

# 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	<b>Title of decision:</b> Approval of Licence Fee Structure for licensable HMOs contained in Block Style Accommodation.
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 01752 308989
4	<b>Decision to be taken:</b> 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><b>Reasons for decision:</b></p> <p>Legislative changes to the 'prescribed description' of licensable HMOs, effective from 1<sup>st</sup> 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>			
<b>6</b>	<p><b>Alternative options considered and rejected:</b></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>			
<b>7</b>	<p><b>Financial implications:</b></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>			
<b>8</b>	<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>X 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>X in the case of <b>revenue</b> projects when the decision involves entering into new commitments and/or making new savings in excess of <b>£1 million</b></p> <p>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.</p>
	<p><b>If yes, date of publication of the notice in the <a href="#">Forward Plan of Key Decisions</a></b></p>	N/A		
<b>9</b>	<p><b>Please specify how this decision is linked to the Council's corporate plan/Plymouth Plan and/or the</b></p>	<p><b><u>Corporate Plan</u></b></p>		

	<p><b>policy framework and/or the revenue/capital budget:</b></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><b><u>Plymouth Plan for Homes 3</u></b></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><b>10</b></p>	<p><b>Please specify any direct environmental implications of the decision (carbon impact)</b></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 ( <a href="mailto:democraticsupport@plymouth.gov.uk">democraticsupport@plymouth.gov.uk</a> ) 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

		<b>Finance (mandatory)</b>	djn.20.21.102					
		<b>Legal (mandatory)</b>	35411/hm					
		<b>Human Resources (if applicable)</b>	N/A					
		<b>Corporate property (if applicable)</b>	N/A					
		<b>Procurement (if applicable)</b>	N/A					
<b>Appendices</b>								
<b>17</b>	<b>Ref.</b>	<b>Title of appendix</b>						
	A	Briefing report for publication						
	B	Block HMOs Application Form						
	C	Block HMOs Report						
	D	EIA						
<b>Confidential/exempt information</b>								
<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>							
<b>Background Papers</b>								
<b>19</b>	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							
<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)						