</p>	<p>and arrangement of the physical dwelling.</p> <p>Excess cold could be classified as a category I hazards via the Housing Health and Safety Rating System. This system is influenced by what may be deemed a 'vulnerable group' which does not necessarily reflect the occupation of the property. Best endeavours will be used to negotiate improvements with a landlord where enforcement is not proportionate or possible.</p>	<p>Improvement), Community Connections</p>
<p>Sexual orientation - including civil partnership</p>	<p>There is no definitive data on sexual orientation at a local or a national level. A recent estimate from the 2015 ONS annual population survey suggests that 1.7% of the UK population is lesbian, gay or bisexual, if this figure is applied to Plymouth it would mean there are approximately 3649 LGB people in the city.</p>	<p>There is little evidence to suggest that LGB people would be more likely to occupy private rented accommodation specifically.</p>	<p>HMO Licensing is not dependent on the occupant, but the size and arrangement of the physical dwelling.</p> <p>Excess cold could be classified as a category I hazards via the Housing Health and Safety Rating System. This system is influenced by what may</p>	<p>Strategic Manager and Technical Lead (Housing Improvement), Community Connections</p>

			be deemed a 'vulnerable group' which does not necessarily reflect the occupation of the property. Best endeavours will be used to negotiate improvements with a landlord where enforcement is not proportionate or possible.	
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STAGE 3: ARE THERE ANY IMPLICATIONS FOR THE FOLLOWING? IF SO, PLEASE RECORD ACTIONS TO BE TAKEN

Local priorities	Implications	Timescale and who is responsible
Reduce the gap in average hourly pay between men and women by 2020.	None	N/A
Increase the number of hate crime incidents reported and maintain good satisfaction rates in dealing with racist, disablist, homophobic, transphobic and faith, religion and belief incidents by 2020.	None	N/A
Good relations between different communities (community cohesion)	Identifying and supporting good quality housing where people can live their lives in safe and secure accommodation, supporting good relations between communities.	5 yearly license renewals and hence inspection regime. Strategic Manager and Technical Lead (Housing Improvement), Community Connections
Human rights Please refer to guidance	Structures will be fair and will not differential on the basis of any protected characteristic or any grounds that we cannot objectively justify.	

STAGE 4: PUBLICATION

Responsible Officer 

Date
15/10/2020

Director, Assistant Director or Head of Service

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