

REPORT

SUBJECT: Housing Enforcement – Housing Act 2004 (Parts 1 & 2) and Housing (Wales) Act 2014 (Part 1)
DIRECTORATE: SOCIAL CARE & HEALTH
MEETING: Individual Cabinet Member – Peter Fox
DATE: 8 th March 2017
DIVISIONS/WARDS AFFECTED: All Wards

1. PURPOSE:

- 1.1 To consider proposed changes to (i) existing policy for the licensing of Houses in Multiple Occupation, (ii) the fees proposed relating to licensing and certain types of housing related enforcement action, and (iii) to provide an update on the introduction of Rent Smart Wales in Monmouthshire.

2. RECOMMENDATIONS:

- 2.1 Agree the proposed changes to the policy for the licensing of Houses in Multiple Occupation and adopt the revised 'Policy for the Licensing of Houses in Multiple Occupation', dated February 2017, as set out in Appendix 1.
- 2.2 Agree the schedule of proposed fees set out in Appendix 2 relating to taking certain types of housing related enforcement action and the licensing of Houses in Multiple Occupation under the provisions of the Housing Act 2004 (Parts 1 & 2), subject to member review as part of the annual revision of fees and charges.
- 2.3 To note the role of the Authority in the implementation and enforcement of the Rent Smart Wales requirements of the Housing (Wales) Act 2014 Part 1, as set out in Appendix 3.

3. KEY ISSUES:

- 3.1 The Housing Act 2004 introduced a licensing system for prioritising the regulation of Houses in Multiple Occupation (H.M.O.'s) because of the increased risks to health, safety and welfare from living in this type of property. Licensing ensures that the H.M.O.'s that present the greatest risk to tenants are regulated the closest.
- 3.2 The Act places a duty on the Authority to implement a mandatory licensing scheme for certain categories of H.M.O. and a power to implement additional licensing schemes for H.M.O.'s and other rented accommodation.
- 3.3 The Cabinet report dated 5th September 2007 recommended the adoption of a 'Policy for the Licensing of Houses in Multiple Occupation' to enable Officers to progress the mandatory licensing. The report was endorsed and is provided as a background paper.
- 3.4 In Monmouthshire two H.M.O's have been licensed and these are due for renewal as a licence is valid for up to five years. Officers are currently aware of two additional H.M.Os where licenses are required.

- 3.5 The proposed changes to the policy adopted in 2007 are shown in Appendix 1 and relate to 3 specific areas:
- Fit and Proper Person test.
 - Space and Amenity standards.
 - Fees.
- 3.6 **Fit and Proper Person test.** The Council is required to assess whether any prospective licence holder and manager of a H.M.O is a fit and proper person. The proposed changes to the policy **reinforce** the practice that has been followed by authorised Officers in considering these matters by firstly clearly stating that a basic disclosure statement will be required on application from Disclosure Scotland to confirm status with regard to criminal offences. Secondly the current approach enables the authorised officer to determine if the fit and proper person test has been met. The proposed approach mirrors this, but enables applications to be taken to the Licensing and Regulatory Committee for decision where issues concerning the fit and proper person test require further consideration and discussion.
- 3.7 **Space and Amenity standards.** A HMO licence will specify the maximum number of occupants or households who may occupy the premises. The occupancy number will depend on the number and size of rooms and the kitchen and bathroom facilities. The proposed changes add further detail to the recommended minimum standards that will be applied. These have regard to the standards for sharing of kitchen and bathroom facilities as prescribed in Regulations. Setting these standards out in the policy enables a consistent and transparent approach to be followed by Officers.
- 3.8 **Fees.** The legislation makes provision to enable the Council to charge to cover its costs (and no more) for the implementation of the licensing scheme. The application fee is currently set at £295 and the small number of applications that are currently pending will be processed at this rate. It is proposed that from the 1st April 2017 the rate increases to £500 for a 'first time' application, with a renewal licence fee set at £450 providing the application is submitted before the expiry of the licence. The proposed fees are in the lower to middle range set by other Local Authorities in the South East Wales area and fairly reflect the costs to the service.
- 3.9 For ease of future annual review, the proposed H.M.O licensing fees have been included in Appendix 2 together with other proposed fees for taking certain types of housing related enforcement action.
- 3.10 The Council has a duty to address sub-standard housing conditions and while this is normally achieved through discussion and cooperation of the landlord it is sometimes necessary to take enforcement action. There are a range of enforcement powers available under the provisions of the Housing Act 2004 (Part 1), with Officers guided in their use by the Private Sector Housing Enforcement Policy 2007, which applies good regulatory principles in line with the Enforcement Concordat. The Housing Act 2004 gives the Council the power to charge for this enforcement action to cover the costs incurred in doing so.
- 3.11 While the number of housing related statutory notices / orders served are low (4 served in 16/17 to date) it will assist Officers for a single flat charge of £200 to be set for the serving of the statutory notices / orders as detailed in Appendix 2, which reflects the costs typically incurred. The setting of the charge will enable landlords to be informed of this cost at an early stage to add incentive for their cooperation and avoid the taking of formal action where possible. There are occasions when an authorised Officer considers it appropriate to suspend the operation of the notice / order for a period of time, or the occurrence of an event. In these cases it is

proposed that applying the £200 charge is to be at the Officers discretion for consideration on a case by case basis. All the charges detailed in Appendix 2 to be subject to member revision as part of the annual review of fees and charges.

- 3.12 **Housing (Wales) Act 2014 Part 1** came into force on the 23rd November 2015 and introduced a compulsory registration and licensing scheme for private rented sector landlords and letting / management agents. Cardiff City Council has been designated as the Single Licensing Authority (SLA) for the administration and coordination of this scheme under the brand Rent Smart Wales (RSW). Each local authority in Wales is working closely with RSW to help deliver compliance with the requirements of the Act. Appendix 3 provides a summary of the scheme and the work of Officers from Monmouthshire County Council in its implementation and enforcement.

4. REASONS:

- 4.1 The implementation of a Mandatory HMO licensing scheme is a duty imposed on the Council by Part 2 of the Housing Act 2004. The updated policy provides a framework and appropriate guidance for officers to ensure a balanced and proportionate approach to securing satisfactory housing conditions in HMOs, in the context of existing strategies and corporate objectives.
- 4.2 Current finances dictate that the Authority needs to recover its service costs where possible. The proposed new and revised charges are based on the actual cost of delivering the specific services detailed.
- 4.3 To support the implementation of Rent Smart Wales in Monmouthshire to the benefit of landlords and tenants.

5. RESOURCE IMPLICATIONS:

- 5.1 Nil for the mandatory licensing of H.M.Os and the taking of enforcement action under the provisions of the Housing Act 2004 as these are on a cost recovery basis.
- 5.2 Grant funding has been provided by Welsh Government for 14/15 and 15/16 for promotional activities relating to Rent Smart Wales. Funding from RSW is anticipated based on an auditable evidence of enforcement related activity.

6 Future Generations Evaluation:

- 6.1 The Future Generations Evaluation, including equalities and sustainable impact assessments, is provided in Appendix 4. The revisions have a positive impact on these issues, for the reasons provided.

7. CONSULTEES:

SLT
Cabinet Members
Chairs of Select Committees
Head of Legal Services
Head of Finance

Results of Consultation

No adverse comments have been received..

8. BACKGROUND PAPERS:

Cabinet report 'Housing Act 2004 Part 2: The Licensing of Houses in Multiple Occupation (H.M.O) Including Licence Fees' 5th September 2007.

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