

## Appendix A

### Houses in Multiple Occupation

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#### 1. Summary

SHDC currently has a statutory duty to licence HMOs where they exceed three storeys in height and are occupied by five or more individuals who form more than one household. The authority is aware of 35 mandatory licensable HMOs within the district of South Holland, each of which the authority inspects on a regular basis. There is currently planning permission being sought for a new HMO in Holbeach.

Each of the licensable properties are visited and risk rated against several criteria. These criteria will include, for example: numbers of occupants, fire risk, and other safety risks including gas/electrical, management arrangements including the record or attitude of the responsible person and so on. It is important to note that the current statutory licencing is very limited in its ability to deal with residents' behaviour, for example. Dependant on the risk rating; a licence will be granted and then the property will be revisited for relicensing within a 6-30-month period. The current charge for a licence is £375.00 for 5 years. Fees were last increased in 2010/11.

All other HMO's not included in the above statutory requirements are inspected as they come to light. We currently have 2 that we are aware of and acting upon.

The Government intends enacting legislation (Housing and Planning Act 2016.) to remove the three-storey requirement whilst retaining the threshold at a minimum of five people by April 2018 (we are awaiting a definitive date via a Statutory Instrument). This will mean licensing will extend to all HMOs occupied by five or more people in two or more households, throughout England.

Whilst the same licensing rules will be applied to multiple occupied flats in converted buildings, certain flats in purpose built blocks and other buildings where there are three or more purpose built flats in a mixed commercial / residential building will be exempt from the new licensing rules.

A new minimum HMO room size is proposed for properties that have been licensed under a mandatory HMO or additional licensing scheme – 6.52m<sup>2</sup> for a single room and 10.23m<sup>2</sup> for a double room. Councils will retain the ability to specify larger sizes where it is deemed appropriate. Certain providers of hostels and temporary emergency accommodation will be exempt.

Councils will still retain the ability to introduce additional and selective licensing schemes if they satisfy the criteria for doing so.

As mentioned, the government have indicated that these proposals will be implemented in April 2018 with a grace period of six months for all parties to comply.

A research paper has been delivered in July 2017 around HMO's in the SHDC, with an emphasis on addressing issues and numbers of non-licenced HMO's. The report estimates there are about 1000 such properties in South Holland District. A summary of the recommendations is attached below, and the full research paper is available as Appendix B

- To strengthen communication and intelligence gathering between Council Departments and agencies. This includes housing, planning and environmental health sections liaising

to identify conflicting policies and practices regarding HMOs and to determine how such conflicts can be addressed.

- For South Holland DC to consider the implementing a 'know your landlord' service allowing prospective tenants to enquire whether landlords are licensed, accredited, licensed or a member of a recognised landlord organisation such as the National Landlords Association.
- To consider implementing a Tenancy Relations Service for landlords to ensure compliance with the law. This will ensure landlords are supported both in terms of being provided with affordable legal advice in terms of managing tenancies, minimising unlawful eviction and supporting landlords to respond to problem tenants
- To consider implementing a rogue landlord 'hit squad' which will seek out and investigate poor landlords, take appropriate action and publicise successful prosecutions.
- To consider implementing a confidential freephone line where people can report unlicensed or poor-quality landlords.
- To consider the financial impact of the local authority implementing the DCLG's proposed revised HMO guidance
- To consider the implementation of HMO policy areas in localities where HMOs are beyond a pre-determined threshold. This would include considering planning policy which encourage or discourage further HMOs based on existing densities
- To develop and HMO Strategy outlining how the local authority intends to respond in partnership with other agencies to deal with HMO issues. This would include considering how agencies could respond proactively rather than reactively to HMO issues.
- To continue to collect Acorn, Council Tax and Housing Benefit data which will ensure that the Council have an up-to-date understanding of potential HMOs
- Further work is required to identify additional un-licensed Houses in Multiple Occupation. For example, it is recommended that the Council revisit the pre-licence HMO list to identify which properties may have been overlooked by the new scheme.

## **2. Current staffing arrangements**

All actions relating to current mandatory licencing in South Holland is spread across 2.7 FTE Private Sector Housing Officers. These members of staff also undertake other statutory or high-profile work around Disabled Facilities Grants, Housing Health Safety Rating System, Empty Homes, Immigration inspections and Caravan Site Licencing, along with the regulation of all other forms of residential accommodation.

Following the Place Review, 2 new Private Sector Housing Officers have been recruited and will be on establishment from the 11th and 12<sup>th</sup> December 2017.

## **3. Processes**

The current processes rely on large amounts of paperwork, snail mail correspondence, telephone calls and home visits. It is driven by the process itself, is overall reactive in its service provision and is limited to proactive customer engagement. The inspection regime and risk rating process, however, delivers a good service and the mandatory licencing area for which SHDC is responsible for, is robust.

These processes are under review following the Place review and options are being considered around either the use of digital technology and/or amending processes to empower the landlord to meet the requirements themselves; which could be both quicker and cheaper. To facilitate this, SHDC might consider a light touch or self-certification regime.

Other revised processes are also under consideration such as allowing tenants (and other residents or bodies) of such HMO's access to report identify possible rogue landlords and/or

issues via a confidential freephone or similar referral service. This might further support a light touch regime in certain instances

#### **4. Inspections**

An inspection regime will need to part of the enforcement role but, again; there are options to consider that might reduce the impact on SHDC having to inspect.

There is a decision to be made as to whether all HIMO that require mandatory licensing will require a physical inspection.

#### **5. Licensing**

The current Licensing fee structure is not for profit but needs to cover the cost of administering the scheme.

Any fee structure needs to (financially) encourage uptake and 'reward' good landlords who meet the licencing requirements. A 'light touch' or self-certification regulatory scheme could be considered, either as a whole, or as part of, a possible landlord accreditation scheme.

Conversely; landlords who delay or are slow to respond to uptake and/or comply; plus, those who (deliberately) evade or are considered as rogue landlords: then the fee structure needs to accurately reflect the account of the actual work that is required to bring such landlords into compliance.

#### **6. Enforcement**

Any enforcement may result in other costs to SHDC and impact on other services.

For example; if a prohibition order has to be obtained then there is duty to provide accommodation. This may impact will impact on homelessness and will need to be considered in conjunction with other statutory duties: for example; under the Homelessness Reduction Act which comes into force of the 3<sup>rd</sup> April 2018.

There may also be duty to provide home loss payments (further legal checks are underway to ascertain any liability that SHDC may be required to deliver under this legislation)

#### **7. Other Considerations**

SHDC does not currently use any of these options

#### **Housing and Planning Act 2016.**

##### **Fixed Penalties**

These new rules allow Local Authorities to levy a financial penalty of up to £30,000 for various offences under the Housing Act 2004 instead of bringing a prosecution (current SHDC policy).

The offences are:

- failure to apply for an HMO licence;
- breach of a licence condition;
- breach of the HMO Management Regulations;
- breach of a Housing Health and Safety Rating System (HHSRS) enforcement notice; and
- using unlawful force to seek an eviction.

Note that if there are several offences (as there may well be, for example, if there were breaches of several of the HMO management regulations), there will be a separate penalty notice for each one.

There is an appeal process which gives 28 days to make representations to your Local Authority. If the Local Authority decides to go ahead with enforcement, then there is another 28 days to appeal to the First Tier Tribunal.

### **Rent Repayment Orders**

These originally were limited to options where landlords fail to apply for an HMO license when their property is licensable. With the above, they will be available for the same offences as the penalty notices.

It is going to be easier for both Local Authorities and tenants to apply for these. The application will need to be made to the First Tier Tribunal, and they will need to be satisfied beyond doubt that the offence has been committed. However, so long as they are satisfied, it is not necessary for the landlord to have been prosecuted.