

# 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	<b>Title of decision:</b> Approval of HMO Licence Policy 2020.
2	<b>Decision maker (Cabinet member name and portfolio title):</b> Councillor Chris Penberthy (Cabinet Member for Housing and Co-operative Development)
3	<b>Report author and contact details:</b> Mark Chubb (Technical Lead – Housing Improvement) 01752 308989
4	<b>Decision to be taken:</b> To approve an updated HMO licensing policy. The existing policy is from 2014 and the proposed policy is for 2020.
5	<p><b>Reasons for decision:</b></p> <p>Legislative changes made to the ‘prescribed description’ of licensable HMOs, effective from 1<sup>st</sup> October 2018, <a href="https://www.legislation.gov.uk/ukxi/2018/221/article/4/made">https://www.legislation.gov.uk/ukxi/2018/221/article/4/made</a>, 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"> <li>• <i>The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015</i></li> <li>• <i>Deregulation Act 2015</i></li> <li>• <i>The Smoke and Carbon Monoxide Alarm (England) Regulations 2015</i></li> <li>• <i>Housing and Planning Act 2016</i></li> <li>• <i>The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018</i></li> <li>• <i>The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020</i></li> </ul> <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><b>Risks:</b></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><b>Benefits:</b> 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><b>Resourcing Implications:</b> There are no resourcing implications from updating the HMO licensing policy.</p>			
6	<p><b>Alternative options considered and rejected:</b></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><b>Financial implications:</b> There are no financial implications from updating the HMO licensing policy.</p>			
8	<p><b>Is the decision a Key Decision?</b> (please contact <a href="#">Democratic Support</a> for further advice)</p>	<p><b>Yes</b></p>	<p><b>No</b></p>	<p><b>Per the Constitution, a key decision is one which:</b></p> <p>in the case of <b>capital</b> projects and contract awards, results in a new commitment to spend and/or save in excess of <b>£3million</b> in total</p> <p>in the case of <b>revenue</b> projects when the decision involves entering into new</p>

			commitments and/or making new savings in excess of <b>£1 million</b>
		X	is <b>significant</b> in terms of its effect on communities living or working in an area comprising <b>two or more</b> wards in the area of the local authority.
	<b>If yes, date of publication of the notice in the <u>Forward Plan of Key Decisions</u></b>	N/A	
<b>9</b>	<b>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:</b>	<p><b><u>Corporate Plan</u></b></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><b><u>Plymouth Plan for Homes 3</u></b></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>	

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

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

### Appendices


<b>17</b>	<b>Ref.</b>	<b>Title of appendix</b>
	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

<b>18a</b>	<b>Do you need to include any confidential/exempt information?</b>	<b>Yes</b>		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 <b>18b</b> below.  (Keep as much information as possible in the briefing report that will be in the public domain)				
		<b>No</b>	X					
		<b>Exemption Paragraph Number</b>						
		<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>
<b>18b</b>	<b>Confidential/exempt briefing report title:</b>							

### Background Papers

<b>19</b>	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							
<a href="http://www.legislation.gov.uk/ukpga/2004/34/section/55">http://www.legislation.gov.uk/ukpga/2004/34/section/55</a> Mandatory HMO licensing							
<a href="http://www.legislation.gov.uk/ukpga/2004/34/section/63">http://www.legislation.gov.uk/ukpga/2004/34/section/63</a> HMO licensing Applications and Fees							
<a href="http://www.legislation.gov.uk/ukpga/2004/34/section/254">http://www.legislation.gov.uk/ukpga/2004/34/section/254</a> HMO tests							
<a href="http://www.legislation.gov.uk/ukpga/2004/34/schedule/14/paragraph/4">http://www.legislation.gov.uk/ukpga/2004/34/schedule/14/paragraph/4</a> HMO exemptions							
<a href="http://www.legislation.gov.uk/uksi/2018/221/article/4/made">http://www.legislation.gov.uk/uksi/2018/221/article/4/made</a> Licensable HMO 'prescribed description'							
Cabinet Member Signature							
<b>20</b>	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.						
<b>Signature</b>			<b>Date of decision</b>	14/10/2020			
<b>Print Name</b>	Councillor Chris Penberthy (Cabinet Member for Housing and Co-operative Development)						