



To: Executive Councillor for Housing
Report by: Jas Lally
Relevant scrutiny committee: Community Services Scrutiny Committee 17/3/2011
Wards affected: All Wards

**REVISED HOUSES IN MULTIPLE OCCUPATION (HMO) LICENSING
PROCEDURE
Not a Key Decision**

1. Executive summary

- 1.1 Mandatory licensing of certain Houses in Multiple Occupation (HMO) was introduced in 2006 under Part 2 of the Housing Act 2004 (“the Act”). Section 67 of the Act permits the Council to attach discretionary conditions such as requiring landlords or managers to undertake appropriate training.
- 1.2 The law in relation to HMO licensing is complex and subject to guidance, precedent & interpretation. The Council has reviewed and clarified the existing licensing procedure to ensure consistency and equity to the way in which it works with all landlords and ensures that the Council avoids legal challenge.

2. Recommendations

- 2.1 The Executive Councillor for Housing approves the attached revised HMO licensing procedure as detailed in Annex A subject to the following:-
- a] With the exception of paragraph 16 this procedure shall be introduced on 1st April 2011.
 - b] Paragraph 16 in relation to landlord training will be introduced subject to consultation with mandatory licence holders. Approval of this section should be delegated to the Executive Councillor subject to review of the consultation responses.
 - c] Officers will inform all current mandatory HMO license holders prior to the introduction of the new procedure.

3. Background

- 3.1 The Housing Act 2004 introduced mandatory licensing of certain Houses in Multiple Occupation (HMO) in June 2006.
- 3.2 Officers developed a licensing policy and procedure in January 2009. Since this time legislation has been clarified by guidance issued by LG Regulation, tribunal decisions and legal precedent.
- 3.3 The current procedure needs to be reviewed, revised and clarified to ensure that the Council acts appropriately and undertake its duties equitably to licence holders.
- 3.3 In particular the following areas need to be considered.
- Clarifying which properties need to be licensed, including multi-occupied self contained flats
 - Licensing of student accommodation
 - Review of fees
 - Landlord training.

4. Clarification of types of properties that need licensing.

- 4.1 The Council has a duty to ensure that qualifying HMOs are licensed. There are some flats in multiple occupation where licensing may not apply due to their size, construction or age. The intentions of these controls are principally for fire safety reasons and amenity standards.
- 4.2 The reviewed and updated procedure as detailed in Appendix A now seeks to clarify the Councils position as follows.
- Paragraph 3 details the types of buildings which will require a mandatory licence.
 - Paragraph 4 clarifies what counts as a three storey building.

The procedure has been written considering the risk posed by the various types of buildings.

- 4.3 Paragraph 3.2. refers to converted self contained flats. The reviewed and clarified Council licensing procedure confirms the requirement for two-storey converted flats in multiple occupation built above other separate residential ground floor premises are required to be licensed.

- 4.4 This revision is to ensure that the fire risk relates to the number of storeys, not the way they that the flats are occupied and that there is little or no difference in terms of fire risk between a multi- storey flat that is above a residential premises to one that is over a commercial premises. Legal precedent has confirmed this view.
- 4.5 The City has a number of purpose built blocks of self-contained cluster flats. These types of flats comprise a number of individually let rooms (generally with en suite facilities), which share a communal kitchen. Students mostly occupy these buildings.
- 4.6 Council licensing procedure will clarify that these types of cluster flats will not require a licence. There are many of these types of flats nationwide research indicates that no other local authority have required these properties to be licensed.
- 4.7 The reason for not licensing these types of individual flats is because the blocks have an internal protected fire escape route. Secondly the separate flats are located on a single storey within the purpose built blocks that meet the requirements of the Building Regulations (1991 or later).

5.0 Student Accommodation

- 5.1 Paragraph 3.3 refers to private educational establishments e.g. 6th form colleges and language schools. A clear distinction is made between boarding schools that offer secondary education and 6th form study and other further or higher education establishments with halls of residence.
- 5.2 HMO accommodation provided by private educational establishments that offer further or higher courses of education e.g. language schools require a licence unless otherwise exempted.
- 5.3 HMO accommodation provided by private boarding schools that primarily offer secondary education is exempted from licensing.
- 5.4 Paragraph 3.4 refers to student properties managed by private landlords who are registered with the Accreditation Network UK (ANUK) Code of Management. The Housing Act 2004 exempts buildings occupied by certain student accommodation from mandatory HMO licensing. LG Regulation Guidance has clarified that not all student accommodation is exempted from licensing as was previously thought. In simple terms the exemption from licensing refers to accommodation provided by The Colleges within the University of Cambridge and Anglia Ruskin University.

5.5 It is accepted that whilst ANUK accredited properties of private landlords require licensing an appropriate discount fee will be charged as they already belong to a compliance scheme.

5.5 This is a change of interpretation as to date the Council has not required this type of building to be licensed. This will result in a small number of landlords who have been previously advised that their properties will not need to be licensed will now require a licence.

6.0 Licensing fees.

6.1 A mandatory HMO license has a five-year duration. The first new licences were issued in 2006 and will be coming up for renewal in 2011. The current licensing fees have been reviewed to ensure that the Council recovers its full cost for the service

6.2 The proposed fee structure is contained in paragraph 13 of the procedure has separately been approved by Committee as part of the budget setting process.

7.0 Landlord training.

7.1 Officers are aware that there is a wide range of landlords that operate in the City. These range from large professional owners/agents who are members of recognised trade bodies to the other end of the spectrum small landlords who only own one or two properties.

7.2 This gives rise to landlords with a range of knowledge and experience of the law and requirements and skills necessary to operate rented properties. Research has revealed that some local authorities add a discretionary condition requiring landlords to undertake training where needed. Such conditions and the training once taken not only improves knowledge and conditions for residents but also protects landlords.

7.3 It is proposed that the following methods of proving competence would be considered acceptable.

- Pass an approved landlord training course, for example one offered by the National Landlords Association or the Residential Landlords Association
- To have the HMO accredited with the Cambridge Landlord Accreditation Scheme, (or the scheme following the change of name).

- To have the property managed by a manager or agent who is a member of approved trade organisation. e.g. Association of Residential Letting Agents (ARLA) or Association of Residential Managing Agents (ARMA) or accredited with National Approved Lettings Scheme (NALS).

7.4 Any landlord unable to meet these requirements would need to undertake training within a reasonable time period (6 months). Failure to comply with the condition will be a breach of the licence condition, which subject to our enforcement policy may result in legal action.

7.5 The proposed conditions relating to either the manager or the landlord are -

“To attend within 12 months from the date of the issue of this license (or by such later time as agreed with the written consent of Cambridge City Council) a training course approved by Cambridge City Council and to produce on demand written evidence of such attendance.

“The manager of the property if different to the license holder shall attend within 12 months from the date of the issue of this license (or by such later time as agreed with the written consent of Cambridge City Council) a training course approved by Cambridge City Council and to produce on demand written evidence of such attendance.

7.6 Informal consultation at the Landlord Accreditation Steering Group has indicated support for the appropriate use of the condition. Nevertheless Officers consider that this section of the procedure should not be adopted until a fuller consultation has been undertaken. All license holders will be contacted in writing and comments sought. The outcome of the consultation will be referred to the Executive Councillor for Housing for a final decision to be taken.

7.7 The condition will not be retrospective and will only be attached where considered necessary to new HMO licences and when properties are re-licensed. There are currently 240 licensed HMO's in Cambridge.

8 Implications

8.1 Financial

No additional resources are required to implement this policy

8.2 Staffing

Housing standards and licensing officers can undertake this mandatory task within existing resources. There will be no anticipated increase in the expected number of HMO's that will require a license. Licensing is a legal requirement and will be managed within existing resources.

8.3 Environmental

Regulation of HMO's will improve the living conditions and environment of tenants including in some cases improving heating system and or energy efficiency.

8.4 Equal opportunities

HMO licensing is a mandatory task and is provided equally to all sectors of the community and will not disadvantage any group.

8.5 Legal

The principals detailed in the procedure have been discussed and agreed by Legal Services.

8.6 Consultation.

The majority of the procedure does not require consultation. However Landlord training as detailed in section 7 will require consultation with licensees. Officers will undertake this consultation before reporting the outcome to the Executive Councillor for a final decision

9. Background papers

The following background paper was used in the preparation of this report:

LACORS guidance document *When do self contained flats in multiple occupation need to be licensed?* dated 30/09/2008.

10 . Appendices

10.1 Appendix A -Revised Mandatory HMO Licensing Procedure.

11. Inspection of papers

To inspect the background papers or if you have a query on the report please contact the author

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