
Decision Session - Executive Member for Housing and Safer Neighbourhoods 16 December 2015

Report of the Assistant Director – Housing & Community Safety

Amendments to the Houses in Multiple Occupation (HMO) Licensing Programme

Summary

1. To inform the Executive Member about the third, five year cycle of Houses in Multiple Occupation (HMO) licensing programme, the first two being in 2006 and 2011 and to ask that:
 - a) a new licence condition is adopted to improve the management and competency of the licence holder by ensuring that all licence holders receive adequate training and attend a one day Professional Development Course which has been recognised by the Council.
 - b) to make amendments to the licence process to ensure that it is better streamlined

Recommendations:

2. The Executive Member for Housing and Safer Neighbourhoods is asked to:
 - a) note that the Council will be starting its new 5 year phase of licensing mandatory conditions in 2016;
 - b) agree to introduce a new license condition relating to training;
 - c) agree the amendments to the licence process.

Reason: To improve the sector by ensuring that are Houses in Multiple Occupation both meet the physical standards and are well managed.

Background Information

3. From the 1 April 2016 a new cycle of re-licensing HMO will start. For some this will be the third time that the licence holder has applied for a HMO licence, the first time being in 2006, and the second in 2011.

Licences are normally issued for five years with conditions to ensure that they are compliant.

- 4 In practice this renewal process starts at least six weeks in advance of the new licence period by the service providing an application pack with all the relevant information so that the licence holder can make a prompt application so that the full licence period is covered.
- 5 This is an opportunity to review our current licence conditions and to incentivise licence holders to make timely applications and penalise landlords who make late complete applications having regard to the:
 - Housing Act 2004, including the accompanying guidance and recent consultations
 - feedback from landlords and officers regarding the process

Proposals

Conditions

6. To introduce a new condition on the licence holder to have the required up to date knowledge and skills to operate a HMO by attending, as a minimum, a one day Professional Development Course.
7. Recent Government consultation documents have focused on rogue landlords operating in the sector. However it is our experience that in York that we have a very few landlords who deliberately flout the law, instead that the sector is dominated by landlords who own relatively few properties. Our own survey in 2014 advised about 80% of landlords owned 5 or fewer properties – and rather than deliberately providing unsafe and poorly managed homes they do so because they lack the necessary knowledge and the skills to operate and manage properties. It is our intention, inline with part of the Housing Act 2004 to introduce a new condition to ensure that licence holders are adequately trained. The new national licensing scheme for Wales is also placing emphasis on the need for training to support the sector.
8. A one day Professional Development course will be provided by City of York Council which they must complete successfully before the licence is issued or there will be a condition for them to complete within 1 year of the licence being issued.
9. We recognise that there are other organisations that also provide courses which cover similar course content and where Licence Holders can provide documentation to demonstrate that they have attended and

passed the course, the cost of the training will be deducted from the licence fee (£75). To ensure that the Licence Holder has the most up to date knowledge they will need to have attended the course within 1 year of making a Licence application.

Streamlining the process

10. To include the administrative costs of processing the separate 'fit and proper person' test within the overall licensing application fee. The current approach is for a new licence holder to complete an application form with a separate fee of £30 which enables the council to confirm that both a licence holder and any person acting as a managing agent meets the fit and proper person test. Should a licence holder or agent make a subsequent application in the next six months then they do not need to make a fresh application for this part.
11. However we have found that licence holders and agents making different applications over the five year period find this cumbersome. Instead, in line with other councils we are combining the applications forms together but seeking to introduce a discount for landlords and managers where multiple applications are submitted at the same time to reflect the reduction in time to deal with multiple applications by the council. There will be a benefit to the landlords and letting agents as they will be clearer when the "fit and proper" application paperwork needs to be completed.
12. To provide financial penalties where the council has to do more than the normal administrative work by:
 - Introducing a Penalty Fee where the council identifies an unregistered HMO and bringing it into the licensing regime.
 - In the case of licence holders applying for a subsequent licence for the same property (renewal) to charge a lower fee than the full HMO application licence fee if it is provided within time. Where an application is received and it's either incomplete or is outside of time to charge the full fee for an initial application

Options

13. There are three options being put forward:
 - Option 1 - To introduce a new condition to require Licence Holders to have attended and passed a relevant one day Professional Development Course, to amend the application process and to introduce penalties and incentives to ensure that the Licences are issued for the full period;
 - Option 2 - For the Executive Member to amend the above;

- Option 3 - Not to introduce the new condition or to amend the application process or to introduce penalties and incentives

Analysis

14. Option 1- The introduction of a condition requiring Licence Holders to attend and pass a one day Professional Development Course is aimed at improving the management and condition of the sector which has been identified as being the worst in stock condition surveys. Those landlords who have attended other recognised courses will be deemed to have met the licensing condition. The streamlining of the process and the introduction of the penalty fee will help to ensure that HMOs are licensed for the full period
15. Option 2- Not known
16. Option 3- We have found that the landlords own fewer than 5 properties and that it is ignorance of the law rather than blatantly flouting the law which causes the sector to have the poorest conditions. Without the necessary knowledge and skills the sector will continue to be poorly managed

Consultation

17. As part of the consultation on the Private Rented Sector (September – October 2014) we consulted with a range of stakeholders, tenants, landlords and letting agents. We found that there was strong support for the Council to introduce more education and training coupled with stronger enforcement of the sector.
18. In addition we have consulted all current licence holders, letting agents and the two landlord organisations on our proposals for introducing a Professional Development Course. The full response is attached as Appendix A
19. Four questions were asked
 - a) **Have we covered the right content for general use?**
Nearly 90% of the respondents advised that the proposed content of the training was appropriate but made a suggestion that we include additional information about how to support landlords to deal with poor tenants. Which we propose to include in our training.

- b) **The Residential Landlord Association and the National Landlord Association provide national landlord training courses addressing most of these issues. Are you aware of any other courses that provide the same level of knowledge to the licence holder?** Nearly 83% of respondents were unaware of any other alternative courses. One suggestion was that the Association of Residential letting Agents (ARLA) may also operate such courses. We are investigating and if deemed acceptable will include this as a recognised qualification
- c) **We are considering that all licence holders should attend training or provide proof of attendance at a relevant alternative course within a year. Do you think that this is reasonable?** In response to this question respondents provided no alternative length of time to comply with the condition. However many used this as an opportunity to advise that they thought experience and the use of letting agents to manage their properties was sufficient. Under the law it is the licence holder who is the person in control and responsible for housing conditions and management of the property. The proposed condition would be met where the licence holder is also the managing agent if they hold a recognised qualification. Unfortunately we are unable to quantify the length of time that the person has been a landlord
- d) **The proposed training will most likely last for 6 hours (either two 3 hour sessions or one 6 hour session). How would you prefer to access this training? (Please tick all options that apply).** There was significant support for the development of an online training option. Which we are now currently developing.

20. We have benchmarked these figures, the fees (see financial section) will be brought in line with the average licence fee for re-licensing HMOs for similar sized and type of councils. It will be slightly higher than the average for completely new licences however we anticipate that there on average that we will only expect 20 new applications.

Council Objectives

21. Enforcing these new laws will support and contribute towards a number of the Administration's council key priorities:
- A prosperous city for all
 - A focus on frontline services
 - A council that listens to residents

22. The private rented sector forms a significant part of the housing offer to the City, helping landlords to have the basic knowledge and information which will help to drive up standards in the sector
23. It also meets with the specific strategic Aim 2 of the Draft York Private Sector Housing Strategy 2014-2019 to encourage and enable private landlords and agents to provide good quality, well managed properties

Implications

24. The implications arising directly from this report are:

- **Financial** – The additional cost of providing the necessary local training courses and the administration of the scheme will be met by the slight increase in the licensing fee.

HMO Licenses	Fee £
New Licence Application	
Band A	915
Band B	1065
Band C	1210
Band D	1280
Re licensing	
Band A	625
Band B	650
Band C	675
Band D	720
Penalty Fee	150

Note the above fees are subject to the Fees and Charges Report due to be heard by the Executive on 15 December 2015

- **Procurement** – None
- **Human Resources** – An additional resource equivalent to 0.5FTE will be required to deliver the necessary Professional development courses. This will be funded by the license fee.
- **Equalities Implications** – Attached is the Community Impact Assessment which identifies that the new licensing condition will help to improve the standards and management of the sector which houses some of a significant young population. (Appendix B)

- **Legal Implications** – The Council is required by Part 2 of the Housing Act 2004 to licence certain Houses in Multiple Occupation and must consider that the Licence Holder has sufficient level of competence to be involved and can require the licence holder or the manager of the house to attend training courses.

Risk Management

25. The Council is required by Part 2 of the Housing Act 2004 to licence certain Houses in Multiple Occupation and must ensure that the property not only meets physical standards but also that the License holder meets the fit and proper test and must have a sufficient level of competence to be so involved. By introducing this new condition the council will ensure that any licence holder has the right level of knowledge to ensure that such houses are suitably managed.

Contact Details

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	Report Approved	√	Date 3 December 2015
Wards Affected: All			
For further information please contact the authors of the report			

Annexes

Appendix A – Full Response to the Consultation

Appendix B- Community Impact Assessment

Abbreviations

HMO - Houses in Multiple Occupation

FTE - Full time equivalent.

ARLA - Association of Residential letting Agents