

Licensing committee

Date: **Thursday, 16 June 2022**
Time: **16:30**
Venue: **Mancroft room, City Hall, St Peters Street, Norwich, NR2 1NH**

Committee members:

Councillors:

Stutely (chair)
Ackroyd
Brociek-Coulton
Catt
Davis
Fulton-McAlister (E)
Grahame
Huntley
Kidman
Peek
Price
Sands (S)
Schmierer

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For information about attending or speaking at meetings, please contact the committee officer above or refer to the council's website

Agenda

1 Apologies

To receive apologies for absence.

2 Declarations of interest

(Please note that it is the responsibility of individual members to declare an interest prior to the item if they arrive late for the meeting).

3 Public questions/petitions

To receive questions / petitions from the public which have been submitted in accordance with the council's constitution.

4 Appointment of vice-chair.

To elect a vice-chair for the licensing committee for the ensuing civic year 2022-23.

5 Minutes

5 - 10

To agree the accuracy of the minutes of the meeting held on 3 March 2022.

6 Draft HMO Licensing Policy

11 - 36

Purpose: For members to consider the changes to the draft HMO Licensing Policy following a period of consultation in March 2022.

7 Hackney Carriage Fares (Report to follow)

Purpose: To consider an update to Hackney Carriage Fares.

8 Cumulative Impact Area (verbal update)

To receive a verbal update on the cumulative impact policy.

9 Regulatory Subcommittee Minutes

37 - 40

To receive the regulatory subcommittee minutes of the meeting held on 9 May 2022.

Exempt items:

(During consideration of these items the meeting is not likely to be open to the press and the public.)

To consider whether the press and public should be excluded from the meeting during consideration of an agenda item on the grounds that it involves the likely disclosure of exempt information as specified in Part 1 of Schedule 12 A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act.

In each case, members are asked to decide whether, in all circumstances, the public interest in maintaining the exemption (and discussing the matter in private) outweighs the public interest in disclosing the information.

Date of publication: **Wednesday, 08 June 2022**



Licensing Committee

16:40 to 18:10

03 March 2022

Present: Councillors Stutely (chair), Ackroyd, Button, Giles, Huntley, Maxwell, Sands (S), Schmierer, Thomas (Vi) and Youssef

Apologies: Councillors Fulton-McAlister (E) (vice-chair), Brociek-Coulton and Price

1. Declarations of interest

There were no declarations of interest.

2. Public Questions/Petitions

There were no public questions or petitions.

3. Minutes

RESOLVED to approve the accuracy of the minutes of the meetings held on 26 November 2020, 28 January 2021 and 8 July 2021

4. HMO Licensing policy

The head of planning and regulatory services presented the report.

She highlighted the changes that had been made due to responses to the consultation and further officer amendments, including the introduction of tiered licences. As officer changes had been made subsequent to the consultation the draft policy was again being consulted on, with a closing date of 28 March 2022.

The policy was not a statutory document but instead reflected best practice. The aim of the policy was to drive up the standards of privately rented accommodation in the city. The draft policy would only apply to those HMOs that required a mandatory licence to operate. As part of that process the property would be inspected before a licence was issued rather than during the period of the licence. Depending on a variety of factors including how well-run the property was and the landlord's history of managing properties, either a 1-year, 3-year or 5-year licence would be issued. This would mean that the landlords that delivered a high-quality accommodation for residents would be issued a 5-year licence. The cost of licences would reflect the amount of office time required to administer the licence and inspect and visit the

property. A landlord who did not provide high-quality accommodation would be penalised with shorter licence terms, more inspections and higher associated costs.

In response to a member's question the head of planning and regulatory services replied that the terms of the licence would be subject to a variety of factors, including the inspection and any historic information or issues in the area and the prior knowledge of the landlord. She highlighted that if issues were reported to councillors that they should report these to the council so appropriate investigation could be undertaken, including enforcement action where appropriate. The chair highlighted the need for members of the public to report any issues to the council as this would help to inform where enforcement action may need to be taken.

The head of planning and regulatory services clarified that all mandatory licensable properties in the city were currently being issued a one-year licence, and once the policy was adopted, these properties would be inspected before licences were renewed. Through the budget setting process, funds had been secured to update evidence last gathered in 2016 about HMOs across the entire city, which would build the evidence basis for consideration of licensing all HMOs in future. There were a number of sources that would be used including both information from planning and reports from the private sector housing service on the demographics and housing need in the city. A member asked whether there was a dedicated officer to deal with inspections of HMOs. In response the head of planning and regulatory services highlighted paragraph seven of the report that detailed that due to the increased fees that were to be charged an officer could be recruited to facilitate this.

A member asked whether the list in the 'fit and proper' assessment was sufficient, especially with regard to it listing 'certain types of sexual offences' and asked which sexual offences would be disregarded in making a fit and proper person determination. The head of planning and regulatory services stated that in drafting the policy the council had followed best practice. After discussion the committee agreed to amend this paragraph to include all sexual offences.

In response to a question from a member the head of planning and regulatory services agreed that the wording at paragraph 9.6 around the 'reasonable proximity' was not clear and this wording could be reviewed for clarity. The chair asked the head of planning and regulatory services to include definitions of what made a competent representation in the policy.

The head of planning and regulatory services stated in response to a member's question on the list of consultees in paragraph 4.2 of the policy, that examples of this would include estate agencies, landlords' association, or a landlord's forum. She said that there was a desire to establish such a forum in Norwich to help drive up standards. A member suggested that the University of East Anglia be added to the list of consultees for this policy, as a number of students lived in HMOs within the city. The head of planning and regulatory services replied that a number of conversations were ongoing with the university around student housing across the city. The chair highlighted that if members had other organisations, they felt should be consulted to let the environmental health and public protection manager know.

A member commented that there had been issues in their ward with HMOs and wanted to clarify whether the policy could require the distance from the property to be specified and whether the landlord has 24/7 access, in response the head of

planning and regulatory services stated that paragraph 9.6 would be reviewed and if possible amended.

The head of planning and regulatory services clarified that the policy could be reviewed at any time and that the reference to “no policy amendment necessary” in appendix 2 of the report should be read that ‘no policy amendment is necessary at the present time’.

The chair asked whether the number of HMOs were subject to planning policy and in response the head of planning and regulatory services said that change of use from residential to an HMO could be subject to an Article 4 direction (removing permitted development rights) which, if granted approval by the Secretary of State, would require that a planning application must be submitted for each HMO. However, planning decisions on HMOs would be subject to development management policies being in place. Currently there are none hence why the update to the evidence base is required.

A member asked the head of planning and regulatory services whether she was aware if there were any ‘super landlords’ as a recent Freedom of Information request in Edinburgh highlighted and whether it was possible to stop a landlord from owning multiple HMOs. In response she stated that she did not have that information to hand and would provide information outside of the meeting. She would also provide clarity on whether the city council had any powers to stop someone from operating multiple HMOs.

In response to a member query the head of planning and regulatory services clarified that a number of the listed transgressions in paragraph 9.15 would be known to the service when processing applications, such as any refusals or enforcement action undertaken against the applicant. By way of a supplementary question a member asked whether Disclosure and Barring Service (DBS) checks would be routinely asked for and in response the head of planning and regulatory services stated that these were not a requirement for an application, but the police were consulted on the applications. If concerns were raised by the police, then a DBS could be required. The head of planning and regulatory services would confirm to members on whether this could be a requirement.

In response to a member question the head of planning and regulatory services clarified that the amenity standards were omitted from the report, but these were mandatory for HMO operators to comply with. The chair clarified that the amenity standards had previously been brought to committee when the HMO Licensing Policy had previously been discussed, but these were not subject to the committee’s amendments.

Members discussed fire safety and whether a fire assessment certificate should be a required document as part of the application process. The head of planning and regulatory services would confirm if this could be the case.

A member raised concerns about 3-year licences and stated that in their view some of the criteria for a 3-year licence should be cause for great concern. The policy should instead only look to have a 1-year licence or a 5-year licence. The head of planning and regulatory services stated that having only a 1-year and 5-year licence would increase the burden on officers to administer, and the 3-year licences should be used as an opportunity for an HMO operator to demonstrate that they are working

on improving on any issues that may have arisen in the property. By way of a follow up question, a member asked whether there was a matrix for officers to determine whether a matter is serious or significant enough for a 1-year licence and the head of planning and regulatory services confirmed that the decision would be made by qualified officers. A review of the three tiers may be appropriate when the policy has been in place and properly embedded.

In response for a member's request for clarification the head of planning and regulatory services stated that the inspection process for a 5-year licence would consist of an inspection before a licence or a renewal was granted and then relatively minimal officer contact unless issues are identified. A 3-year licence would have an inspection before a licence was granted and another inspection halfway through the term of the licence. The 1-year licences may have multiple inspections, the initial inspection before the licence is granted, and then inspections throughout the year. Offering multiple licence terms would allow officers to concentrate on the 1-year licences.

In a response to a member's question the head of planning and regulatory services stated that there was no limit on how often an operator could be issued a 1-year licence but the higher cost of 1-year licence could deter a landlord from not improving their standards.

A member asked for clarity whether a landlord could move directly from a 1-year licence to a 5-year licence. In response the head of planning and regulatory services stated that there would need to be significant changes for a landlord to receive a 5-year licence after having a 1-year licence, the likelihood would be that a landlord instead would graduate through the tiers.

In response to a member's query the head of planning and regulatory services said that timescales for fixing issues were set in legislation based on enforcement action, but they must be given reasonable timescales for this.

Members discussed their concerns about some of the criteria within the 3-year licence as they felt some of these, (for example "the presence of hazards") were serious enough for a 1-year licence. The head of planning and regulatory services assured members that officers would be making decisions based on the severity of any issues within the property or with the management. Members agreed that the following criteria should be moved to the 1-year licence: "*No provision of written tenancy or licence agreements*". Members also felt that non-compliance of Building Regulations should also be included within the 1-year licence criteria. The head of planning and regulatory services stated that she needed to clarify whether it would be appropriate to move non-compliance to Building Regulations to the 1-year licence before amending the policy.

Councillor Schmierer proposed, and Councillor Maxwell seconded the following amendment to the HMO Licensing Policy: to remove the 3-year licence and instead roll the criteria into the 1-year licence. With four members voting for and six members voting against this amendment was lost.

The chair stated that having a full review of the HMO Licensing Policy within two years of the policy being implemented would be beneficial and asked that a report was brought to the licensing committee within one year of implementation.

A member asked whether in the case of a sale of a HMO whether the new landlord would have to apply for a new licence, in response the head of planning and regulatory services stated that the licence goes with the landlord.

The cabinet member for safer, stronger neighbourhoods clarified that the cost of the inspection was covered by the application fee, but the cost of enforcement action must be sought from elsewhere in the budget. The cost of enforcement could not be included in the licence fee due to legislation. She highlighted that the tiered approach would allow the council to focus on the landlords that were not providing good quality housing.

The committee requested a further report once the current consultation closed before recommending the policy to cabinet for approval. The report should include members outstanding queries as well as a summary of the final consultation responses.

RESOLVED to:

- (1) Note the consultation responses and amendments to the policy;
- (2) Make the following amendments:
 - (a) Change any reference to gendered personal pronouns to gender-neutral personal pronouns
 - (b) Amend the wording of paragraph 8.1 to read "*The Council has discretion to offer a 1 year, 3 year or 5-year licence*"
 - (c) Remove the following text from paragraph 9.12 "*certain types of*"
 - (d) Clarify that a competent representative can be an individual and does not need to be a part of a letting or estate agency
 - (e) Add a list of definitions as to what makes a competent representative
 - (f) At paragraph 4.2 list of consultees to include examples of "persons who appear to the authority to represent the interests of persons operating House in Multiple Occupations", for example: local estate agents or University of East Anglia Homerun
 - (g) Reviewing the language on distance in paragraph 9.6;
 - (h) Amend the wording of paragraph 9.12 second bullet point (amended wording) "*practised unlawful discrimination on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and motherhood, race (which can be in reference to race, colour, nationality or ethnic or national origins) religion and belief, sex or sexual orientation, in connection with the carrying out of business*"

- (i) Consider adding clarity and advice on what a layout plan must show in paragraph 8.1; and
 - (j) Move the following criteria to the list for a 1-year licence in paragraph 14.2: "*No provision of written tenancy or licence agreements*".
- (3) defer recommending the HMO Licensing policy to cabinet following the close of the latest consultation and a report on those comments and the following outstanding queries:
- (a) Consider adding the following criteria to the list for a 1-year licence in paragraph 14.2 "serious failure to Building Regulations"
 - (b) Consider adding that someone cannot move from a 1-year licence issued under this policy to a 5-year licence if improvements have been made; and
 - (c) Consider adding definitions to what entails a "serious hazard" within the criteria for 1-year licences in paragraph 14.2.

5. Regulatory subcommittee minutes

RESOLVED to receive the minutes of the regulatory subcommittee meetings

CHAIR



Committee Name: Licensing

Committee Date: 16/06/2022

Report Title: The draft HMO Licensing Policy

Portfolio: Councillor Jones, Cabinet member for safer, stronger neighbourhoods

Report from: Head of planning and regulatory services

Wards: All Wards

OPEN PUBLIC ITEM

Purpose

For members to consider the changes to the draft HMO Licensing Policy following a period of consultation ending in March 2022

Recommendation:

That members resolve to agree the draft HMO Licensing Policy and recommend to Cabinet for adoption.

Policy Framework

The Council has five corporate priorities, which are:

- People live independently and well in a diverse and safe city.
- Norwich is a sustainable and healthy city.
- Norwich has the infrastructure and housing it needs to be a successful city.
- The city has an inclusive economy in which residents have equal opportunity to flourish.
- Norwich City Council is in good shape to serve the city.

This report meets the people live independently and well in a diverse and safe city corporate priority

This report helps to meet the Houses in Multiple Occupation adopted policy of the Council

Background

1. A House in Multiple Occupation (HMO) is defined under sections 254 and 257 of the Housing Act 2004. An HMO can be a building or part of a building if it is:

- occupied by persons who form more than one household and where those persons share (or lack) one or more basic amenity, such as a toilet, bathroom and cooking facilities
 - a converted building containing one or more units of accommodation that do not consist entirely of self-contained flats. (There is no requirement that the occupiers share facilities).
 - a converted building consisting entirely of self-contained flats, where the building work undertaken in connection with the conversion did not comply with the 1991 Building Regulations and more than one third of the flats are occupied under short tenancies.
2. The Housing Act 2004 requires mandatory licensing of properties fitting certain criteria.
 3. There are approximately 1200 HMOs in Norwich which are required to be licensed under the national mandatory scheme.

The Housing in Multiple Occupation Policy

4. The Council has set out a corporate aim: 'People live well and independently in a diverse and safe city'. The HMO policy will ensure that the conditions and standards of properties let out are more effectively regulated which in turn will improve the quality of accommodation within this sector. The policy also aims to improve transparency and accountability for both landlords and the Council and is a demonstration of good practice.
5. The principle proposed change to the way in which the HMO sector is regulated is the introduction of 5 year licences for landlords with a good record of compliance and properties in suitable condition for habitation.
6. The introduction of a 5 year licence will provide stability and certainty for those landlords who maintain and manage their properties in a suitable condition with adherence to relevant legislation. This will ultimately reduce the regulatory burden upon those within this category enabling resources to be diverted to those landlords who are less than adequate and allowing staff focus on the properties of most concern.

Consultation Process

7. The Licensing Committee considered the draft policy in July 2021 and authorised consultation on it. This consultation took place between Aug and Nov 21. During this period 50 responses were received. These were considered and a number of changes made to the emerging policy (for details see link – no need to append this detail to cabinet report).
8. However, in addition to changes resulting from consultation further changes to the emerging policy. These included specifying criteria to determine the length for which a licence would be issued and introducing of an inspection before a licence may be issued.
9. This led to further consultation between 28 Feb and 28 March 2022. No new representations were received from the public and stakeholders during this period

10. The Licensing Committee met and raised the following further matters which have been investigated. The responses are set out below:

Responses to questions raised at the Licensing Committee:

11. In Edinburgh there are 15 super landlords who dominate the market. Can we provide an update on the number of landlords operating in Norwich and how many HMO properties they operate. No names/specifics as this would be against GDPR.

- This is not considered an issue in Norwich, there are some that own several properties, but would not be described as 'Super Landlords'. A list of issued licences is published on the website [Norwich City Council](#), which gives a reasonable idea of the number of different landlords with current licences for HMOs. No policy amendment.

12. Can we limit the number of HMOs a single landlord can operate?

- The decision to issue a licence or not has to be made on the suitability of the property and fitness of the applicant. If both criteria are met, then it would be difficult to refuse a licence. An applicant would not become unfit once they had licensed more than 'x' number of properties. No policy amendment.

13. Can we require a DBS check of all landlords?

- The legislation does not require this and cannot be adopted as a blanket policy. Each applicant must complete a self-declaration of fit and proper and must disclose unspent convictions. Where the authority believes that a DBS would help in the process of determining the application a DBS can be requested as an additional check on a case by case basis. But no amendment is proposed to the emerging policy to reflect.

Summary

14. The latest draft policy is attached at Appendix A for committee agreement.

Following the short formal consultation, no further amendments were made.

15. The policy seeks to re-focus the Council's activities regarding HMOs on improving and driving up housing standards, whilst also reducing administrative tasks.

16. Following formal adoption, the policy will remain in force for a 5-year period after which it should be reviewed and formally adopted for a further five-year period, and so on. However, the Council will reserve the right to review the policy sooner should it be required, or make such revisions to their policy, at such times as considered appropriate, following a further consultation exercise.

Implications

Financial and Resources

17. Any decision to reduce or increase resources or alternatively increase income must be made within the context of the council's stated priorities, as set out in its Corporate Plan 2019-22 and Budget.
18. Licensing administration and inspection of licensed HMO's should be cost neutral to the Licensing Authority. The licence fee charged may only cover the cost to the authority of providing the function - i.e., the fee must be set to cover the costs only and not to make a profit.
19. Any extra resource required to administer the policy if implemented, would be funded by a review of the licence fees to ensure the continued cost neutrality.
20. The Corporate Leadership Team and Head of Service have agreed and approved an increase in fees charged for an HMO licence based on cost recovery for the service. Consequently, the increase in fees will allow for a dedicated HMO Inspections officer on the establishment (subject to recruitment) enabling the inspection before issue of licence to be carried out.

Legal

21. There is no legal requirement to adopt a policy, but it is considered good practice to do so, as detailed in para. 8

Statutory Considerations

Consideration:	Details of any implications and proposed measures to address:
Equality and Diversity	An equality and diversity impact assessment of the policy has been carried out. There were no additional to the policy.
Health, Social and Economic Impact	The statutory requirement to licence certain HMO's is intended to ensure that certain housing standards are met in the private rented sector, particularly in relation to health, welfare and wellbeing of the occupants. Implementation of a policy on administration and inspection of licensed properties will underpin this requirement and ensure standards are maintained.
Crime and Disorder	Implementation of a policy in relation to HMO administration and inspection of licensed properties is not considered to have any implications for crime and disorder, but this will be reviewed more fully following the proposed consultation with stakeholders, including the Police.

Children and Adults Safeguarding	The statutory requirement to licence certain HMO's is intended to ensure that certain housing standards are met in the private rented sector, particularly in relation to health, welfare and wellbeing of the occupants, including adults and children. Implementation of a policy on administration and inspection of licensed properties will underpin this requirement and ensure standards are maintained.
Environmental Impact	Implementation of a policy in relation to HMO administration and inspection of licensed properties is not considered to have any implications regarding environmental impact, but this will be reviewed more fully following the proposed consultation with stakeholders.

Risk Management

Risk	Consequence	Controls Required
If a policy is not implemented the Licensing Authority is not able to set out its approach to fulfilment of its statutory licensing function	Inconsistency in approach to administering the licensing regime, confusion with stakeholders with regard to their expectations, leading to dispute from applicants and costly tribunal appeals.	Agree and implement policy

Other Options Considered

22. As previously outlined in the report the policy broadly reflects the current practices, with 1 exception - a move from annual licensing to up to 5-year licensing. Shorter term licensing has been considered and is currently being used. However, this creates an administration burden and diverts fee income from inspections of the properties to support the administration function, making it difficult to ensure licensing/housing standards are being maintained or improved. If short term licensing were to be maintained, licensing fees would need to be reviewed and likely increased, potentially making licensing prohibitively expensive, which would either drive up rents for the tenants or encourage landlords to evade licensing, resulting in more enforcement work.

Reasons for the decision/recommendation

Following extensive consultation and engagement it is recommended that cttee formally adopt the policy to take effect from 1st September 2022.

Tracking Information

Governance Check	Date Considered
Chief Finance Officer (or Deputy)	
Monitoring Officer (or Deputy)	
Relevant Executive Director	

Background papers:

Office of the Deputy Prime Minister HHSRS operating guidance:-
[80858-ODPM-Housing-PFI-Cover \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/80858-ODPM-Housing-PFI-Cover)

Appendices:

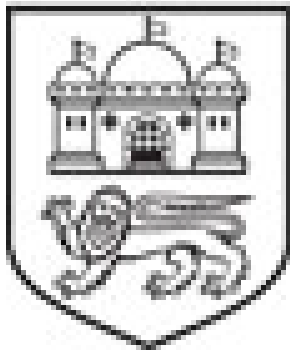
Appendix 1 – HMO Policy DRAFT

Contact Officer:

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NORWICH
City Council

HMO Licensing Policy

Adopted ???? 2022

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1. Introduction

1.1. Under Part 2 of the Housing Act 2004 there are two types of licensing schemes that relate to Houses in Multiple Occupation (HMOs), the national Mandatory HMO Licensing scheme and Additional Licensing of HMOs.

1.2. Under the national Mandatory HMO Licensing scheme all properties that meet the following criteria will require a mandatory HMO licence, which is defined in section 4 Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018:

- Is occupied by five or more persons
- Is occupied by persons living in two or more separate households; and meets—
 - The standard test under section 254(2) of the Act (*Housing Act 2004*):-
 - (a) it consists of one or more units of living accommodation not consisting of a self-contained flat or flats;
 - (b) the living accommodation is occupied by persons who do not form a single household (see section 258);
 - (c) the living accommodation is occupied by those persons as their only or main residence or they are to be treated as so occupying it (see section 259);
 - (d) their occupation of the living accommodation constitutes the only use of that accommodation;
 - (e) rents are payable or other consideration is to be provided in respect of at least one of those persons' occupation of the living accommodation; and
 - (f) two or more of the households who occupy the living accommodation share one or more basic amenities or the living accommodation is lacking in one or more basic amenities.
 - The self-contained flat test under section 254(3) of the Act (*Housing Act 2004*) but is not a purpose-built flat situated in a block comprising three or more self-contained flats:-
 - (a) it consists of a self-contained flat; and
 - (b) paragraphs (b) to (f) of subsection (2) apply (reading references to the living accommodation concerned as references to the flat).
- or
- The converted building test under section 254(4) of the Act (*Housing Act 2004*).
 - (a) it is a converted building;
 - (b) it contains one or more units of living accommodation that do not consist of a self-contained flat or flats (whether or not it also contains any such flat or flats);
 - (c) the living accommodation is occupied by persons who do not form a single household (see section 258);
 - (d) the living accommodation is occupied by those persons as their only or main residence or they are to be treated as so occupying it (see section 259);

- (e) their occupation of the living accommodation constitutes the only use of that accommodation; and
- (f) rents are payable or other consideration is to be provided in respect of at least one of those persons' occupation of the living accommodation.

1.3. Additional Licensing of HMOs covers those HMOs that are not licensed under the Mandatory Scheme but where the Council has used its power to designate areas of the city subject to Additional Licensing of HMOs.

1.4. This document sets out the structure of the scheme and the fees and charges and criteria the council will apply to all licences in relation to the Mandatory HMO Licensing schemes.

2. HMO Licensing in Norwich

2.1. The council has a responsibility under Section 55 of the Housing Act 2004 to secure the licensing of all Mandatory HMOs and has been implementing its scheme in response to this duty since 2006.

2.2. The council does not currently undertake any Additional Licensing but reserves the right to consider implementation of a scheme of additional licensing at any point in the future. This would be subject to further consultation.

2.3. The HMO Licensing scheme in operation in Norwich therefore covers only mandatory licensable HMOs and all licence applications are to be accompanied with a fee determined by the Council. Once a licence is issued it is not transferable to another person or property.

2.4. The Council has exercised its powers to charge under Section 63(3) and (7) of the Housing Act 2004 and does so taking into account the Provision of Services Regulations 2009, which themselves implement the EU Services Directive.

2.5. Under Part 2 of the Housing Act 2004, an HMO is required to be licensed unless:

- a temporary exemption notice is in force in relation to it under section 62, or
- an interim or final management order is in force in relation to it under Chapter 1 of Part 4.

2.6. The Council must take all reasonable steps to secure that applications for licences are made to them in respect of HMOs in their area which are required to be licensed under this Part but are not.

3. Legislation

3.1. Below is the key legislation covering housing related licensing:

- Housing Act 2004
 - Main provision for licencing - set out under Parts 2 & 3.
 - Provisions to allow Local Housing Authorities (LHA) to charge for administering licensing under Parts 2 & 3.
 - Definition of a House in Multiple Occupation (HMO)
- Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018
 - Amendment of the definition of an HMO required to be licenced (effective as of 1st October 2018).
- Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006
- Licensing of Housing in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018
- Management of Houses of Multiple Occupation (England) Regulations 2006
- Housing, Health & Safety Rating System Enforcement (England) Regulations 2005
- Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (Amendment) (England) Regulations 2012

4. Consultation and adoption of policy

4.1. The Housing Act 2004 and other associated HMO licensing regulations do not set out a formal process or list of statutory consultees for adoption of a policy.

4.2. Before adopting a policy, the Council consulted with the following:

- Chief Officer of Police
- Existing licence holders
- Trade organisations
- One or more persons who appear to the authority to represent the interests of persons operating Houses in Multiple Occupation, such as local estate agents, managing agents, UEA Homerun.
- One or more persons who appear to the authority to represent the interests of persons likely to be affected by the exercise of the authorities licensing functions under the Housing Act 2004, such as the National Residential Landlords Association

4.3. Prior to formal adoption of the Policy consultation responses have been reviewed by the Licensing Committee.

4.4. This Policy was formally adopted at a meeting of the Cabinet on **(date)**

4.5. The Policy will be reviewed at least every 5 years, or sooner if deemed necessary by the council as local housing authority.

5. Interaction with other regulation, policies and strategies

- 5.1. The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for the council to act in a way that is incompatible with a convention right. Particular regard will be given to the following relevant provisions of the European Convention on Human Rights in respect of its licensing responsibilities:
- Article 6 that in determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law
 - Article 8 that everyone has the right to respect for their home and private life, and
 - Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of their possessions, including for example the possession of a licence.
- 5.2. In addition to the requirements of the council to promote the licensing objectives, there is a statutory duty under the Equality Act 2010 to:
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - Foster good relations between different communities.
 - Eliminate discrimination, harassment and victimisation, which are all prohibited conduct in the Equality Act 2010.
- 5.3. So far as possible, the council will avoid duplication with other regulatory regimes, and will not use its powers under the Housing Act 2004 and associated licensing regulations to achieve outcomes that can be achieved by other legislation and other enforcement agencies.
- 5.4. In particular, the council's licensing functions will be discharged separately from its functions as the local planning authority.
- 5.5. The council's planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency. Applications for HMO licences should normally be from operators with relevant consents for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the planning authority. It should be noted that licensing decisions are not bound by decisions made by a planning committee, and vice versa.
- 5.6. The granting of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control where appropriate. Premises operating in breach of their planning permission may be open to enforcement action under planning law.
- 5.7. If other statutory requirements apply to the operation of a licenced property, the licence holder is responsible for complying with these. It is not a requirement of any licensing decision to address other regulatory matters, it is necessary for the licensee to conform with all relevant legislation.

6. Licence Fees

- 6.1. Section 63 of the Housing Act 2004 permits the Council to require any application for a licence under Part 2 is accompanied by a licence fee and that this fee may properly cover all costs incurred by the Council in carrying out its functions.
- 6.2. In developing its fee structure, the Council has had regard to the European Court of Justice ruling in *R (Hemming) V Westminster City Council* (Case C-316/15) and the High Court decision in *R (Gaskin) v LB Richmond Upon Thames* (2018) EWHC 1996 (Admin) which held that the EU's Provision of Services Directive, which is enshrined in UK law as the Provision of Services Regulations 2009 should apply to property licensing fees and the processes involved in implementing and delivering such schemes.
- 6.3. The Services Directive in particular should be interpreted as precluding charging in advance for costs other than those directly related to the authorisation process of the scheme. In other words, the Council is not permitted to demand fees in advance for anything other than the costs of administering the application for a licence even if it makes it clear that unsuccessful applicants are provided with a refund of the remaining part of the fee. The Council may legitimately recover its wider costs, over and above those relating to the administration of applications, but this should be at the point at which the Council has determined that a licence is to be granted.
- 6.4. The judgements in *Hemming* and *Gaskin*, which require the overall licence fee to be paid in two stages, has therefore had the effect that the fee for a licence under Part 2 of the 2004 Act must be levied in two separate parts.
- 6.5. The Council is not allowed to demand fees in the Stage 1 process for anything other than the costs of administering and processing the application for a licence. Furthermore, this element of the fee is non-refundable should the application be unsuccessful. See also para. 6.12 below.
- 6.6. In the case of Stage 2 payments these can only be requested if the initial application is successful and will be charged to cover the costs of running and enforcing the scheme.
- 6.7. As such the Council, when setting its fees, has adopted the two-stage approach. Fees and charges will be reviewed and set on an annual basis by the Head of Planning and Regulatory Services and will be published on the council's website.
- 6.8. Under Section 67 (5) of the Housing Act 2004 the Council has the power to impose a restriction/ obligation on a particular person. In accordance with this power the Council will require the licence holder to pay the Stage 2 fee in advance of the draft licence being issued, this will be required as part of the application process.
- 6.9. In addition, the Council will attach a condition to all HMO licences requiring this Stage 2 payment to be made. This approach is consistent with that set out in the *Hemming* case.

6.10. Failure to make the Stage 2 payment will result in the Council taking action through, either the revocation or refusal of the licence or by enforcing the non-compliance of the licence condition associated with the making of the Stage 2 payment.

6.11. The licence fees include the average costs of administering applications and inspection of the HMO before a licence is issued and/or during the period of the licence, where applicable. If hazards, management failures or failures to comply with any licence conditions are identified during the licensing inspection the cost of any follow-up work by the council will not be included in the licence fee. This is because there are other ways for us to recover our costs directly from the landlord of a non-compliant HMO, without passing that cost to all licence holders.

Refunds

6.12. The fees charged at stage 1 and stage 2 are designed to reflect the council's costs in administering the licence application process, including property inspections. Under some circumstances a refund of monies amounting to the costs not yet incurred by the council may be appropriate. Further details will be included in the council's published fees and charges for HMO licensing.

7. Making an application and communication

7.1. The primary communication medium for the application will be assumed to be electronic unless alternative prior arrangements are made.

7.2. Application forms will be available and completed via the council's website, and applicants must provide an email address and telephone number to facilitate ongoing communication. All necessary documentation needed to support the application should be submitted in an electronic format, and licences/draft licences will be also sent electronically.

7.3. Printed copies of licences etc. can be provided upon specific request.

8. Licence criteria

8.1. A valid application will include:

- An application form and all supporting information submitted including details of the following:
 - The proposed licence holder, as per the requirements set out in paragraph 11.6
 - The proposed manager, as per the requirements set out in paragraph 11.6
 - Bank or mortgage company if there is an existing mortgage on the property

- Any additional owners or any other interested parties' details
- A layout plan of each floor of the property¹
- The property itself including
 - the extent of any existing fire precautions
 - the types of soft furnishings
 - the number and type of each room (eg, how many bedrooms)
 - the size of habitable rooms
 - the number of occupants
 - The number and type of amenities (eg, baths, cookers etc)
- The energy rating of the house, where applicable, (from the energy performance certificate) and type of heating
- Servicing information and safety certification for gas appliances, the electrical installation and the fire detection system
- Stage 1 Payment
- Signed declaration returned

Once a valid application is received the Council will assess each application on its own merits against relevant criteria. The Council has discretion to offer a 1 year, 3 year or 5 year licence.

¹ This will only apply to certain properties where specifically requested by the Licensing Team. Plans should be of a scale 1:100, showing the locations of all doors, windows, fire doors, fire and emergency related features, fixed furniture and the relevant amenities as set out in the Private Sector Housing Amenity Standards document at Appendix A

9. Processing the application

9.1. Under the Housing Act 2004 the Council can either grant or refuse a licence. In determining whether to grant or refuse a licence the Council must satisfy itself of the following:

- That the property is reasonably suitable for occupation by a maximum number of people; and
- That the proposed licence holder and manager of the HMO is a fit and proper person and the most appropriate person to hold the licence; and
- That there are satisfactory management arrangements in place or that such arrangements can be put in place by the imposition of conditions in the licence.
- That no banning order under section 16 of the Housing and Planning Act 2016 is in force against a person who— (i) owns an estate or interest in the house or part of it, and (ii) is a lessor or licensor of the house or part of it.

Tests for fitness etc. and satisfactory management arrangements.

9.2. The council must be satisfied that “the proposed management arrangements are satisfactory” before granting an HMO licence. Those arrangements include (but are not limited to) consideration of whether:

- the persons proposed to be involved in the management of the premises has a sufficient level of competence to be involved

- the persons proposed to be involved with the management of the premises are actually involved in the management
 - those persons are 'fit and proper', and
 - the proposed management structures and funding arrangements are suitable.
- 9.3. If there are minor concerns about how the property is proposed to be managed as an HMO, for example, provision of bins, procedures for ASB etc, and these can be overcome by the imposition of appropriate conditions, then such conditions will be imposed to ensure that the necessary arrangements are in place. However, if such conditions will still not be possible or practical to impose then it may be necessary to refuse to grant a licence.
- 9.4. It is for a Council to determine whether a person has sufficient competence to be involved in the management of HMOs and, of course, the level of competence required will in some measure be determined by the complexity of the management challenges posed. The council will therefore be looking at the applicant's experience and track record of managing HMOs and, in particular where they are the existing manager, the premises to which the application relates, and whether they belong to a recognised trade association or are a member of an accreditation scheme.
- 9.5. The management structures must be such that the manager is able to comply with any licence conditions and deal with the day-to-day operation management issues that arise as well as being able to deal with longer term management issues. In considering whether the structures are appropriate the Council may take account of the following:
- evidence as to whether the systems in place are sufficient to enable the manager to comply with any condition of a licence or if such systems can be put in place through a condition of a licence to ensure compliance
 - evidence of the systems for dealing with:
 - emergency repairs and other issues
 - routine repairs and maintenance to the premises and its curtilage
 - cyclical maintenance
 - management and the provision of services (if any) to the building and its curtilage
 - management of tenancies or occupants
 - management of the behaviour of tenants, occupant's and their visitors to the premises
 - neighbourhood issues (including disputes)
 - evidence of structures for engagement with the local authority, police, and other agencies, where appropriate
- 9.6. The manager or a competent representative will need to operate within a reasonable proximity to the HMO, so that they can attend to matters promptly and retain an overview on the condition of the premises and the management of the tenancies. Consideration of reasonable proximity will be taken on the merits of each individual

case, however within the county boundary may be a reasonable guide. A competent representative may be an individual who is not necessarily part of a letting or estate agency, but should be able to deal with or have knowledge of the matters set out in paragraph 9.5 in representing the property manager.

- 9.7. The Council must also be satisfied that the financial arrangements relating to the HMO are suitable. In that regard the manager must be sufficiently funded or have access to funding to carry out their obligations under the licence and their general management functions.
- 9.8. The council can vary or revoke a licence at any time during the licence period if there is sufficient evidence to support these decisions. Unannounced visits of licensed properties may therefore be undertaken during the licence period to check for compliance with the licensing and management regimes which apply. This is consistent with the powers provided under Section 239 of the Housing Act 2004.
- 9.9. Breach of any such legislation is a strict offence for which further action will be taken. The Housing, Health and Safety Rating System (HHSRS) also applies to rented properties and (if appropriate) remedial works can be enforced via The Housing Act 2004, which will be separate to the powers provided under the licensing scheme.

The Fit and Proper Test

- 9.10. In deciding to grant a licence the council must be satisfied that the proposed licence holder “is a fit and proper person to be the licence holder ...” and that “the proposed manager of the house is a fit and proper person to be the manager of the house ...”
- 9.11. This requirement is to ensure that those responsible for operating the licence and managing the HMO are of sufficient integrity and good character to be involved in the management of the particular residential premises to which the application relates and as such they do not pose a risk to the health, safety or welfare of persons occupying and visiting the HMO.
- 9.12. When considering whether a person is ‘fit and proper’ the council will have regard to any wrong doings of the relevant person concerned. This is evidence that the person has:
- committed any offence involving fraud or other dishonesty, violence or drugs and sexual offences
 - practised unlawful discrimination on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and motherhood, race (which can be in reference to race, colour, nationality or ethnic or national origins) religion and belief, sex or sexual orientation, in connection with the carrying out of business
 - contravened any provision of housing or landlord and tenant law; or

- acted otherwise than in accordance with an approved code of practice.
- 9.13. The above list is not exhaustive, and the council can and will consider whether a relevant person has committed other relevant wrong doings, for example, discrimination under Regulation 5 of the Equality Act (Sexual Orientation) Regulations 2007. A relevant person will not be deemed unfit, simply because of poor management, although this is highly relevant to determining any question of suitability or competence.
- 9.14. The council do not adopt a blanket policy with its consideration of factors under a fit and proper person test. Each case will be considered on its own merits and regard will be had to information provided / omitted from an application form; historical information already held by the council relating to the premises and / or any relevant person connected with the licence application.
- 9.15. In an application for a licence the applicant must provide details of the following in relation to themselves and the proposed manager (if the applicant is not to be the licence holder):-
- unspent convictions
 - any findings of a court/tribunal that the person has practised unlawful discrimination
 - any judgement entered against that person in relation to a contravention of housing or landlord and tenant law (and, in so far it relates to the housing or landlord and tenant law, any contravention of any enactment relating to public or environmental health)
 - any control order made in respect of any HMO under their management or ownership (and in respect of any former HMO they owned or managed);
 - any enforcement action in respect of any house or HMO under their management or ownership (and any former HMO or house they owned or managed) under the housing health and safety rating system in Part 1 of the Housing Act 2004 so far as that enforcement action related to a category one hazard
 - details of any refusal to grant a licence, or details of the revocation of a licence granted for non-compliance of a condition or conditions in respect of any house or HMO under their management or ownership (and in relation to any former HMO or house they owned or managed) and
 - details of any interim or final management orders made by an LHA in respect of any house or HMO under their management (and in respect of any former HMO or house they owned or managed).
- 9.16. An applicant for a licence must disclose any wrong doings which relate to themselves, the proposed manager and any other relevant person, if any. The council should therefore have sufficient information to decide a person's fitness based on the application.
- 9.17. If the council is not satisfied that it has sufficient information (being that supplied in connection with the application) to make a determination, it may require the applicant to provide further details and / or undertake their own further enquiries

with other relevant Council departments and external bodies as it deems necessary, including for example a Standard Disclosure & Barring Service checks (DBS check), provided at the applicant's expense.

9.18. The completion and signing of the Licence application form will be taken as an agreement to any such action and the sharing of information between other local authorities for all relevant persons associated with the property and application.

9.19. Checks may also be made internally with other council departments such as Licensing, Trading Standards, Planning, Building Control, Council Tax and Housing Benefit.

9.20. The council are also able to request information on criminal convictions, and although this is not undertaken as a matter of routine a DBS check will be requested where there is sufficient evidence to suggest that this is necessary.

9.21. Such reasons for requiring a DBS check may include that:

- The council have evidence of a history of complaints or problems with the landlord (which in themselves might not amount to 'evidence' of unfitness to meet the test), but further investigation may be required
- the applicant has been evasive or untruthful in their application for a licence
- the applicant, or proposed manager, is unknown to the council and has not demonstrated any history or competence of managing HMOs or other private rented properties
- The council has reasonable grounds to suspect that the applicant, or the proposed manager, has committed an offence which is relevant to the determination of any question of their fitness; or
- The premises provide accommodation mainly to vulnerable persons. In deciding whether a misdemeanour (including a criminal offence) is relevant to the determination of a person's fitness a Council may wish to consider the following factors:
 - the relevance of the misdemeanour(s) in relation to the person's character and integrity to manage residential premises and in particular the type of premises to which the licence relates
 - the seriousness of the misdemeanour(s) in terms of impact, or potential impact, upon the residents and the wider community, including if more than one misdemeanour has been carried out the cumulative impact
 - the length of time since any misdemeanour; and
 - any mitigating circumstances.

Consideration of ‘Persons Associated or Formerly Associated’ with the Proposed Licence Holder or Manager.

- 9.22. If there is evidence that a person associated, or formally associated, with the person proposed to be the licence holder or manager of the HMO, has committed any wrong doings, that evidence may be taken into account in determining the proposed licence holder’s or manager’s fitness (even if that person has themselves an unblemished record).
- 9.23. The purpose of this requirement is to ensure that only fit and proper persons hold licences or are in any way involved in the management of licensed HMOs. It would not be appropriate for a licence to be granted to someone, or for someone to be the manager of a property, if that person was merely acting as a ‘front’ for someone else who, if they were not unfit, would be entitled to be the manager or licence holder.
- 9.24. An example might be that of a husband and wife, where the husband is the landlord (or indeed both partners are joint landlords), but only the wife has applied for the licence. If there is evidence that the husband has committed wrong doings and those wrong doings are relevant to the wife’s management of the property or licence, then the Council may refuse to grant a licence.
- 9.25. Likewise, if a landlord with an unsatisfactory record nominated a” manager” who had a clean record but had acted for them whilst the wrong doings were committed, the council may consider the managing agent by association to be unfit too.

10.Amenity standards and licence conditions

- 10.1. All licensed Houses in Multiple Occupation need to be supplied with amenities such as heating, insulation, kitchen facilities, washing facilities and toilets. The number and type of amenities depend on the type and size of the house.
- 10.2. In considering an application for a licence the Council must be satisfied that the property is reasonably suitable for occupation by the number proposing to live there. Some standards are prescribed in the Licensing and Management of Houses in Multiple Occupation (Miscellaneous Provisions) (England) Regulations 2006(SI2006/373).
- 10.3. Minimum room sizes are also set out in The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018.
- 10.4. The Council also has power to specify other standards, and these are laid out in the Private Sector Housing Amenity Standards document attached at Appendix A.
- 10.5. This document outlines those standards which should be interpreted as guidance to landlords as to what the local authority is likely to consider reasonable

taking account of property type and layout. It should also be noted that a Local Authority may consider, in certain justified circumstances that a higher standard than specified in this guidance is required and landlords are advised to discuss their specific property with council officers prior to carrying out alterations.

10.6. Licences will be issued with all relevant mandatory conditions set out in the Housing Act 2004 and associated regulations, as well as conditions chosen on a case-by-case basis to ensure wellbeing and protection of occupiers. As well as the amenity standards attached at Appendix A, the council also provides guidance on fire precautions and further details are available on our website.

10.7. Every licence issued will have conditions attached. The conditions can vary from property to property, but the majority of licenses issued by the council will have conditions attached covering the following:

- number of occupiers
- room sizes
- changes to the licensed property or licence holder
- fit and proper person
- fire protection
- electrical installation
- gas supply
- amenities
- furniture and appliances
- appearance
- refuse and waste
- terms of occupation
- anti-social behaviour

11. Issuing a licence

11.1. All new HMOs subject to licensing will be inspected prior to the issuing of a draft licence, to ensure that the HMO is reasonably suitable for occupation by the number of people being requested on the licence application, and to ensure that there are satisfactory management arrangements are in place.

11.2. Properties requiring a renewal of a licence may also need inspecting prior to the issuing a draft licence, where there has not been a recent inspection during the period of the previous licence, or there are outstanding concerns or compliance matters requiring addressing.

11.3. All HMOs will also remain subject to further inspections during the lifetime of the licence to check compliance with licence conditions, management responsibilities and minimum standards. Frequency of inspection will be driven by a risk assessment of all the data relevant to the property and/or licence holder/manager.

- 11.4. In certain cases, the Council may decide to carry out such inspections without prior notice being given to the owner, licence holder and /or manager. This is consistent with the powers set out in Section 239 of the Housing Act 2004.
- 11.5. Where the inspection has been pre-arranged then licence holders, or applicants where applicable, will be required to provide access to all rooms in the HMO at a suitably arranged appointment.
- 11.6. All contact with the licence holder and relevant person(s) will be made using the contact information provided by the applicant on the original application – the primary medium for this will be electronic as set out in paragraph 7.1 of this document. Accordingly, it is the licence holder's responsibility to ensure that all contact details are up to date and you must notify the council of any change in details. The council will not be held responsible for any delay in communication if it is as a result of any contact information changing.
- 11.7. Where it is deemed appropriate to issue a draft licence, the stage 2 payment will be requested, upon receipt of which, the draft licence with all relevant conditions will be sent to all relevant persons and interested parties for consultation.
- 11.8. The relevant persons will have an opportunity to make any representations, and these must contain all the relevant information to be considered by the authority. No further opportunities will be extended to add to or make further representations.
- 11.9. Representations must be submitted to the HMO Licensing Team within 21 days of the date the draft licence is sent. Representations received outside of this period will not be considered.
- 11.10. Representations will be considered by a suitably qualified/experienced member of the licensing team; and the licence modified or issued as necessary.
- 11.11. Where the inspection has been pre-arranged then licence holders, or applicants where applicable, will be required to provide access to all rooms in the HMO at a suitably arranged appointment. When this process is complete a full licence with the conditions will be issued. Again, copies will be sent to all interested parties.
- 11.12. If the licence holder is still dissatisfied with the conditions or terms of the licence, they will have an opportunity to appeal to the First-tier Property Tribunal. The details of how this appeal can be made will be provided with the Licence.

12. Renewal Applications

- 12.1. The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (Amendment) (England) Regulations 2012 set out amendments to "renewal applications", which reduces the burden on landlords applying for the renewal of a licence.

12.2. In the case of renewal applications an applicant must provide a complete application form and sign the declarations provided.

12.3. It is important to note that the regulations define a “renewal application” as “an application for a licence under section 63 of the Act where, at the time the application is made a licence of the kind applied for is already held by the applicant and has effect in respect of the HMO or house”.

12.4. The effect of this part of the Regulations is that in order for the Council to treat any application as a “renewal” the application must be made during the active period of the current licence. If a renewal application is received after expiry of the previous licence, then the application will be treated as refused and a new licence application will need to be submitted, along with the appropriate fee.

It is important to note that it is the licence holder’s responsibility to apply to renew the licence at the appropriate time. The council may send reminders prior to the expiry of any current licence, but these should not be relied upon to prompt a timely application.

13. Revocation or Variation of a Licence

13.1. If circumstances regarding the HMO change during the licence period, the licence holder must notify the council directly so the licence can be re-assessed and varied if the HMO is considered suitable to accommodate the variation request.

13.2. The types of change requiring a variation to the licence would be:

- there is a change in the number of kitchens (including bedsits) or bathrooms provided
- there is a change to the design or layout of the property
- there is a change of management or ownership
- there is a change of mortgage provider.

13.3. Similarly, if the HMO is no longer going to be occupied as an HMO or the licence holder changes, then the licence holder must make an application for the licence to be revoked. Any remaining period of the licence will be forfeited and a there will be no right to refund of the original payment.

13.4. Where there is a change of licence holder, there is no facility to transfer the licence to another party. A new licence application must be submitted, and the old licence revoked.

13.5. As well as voluntary revocation set out above, The Housing Act 2004, s. 70 and 70A also set out other circumstances where the council may take action to revoke a licence. This action falls mainly into 2 categories:

- Circumstances relating to licence holder or other person, such as:
 - where the authority considers that the licence holder or any other person has committed a serious breach of a condition of the licence or repeated breaches of such a condition
 - where the authority no longer consider that the licence holder is a fit and proper person to be the licence holder; and
 - where the authority no longer consider that the management of the house is being carried on by persons who are in each case fit and proper person to be involved in its management.
 - Where a banning order is made under section 16 of the Housing and Planning Act 2016 against the licence holder, or a person who— (i) owns an estate or interest in the house or part of it, and (ii) is a lessor or licensor of the house or part of it.
- Circumstances relating to HMO concerned, such as:
 - where the authority considers at any time that, were the licence to expire at that time, they would, for a particular reason relating to the structure of the HMO, refuse to grant a new licence to the licence holder on similar terms in respect of it.

14. Licence Period

- 14.1. HMO licences will be granted for 1, 3 or 5 years. Where there are no concerns regarding the property, applicant or management controls, then a licence would normally be issued for 5 years.
- 14.2. Where there are relevant concerns, but it is not appropriate to refuse a licence, a licence will be issued for 1 or 3 years depending on the severity of the issues. The following is a list of matters that may be taken into consideration when determining the period for which an HMO licence is granted. This list is not exhaustive, and each case will be considered on its own merits.

1 year licence

- Operating without voluntarily applying for a licence
- Existence of significant hazards at the property – such as those classified as Category 1 under the Housing Health and Safety Rating System (HHSRS)
- Serious failure to comply with the conditions of a previous or current licence – particularly those relating to tenant safety.
- Serious failure to comply with HMO management regulations - particularly those relating to tenant safety.
- Serious concerns raised by the Police or other enforcement agency
- Serious non-compliance with Building Regulations - particularly those relating to tenant safety.
- No provision of written tenancy or licence agreements

3 year licence

- Failure to comply with the conditions of a previous or current licence
- Failure to comply with HMO management regulations
- Failure to comply with Planning requirements
- Council tax payment not up to date
- History of substantiated complaints in respect of the property
- Non-compliance with Building Regulations
- Previous failure to provide up-to-date certificates on time
- The existence of hazards at the property
- Concerns raised by the Police or other enforcement agency

- 14.3. Upon determining the renewal of a licence it is unlikely that it would be considered appropriate to progress direct from a 1 year to a 5 year licence term. However, if the circumstances are appropriate, and the criteria for a 1 year licence apply, a previous 5 year licence term may be reduced to a 1 year term upon renewal.

15. Fire Risk Assessments for Licensed HMOs

- 15.1. Having a fire risk assessment for certain classes of licensed HMO is a legal requirement under the Regulatory Reform (Fire Safety) Order 2005, which is enforced by Norfolk Fire and Rescue Service.
- 15.2. The duty is placed on the 'responsible person' who could be the landlord/licence holder or an agent with full management control. The assessment must be 'suitable and sufficient', and assistance from an appropriately competent person should be sought as necessary to achieve this.
- 15.3. The Council will accept a signed self-certification forms declaring that a suitable and sufficient fire risk assessment is in place for the HMO, however the Council may request and audit the fire risk assessment, where applicable, and other records at any time during the lifetime of the licence and may be requested during an inspection of the premises prior to determining an application. If any documents requested cannot be provided within 7 days of the request, the Council may revoke the licence.
- 15.4. The acceptance of a fire risk assessment/self-declaration does not protect the responsible person from any action required by Norfolk Fire and Rescue Service.
- 15.5. Further information and guidance on completing a fire risk assessment is available from the Chief Fire Officers Association and the Gov.uk website.

16. Decision Making - Delegation of Authority

- 16.1. All decisions regarding the grant, refusal, modification and revocation of HMO licences are delegated to the post of head of planning and regulatory services, or any

subsequent post fulfilling the responsibilities of overseeing the HMO licensing function.

17. How long will it take to process an application?

- 17.1. Upon receiving a valid application, the Council will aim to provide a decision as soon as is reasonably practicable. However each case will require different processes to be completed before issuing a decision, and will be dependent on the applicant supplying the required information and necessary payments within timescales, and that no representations are made. Where information or payments are late, or representations made, then this could extend the time it takes to process your application.
- 17.2. It is therefore the Council's aim to process all valid applications and provide the relevant persons with a decision within 20 weeks of receipt. This will require the full co-operation of the applicant with the Council's requirements for determining a licence application.
- 17.3. Tacit consent does not apply to HMO licence applications. It is in the public interest that we check that the HMO meets the prescribed standards, which may include arranging a full property inspection, before a licence can be granted.

18. Public Registers

- 18.1. A register of HMO licences is available on the council's website. Full details are also available by request to the HMO Licensing Team.

19. Appeals

- 19.1. If an application for an HMO Licence is refused, or the terms of a licence granted are disputed, there is a right to appeal this decision within 28 days to the First-tier Tribunal (Property Chamber - Residential Property). The details of this will be provided with the relevant documentation relating to the refusal or granting of the licence.



Minutes

Regulatory Subcommittee

14:10 to 18:35

09 May 2022

Present: Councillors Stutely (chair), Fulton-McAlister (E) (vice chair), Ackroyd, Button and Schmierer;

1. Declarations of Interest

There were no declarations of interest.

2. EXCLUSION OF THE PUBLIC

RESOLVED to exclude the public from the meeting during consideration of items *3 to 5* below on the grounds contained in paragraphs 1 and 3 of Part 1 of Schedule 12(A) of the Local Government Act 1972, as amended.

*3. Application for the grant of a private hire drivers' licence – application ref 21/01715 PHDRIV

(The applicant, the public protection team leader and public protection licensing adviser were admitted to the meeting)

The chair introduced members of the committee to the applicant and asked the public protection licensing adviser to confirm the identity of the driver using a photocopy of his driver's licence. The applicant confirmed that he had received the report and that he was aware of his right to legal representation but had chosen not to be. The applicant confirmed that he had a pending court case.

The applicant confirmed the details of the pending court case.

The legal advisor advised members to defer the item until after the conclusion of the pending court case, and to hear the application at the next relevant committee date.

RESOLVED to defer hearing the application to the next appropriate committee meeting following the conclusion of the court case.

(The meeting was adjourned from 2:25pm to 2:55pm.)

***4. Application for the Grant of Hackney Carriage Drivers' Licence**

Additional papers were circulated by the applicant and read by all parties.

(The applicant, the public protection team leader and public protection licensing adviser were admitted to the meeting.)

The chair welcomed the applicant. The applicant confirmed that he was aware of his right to legal representation but had chosen not to be. The applicant also confirmed that there were no pending court cases against him.

The public protection licensing adviser presented the report. The applicant then circulated further papers, which included photographs and police reports made by the applicant, to the committee.

The chair asked the applicant to detail the circumstances of each of the allegations that had been made against him. In each case the applicant denied each allegation and said that these had been made in an attempt to blackmail.

The applicant then stated that he had audio recordings of the alleged incidents of blackmail which he asked his sister to play for the committee. The applicant withdrew from the meeting at this point

(The applicant's sister withdrew from the meeting at this point. The applicant was readmitted to the meeting).

The chair summarised the contents of the recording that had been heard by the committee.

The applicant then answered further questions from members on the allegations made against him.

In response to a member's question on driving vulnerable people the applicant stated that he had been in contact with vulnerable people both through his previous years as a taxi driver and in his personal life.

(The applicant, the public protection team leader and public protection licensing advisor withdrew from the meeting at this point.)

Members discussed the merits of refusing to grant the application as the applicant had, on balance, not met the fit and proper person test. The committee was concerned about the nature of allegations against the applicant and these were alleged to have taken place over several years, even though the allegations did not result in conviction. As the role of a taxi driver involved the transport of vulnerable persons the committee felt that in order to protect the public safety they were minded to refuse the application.

(The applicant, the public protection team leader and public protection licensing advisor were readmitted to the meeting and informed of the subcommittee's decision)

RESOLVED, unanimously, to refuse the application for the grant of a Hackney Carriage drivers' licence as the committee considered that the applicant had not

provided the necessary information to demonstrate that he satisfied the test of being a fit and proper person to hold such a licence under s51 Local Government (Miscellaneous Provisions) Act 1976.

(The applicant was informed of his right to appeal the decision to the Magistrates' Court and that this must be done within 21 days of being notified of the decision.)

***5. Verbal update - revocations**

RESOLVED to defer this item to the next committee meeting.

CHAIR

