

	Executive 28 November 2018	Agenda Item No. 8
Title	Houses in Multiple Occupation (HMO) Licence Conditions and HMO Licencing Cycles - Private Sector Housing	
For further information about this report please contact	Lisa Barker Head of Housing Services Telephone: 01926 456403 Email: lisa.barker@warwickdc.gov.uk Mark Lingard Private Sector Housing Manager Telephone: 01926 456410 Email: mark.lingard@warwickdc.gov.uk	
Wards of the District directly affected	All	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	Executive Meeting 1 June 2017 (minute number 4) Council Meeting 9 August 2017 (minute number 23)	
Background Papers	Current HMO license Conditions Proposed New License Conditions for the Consultation Consultation Proforma	

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	Yes
Included within the Forward Plan? (If yes include reference number)	Yes Ref: 955
Equality Impact Assessment Undertaken	Yes – Appendix 4

Officer/Councillor Approval		
Officer Approval	Date	Name
Deputy Chief Executive	06/11/18	Bill Hunt
Head of Service	24/10/18	Lisa Barker
CMT	06/11/18	Chris Elliott
Section 151 Officer	06/11/18	Mike Snow
Monitoring Officer	06/11/18	Andrew Jones
WCC Legal Services	24/10/18	Caroline Gutteridge
Finance	30/10/18	Andrew Rollins
Portfolio Holder(s)	01/11/18	Councillor Peter Phillips
Consultation & Community Engagement		

A consultation involving all District Councillors, Town Councils, the Landlord Steering Group, Local Lettings Agents, SoLAR (South of Leamington Area Residents), Warwick University and Warwick Students Union was carried out during the month of July 2018.	
Final Decision?	Yes
Suggested next steps (if not final decision please set out below)	
N/A	

1. Summary

- 1.1 This report brings forward revised HMO licence conditions and a proposal to enable a shorter HMO licence period for landlords who have been subject to various enforcement action, below the level of a prosecution in the Magistrates Court.

2. Recommendations

That the Executive recommends that:

- 2.1 The revised HMO license conditions be approved.
- 2.2 Approve the proposal for a shorter 2 year HMO licensing period, as set out in this report at paragraphs 8.8 and 8.9 and in accordance with the process, criteria and additional cost, as set out in Appendix 3.
- 2.3 Delegated authority be given to the Head of Housing Services to make decisions about imposing a shorter 2 year HMO licensing period in individual cases.

3. Reasons for the Recommendations

- 3.1 The Council's HMO licence conditions have remained largely unchanged since HMO licencing was introduced in 2006. Due to changes in legislation affecting the private rented sector they now need to be reviewed.
- 3.2 The five year gap between HMO licenses is a long time if landlords start to cause concern. Therefore the report brings forward a policy as resolved by the Council to introduce flexibility in the HMO licencing process by allowing shorter licence cycles and higher licence costs for landlords causing concern.
- 3.3 A shorter 2 year HMO licence period would give the landlord the opportunity and the time to demonstrate that they have addressed the concerns. This approach fits in with the principles of the Regulators Code and the Council's Enforcement Policy.
- 3.4 Due to the discretion required in some cases, to enable the policy to be applied quickly and efficiently once adopted, it is proposed that the Head of Housing Services should be granted the authority to decide on the use of a shorter 2 year HMO licencing period in individual cases.

4. Policy Framework

4.1 Fit for the Future (FFF)

The Council's FFF Strategy is designed to deliver the Vision for the District of making it a Great Place to Live, Work and Visit. To that end amongst other things the FFF Strategy contains several Key projects.

The FFF Strategy has 3 strands – People, Services and Money and each has an external and internal element to it. The table below illustrates the impact of this proposal if any in relation to the Council's FFF Strategy.

FFF Strands		
People	Services	Money
External		
Health, Homes, Communities	Green, Clean, Safe	Infrastructure, Enterprise, Employment
<u>Intended outcomes:</u> Improved health for all. Housing needs for all met. Impressive cultural and sports activities. Cohesive and active communities.	<u>Intended outcomes:</u> Area has well looked after public spaces. All communities have access to decent open space. Improved air quality. Low levels of crime and ASB.	<u>Intended outcomes:</u> Dynamic and diverse local economy. Vibrant town centres. Improved performance/productivity of local economy. Increased employment and income levels.
Impacts of Proposal		
This proposal provides another tool to use in ensuring that private sector housing is suitable for its occupiers, meeting their needs and contributing to their health and well-being.	None.	None.
Internal		
Effective Staff	Maintain or Improve Services	Firm Financial Footing over the Longer Term
<u>Intended outcomes:</u> All staff are properly trained. All staff have the appropriate tools. All staff are engaged, empowered and supported. The right people are in the right job with the right skills and right behaviours.	<u>Intended outcomes:</u> Focusing on our customers' needs. Continuously improve our processes. Increase the digital provision of services.	<u>Intended outcomes:</u> Better return/use of our assets. Full Cost accounting. Continued cost management. Maximise income earning opportunities. Seek best value for money.
Impacts of Proposal		
None.	In providing a new option for enforcement work the proposal helps to improve the conditions for occupiers	While not an objective of the proposal, the shorter 2 year HMO licencing period does have the potential to generate

4.2 Supporting Strategies

Each strand of the FFF Strategy has several supporting strategies. Improving housing standards in residents' homes directly and positively contributes to the Housing and Health-and-Wellbeing priorities. It also contributes to the Housing and Homelessness Strategy objective of improving the management and maintenance of existing housing.

4.3 Changes to Existing Policies

This report does review the existing licence conditions and introduces a new policy that enables the use of a shorter 2 year HMO licencing period, which provides an additional option in carrying out private sector housing enforcement work.

4.4 Impact Assessments – An impact assessment has been completed and is attached as Appendix 4 to the report. No adverse or negative impact has been identified for any particular group as a result of the proposed policy.

5. Budgetary Framework

5.1 Private sector enforcement work is undertaken by the Private Sector Housing Team and is already budgeted for. It is not envisaged that introducing the new HMO licence conditions and the shorter 2 year HMO licencing period will increase workloads or require new budgetary provision to be made.

6. Risks

6.1 The introduction of new HMO licence conditions and a shorter 2 year HMO licencing period brings the risk of legal challenges and increased bureaucracy in the early days of implementation.

6.2 A landlord can appeal to the first tier tribunal about any of the licence conditions that the Council sets, including decisions to grant a shorter 2 year HMO licence period.

6.3 For the review of HMO licencing conditions this has been mitigated by not including suggested changes to the licence conditions which go beyond the scope of the legislation covering HMO licencing, therefore reducing the risk of legal challenges.

6.4 In respect of the shorter 2 year HMO licencing period the risk is mitigated by only implementing these where landlords have been subject to lower levels of enforcement action or have breached their licence conditions. This provides clarity and consistency about when a shorter 2 year HMO licencing period will be used. It helps to ensure decisions are reasonable and proportionate, therefore reducing the risk of legal challenges.

7. Alternative Option(s) considered

7.1 Not reviewing the 2006 HMO licence conditions in the light of housing legislation changes affecting the private rented sector is not an option.

7.2 Introducing a variety of HMO licencing periods and/or a probationary licence period with the associated fee structures would add complexity, and bureaucracy to the process and the need for additional resources. The current resources will already be stretched dealing with the extension of HMO licencing from 1 October 2018, which will double the existing licencing workload of the Private Sector Housing Team. In addition it would not be an effective use of resources, as it would penalise the majority of landlords who do provide good well managed accommodation and it would not specifically target the landlords causing concern.

8. **Background**

8.1 HMO licence conditions came into existence with the introduction of HMO licencing in 2006. Over time the introduction of new legislation, affecting the private rented sector, means that the licence conditions now need to be reviewed.

8.2 The HMO Task and Finish group made a number of recommendations which were approved by the Executive and Council. One of these was introducing flexibility in the process by allowing shorter HMO licence cycles and higher licence costs for landlords causing concern. A consultation period helped to define the areas of concern where shorter HMO licencing cycles would apply.

8.3 Due to the link between HMO licence conditions and shorter HMO licence cycles they were both included in the consultation that took place during July 2018. The consultation involved all District Councillors, Town Councils, the Landlord Steering Group, Local Lettings Agents, SoLAR (South of Leamington Area Residents), Warwick University and Warwick Students Union.

8.4 A numerically summary of the consultation responses is attached at Appendix 1

8.5 27 out of 29 respondents to the proposed new HMO licence conditions agreed with them. However, there were many suggested additions and amendments.

8.6 The responses were wide ranging and we have analysed and carefully considered the suggested amendments to the HMO licence conditions.

8.7 Appendix 2 is the proposed revised HMO licence conditions, following careful consideration of the consultation responses (the additions are highlighted in blue)

8.8 In respect of shorter HMO licencing periods the majority of respondents to the consultation were in favour of a two year HMO licencing period for landlords causing concern in the following circumstances:

- Improvement Notice served (disrepair and hazards)
- Prohibition Notice served (for part of the property)
- Civil Penalty (various housing offences)
- Noise Abatement Notice served
- Community Protection Notice served (refuse issues)
- Breach of HMO license conditions

- 8.9 The first five of the above would result in a mandatory two year HMO licence period, unless there are exceptional mitigating circumstances, as these are more clear cut serious issues that are far less likely to result in a legal challenge. The breach of licence conditions would be discretionary as this is much more subjective and would depend on which clauses were breached, how many clauses were breached and would need to be assessed on a case by case to ensure that a reduction in the HMO licence period was reasonable, appropriate and proportionate. With a decision on these cases being put for approval to the Head of Housing Services.
- 8.10 Appendix 3 sets out the proposed process for issuing a two year HMO licence.