

## CABINET MEMBER DECISION RECORD TEMPLATE

This form should be used to record Executive decisions taken by Cabinet Members

<b>Decision Ref. No:</b>
<b>Responsible Officer:</b> Kelly Ansell, Head of Communities and Enforcement
<b>Subject:</b> Updated Private Sector Housing Enforcement Policy
<b>Decision taken:</b> To approve the updated Policy dated June 2018.
<p><b>1. Reasons for the decision:</b></p> <p>1.1 On 23<sup>rd</sup> February 2018, the government announced changes to the current Mandatory Licensing of Houses of Multiple Occupation (HMO's). "The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018" changes the way the Housing Act 2004 deals with HMO's.</p> <p>1.2 The new definition of an HMO for licensing purposes will now be any property occupied by five or more people, forming two or more separate households. Previously, legislation dictated that the same criteria was applied, but only to properties which were three or more storeys.</p> <p>1.3 The change in definition will significantly increase the number of licensable HMO's in Bournemouth from 500 to an estimated 2500.</p> <p>1.4 In addition, new legislation under the Housing and Planning Act 2016 came in to effect in April 2018 relating to Banning Orders.</p> <p>1.5 As a result of the changes it has been necessary to amend the Council's Private Sector Housing Enforcement Policy, HMO Amenity Standards and to review the fee structure relating to licence fee's and associated charges. The changes are summarised below;</p> <p><b>2. Private Sector Housing Enforcement Policy Changes</b></p> <p>2.1 The Housing and Planning Act 2016 (Banning Order Offences) Regulations 2017 introduced a list of banning order offence which were enacted in April 2018;</p> <ul style="list-style-type: none"> <li>• Unlawful eviction and harassment of occupier</li> <li>• Violence for securing entry</li> <li>• Failing to comply with an Improvement Notice</li> <li>• Failing to comply with a prohibition order</li> <li>• Offences in relation to licensing of Houses in Multiple Occupation</li> <li>• Offences in relation to licensing under Part 3 of the Act</li> </ul>

- Contravention of an overcrowding notice
- Failure to comply with the management regulations in respect to Houses in multiple occupation
- False or misleading information
- Fire Safety offences
- Gas safety offences-duties on landlords

2.2 The Private Sector Housing Enforcement Policy has been amended to comply with this new legislation, by setting out the Council's approach to Banning Order Offences.

2.3 By way of summary, landlords who are found guilty of one of the relevant offences will be referred to the First-tier Tribunal for application of a banning order. A banning order will last a minimum of 12 months.

### **3. Houses in Multiple Occupation (HMO) Amenity Standards**

3.1 The Government prescribes certain standards that must be met in HMOs that are licensable under the Housing Act 2004. Bournemouth Council's adopted Amenity Standards set out these prescribed standards in accordance with the legislation as well as giving guidance on how it considers these standards can be met locally. The Amenity Standards have been reviewed as a result of changes in the prescribed conditions following the extension of mandatory licensing.

3.2 The changes can be summarised as follows;

- The revised standards provide clarification of the requirement for provision wash hand basins in HMO's and make it clear that this standard will be applied to shared house HMO's where reasonably practicable.
- There is a new prescribed requirement for the licence holder to comply with the local area refuse collection scheme and ensure the provision of the correct bins at all times.
- Minimum room sizes have been increased in line with the new prescribed conditions;

1 person room	6.51 m <sup>2</sup>
2 persons room	10.22 m <sup>2</sup>

### **4. HMO Licence Fee**

4.1 As a result of the extension to the Mandatory Licensing regulations, it has been necessary to undertake a review of the council's licence fee's for HMO Licensing. The fee structure was last reviewed in 2013 and has now been increased to accommodate cost increases. A full review of output and costs associated with the licensing of HMO's has been undertaken in order to propose the following fee structure;

- New HMO licence fee (five year licenses will be the norm, however, 1 year licenses may be issued where there are broader compliance issues such as unlawful planning use.) - £695.00 (formerly £670.00)
- Renewal fee - £595 (no increase)

- Late payment fee - £200 (in addition to the licence fee)

4.2 Officer time will continue to be charged for investigative work and where enforcement action is required as a result of non-compliance.

**5. Call-in and Urgency:**

5.1 This decision is subject to the Council's call-in procedures.

**6. Options - and reasons for rejection:**

6.1 **Option 1 – Do nothing** - This is not an option as the Council has a duty to comply with the Housing Act 2004 and the Housing and Planning Act 2016.

6.2 **Option 2 – Adopt a new Private Sector Housing Enforcement Policy and revised fee structure for HMO Licensing** - This is the recommended option in order to remain fully compliant with the Council's statutory duties and to ensure that the Council is able to fully recover all of the costs associated with HMO Licensing activity.

**7. Consultations undertaken:**

7.1 Legal Services and Financial Services have been consulted on the proposed policy and fee structure. No public consultation is required.

**8. Finance/Resource Implications:**

8.1 The proposed fee level ensures that the costs incurred by the council are recovered and mitigates impact upon the Council resources.

Name: ADAM RICHENS

Signature: (of Chief Finance Officer)

Date: 28-06-18

**9. Legal implications:**

9.1 The proposed changes ensure that the Council is compliant with legislative requirements and its new statutory duties.

Name: TAMIA COURTNE

Signature: (of Monitoring Officer)

Date: 28/06/18

**10. Risk assessment:**

10.1 The risk assessment highlighted the following risks associated with the updated policy:

- Reputation risk- increased enforcement of landlords
- Financial/resource risk- staffing resource required to implement the updated policy
- Financial risk- legal challenge from landlords

10.2 These risks are mitigated through the development of a targeted communication plan which will inform landlords of the national changes in the Housing Act.

10.3 The additional income fee from the increase in HMO licensing will

resource the staff needed to implement the licences and uphold the Enforcement Policy.

- 10.4 Through raising awareness with landlords of the change in national legislation, this should reduce the risk of any legal challenge directly to the Council.

Name:  Signature: (of Officer completing assessment)

Date: 6/6/18

**11. Impact Assessments:**

- 11.1 The Environmental Impact Assessment highlighted that the changes should bring about improvements in terms of quality of housing, amenity standards and quality of living. There is also Improved opportunity to manage waste related issues through new licensing conditions imposed through the extension to mandatory licensing as well as improved standards through implementation of minimum room sizes.

**12. Information for publication:**

Private Sector Housing Enforcement Policy June 2018

**13. Background papers:**

Housing Act 2004

Housing and Planning Act 2016

The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018

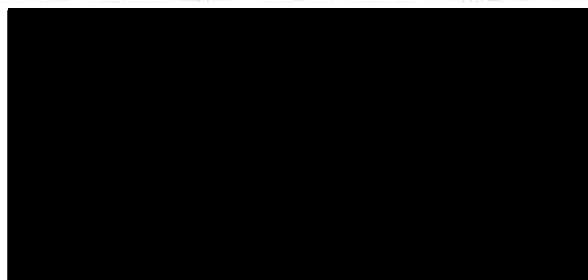
Any conflict of interest declared by a Cabinet Member who is consulted by the Member taking the decision	Name of Cabinet Member	Nature of interest	Details of any dispensation granted by the Monitoring Officer
Yes/No* (*Delete as appropriate)			

**Decision taken by:**

Councillor Robert Lawton

Cabinet Portfolio Holder

for Housing



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.....  
**Signed:**



**Date of decision:**

**Date of publication of record of decision:** (to be inserted by Democratic Services)

6 July 2018

**Date decision effective** – that is 5 working days after the date of publication of the record of decision unless the decision is called-in for consideration by the relevant Overview and Scrutiny Panel:

**Date:** 5.00 pm, 13 July 2018

