

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.