

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Executive Director – Place
To: Policy Development Panel Tuesday, 26 June 2018
(Author: Phil Stacey Housing Options Manager)
Subject Houses in Multiple Occupation
Purpose: Update Report

Recommendation(s):

- 1) That the Policy Development Panel note the update report on the new rules covered by the Licensing of Houses in Multiple Occupation Order 2108 and provide feedback

1.0 Background

- 1.1 Following a report to PDP on the 7th December 2017 it was agreed that:
- 1.2 Officers' report back to the Panel after the new legislation had come into force in 2018.
- 1.3 That the report provide information on areas of concern raised by Members, provide Members with the key detail required to understand the issues, and that the position in South Holland following implementation of new legislation be laid out.
- 1.4 That the public register of licensed HMOs be added to the Council's website

2.0 Options

- 2.1 Option 1: That the Panel considers the update and provides feedback to Officers
- 2.2 Option 2: Do Nothing

3.0 Reasons for Recommendation

- 3.1 The reason for recommendation is for Policy Development Panel to consider the update report and provide feedback

4.0 Expected Benefits

- 4.1 An improvement in standards of Houses in Multiple Occupation, especially in those currently unlicensed, should result in a net increase the number of properties available to reduce the number of homeless people in the district

4.2 Providing good quality, well-regulated Houses in Multiple Occupation should minimise disrepair, environmental and other health considerations in the district

5.0 Report

5.1 Subsequent to the report made to PDP in December 2017, several changes were made by Central Government that affected the implementation of the new legislation as it affects Houses in Multiple Occupation (HMOs). In addition; Members had also asked for more information on the legislative process surrounding HMOs.

5.2 The most significant of these was the delay in the statutory requirement to licence two storey HMOs by Local Government until October 2018 (On 23 January 2018, Housing Minister, Dominic Raab, responded to a written question from Wera Hobhouse MP stating that, subject to Parliamentary approval, the necessary regulations would be brought into force in October 2018.)

5.3 Since the Housing Act 2004 came into force it has been a requirement that large HMOs are licensed under mandatory licensing. Currently mandatory licensing applies nationwide to HMOs that:

1. Comprise 3 or more storeys;
2. Are occupied by 5 or more people living in two or more single households; and
3. The occupiers share basic amenities such as washing and cooking facilities.

As these large HMOs are deemed high risk they are all required to be licensed regardless of where the HMO is located.

5.4 The Housing Act 2004 allows the Secretary of State to prescribe the type of HMO that falls within the definition of mandatory licensing. The prescribed description has not been updated since 2006 when licensing under the Housing Act 2004 came into force.

5.5 The Government has now decided to extend the scope of mandatory licensing to bring smaller HMOs within the scheme. Mandatory licensing will include:

- All HMOs with 5 or more occupiers living in 2 or more households regardless of the number of storeys. Effectively this means the storey requirement will be removed from the current definition.
- Purpose built flats where there are up to two flats in the block and one or both of the flats are occupied by 5 or more persons in 2 or more separate households. This will apply regardless of whether the block is above or below commercial premises. This will bring certain flats above shops on high streets within mandatory licensing as well as small blocks of flats which are not connected to commercial premises.

As is the case now, it is the individual HMO that is required to be licensed and not the building within which the HMO is situated. This means that where a building has two flats and each is occupied by 5 persons living in 2 or more households, each flat will require a separate HMO licence.

5.6 The Government proposes to implement the extension of mandatory licensing in two phases.

Phase one will last for 6 months. During this time local authorities will publicise the new licensing regime, process applications and issue licences. Landlords that did not require a HMO licence before the change in the rules will not be prosecuted during phase one for failure to license a licensable HMO and will not be exposed to rent repayment orders. However, landlords will be expected to apply for a licence during the 6 month grace period and they are encouraged to do so because they will not be able to serve valid section 21 notices seeking possession until an application for a licence has been duly made (unless the landlord has instead applied for a temporary exemption in order to remove their property from licensing).

The Government's response is clear that the 6 month grace period does not mean that applying for a licence is optional. It just means that the criminal sanctions for not having a licence will be put on hold. Once the 6 month period is over and phase two begins any landlord without a licence will be subject to the full range of penalties for failing to comply.

It is also important to point out that landlords who currently require a licence under a local authority additional or selective licensing scheme and who are not licensed will not be able to benefit from the 6 month grace period just because their property has fallen within the new mandatory licensing category. These landlords could face enforcement action at any time.

- 5.7 Further reports will need to come to PDP to ensure SHDC is compliant with this new legislation; most of these reports are already drafted and include reports on Rogue Landlords, Enforcement and Licencing fees and process.
- 5.8 The public register of licensed HMOs is now on the Council's website

6.0 Implications

6.1 Carbon Footprint / Environmental Issues

- 6.1.1 Effective processes to manage and enforce regulation on Houses in Multiple Occupation will minimise, for example, inefficient heating systems that contribute to the carbon footprint

6.2 Corporate Priorities

- 6.2.1 There is a strong link between work around Houses in Multiple Occupation and our corporate priorities, notably 'to have pride in South Holland by supporting the district and residents to develop and thrive'.

6.3 Crime and Disorder

- 6.3.1 There is often a link between Houses in Multiple Occupation and anti-social behaviour. Addressing the issue of Houses in Multiple Occupation should make a contribution to wider efforts to address anti-social behaviour)

6.4 Financial

- 6.4.1 The extension of licencing to large numbers will need to accurately reflect the cost to the authority to administer the scheme and consideration needs to be given as to an

appropriate increase of fees given this, and that no increase has been applied since 2010/11.

- 6.4.2 In addition; there are additional powers available to the district, which if introduced, will have a financial impact
- 6.4.3 The application of Home Loss Payments when Houses in Multiple Occupation are prohibited, and persons are made Homeless as a result of our actions needs to be resolved and, dependant on the legal advice, any financial implications need to be considered
- 6.4.4 Failure to implement the new Statutory Duties could result in financial penalties

6.5 **Health & Wellbeing**

- 6.5.1 There is a positive link between increasing both the supply of housing, along with investing into the condition of private housing in the district and the broader Health and Wellbeing agenda

6.6 **Reputation**

- 6.6.1 Failure to implement the new statutory duties required could result in a direct intervention by the Secretary of State, with the resultant reputation and also possible financial damage

6.7 **Risk Management**

- 6.7.1 There are risks in taking enforcement action against Houses in Multiple Occupation; as these may result in Homelessness and would impose additional Statutory Duties under the Homelessness Reduction Act, as from 3rd April 2018

6.8 **Safeguarding**

- 6.8.1 Occupants of Houses in Multiple Occupation can often be some of the most vulnerable members of society. Any process or policy changes need to ensure that these persons remain safeguarded

6.9 **Staffing**

- 6.9.1 There was an addition of 2 full time officers made within the Place review. Staffing resources will need to be kept under review dependant on the practical implications of enforcing the licensing requirements from October 2018

6.10 **Stakeholders / Constitution / Timescales**

- 6.10.1 There are no known implications for stakeholders, but Houses in Multiple Occupation work will require the Council to adopt a partnership approach. There are no known implications in terms of timescales and consultation.

6.11 **Transformation Programme**

- 6.11.1 There are likely to be several Information Technology changes required which will need to be worked up and costed

7.0 **WARDS/COMMUNITIES AFFECTED**

- 7.1 All

Lead Contact Officer

Name and Post: Phil Stacey Housing Options Manager
Telephone Number 01775 764605
Email: philstacey@sholland.gov.uk

Key Decision: N

Exempt Decision: N)

This report refers to a Mandatory Service