

Report to the Cabinet

Report reference: C-050-2015/16
Date of meeting: 3 December 2015



Portfolio: Housing
Subject: House In Multiple Occupation (HMO) Licensing Policy
Responsible Officer: Sally Devine (01992 564149).
Democratic Services: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

- (1) That the updated version of the House in Multiple Occupation (HMO) Licensing Policy, attached at Appendix A, be approved and adopted; and**
- (2) That if the Government exercises its proposal to extend the mandatory licensing of Houses in Multiple Occupation in England, the new House in Multiple Occupation (HMO) Licensing Policy will be reviewed and updated to take into account the legislative changes.**

Executive Summary:

The Council's existing House In Multiple Occupation (HMO) Policy is now several years old and pre-dates the corporate restructure in 2008 and the transfer of private sector housing functions to the Housing Directorate. It is now appropriate to review and update the policy to reflect how officers in the new Communities Directorate will carry out their HMO licensing functions. The draft revised policy is attached as Appendix 1 to the Report

Reasons for Proposed Decision:

In order to ensure that service users are fully aware of what to expect from Council officers and can be satisfied that they will be treated fairly and proportionately.

Other Options for Action:

Not to adopt a Policy. This course of action would leave the Council open to criticism as it could not demonstrate a fair and open approach towards its HMO licensing function.

Report:

1. The Council's current House in Multiple Occupation (HMO) Licensing Policy was produced in 2007 by Environmental Services, pre-dating the corporate restructures in 2008 and 2010 which resulted in the transfer of the Private Sector Housing Team to the Housing Directorate and subsequently Communities Directorate. .
2. It is necessary to review and update the existing policy to take account of the transfer of functions to the Communities Directorate and to take account of any relevant legislative changes.

3. The new House in Multiple Occupation (HMO) Licensing Policy is attached as Appendix 1 to this report. It explains the types of properties that need to be licenced and it sets out the framework for the application and licensing of Houses in Multiple Occupation (HMO). The policy will ensure that the Council takes a fair, considered, consistent and transparent approach to licensing these properties. A Comparison Table at Appendix B highlights the changes made and differences between the existing HMO Licensing Policy and the proposed policy.

4. This Council currently only licences HMOs that meet the criteria for mandatory licensing, these being considered to be the properties affording the highest health and safety risk to occupiers. The Housing Act 2004 allows local authorities discretion to introduce Additional Licensing to cover other types of HMOs beyond the mandatory criteria where there is evidence that a significant proportion of HMOs of that description are being managed sufficiently badly so as to give rise to problems associated with anti-social behaviour either to the occupiers of the HMOs or members of the public. Officers have no evidence to suggest that the criteria for Additional Licensing are currently being met and as such do not recommend extending the scope of the Council's licensing function beyond the mandatory element.

5. The Housing Act 2004 also allows local authorities discretion to introduce Selective licensing of all privately-rented properties, not just HMOs, in a designated area. An area can be designated for selective licensing if it is an area of low housing demand, the area is experiencing significant anti-social behaviour issues and the landlords are failing to take appropriate action. Additional criteria are also now in force to allow a designation to be made in order to combat problems in an area experiencing poor property conditions, an influx of migration, a high level of deprivation or high levels of crime. Officers are currently carrying out a review based on data analysis to see if the criteria for Selective Licensing are met. If appropriate the results will form the basis of a further report for consideration by Members for the introduction of Selective Licensing and this policy will be updated accordingly.

6. The Government has indicated its proposals to extend the mandatory licensing of HMOs in England and it is currently consulting with local authorities on this matter. If the scope of mandatory licensing is extended to other types or sizes of HMOs, it will be necessary to review and update the Council's House in Multiple Occupation (HMO) Licensing Policy accordingly, to take into account the legislative changes. Members are therefore being made aware of the possibility, in the near future, for the need of a further revision of the HMO licensing policy.

Resource Implications:

All costs are contained within current budgets.

Legal and Governance Implications:

The adoption of the revised Policy will ensure that the HMO licensing functions are carried out in a fair and consistent manner and in accordance with the provisions of the Housing Act 2004, the Private Sector Housing Enforcement Policy and the principles of the Regulator's Code.

Safer, Cleaner and Greener Implications:

One of the main aims of the Council's Private Sector Housing function is to protect the health and safety of the residents, including people living in HMOs. The Council is required to licence HMOs that meet certain criteria because they pose particular health and safety risks

to occupiers.

Consultation Undertaken:

None.

Background Papers:

None.

Risk Management:

Failure to carry out its mandatory licensing functions would put the Council in breach of its legal obligations and would compromise the health and safety of the people living in licensable HMOs. Failure to have a clear and comprehensive policy will leave the Council open to criticism from landlords and tenants alike.

Due Regard Record

This page shows **which groups of people are affected** by the subject of this report. It sets out **how they are affected** and how any **unlawful discrimination** they experience can be eliminated. It also includes information about how **access to the service(s)** subject to this report can be improved for the different groups of people; and how they can be assisted to **understand each other better** as a result of the subject of this report.

S149 Equality Act 2010 requires that due regard must be paid to this information when considering the subject of this report.

The local authority has a legal duty to licence all licensable houses in multiple occupation. These are properties that present a potentially high risk to the health and safety of occupying tenants particularly in respect of fire safety; provision of amenities and overcrowding. Licensing allows a local authority to ensure that the property and management standards are satisfactory.

The Council carried out a Private Sector House Condition Survey (PSHCS) in 2011 which profiled residents in private sector housing, including the private rented sector, across the District. The results of the survey were compared where possible with the results of a PSHCS carried out in 2005 which shows an increase in the private rented sector as a percentage of all stock from approximately 3% in 2005 to 15% in 2011.

The PSHCS includes profiling against a variety of criteria including age, family income and disability. This demonstrates that a higher proportion of 'vulnerable residents' (e.g. families with children and/or older people on low incomes and/or disabled people) live in non-Decent homes in the private rented sector than in owner occupied homes.

Research and analysis from a broad range of statistical data, summarised in the Parliamentary Report on 'Housing and Health' suggests that living in poor housing can lead to an increased risk of cardiovascular and respiratory disease as well as to anxiety and depression. Problems such as damp, mould, excess cold and structural defects which increase the risk of an accident also present hazards to health.

People living in houses in multiple occupation face potential additional health and safety risks associated with sharing washing and cooking facilities and living in overcrowding conditions. These can manifest as a psychological illness, increased infections, impaired development of children etc. There is also a significant increase in risk of harm through inadequate fire safety provision compared to single households because there is disconnection between individuals living in the properties and occupiers do not therefore have control of the whole living space. The properties tend to be larger than a typical house and therefore the travel distance to safety in the event of a fire is greater.

The PSHCS estimated that there are approximately 200 houses in multiple occupation (HMO) across the district and that 20 of these are likely to be licensable. It is likely that the numbers are likely to be higher with the introduction of the recent welfare reforms that has meant that single people particularly are faced with sharing

rooms in houses as their only affordable option for housing. People living in houses in multiple occupation are often the poorest and most vulnerable residents in the district and an HMO licensing policy is important to help ensure that minimum standards are met in those properties that present the highest risks.

The Council does not currently licence other categories of HMOs beyond that required under the Housing Act 2004 and has not introduced discretionary selective licensing of properties generally across the district. As such there can be no suggestion by landlords of unfairly aggressive enforcement by the Council or discrimination..

The proposed House in Multiple Occupation Licensing Policy is directed by the requirements imposed under the Housing Act 2004 which includes allowing local authorities to charge for their reasonable costs in carrying out their licensing functions. This Council charge a fee for the duration of the licence, renewable every 5 years (some conditions apply) and the costs are based on officer time in inspections, vetting applications and general administration. The fees are reviewed annually and are comparable with those charged by other local authorities in Essex. As such these are considered to be fair to landlords as part of their business costs.

The House In Multiple Occupation (HMO) Licensing Policy for Epping Forest District Council

HMO Licensing Policy 2015-2018

1.0 Introduction

- 1.1 This policy sets out the framework for the application and licensing of Houses in Multiple Occupation (HMOs). The policy will ensure that the Council takes a fair, considered, consistent and transparent approach in relation to the licensing process.
- 1.2 The HMO licensing regime was introduced by the Housing Act 2004. There are 3 types of licences:
 1. Mandatory Licensing for HMOs;
 2. Additional Licensing for HMOs not subject to Mandatory Licensing; and,
 3. Selective Licensing for private rented property under certain conditions.
- 1.3 This policy deals with mandatory licensing for HMOs. The Council has not applied for additional discretionary powers to extend its licensing powers beyond the mandatory requirements. Additional discretionary licencing can be applied for where HMOs in a specific area are badly managed and are giving rise to anti-social behaviour. However, the Government is considering extending the scope of mandatory licensing of HMOs and should this occur, this policy will be updated accordingly.
- 1.4 Selective licensing covers all privately-rented properties, not just HMOs, in a designated area. An area can be designated for selective licensing if it is an area of low housing demand, the area is experiencing significant anti-social behaviour issues and the landlords are failing to take appropriate action. Additional criteria are also now in force to allow a designation to be made in order to combat problems in an area experiencing poor property conditions, an influx of migration, a high level of deprivation or high levels of crime. The Council is currently carrying out a review based on data analysis to see if the criteria for Selective Licensing are met. If appropriate the results will form the basis of a further report for consideration by Members for the introduction of selective licensing and this policy will be updated accordingly.

2.0 Definition of a House in Multiple Occupation (HMO)

- 2.1 An HMO is a dwelling which is occupied by persons who do not form a single household. The occupants share kitchen, bathroom or WC facilities. The dwelling is the occupant's main place of residence. The definition includes houses containing bedsits, hostels, shared houses and flats. Self-contained flats in converted buildings may also be HMOs if they were converted before 1991 and at least one third of the flats are occupied under short tenancies.
- 2.2 This is a summary definition; the full definition is complex and is described by the standard tests detailed in Section 254 of the Housing Act 2004. The full definition is attached in Appendix 1.

3.0 Types of Building that require an HMO Licence

3.1 An HMO must have a licence if all three of the following apply:

- it is three or more storeys high;
- it is occupied by five or more persons; and,
- it is occupied by persons living in 2 or more single households.

3.2 The following properties are exempt:

- Buildings comprising entirely of self-contained flats;
- Buildings owned or managed by a Housing Association, Local Authority, Education Authority, Police or Health Services;
- Some religious establishments;
- Some student accommodation; and,
- Buildings where the basement is in commercial use and there are only 2 storeys above.

3.3 The full definitions regarding licensing can be found in the Housing Act 2004 section 55 and the Licensing of Houses in Multiple Occupation (Prescribed Definitions)(England) Order 2006. Appendix 2 provides a link to this document which can also be viewed on the Council website.

4.0 Suitability for Occupation

4.1 An HMO licence must be granted if the Council is satisfied that:

- The HMO is reasonably suitable for occupation by the number of persons permitted under the licence (as set out in Schedule 3 of the Licensing and Management of Houses in Multiple Occupation and other Houses (Miscellaneous Provisions)(England) Regulations 2006 as amended by The Licensing and Management of Houses in Multiple Occupation (Additional Provisions)(England) Regulations 2007;
- the licence holder is a fit and proper person;
- the proposed licence holder is the most appropriate person to hold the licence;
- the proposed manager, if not the licence holder, is fit and proper; and,
- the proposed management arrangements are satisfactory, including that the person involved in the management of the house is competent and the funding for management is satisfactory.

5.0 Fit and Proper Person

5.1 The Council is required to assess whether the applicant and any manager or any person associated with them or formerly associated with them are fit and proper persons to own or manage an HMO. In making this assessment the Council must have regard to:

- any previous convictions relating to offences involving violence, sexual offences, drugs or fraud;
- whether the proposed licence holder has contravened any laws relating to housing or landlord and tenant issues;

- whether the person has been found guilty of unlawful discrimination practices;
- Whether they have been in control of a property subject to an HMO Control Order, an Interim Management Order (IMO) or Final Management Order (FMO) or works in default carried out by a Local Authority within the previous five years; and,
- Whether they have been subject to any legal proceedings by a Local Authority for breaches of planning, compulsory purchase, environmental protection legislation or other relevant legislation.

5.2 An unspent conviction or other failure is not necessarily automatic grounds for refusing a licence and other circumstances e.g. training undertaken by the landlord or subsequent co-operation with the Council will be taken into account.

5.3 Where there is evidence of a problem, applicants will be invited to submit an explanation of their actions. The applicant will be required to account for the failure to comply with legislation and satisfy the Council that this will not recur. The Council may also require the applicant to complete a Standard Disclosure and Barring check by the Disclosure and Barring Service and provide details of the result as part of their HMO application.

6.0 Property Standards

6.1 The Council will expect all licence holders and managers to comply with the minimum standards for kitchen and bathroom facilities and space standards set out in The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions)(England) Regulations 2006 as amended. The Regulations are a prescribed legal requirement.

6.2 In addition the Council will refer to the 'Essex Approved Code of Practice, Amenity Standards for HMOs'. The Code of Practice was produced in collaboration with all Essex Local Authorities and its purpose is to accord with national standards and to offer local interpretation with regard to minimum standards for space and amenities required for HMO licensing. This document is guidance; it is not prescribed in law, but it is considered to be fair, reasonable and practical and it is the standard that is applied Essex-wide. The ['Essex Approved Code of Practice, Amenity Standards for HMOs'](#) can be viewed on the Council website.

7.0 Inspection Policy

7.1 An HMO licence application pack will be issued on initial enquiry from landlords. Officers will visit all properties where an HMO licence application has been submitted prior to the licence being approved or refused. The inspection will include an assessment under the Housing Health and Safety Rating System (HHSRS). The risks to health from 29 potential hazards are assessed. Each hazard identified is scored and classified as category 1 or category 2. Where Category 1 or 2 hazards are found, informal action will be used initially to encourage owners to carry out the works unless the defect represents an imminent risk to the health and safety of the occupants in which case formal action will be taken. If this fails, however, enforcement action will be taken in accordance with the Housing Act 2004 and the Council's Private Sector Housing Enforcement Policy.

7.2 Previously licensed HMOs will be revisited to ensure compliance with time-limited conditions, if they are subject to complaint or if there is concern about management standards at the property (such as where the landlord fails to supply on request documentation such as an annual Gas Safety Certificate). If additional licence conditions are required after an inspection of an HMO, the licence may be varied to include such conditions.

8.0 Licence Applications

8.1 Mandatory HMO licensing has been a legal requirement since 2006. A variety of methods have been used by the Council to notify landlords of this obligation including:

- Publicising the HMO licensing provisions in the local press and The Forester;
- Providing information on the Council website;
- Sending letters and reminders to all landlords (when contact details are known);
- Writing to all known Letting Agents; and,
- Attendance at open days for the E15 Acting School.

8.2 The responsibility for licensing rests with the person having control of, or the person managing, the property. This is the owner, or the person who lets the property and collects the rent.

8.3 New legislation introduced in March 2015 made changes to the levels of fines that may be imposed for criminal offences. Operating an HMO without a licence is a serious offence. On successful prosecution and summary conviction the court may impose a fine of any amount; previously the fine was capped at £20,000. For other offences including failure to comply with a licence condition the statutory limit provided in the Act (previously set at level 5, £5,000) can also be exceeded should the court consider it just to do so.

8.4 All existing and prospective landlords should now be aware of the requirement to licence. When officers become aware of an unlicensed property consideration will be given to prosecuting straightaway particularly where it is apparent that conditions at the property are unsatisfactory, it is being poorly managed and there are no extenuating circumstances which have prevented the landlord from making an application. Any decisions will be made in accordance with Council's 'Private Sector Housing Enforcement Policy' which is available on the Council's website.

8.5 A valid application for an HMO licence shall comprise of:

- a fully completed application form, signed and dated;
- inclusion of relevant test certificates relating to gas and electrical safety, fire alarm and emergency lighting servicing;
- a plan of the property;
- a copy of any relevant planning consent;
- a copy of any relevant building Regulations Approval or Completion Certificate; and,
- the relevant fee (see paragraph 16.0 below).

8.6 The application will be processed in accordance with private sector housing in-house procedures. The target performance indicator to complete the process to approval or refusal following receipt of a full and proper application is 4 months.

9.0 Duration of Licences

9.1 An HMO Licence will usually be granted for a period of 5 years from the date of approval. However a licence may be granted for a shorter period of time if the Council has concerns about the condition of the property, management deficiencies or the applicant's fit and proper person status. The applicant will be consulted about the Council's concerns prior to approving a licence for a shorter period.

9.2 Where a shorter licence is granted, and subsequently all relevant concerns and conditions are met, a further licence will be issued. The duration of the first and second licence periods will be for five years in total. No additional fee will be required for the second licence.

10.0 Mandatory and Discretionary Licence Conditions

10.1 The Council will attach conditions to the HMO Licence some of which are mandatory. The licence will also specify the maximum number of occupants who may occupy the HMO. The number of occupants will depend on the number and size of rooms and the number of amenities.

10.2 The following mandatory conditions will be applied to all HMO licences:

- Provide copies of gas certificates annually;
- Keep electrical appliances in a safe condition and supply on demand to the Council a Periodic Test and Inspection Certificate for the electrical installation;
- Ensure that all smoke alarms are in proper working order and provide a declaration as to their condition and location;
- Keep furniture made available by the licence holder in a safe condition; and,
- Provide the occupants with a written statement of the terms on which they occupy the property.

10.3 In addition to the mandatory licence conditions the Council may apply discretionary conditions to all licences.

11.0 Management Arrangements

11.1 The Council will expect the licensee to comply with The Management of Houses in Multiple Occupation (England) Regulations 2006. These regulations impose duties on the manager of an HMO so that certain facilities are provided, inspected and maintained, the structure of the property is kept in good order and residents provided with contact details for the manager. Appendix 2 provides a link to this document which can also be viewed on the Council website.

11.2 The Management Regulations also impose duties on HMO residents, in that they must not interfere with any requirement imposed on the manager under the Regulations.

11.3 There is no provision for enforcement notices to be served under the Management Regulations. Non-compliance with the Regulations is a strict offence and landlords who knowingly fail to comply will be considered for prosecution in the Magistrates' court. The penalties for this are a level 5 fine for each individual contravention.

12.0 Temporary Exemption Notices (TEN)

12.1 The Council may grant a TEN where:

- the owner of a licensable HMO states in writing that they are acting to make it non-licensable; and,
- the Local Authority is satisfied that it will be non-licensable within three months of the date of receiving the written notice.

12.2 A second three month TEN will only be served in exceptional and unforeseen circumstances.

13.0 Rent Repayment Order (RRO)

13.1 The Council may make an application to the First Tier Tribunal (FTT) (Property Chamber) for a RRO where housing benefit payments have been made to a landlord or managing agent operating an unlicensed HMO. A maximum of 12 months' payments can be ordered to be repaid.

14.0 Management Orders

14.1 Where there is no prospect of an HMO being licensed or it is necessary to protect the health, safety and welfare of the occupiers or neighbouring residents, the Housing Act 2004 requires the Council to make an Interim Management Order (IMO). This enables the Council to take over the management of an HMO and become responsible for running the property and collecting rent for up to a year. In extreme cases this can be extended as a Final Management Order (FMO) for five years. The Council may work in partnership with a partner registered social landlord to manage such properties.

15.0 Appeals

15.1 The Council will enable licence applicants to make representation to the Assistant Director (Private Housing and Communities Support) in the Communities Directorate if they are aggrieved with an officer's decision to set particular conditions or to refuse, revoke or vary a licence. They will also be able to make representations against an intention to serve an IMO.

15.2 A landlord may appeal formally to the FTT if the Council decides to refuse a licence, grant a licence with conditions, revoke a licence, vary a licence or refuse to vary a licence. The FTT has quasi-judicial status and is made up of housing lawyers, valuers, surveyors and lay people. Members qualified to chair committees and tribunals are appointed by the Lord Chancellor and other members are appointed by the government's Department for Communities and Local Government (DCLG). Three members usually sit on each committee or tribunal. An appeal against the decision of the FTT is to the Lands Tribunal and can only be made with the permission of the FTT or the Lands Tribunal.

16.0 Licence Fees

16.1 A licence fee is charged for all licensable HMOs. The licence fee is reviewed annually in accordance with Councils 'Fees and Charges Policy'. The fee is based on a property with up to 5 units of accommodation with an additional fee for each extra room thereafter. The fees have been set to cover the Council's costs and include for officer time spent on inspections, vetting applications and general administration. The charge for a renewal application is the same as the initial licence fee as the cost in terms of officer time is comparable. The [fees](#) can be viewed on the Council's website

17.0 Register of Licensed HMOs

17.1 The Council maintains a Public Register of licences, TENs, IMOs and FMOs. The register is recorded electronically and is updated regularly. The information will generally be made available to the public in accordance with the relevant provisions of the Data Protection Act 1998 and the Freedom of Information Act

2000. The [register](#) is available for viewing on the Council website and a hard copy is available to view by appointment during normal office hours in the Civic Offices in Epping.

18.0 Policy Review

18.1 This Policy will be reviewed at least every 3 years or earlier if there are any changes to legislation, guidance or the Council's procedures.

Extract from Housing Act 2004 Section 254

Meaning of “house in multiple occupation”

- (1) For the purposes of this Act a building or a part of a building is a “house in multiple occupation” if—
 - (a) it meets the conditions in subsection (2) (“the standard test”);
 - (b) it meets the conditions in subsection (3) (“the self-contained flat test”);
 - (c) it meets the conditions in subsection (4) (“the converted building test”);
 - (d) an HMO declaration is in force in respect of it under section 255; or
 - (e) it is a converted block of flats to which section 257 applies.

- (2) A building or a part of a building meets the standard test if—
 - (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.

- (3) A part of a building meets the self-contained flat test if—
 - (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).

- (4) A building or a part of a building meets the converted building test if—
 - (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.

(5) But for any purposes of this Act (other than those of Part 1) a building or part of a building within subsection (1) is not a house in multiple occupation if it is listed in Schedule 14.

(6) The appropriate national authority may by regulations—

- (a) make such amendments of this section and sections 255 to 259 as the authority considers appropriate with a view to securing that any building or part of a building of a description specified in the regulations is or is not to be a house in multiple occupation for any specified purposes of this Act;
- (b) provide for such amendments to have effect also for the purposes of definitions in other enactments that operate by reference to this Act;
- (c) make such consequential amendments of any provision of this Act, or any other enactment, as the authority considers appropriate.

(7) Regulations under subsection (6) may frame any description by reference to any matters or circumstances whatever.

(8) In this section—

“basic amenities” means—

- (a) a toilet,
- (b) personal washing facilities, or
- (c) cooking facilities;

“converted building” means a building or part of a building consisting of living accommodation in which one or more units of such accommodation have been created since the building or part was constructed;

“enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30) ;

“self-contained flat” means a separate set of premises (whether or not on the same floor)—

- (a) which forms part of a building;
- (b) either the whole or a material part of which lies above or below some other part of the building; and
- (c) in which all three basic amenities are available for the exclusive use of its occupants.

Appendix 2

Links to Relevant Documents

| | Legislation | Link to Document |
|-----|---|---|
| 1. | Housing Act 2004 | http://www.legislation.gov.uk/ukpga/2004/34/contents |
| 2. | The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 as amended by (see item 3.) | http://www.legislation.gov.uk/uksi/2006/373/contents/made |
| 3. | The Licensing and Management of Houses in Multiple Occupation (Additional Provisions)(England) Regulations 2007 | http://www.legislation.gov.uk/uksi/2007/1903/contents/made |
| 4. | The Management of Houses in Multiple Occupation (England) Regulations 2006 | http://www.legislation.gov.uk/uksi/2006/372/contents/made |
| 5 | The Houses in Multiple Occupation (Certain Converted Blocks of Flats)(Modifications to the Housing Act 2004 & Transitional Provisions for Section 257 HMOs)(England) Regulations 2007 | http://www.legislation.gov.uk/uksi/2007/1904/contents/made |
| 6 | The Licensing of Houses in Multiple Occupation (Prescribed Descriptions)(England) Order 2006 | http://www.legislation.gov.uk/uksi/2006/371/contents/made |
| | Guidance | |
| 7. | Essex Approved Code of Practice – Amenity Standards for HMOs. January 2012 | Available on the EFDC website : |
| 8. | LACORS Housing – Fire Safety Guidance | http://www.cieh.org/policy/fire_safety_existing_housing.html |
| 9. | Housing Health and Safety Rating System Operating Guidance | https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/15810/142631.pdf |
| | Policies | |
| 10. | Private Sector Housing Enforcement Policy 2015 | Available on the EFDC website |

APPENDIX B

| Differences between the existing HMO Licensing Policy and the proposed new HMO Licencing Policy | |
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| Existing policy | New proposed policy |
| <p>The policy relates to mandatory licensing of houses in multiple occupation (HMO)</p> | <p>Explains that there are 3 types of licensing for private sector housing but EFDC only carries out mandatory licensing.</p> <p>The Government is considering extending the scope of mandatory licensing and this policy document will be amended accordingly</p> |
| <p>Definition of a house in multiple occupation (HMO) is included as an appendix</p> | <p>Definition of a house in multiple occupation (HMO) is included as an appendix</p> <p>In addition the main document explains the types of buildings that require a licence and those that are exempt</p> |
| <p>Property Standards reference the Essex Approved Code of Practice, Amenity Standards for HMOs</p> | <p>In addition to the Essex Approved Code of Practice, Amenity Standards for HMOs this new policy also applies The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions)(England) Regulations 2006 as amended; this being new legislation introduced after the adoption of the existing policy document.</p> |
| <p>Fit and Proper Person checks- where necessary an applicant is required to account for any unspent convictions or other failures prescribed</p> | <p>In addition to submitting any explanation for their actions, the applicant may be required to complete a Standard Disclosure and Barring check by the Disclosure and Barring Service and provide details of the result as part of their HMO application</p> |
| <p>Management Arrangements – the requirements are lifted from The Management of Houses in Multiple Occupation (England) Regulations 2006.</p> | <p>The new policy explains the general content of The Management of Houses in Multiple Occupation (England) Regulations 2006 and directs the reader to the on- line link.</p> |

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| | <p>The policy also explains the procedure and penalties for non-compliance of the Management Regulations</p> <p>The policy explains that certain licence conditions will be applied (mandatory conditions) or may be applied (discretionary conditions) and the penalty for non-compliance</p> |
| Landlords are encouraged to apply for a licence where it is necessary | <p>The policy explains the criteria that a local authority must apply in deciding 'suitability for occupation' and whether an HMO licence can be issued</p> <p>It is made clear that landlords are required to apply for a licence if their property meets the criteria for mandatory licensing. If they fail to do so they will face prosecution and, if convicted, will be liable to an unlimited fine (previously capped at £20,000).</p> <p>Failure to comply with a licence condition is also an offence carrying a fine on successful prosecution</p> <p>The policy also informs about further enforcement options through Rent Repayment Orders and Management Orders</p> <p>The policy explains the appeal procedure</p> |
| Licence Fees will normally run for 5 years and will be subject to a fee, reviewed annually | The policy explains how the fee amount is determined for each HMO; that the fee for a licence renewal is the same as the initial licence fee and that the fees can be viewed on the council website (link included) |
| Policy is silent regarding a Public Register of Licences | The Council is required to maintain a Public Register of licences. The Register is available to view on-line (link included) or can be viewed at the Council offices |
| Policy is silent on review period | The Policy will be reviewed at least every 3 years or earlier if appropriate |