

Agenda



Delegated Decisions - Cabinet Member for Licensing & Regulation

Date: Monday, 4 February 2019

To: Councillor R Truman

Item

Wards Affected

- | | | |
|---|---|--|
| 1 | <u>Licensing of Houses in Multiple Occupation in Newport - Additional Licensing Scheme</u> (Pages 3 - 62) | |
|---|---|--|

This page is intentionally left blank



Report

Cabinet Member for Licensing & Regulation

Part 1

Date: 7 February 2019

Subject Licensing of Houses in Multiple Occupation in Newport - Additional Licensing Scheme

Purpose To obtain approval for the re-designation of a city-wide Additional Houses in Multiple Occupation Licensing Scheme in Newport for a further five years

Author Regulatory Services Manager (Environment & Community)

Ward City Wide

Summary The Housing Act 2004 provides for Local Authorities to designate an area as subject to a scheme for the Additional Licensing of Houses in Multiple Occupation for a five year period. Newport City Council operated such a scheme from 2008 to 2013 and is currently operating a scheme which is due to expire on 31st May 2019. Re-designation of the Additional Licensing Scheme will enable the continued regulation of multiple occupied properties over and above those premises included in the Mandatory Licensing provisions of the 2004 Act, and build upon the improvement of premises brought about by the Council's current Houses in Multiple Occupation Licensing Scheme.

Proposal To approve a city-wide Additional Licensing scheme for Houses in Multiple Occupation in Newport for a further five years.

Action by Head of Law & Regulation

Timetable Immediate for the Designation of the Scheme. The legislation then requires 3 months "standstill" prior to coming into force.

This report was prepared after consultation with:

- Head of Law & Regulation
- Head of Finance
- Head of People & Business Change
- NCC Building Control
- NCC Development Control
- Landlords and members of the public
- National Landlords Association
- UK Association of Letting Agents
- Gwent Police
- South Wales Fire & Rescue Service

Signed

1. Background

- 1.1 The Housing Act 2004 came into force in Wales in June 2006. The Act introduced new powers for local authorities to regulate standards in the private rented housing sector. In particular, it introduced the duty for local authorities to license certain types of houses in multiple occupation (HMOs), namely those of three storeys or above, and with five or more tenants that comprise two or more households. This is termed "Mandatory Licensing". The Act also provides for local authorities to introduce other types of licensing schemes for different types of HMO: "Additional Licensing".
- 1.2 In April 2007, the Welsh Assembly Government issued guidance to local authorities, (The Housing Act 2004 (Selective Licensing) (Wales) General Approval 2007) indicating that councils may introduce an Additional Licensing Scheme without obtaining Assembly approval, providing that certain requirements of the legislation with regard to evidence, consultation with interested parties and implementation are carried out. In particular, the Council must:
 - a) Consider that significant proportion of the HMOs of that description are being managed ineffectively as to give rise, or likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public;
 - b) Consider whether there any other courses of action available to them that might provide an effective method of dealing with the problem or problems in question;
 - c) Consider that making the designation will significantly assist them to deal with the problems, and
 - d) Consult persons likely to be affected by the designation.
- 1.3 In December 2008, Newport City Council declared an Additional Licensing scheme which covered the smaller HMOs within the city. These included all properties with three or more unrelated households as well as poorly converted self-contained flats. A further Additional Licensing scheme was then declared in June 2014 following a public consultation and is currently operational. The licensing process has enabled the Council to tackle a wide range of problems in HMOs by way of conditions attached to licences and by programmed inspections. This has streamlined the mechanisms for enforcing minimum standards and management conditions, including the suitability of the landlord.
- 1.4 Additional Licensing allows the Council to target its resources to deal with some of the most problematic properties within Newport with a risk based approach, with provision of advice, proactive inspections, and enforcement action where necessary. The vast majority of these properties would fall outside of Mandatory Licensing and therefore the properties have largely only been improved because of Additional Licensing.
- 1.5 HMOs form a relatively small but valuable part of the housing stock as there continues to be a need for such accommodation from those who cannot or do not wish to own their own home, for financial reasons or to have flexibility in where they live and for how long. HMOs are present in the market at varying levels of cost and quality, including high quality accommodation which is often not thought of when thinking about the HMO sector.
- 1.6 The Additional Licensing scheme has also had the benefit of assisting City Services' Waste Management team with the improvement of waste and recycling storage facilities for HMOs. This has been achieved by the use of HMO licensing conditions and aims to improve local environments for communities where a small number of problematic HMOs are sited.
- 1.7 There are a number of misconceptions surrounding the powers and duties relating to HMO Licensing:

- i. Planning (Development Control) status of HMOs

The Housing Act 2004 does not require that a property has the relevant Planning Permission in place in order to obtain a licence. There have been a number of successful

legal challenges against local authorities where those authorities had required relevant Planning Permission to be in place before an HMO licence could be issued. There is now a Planning Use Class in Wales relating to HMOs, so some properties are being regulated differently to the way in which they were regulated when the current licensing scheme commenced.

ii Anti-social behaviour

Under the licence, the Council can require the landlord to deal with anti-social behaviour caused by tenants within the curtilage of the licensed properties. We expect the landlord to inform tenants their behaviour is unacceptable in the first instance and if the behaviour continues to seek possession of the property. If the landlord is compliant with our requests and is seeking possession, there is little else the Council can require of the landlord. The Council is not able to require the landlord to take any action for anti-social behaviour the tenants may cause outside the curtilage of the property.

iii Issuing of tenancies

The Council is not able to dictate to whom landlords choose to let their property. The Council is only able to state the number of tenants permitted to live at the property having given consideration to size of property and numbers of facilities provided within the property.

iv Consultation on draft licences

Under Schedule 5 of Housing Act 2004 consultation on the draft licence is only required to be with landlords, managers and owners of the relevant property. Under the Regulatory Reform (Fire Safety) Order 2005, there is a requirement to consult with the Fire & Rescue Service on all relevant premises. However, there is no legal requirement to consult with neighbours, councillors or members of the public when issuing a licence and the Council is not able to take into account any objections to the licence being issued.

2. Review of HMO Licensing

2.1 The current Additional HMO Licensing Scheme is due to lapse on 31st May 2019. A review of HMO Licensing in Newport has been recently undertaken and the Review & Proposal document can be found at Appendix A to this report. This document was used to provide information to stakeholders in order to support them to make information responses to the public consultation. The review identified that whilst the scheme has made a significant difference to HMOs within Newport, there are still a number of issues within properties, with a number of landlords failing to maintain their properties.

2.2 In order to continue with the proper regulation of HMOs in Newport it is recommended that appropriate licensing is continued by the declaration of a new five year Additional Licensing Scheme, which will enable the Council to address, through licensing conditions, matters of concern to the Council, including those identified by tenants, Elected Members and key stakeholders. It is recommended that the scheme would be applied to the whole of the City (as it is in the current scheme), so as be equitable across the Council's area and avoid the possibility of some landlords creating HMOs in certain areas so as to avoid the Additional Licensing regime. This would have the effect of distorting the local housing market.

2.3 Although other courses of action available to the Council could deal with some of the issues in HMOs, they will not provide the holistic and more effective powers available through the Additional Licensing Scheme to deal with many of the safety and environmental issues encountered in smaller HMOs. The continuation of the Scheme will assist greatly the Council in dealing with the problems and potential problems presented by such HMOs.

3. Licensing fees

- 3.1 It is proposed that should a new Additional Licensing Scheme be agreed, that the current fee structure would be continued. This has evolved over the duration of the previous and current schemes. The fee structure and current fees are set out at page 22 of the Review and Proposal document at Appendix A. During the current Scheme a complete review of the fees was undertaken in order to ensure that the fees were set at a level that recovered the cost of operating HMO licensing, excluding enforcement activity against unlicensed properties. The structure includes the Mandatory Licensing element and further detail is provided at Appendix A. The fees are set as part of the Corporate budget process and it is proposed that the current fees will increase by 4% for 2019/2020.

4. Alternative options to Additional Licensing

- 4.1 The alternative options to regulate HMOs, should City-Wide Additional Licensing not continue are set out from page 9 of the Review & Proposal document included at Appendix A. They are 'targeted proactive inspections & enforcement', 'reactive inspections & enforcement', relying solely on Rent Smart Wales (landlord registration and licensing), Additional Licensing for a limited number of Electoral Wards, and Selective Licensing (licensing of all private sector rented accommodation). None of those alternatives provides a viable alternative to continuing with City-Wide Additional Licensing in the opinion of experienced officers.
- 4.2 One of the responses to the public consultation queried why Additional Licensing is necessary now that Rent Smart Wales is in place. Rent Smart Wales, which requires landlords to register with the all-Wales scheme and managers of properties to gain a licence following training, was introduced during the current Additional Licensing scheme. There seems to be a misconception that it can replace HMO licensing, however this is incorrect as Rent Smart Wales is primarily focussed on landlords' management skills and knowledge, whereas HMO licensing is primarily focussed on property standards. There is a degree of overlap and it should be noted that the aim of Rent Smart Wales is to improve property standards by improving the management of properties, but Rent Smart Wales is not a direct replacement for HMO licensing.

5. Public Consultation

- 5.1 Between 8 October and 16 December 2018, a 10 week public consultation was undertaken to seek the views of all stakeholders. The Review & Proposal document included at Appendix A was used to provide essential information to stakeholders to enable them to make informed responses to the consultation.
- 5.2 The consultation was publicised using the Council's website, social media channels, direct emails to landlords and managing agents, an advert in the South Wales Argus and an article in Newport Matters. National organisations representing landlords were written to directly encouraging them to express their views. Gwent Police and South Wales Fire & Rescue were also directly contacted. We hoped to gain the views of tenants and owner occupiers as well as landlords.
- 5.3 Although the response rate to the consultation was better than the one at the end of the 2008 Additional Licensing Scheme, the small number of responses is disappointing. The results are summarised and commented on at Appendix B. The majority of respondents did not support the proposal to continue with Additional Licensing in Newport. This was expected to be the response of landlords, as they naturally dislike the fees that accompany this form of regulation (and some dislike the regulation of their properties altogether), but what is surprising is the number of owner occupiers (the category for non-landlords) and tenants who also said they did not support the proposal. In the case of owner occupiers it is difficult to understand why they felt this way. It was also disappointing not to receive a response from South Wales Fire & Rescue Service, as we consult them on each licence to seek their views on the fire protection measures required for each property and this regulatory work supports their objectives.

5.4 The responses of Gwent Police were positive and supportive of the proposal.

5.5 The (late) response of the Residential Landlords Association raised some interesting points that have been considered carefully before setting out the Preferred Option below. We disagree with a number of the points raised/advice given.

6. Financial Summary

6.1 As previously mentioned in the Report, the licensing fee structure and amounts were calculated during the current scheme to ensure that HMO licensing was fully funded by the fees but did not make a profit. It should be noted that the fees cover Mandatory as well as Additional Licensing.

6.2 The proposal is to continue with the current fee structure. The fees are set as part of the Corporate budget process and it is proposed that the current fees will increase by 4% for 2019/2020.

6.3 It should be noted that the income from HMO licensing should not be expected to cover the entire cost to the Council of regulating HMOs, as general regulation of the HMO sector must be undertaken even if Additional Licensing not in place. The remainder of the funding required in addition to licensing income is part of the general Council budget for Environmental Health.

7. Risks

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
There will no longer be proactive regulation of a high risk sector of the private housing market should Additional Licensing not be continued.	H	L	The renewal of the licensing scheme would ensure landlords have to comply with the conditions set out in the license and ensures resources are available for proactive inspections of properties.	Head of Law & Regulation
With the removal of the scheme the Council will no longer be able to assess landlords to ensure they are Fit and Proper persons to manage HMO properties which may house vulnerable tenants.	H	L	The renewal of the licensing scheme will allow the Council to continue to assess the suitability of landlords to hold licences and manage HMOs. The Council helps to deliver Rent Smart Wales, which can also determine if landlords are Fit and Proper persons to manage properties.	Head of Law & Regulation
The scheme is not self-financing.	H	L	The fees have been set at an appropriate level to cover the projected cost of delivering an appropriate scheme.	Head of Law & Regulation

* Taking account of proposed mitigation measures

Links to Council Policies and Priorities

Additional HMO Licensing will support the following Council Policies and Strategies:

The proposal has clear links to the aims and objectives of Newport City Council's Corporate Plan (relevant themes are "Resilient communities" and "A thriving city").

Wellbeing Plan 2018-2023. The most relevant Wellbeing objectives are: People feel good about living, working, visiting and investing in Newport; and Newport has healthy, safe and resilient environments.

Additional HMO Licensing also supports the Council's strategic housing function by ensuring there is a sufficient supply of good quality housing in Newport. The Council produces policies in relation to this strategic function.

Options Available and considered

To approve the designation of another city-wide Additional Houses in Multiple Occupation Licensing Scheme in Newport. This option would mean that the current Additional Licensing Scheme would be replaced and the Council will be able to continue to licence and improve smaller HMOs which fall outside the Mandatory Licensing category as provided in the Housing Act 2004. This would include the majority of those HMOs currently licensed through the Council's Licensing Scheme.

Not to approve the designation of a city-wide Additional Houses in Multiple Occupation Licensing Scheme in Newport. This option would mean that the current Additional Licensing Scheme would not be replaced and the Council will only be able to licence and improve those larger HMOs which fall into the Mandatory Licensing category as provided in the Housing Act 2004. This would **exclude** the majority of those HMOs currently licensed through the Council's Additional HMO Licensing Scheme.

Preferred Option and Why

To approve the designation of a city-wide Additional Houses in Multiple Occupation Licensing Scheme in Newport. This option would mean that the current Additional Licensing Scheme would be replaced and the Council will be able to continue to license and improve smaller HMOs which fall outside the Mandatory Licensing category, as provided in the Housing Act 2004. This would **include** the majority of those HMOs currently licensed through the Council's Additional HMO Licensing Scheme.

Comments of Chief Financial Officer

This proposal merely seeks to renew current arrangements and as such will have no additional impact on existing budgets. All associated fees will continue to be reviewed annually as part of the budget setting process and are set to recover the appropriate costs in carrying out this regulatory service.

Comments of Monitoring Officer

The proposed action is in accordance with the Council's statutory powers under the Housing Act 2004 to reintroduce an Additional Licensing scheme to continue to regulate houses in multiple occupation which fall outside the scope of the mandatory scheme. In accordance with the Selective Licensing General Approval 2007, issued by the Welsh Government, the Council has carried out a further period of consultation and an assessment of the continuing need for additional licensing controls. It is clear that there is an on-going requirement for these additional regulatory powers and, therefore, a continuing need for this Additional Licensing Scheme. The alternative options do not provide an effective control measure for regulating smaller HMO's and for addressing specific problems associated with these properties. The Council is also able to set reasonable fee levels to recover the cost of the licensing and regulatory process, but this is a secondary issue and the purpose of renewing the Additional Licensing Scheme is to secure housing improvements rather than to generate additional revenue.

Comments of Head of People and Business Change

The designation of another Additional Licensing Scheme is considered to be the most effective way of extending and targeting regulatory powers to improve the standard and management of HMOs across the city. Such a scheme enables the Council to target the most problematic properties with a range of measures, which is particularly important as many of these properties are not covered by the Mandatory Licensing framework. HMOs are known to be concentrated in some of Newport's most deprived communities and quality rented accommodation is vital to prevent further physical and social decline. As

such the scheme would make an important contribution to sustainable development and Wellbeing Objectives (both Newport City Council and Wellbeing Plan partnership objectives) in terms of tenant health, safety and wellbeing, tackling anti-social behaviour, waste and environmental management, contributing to regeneration and safeguarding vulnerable tenants. Furthermore, the proposed Additional Licencing Scheme provides for a preventative and long-term approach; allows for integration and collaboration with Police and Fire and Rescue Service partners and promotes the involvement of landlords in improving the standard of HMOs.

There are no human resources implications arising from the report.

Comments from Non-Executive Members

Councillor D Fouweather

In broad terms I would support the council in continuing the regulation and mandatory licencing of houses in multiple occupation. However I would like to highlight a few concerns,

It is clear from the report that the Allt-yr-yn Ward is identified as having a high proportion of shared house HMOs and a higher number of properties with five or more occupants.. The council should seriously consider not licencing any more HMOs in the Allt-yr-yn Ward as it is clear that we have too many.

In the consultation document there were two areas of concern.

1 68.57% of respondents to the consultatiojn felt that additional licencing requirements had not improved standards. This is concerning as it makes me believe that we are not enforcing the regulation of these properties.

2 65.77% believe that the council are targeting the wrong properties. Why would they think this? Are we actually dealing robustly with bad landlords.

Response:

The Additional Licensing Scheme is intended to regulate housing conditions in HMO's not control where they are located – that is a planning matter, as stated in the Report.

Appendix A includes details of the hazards found in HMOs and the Council is obliged to resolve Category 1 hazards. In addition each property is required to meet a minimum standard before it is possible to issue a licence and it is usual for improvements to be required. Therefore, there is clear evidence that the regulations are being enforced effectively and that standards have been improved. The subjective views expressed in the consultation responses are not supported by reasons or evidence and half of the respondents were owner-occupiers.

Similarly, no evidence or reason has been provided to support the consultation responses which suggested that the Council is targeting the wrong properties. Some of these respondents were landlords and property agents and they may be unhappy with Additional Licensing applying to smaller properties and the impact on their businesses.

Equalities Impact Assessment and the Equalities Act 2010

Please see the Fairness & Equalities Impact Assessment included at Appendix C.

Children and Families (Wales) Measure

The proposals set out in this report are not relevant to the aims of the Children and Families (Wales) Measure.

Wellbeing of Future Generations (Wales) Act 2015

The proposed Scheme would contribute to the following Well-being Goals set out in the Wellbeing of Future Generations (Wales) Act 2015: a prosperous Wales, a healthier Wales and a Wales of more cohesive communities.

The five things public bodies need to think about to show they have applied the sustainable development principle put into place by the Act are set out below:

- **Long term:** Continuing with Additional Licensing ensures that this part of the private rented sector is regulated in a long term way. This provides stability to the sector and therefore confidence to landlords who wish to operate such properties. Communities are therefore supported in a long term, proactive way.
- **Prevention:** Licensing of private rented properties is an important strategy to ensure the Council is proactive and not just responding to complaints and incidents. The Council also delivers functions to enable Rent Smart Wales (registration and licensing of landlords) to be delivered across Wales, with the aim of improving standards of property management.
- **Integration:** There would continue to be a positive impact on Newport City Council's Well-being Goals from Additional Licensing:
 - To improve skills, educational outcomes and employment opportunities.
 - To enable people to be healthy, independent and resilient.
 - To build cohesive and sustainable communities.
- **Collaboration:** This type of regulation ensures that South Wales Fire & Rescue can act in partnership with the Council, as they are consulted on all HMO fire plans and schedules of work for properties. The Fire Service do not have powers to regulate such properties; the Council must regulate them.
- **Involvement:** Efforts have been made to consult all stakeholders on the proposal.

The Council has developed a Wellbeing Plan 2018-2023 alongside partners to meet the requirements of the Act. The most relevant Wellbeing objectives are: People feel good about living, working, visiting and investing in Newport; and Newport has healthy, safe and resilient environments.

Please see the Fairness & Equalities Impact Assessment at Appendix C for more details.

Crime and Disorder Act 1998

The proposed scheme does not have a direct impact on Crime and Disorder but does help to minimise anti-social behaviour in communities and to maintain the quality of privately rented accommodation, which can support local housing from deteriorating and from subsequently undermining the stability and well-being of communities.

Consultation

The Public Consultation is discussed above at Section 5.

Comments received from wider consultation, including comments from elected members, are detailed in each application report in the attached schedule.

Background Papers

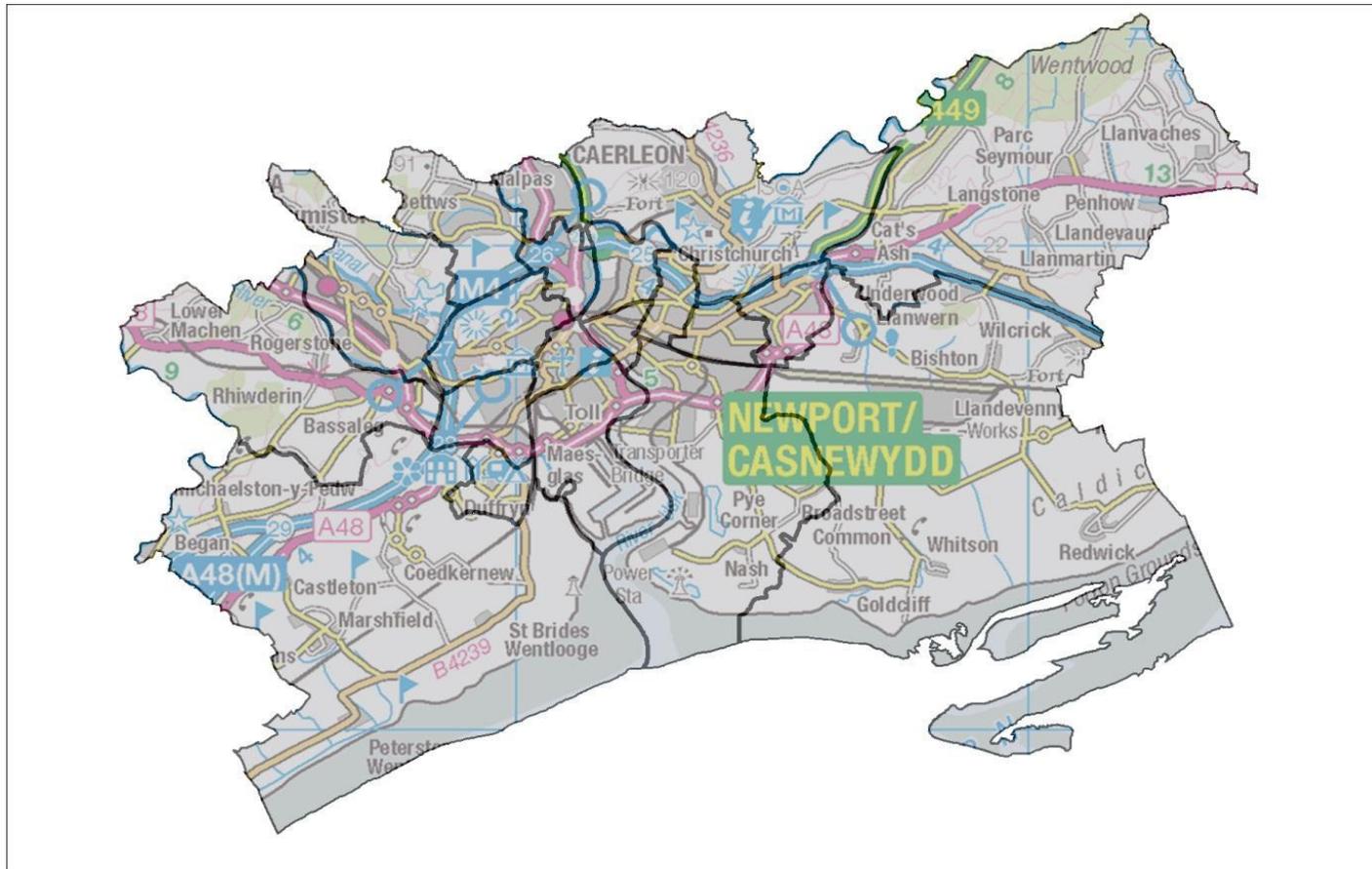
Housing Act 2004 - <http://www.legislation.gov.uk/ukpga/2004/34/contents>

Dated: 7 February 2019

Houses in Multiple Occupation

Additional Licensing Review & Proposal

Public Consultation Autumn 2018



Contents

	Page
What is Additional Houses in Multiple Occupation Licensing?	3
Why is Newport City Council considering renewing its Additional licensing scheme?	5
Newport Private Rented Sector profile	7
How does Additional HMO licensing fit within Newport City Council's strategies?	8
How would HMOs and landlords currently regulated by Additional licensing be regulated if the scheme was not renewed?	9
The current situation	10
Overview of the Additional Licensing scheme	19
Conclusion & Proposal	20
How will the proposed scheme be delivered?	20
HMO licence application process	21
Proposed fees	22
What happens after the public consultation?	23

Page 12

APPENDIX A: Prosecutions	APPENDIX B: HMO Application form	APPENDIX C: HMO Guidance notes
APPENDIX D: HMO Licensing Standards	APPENDIX E: HMO Licence Conditions	APPENDIX F: Declaration of Understanding
APPENDIX G: Map of proposed Additional (HMO) Licensing area		



What is Additional House in Multiple Occupation Licensing?

The Housing Act 2004 came into force in Wales in June 2006. The Act introduced new powers for local authorities to regulate standards in the private rented housing sector. In particular, it introduced the duty for local authorities to license certain types of Houses in Multiple Occupation (HMOs), namely those of three storeys or above, and with five or more tenants that comprise two or more households. This is termed “Mandatory Licensing”. The Act provides for local authorities to introduce other types of licensing schemes for different types of HMO: “Additional Licensing”. Physical and management standards in HMOs are often poor. The aim of the licensing regime is to ensure that HMOs meet the legal physical standards which are properly managed, to provide greater protection to the health, safety and welfare of the occupants living within such properties.

In April 2007, the Welsh Assembly Government issued guidance to local authorities, (The Housing Act 2004 (Selective Licensing) (Wales) General Approval 2007) indicating that councils may introduce an Additional Licensing Scheme without obtaining Assembly approval, providing that certain requirements of the legislation with regard to evidence, consultation with interested parties and implementation are carried out. In particular, the Council must:

- a) Consider that significant proportion of the HMOs of that description are being managed ineffectively as to give rise, or likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public;
- b) Consider whether there any other courses of action available to them that might provide an effective method of dealing with the problem or problems in question;
- c) Consider that making the designation will significantly assist them to deal with the problems, and

d) Consult persons likely to be affected by the designation.

In December 2008, Newport City Council declared an Additional Licensing scheme which covered smaller HMOs within the city. These included all properties with three or more households which included poorly converted self-contained flats. The licensing process has enabled the Council to tackle a wide range of problems in HMOs by way of conditions attached to licences. HMO licensing conditions are detailed in Appendix E. This has streamlined the mechanisms for enforcing minimum standards and management conditions, including the suitability of the landlord. On the 1st June 2014 the Council declared its second Additional HMO licensing scheme which ceases to have effect on 31st May 2019. The scheme again covers the licensing of all properties where there are three or more households. By the end of the current 5 year scheme Newport will have had an HMO Additional Licensing scheme to regulate smaller properties alongside Mandatory Licensing for 10 years.

Properties which are determined as a HMO include:

Shared houses - Where occupiers live together as a group, each with their own bedroom but sharing all other facilities including a communal living space.

Bedsits - Where occupiers share a bathroom, toilet, kitchen etc. but otherwise live independently of others.

Converted self-contained flats - Where the conversion does not meet the requirements of the 1991 Building Regulations and less than two thirds of the flats are owner occupied. Occupiers live in a self-contained unit, sharing no facilities or amenities, often behind one access door off a common area.

Individual flats occupied by three or more unrelated people - Where occupiers live together as a group, each with exclusive use of a bedroom but share all other facilities, including a communal living space within the flat. This applies even if the property has been converted to the 1991 Building Regulations.

Hostels, guesthouses, bed and breakfast - Occupiers have no other permanent place of residence within the UK. Includes properties used by local Councils to house homeless people.

Resident landlords - A landlord living in the same building as three or more unrelated people.

There are several HMO exemptions.

For further information on HMO licensing, exemptions, HMO licensing standards please refer to www.newport.gov.uk/hmo as detailed in Appendix C and D.

The Council receives significant numbers of service requests about property conditions and poor management in HMOs. They can also be associated with issues that affect the neighbourhood such as rubbish and anti-social behaviour, which can occur because of poor management of the property. HMOs can also change the nature of an area and result in reduced community cohesion.

Whilst the Mandatory licensing regime captures a number of larger properties, it cannot deal with all the problems associated with all HMOs, as it only applies to a small proportion of the stock and therefore makes little impact in an area, particularly where there are significant housing issues. Additional licensing provides a mechanism to regulate smaller HMOs across the city.

With Additional licensing a licence is issued which lasts for 5 years and landlords have to keep their property safe and well maintained and managed, as well as dealing with anti-social behaviour, accumulations of refuse, overgrown gardens etc.

Landlords are required to pay a licensing fee for each HMO that they rent. This fee covers the costs of running the scheme and allows the Council to employ staff to process applications and inspect the HMOs to ensure physical standards are met, regulate management standards, and to minimise overcrowding and hazards. The fee income is also used for the enforcement of the scheme.

Why is Newport City Council considering renewing its Additional Licensing scheme?

As the HMO Additional Licensing scheme has been running for nearly 10 years the Council has significant experience of this area of regulation and believes the continuation of the scheme within Newport will deliver the following benefits:

- The conversion of properties to HMOs can make a valuable contribution to Newport's housing stock. HMOs provide accommodation for a wide range of groups, including young professionals, students, migrants and persons on low incomes. However such conversions must be completed appropriately and licensing provides a mechanism to regulate such properties.
- Ensure properties are improved to an appropriate standard to protect tenants' health and safety and are appropriately managed.
- Ensure standards of accommodation provide a safe and healthy environment by examining hazards such as damp, cold, heat, falls, fire, electrical safety, gas safety, suitable room sizes, adequate kitchens / bathrooms for the number of tenants, food safety, biocides, lead, asbestos etc.

Please refer to <http://www.newport.gov.uk/en/Planning-Housing/Housing/Rented-housing/Repairs-and-maintenance.aspx>

- Reduce complaints of poor housing conditions, noise, rubbish, overgrown gardens, rodents and pests.
- Ensure the licence holder and property manager are suitable. Eradicate non-compliant landlords: those who are not fit and proper e.g. with a criminal record or non-compliant housing history may not be suitable to hold a licence.
- Additional licensing allows the Council to target resources to deal with some of the most problematic properties within Newport using a risk based approach, with the education of both landlords and tenants, undertaking proactive inspections and taking enforcement action.
- Improve waste and recycling compliance in conjunction with the Council's Waste Management team by including waste storage requirements as licence conditions. Larger storage bins are provided for properties with more tenants and trade waste contracts are available where appropriate for certain properties.
- Reduce anti-social behaviour caused by tenants, as licence conditions require the landlord to deal with this within the curtilage of the licensed properties. We would expect the landlord to inform tenants that their behaviour was unacceptable in the first instance and if the behaviour continues, to seek possession of the property.
- Additional licensing ensures that the Council, South Wales Fire & Rescue Service and other Partner organisations have much better understanding of the private rented sector in Newport and this can be used to benefit that sector and the housing sector as a whole.

What are the benefits of licensing for landlords?

- All landlords receive guidance allowing them to meet legal requirements for safety and management.
- All landlords are offered a pre-licensing advice service prior to HMO licensing (refer to HMO licence application process)
- Greater ability for landlords to set out what is expected of tenants.
- A licensed property should encourage tenants to live in licensed HMOs and would demonstrate landlord's compliance with legislation.
- Licensing aims to provide a 'level playing field' to ensure that compliant landlords are not under-cut by those providing poor standard or unsafe housing.

What are the benefits of licensing for tenants?

- Licensing strengthens the requirements that landlords must meet to ensure the health, safety and welfare of tenants is protected.
- Inspections of properties by Council Officers which provides an opportunity for landlords and tenants to ask questions and to be given advice.
- Confidence in the landlord and the property due to the compliance with standards set by licensing.

What are the benefits of licensing for the community?

- Better regulated and managed rented housing.
- Fewer environmental problems from overgrown gardens and accumulations of waste.
- Protect vulnerable people who may otherwise live in poor condition properties.
- The statutory public register means that neighbours can identify who the landlord of a property is if they wish and contact them with concerns.

Newport Private Rented Sector profile

Within Newport the private rented sector has grown over years and is continuing to grow. HMOs form an important part of the sector and are likely to continue to do so.

The Council's Local Housing Market Assessment states: "As mortgage availability has prevented many people from entering the owner occupied sector the private rented sector has become an increasingly important part of Newport's housing market. In 2001, 3,069 households lived in the private rented sector in Newport, by 2011 this had increased to 8,572. Other factors that will have led to an increase in households living in the private rented sector are increased migration to Newport, the City becoming an asylum dispersal area and the continuing growth of the student population. The highest proportions of privately renting households are found in the inner core areas, although there were also significant numbers of households living in the private rented sector in the central Newport area."

Latest figures from Rent Smart Wales, who register and licence landlords and property managers under the Housing (Wales) Act 2014, indicate that there are now 9,634 private rented properties in Newport (and it is acknowledged that some landlords have yet to register their properties, so the final total will be higher). This is the 5th highest total in Wales.

Over the past 4 years the Council has maintained a total of around 500 licensed properties which deviates slightly yearly as properties enter and leave the licensing regime. The total number has fallen recently as shown later in this document. HMOs help accommodate households within the private rented sector. A proportion of HMOs are occupied by students which may live within shared houses or bedsit accommodation or flats. Due to rent levels, students previously used to accommodate traditional HMOs with lower rent but research has shown when undertaking the Local Housing Market Assessment and Local Housing Strategy, students are increasingly accommodating newer

properties of higher quality. The student housing market has also changed as the courses offered at the University of South Wales campus in Newport have changed and students are becoming a less significant part of the rental market within Newport. Many of the “traditional” student properties are now occupied differently and are no longer licensable HMOs, which may partially explain the drop in the number of licensed HMOs.

It is likely there will be a demand for HMOs, particularly those rented at the Local Housing Allowance (LHA) rate due to single people under the age of 35 continuing to only be eligible for a single room rate of LHA.

How does Additional HMO Licensing fit within Newport City Council’s strategies?

Additional HMO Licensing supports the Council’s **Corporate Plan 2017 – 2022**, specifically in relation to the themes to support the mission of **Improving People’s Lives:**

Resilient Communities

Regulating HMOs effectively prevents them from becoming problematic for surrounding neighbours and communities both in terms of the physical property and the behaviour of residents. Properties that do cause problems damage community cohesion and have a knock-on negative impact on surrounding properties, which if left unchecked could lead to a downward spiral in a neighbourhood.

A Thriving City

Additional licensing supports the Council’s aspiration to continue to be a Thriving City as it is an enforcement tool that can assist with dealing with poor management of properties, anti-social behaviour and other issues that blight neighbourhoods and have a serious impact on the health and wellbeing of individuals. Residents in poor quality or unsafe housing are less likely to contribute positively to the city and thrive in work or education.

Modernised Council

The regulation of properties in this way is an effective way of improving and maintaining standards to protect health and safety in homes within the resources available to the Council. It also provides a vehicle for landlords to engage with the Council to receive advice and support both through statutory services and optional services.

“Improving People’s Lives” is translated into a number of **Wellbeing Objectives**. The most pertinent to HMO licensing are “To enable people to be healthy, independent and resilient” and “To build cohesive and sustainable communities”. The objectives to promote regeneration and economic growth are also supported.

Likewise the proposal supports the **Improvement Plan** Objective of delivering a **“Safer City”**.

How would HMOs and landlords currently regulated by Additional Licensing be regulated if the Scheme was not renewed?

When considering whether to renew the scheme, the Council has considered the following options/issues:

- Targeted proactive inspections and enforcement – A proactive enforcement programme could be implemented to inspect HMOs even without a licensing scheme in place, however this would not be financially viable without the resources provided by the licensing scheme. In addition the enforcement would not benefit from licence conditions and standards, and there would be no control over whether the landlord/manager was ‘Fit & Proper’ to operate the property. The proactive inspections would be based on the current list of HMOs in the city, which would rapidly become out of date, as there would be no requirement for landlords to notify the Council about such properties.
- Reactive inspections and enforcement – activity involving the inspections of HMOs following receiving a request for service. Customers who make a request for service (complaints) are tenants, landlords, neighbours or visitors. Reactive complaints arise from the presence of hazards or public health issues. These are currently dealt with alongside the current additional HMO licensing scheme but without the proactive regulatory work undertaken as part of licensing it is highly likely that reactive work would increase. Resources would be reduced significantly without licensing and therefore it would be impossible to deal with all complaints and the service would have to be prioritised to deal with higher risk issues. In addition a reactive service relies on customers making complaints and they may lack knowledge or confidence of how to seek help. Also tenants may be frightened to come forward due to eviction or harassment from their landlords, managing agents or other tenants.
- Registration and Licensing via Rent Smart Wales – In addition to HMO licensing private landlords are required by the Housing (Wales) Act 2014 to register and private landlords who undertake letting and management activities or their managing agents must obtain a licence from Rent Smart Wales <https://www.rentsmart.gov.wales/en/> and undergo Rent Smart Wales training. Landlords and Agents who are licensed via Rent Smart Wales must comply with a Code of Practice which contains standards

which must be met (<https://www.rentsmart.gov.wales/en/resource-library/#1>). Such standards do not cover the minimisation of risks presented from multiple occupancies. Therefore although Rent Smart Wales is designed to improve the standard of accommodation by improving the standard of management, this is not a substitute for HMO licensing.

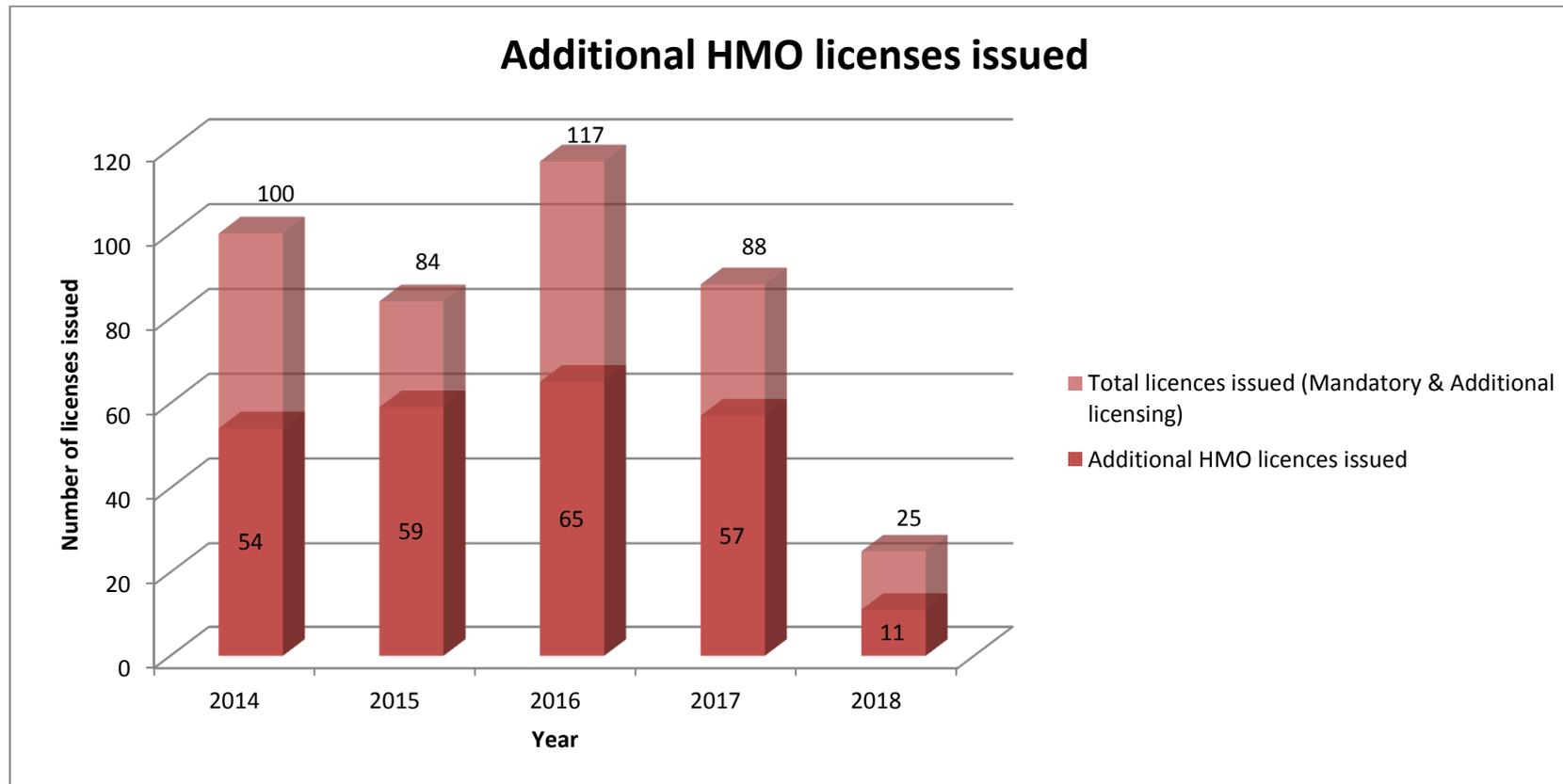
- Mandatory HMO licensing only – Mandatory HMO licensing covers larger HMOs with shared facilities containing 3 or more storeys with 5 or more people present. Thus the minimisation of risks presented from multiple occupants from 2 or 3 or 4 occupants would not be included and would depend on complaints or a proactive inspection strategy as mentioned above. England has recognised the risk by changing the mandatory HMO definition to include HMOs with 5 or more occupants, regardless of the number of storeys.
- Limiting Additional HMO licensing to certain electoral wards – It would be possible to declare an Additional Licensing scheme for certain wards, rather than city-wide. However, this would be likely to alter the spread and distribution of HMOs across the other wards within Newport not included in the scheme: it could cause HMOs to be displaced from wards included in the scheme, which would have consequences for all the wards affected. HMOs exist in the locations they do because there is a demand for them in those locations. Displacing HMOs into other areas would disrupt the market which would be undesirable.
- Selective Licensing – Subject to satisfactory evidence of meeting the legal criteria, this option is available for requiring all privately rented accommodation to be licensed as determined by the Local Housing Authority. A Selective Licensing scheme can only be introduced if the Council is satisfied that there are problems with low housing demand or significant and persistent problems of Anti-Social Behaviour (ASB) linked to the private rented homes in that area. When assessing ASB, government guidance says that Councils should consider crime, nuisance neighbours and environmental crime and then assess whether landlords are failing to take appropriate action to help resolve the problem. This option would not be a suitable substitute for city-wide Additional licensing.
- Management Orders – The use of Interim Management Orders (IMO) can be used by the Council to take over the management of an HMO from a landlord for up to 12 months in serious cases. IMOs can only be used on individual properties as a reactive response in order to protect the health, safety and welfare of tenants.

The current situation

The data across Newport has been reviewed in order to establish the current situation following 9 years of Additional licensing.

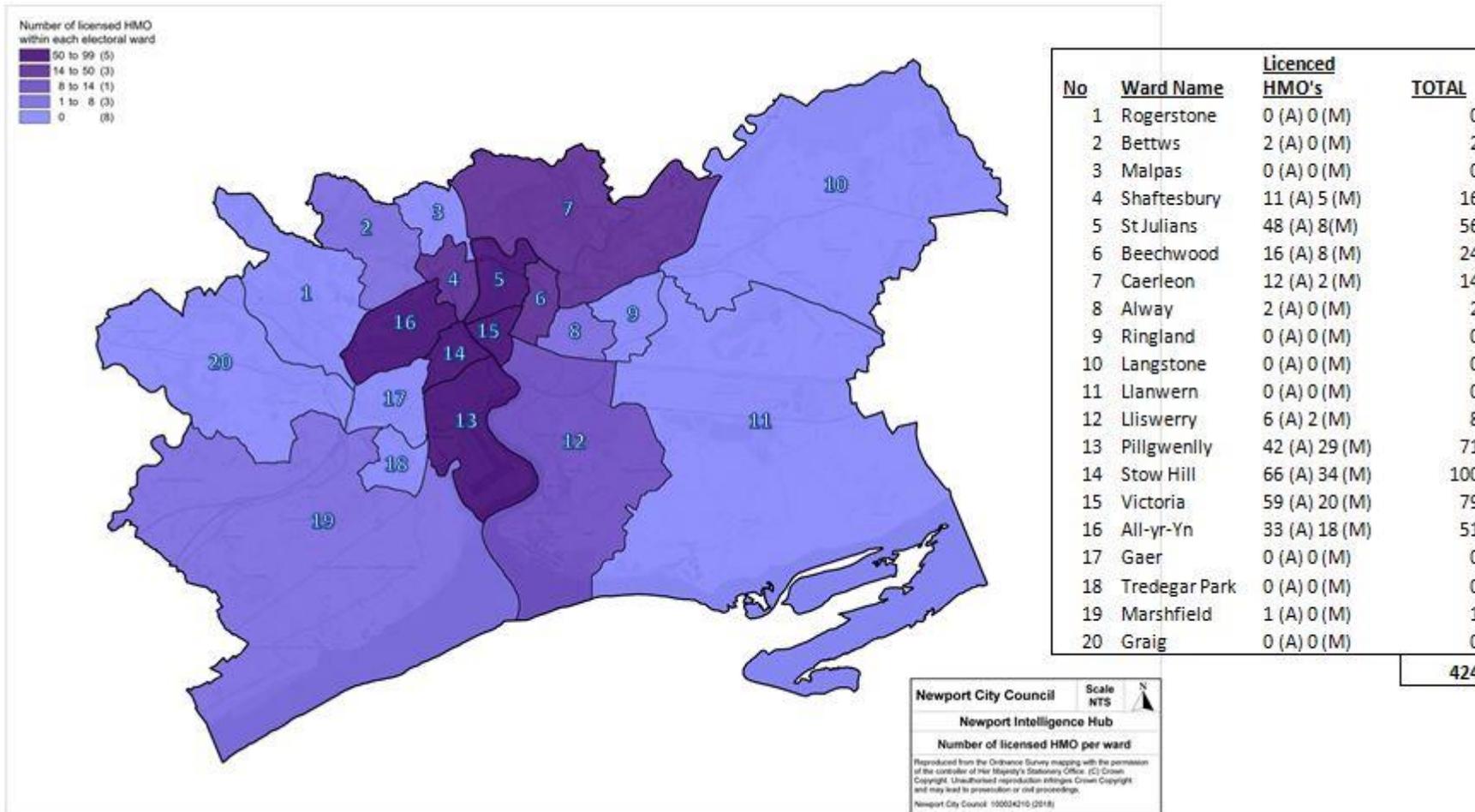
A. Number and distribution of licensed HMOs in Newport and their risk rating.

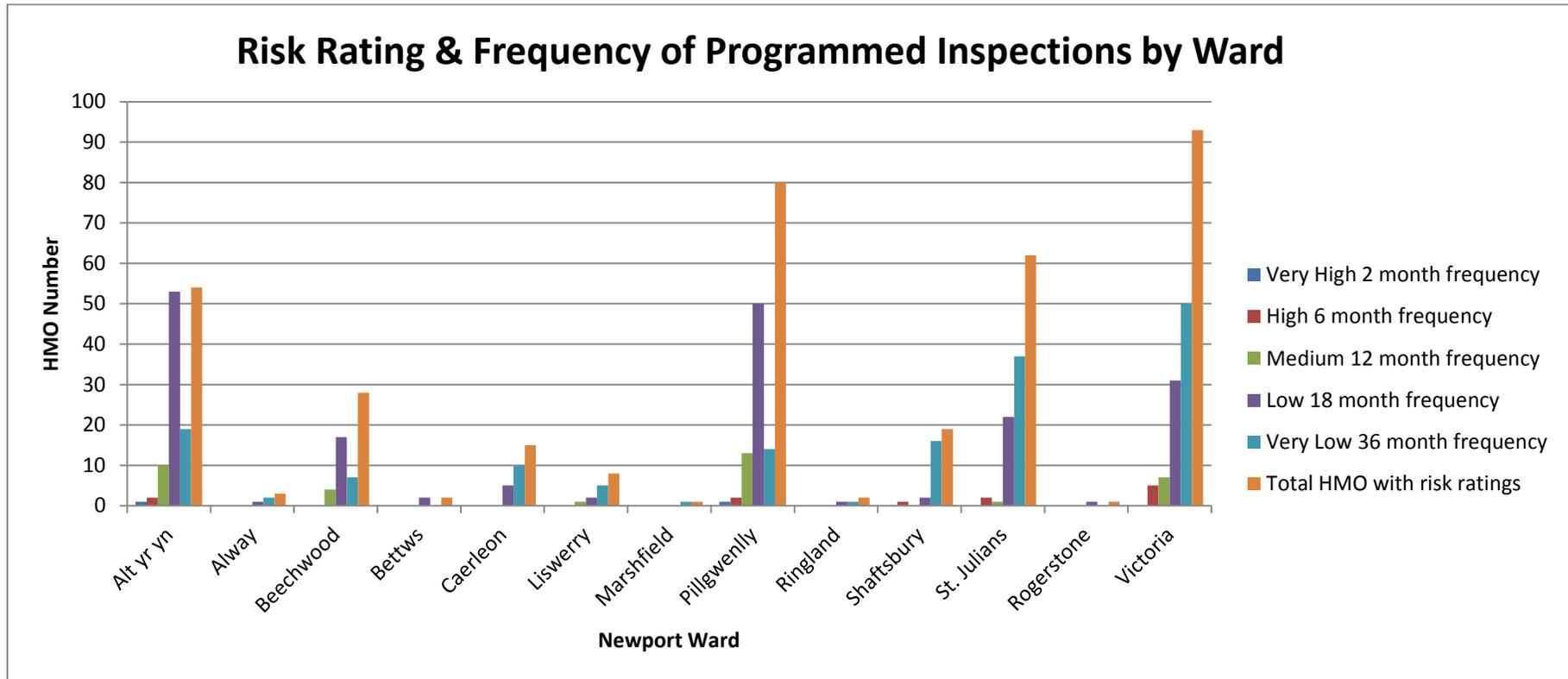
The following chart shows the number of licenses issued during the years the current scheme has been operating.



On average the Council issues 59 Additional HMO licenses a year which is 77% of all licenses issued (Mandatory and Additional).

The following map shows the spread of HMOs across Newport. 12 out of 20 electoral wards contain HMOs, with those around the city centre containing the highest concentration of HMOs as would be expected given the type of properties and transport links, along with other influencing factors. The Risk Rating chart shows the distribution of rated HMOs by ward.





Newport has a greater concentration of HMOs in the following wards and their risk rating is based on the factors in brackets: Victoria (high number of storeys, HMOs above commercial units in high concentration, bedsit and shared Houses), Pillgwenlly (a mixture of 2 and 3 storey HMOs above commercial units and a high proportion of 2 storey HMOs), St Julian’s and Allt Yr Yn (both wards have a high proportion of shared house HMOs and higher number of occupiers than in other wards).

B. Housing health and safety hazards found by officers within HMOs affecting the health, safety and welfare of occupiers.

The following table and chart show that hazards continue to be identified in properties subject to Additional licensing and continued regulation of such properties is needed.

Category 1 hazards are more severe hazards that require Council intervention whereas Category 2 hazards are less severe hazards and the Council has discretion over requiring their remediation.

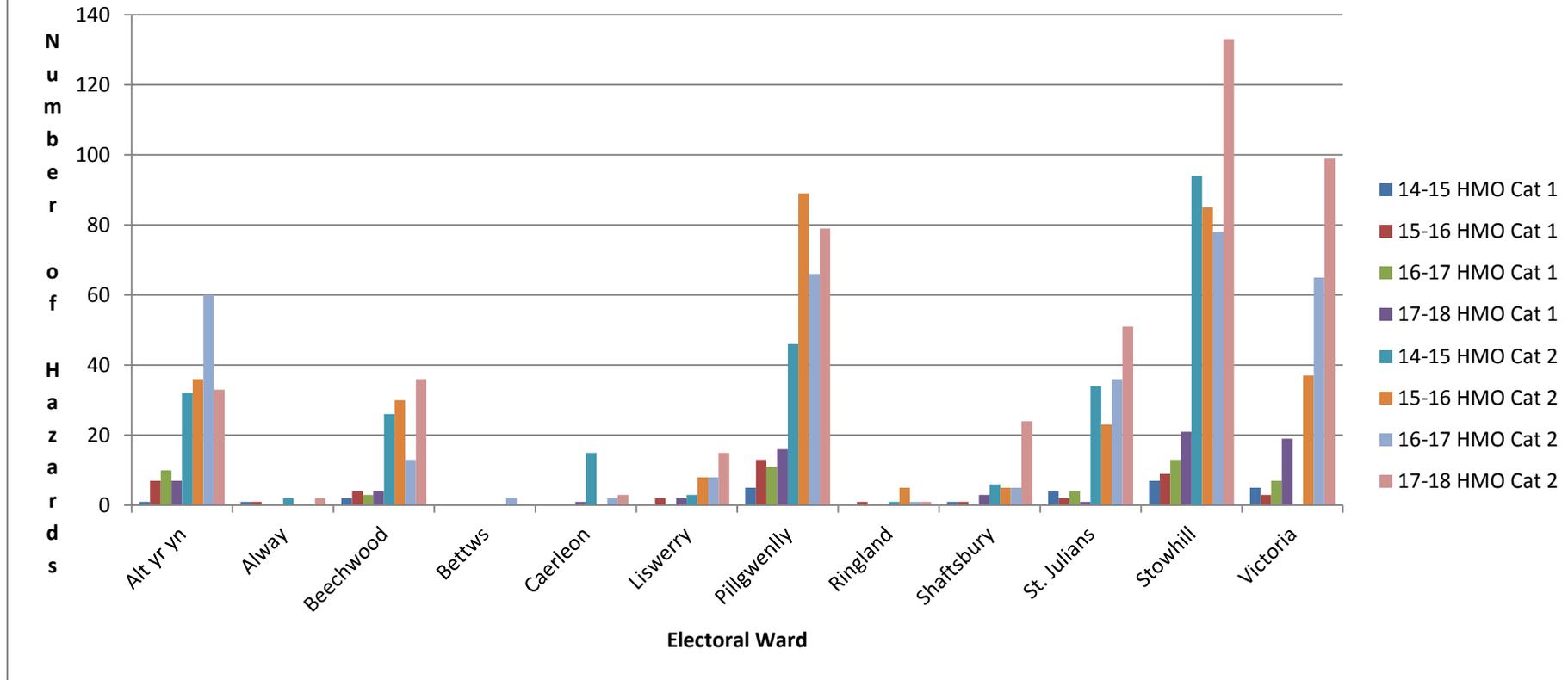
Although the data shows that hazards are identified in non-HMOs, it must be recognised that HMOs are higher risk properties with respect to health and safety, and it is even more important that hazards are identified and resolved where possible to reduce the risk. This is easier to achieve within the licensing regime.

Electoral Ward	Non-HMO			HMOs under Additional Licensing Scheme (2014-2018)		
	Number of hazards	No. Category 1 hazards	No. of Category 2 hazards	Number of hazards	No. Category 1 hazards	No. of Category 2 hazards
Allt Yr Yn	92	11 (12%)	81 (88%)	157	18 (11%)	139 (89%)
Alway	184	39 (22%)	145 (78%)	5	2 (40%)	3 (60%)
Beechwood	192	44 (23%)	151 (77%)	63	8 (12%)	55 (87%)
Bettws	126	22 (17%)	104 (83%)	2	0 (0%)	2 (100%)
Caerleon	42	9 (21%)	33 (79%)	25	1 (4%)	24 (96%)
Gaer	70	19 (27%)	52 (73%)	10	0 (0%)	10 (100%)
Graig	28	7 (25%)	21 (75%)	No licensed HMOs in Ward		
Langstone	9	2 (22%)	7 (79%)	No licensed HMOs in Ward		
Lliswerry	244	55 (23%)	189 (77%)	0		
Llanwern	11	3 (27%)	8 (73%)	No licensed HMOs in Ward		
Malpas	50	6 (12%)	44 (88%)	No licensed HMOs in Ward		
Marshfield	12	3 (25%)	9 (75%)	0		
Pillgwenlly	336	75 (22%)	263 (88%)	218	26 (12%)	192 (88%)

	Non-HMO			HMOs under Additional Licensing Scheme (2014-2018)		
	Total	Assessed	Not Assessed	Total	Assessed	Not Assessed
Ringland	80	16 (20%)	64 (80%)	8	1 (13%)	7 (87%)
Rogerstone	67	11 (16%)	56 (84%)	1	0 (0%)	1 (100%)
Shaftesbury	123	21 (17%)	102 (83%)	18	1 (6%)	17 (94%)
St. Julians	136	21 (15%)	115 (75%)	129	9 (7%)	120 (93%)
Stow Hill	259	54 (21%)	205 (29%)	289	40 (14%)	259 (86%)
Tredegar Park	27	8 (30%)	19 (70%)	No licensed HMOs in Ward		
Victoria	409	83 (20%)	326 (80%)	221	20 (9%)	201 (90%)

Table 4 showing the total number of hazards assessed under HHSRS from 1st June 2014 – 13th June 2018 for non-HMOs and Additional licensing HMOs.

Comparison of Category 1 and 2 Hazards per year by Ward



Page 26

This chart shows the number of hazards broken down by year. Hazards were found in each of the 12 wards containing HMOs. Higher numbers of hazards in some wards reflects that inspections are undertaken more frequently in higher risk HMOs but crucially it must be noted that hazards, and in particular Category 1 hazards, are still being identified and continuing regulation is warranted.

C. Reactive requests for service (complaints) regarding HMOs affecting the health, safety and welfare of occupiers/affecting the community.

The following table shows that service requests are received in relation to Additional Licensing HMOs and therefore regulation of those properties is required. However the numbers are relatively low and suggest that the proactive programmed inspections of these properties undertaken as part of the licensing process are effective in maintaining standards and avoiding complaints having to be made.

HMOs under Additional Licensing Scheme (2014-2018)	No. of service requests
Service request type	
HMO Accumulations	62
HMO Alleged Pest Infestation	2
HMO Alleged Rodent Infestation	7
HMO Alleged Unlicensed Property	81
HMO ASBO	8
HMO Complaint Lack of Facilities	8
HMO Complaint Lack of Management	17
HMO Complaint Regarding Management	6
HMO Drainage Issues	12
HMO Emergency Repair	5
HMO Excess Waste	41
HMO Filthy and Verminous	3
HMO Illegal Eviction/Harassment	3
HMO Information Required	32
HMO Initiative Response	4
HMO nuisance	10
HMO Nuisance – Structural	1
HMO Overcrowding	10
HMO Overgrown Garden	9
HMO Referral Regarding Housing Condition	24
HMO Rogue Landlord Referral	17
HMO Service Disconnection	1

HMOs under Additional Licensing Scheme (2014-2018)	No. of service requests
Service request type	
HMO Tenant Query Fire Precautions	2
HMO Tenant Regarding Repair	160
HMO Defective Heating	9
Additional HMO Service Request Total	453

D. Enforcement

Enforcement relating to HMOs can be undertaken using different legislative powers than those used for non-HMOs. The regulations are [The Licensing and Management of Houses in Multiple Occupation \(Additional Provisions\) \(Wales\) Regulations 2007](#) for Section 257 HMOs (those split into self-contained flats) or [The Management of Houses in Multiple Occupation \(Wales\) Regulations 2006](#) for other HMOs. The regulations cover providing information to occupiers, keeping the accommodation safe, clean and in good repair, making sure that fire safety measures and precautions are maintained, maintaining safe water, drainage, gas and electricity supplies, taking care of common parts, fixtures, fittings and appliances and providing facilities for waste disposal. Occupiers also have responsibilities under the Regulations. These are to allow the manager reasonable access to the property; to not prevent the manager carrying out their legal duties; to provide relevant information when asked by the manager and to store and dispose of litter properly as directed by the manager.

Newport has successfully taken 8 prosecutions under such Regulations as shown in Appendix A

The Council has actively taken prosecutions for unlicensed HMOs, Management Regulations non-compliance, lack of access to HMOs, failure to provide documentation such as tenancy agreements, certificates for services within the HMO, inspection reports and management contracts. Also the Council has requested the return of housing benefit payments following a prosecution for an unlicensed HMO using a Rent Repayment Order.

In addition the Council prosecuted an unlicensed HMO within Newport and also prosecuted the landlord for not registering and running an unlicensed property working in conjunction with Rent Smart Wales which is based in Cardiff City Council. This was the first prosecution within Wales taken under the Housing (Wales) Act 2014.

Overview of the Additional Licensing Scheme

Since the introduction of the Council's 2nd Additional Licensing scheme in 2014, significant numbers of properties have been improved, the majority of which would be outside the scope of Mandatory licensing and as such it is likely that, without the Council's Additional licensing scheme, a much smaller number would have been improved.

Whilst many responsible landlords have come forward and licensed their properties, it is likely that there are still a number of unlicensed properties in the city. Licensing these properties would assist with ensuring the properties do not pose a risk to the tenants.

The Licensing process has enabled the Council to tackle a wide range of problems in HMOs by way of conditions attached to licences. This has streamlined the mechanisms for enforcing minimum standards and management conditions, including the suitability of the landlord. There are still times where landlords fail to work with the Council to improve their properties to reach compliance with HMO licensing standards as detailed in Appendix D and in such situations formal enforcement action is required.

Evidence indicates that some of the worst housing conditions may be found in small as well as large HMOs and, without the designation of an Additional Licensing scheme in the city, the Council will not have such an effective, proactive mechanism to ensure that these smaller properties are regulated and brought up to a satisfactory standard and properly maintained at that standard.

The Licensing scheme has also had the benefit of assisting partnership working with other Council departments and external organisations, to further improve properties and neighbourhoods.

Despite the good work undertaken to improve properties throughout the city through the current Additional Licensing scheme, it is evident that many properties require improvement, tenants are not being adequately protected and further work is required.

The designation of an Additional Licensing scheme for another 5 year term within Newport would provide the Council with an effective enforcement tool, to ensure both the physical and management standards of the smaller HMOs are regulated to protect tenant's health and safety and to improve neighbourhoods.

Conclusion & Proposal

The Council is therefore proposing to introduce a 3rd Additional HMO Licensing scheme for privately rented properties across Newport where there are **three or more unrelated people forming more than two households in the same building** for another 5 year term. Refer to the city-wide map in Appendix G.

How will the proposed scheme be delivered?

The Council is committed to ensuring that the private rented sector is improved through Additional HMO licensing. The Council inspects HMOs before the issue of a licence. A HMO licence lasts the maximum 5 years and throughout this period, properties are inspected during a programmed inspection. Programmed inspection frequencies are risk based depending on the number of occupants present, the amount of storeys, the presence of vulnerable tenants, whether commercial units are present, and the HMO category i.e. bedsit accommodation is higher risk than shared houses due to the higher number of cooking facilities present within the overall building. The inspection frequency is determined by the Council in order to ensure all properties are inspected and resources are allocated appropriately.

It is proposed that properties which are already licensed under the current scheme will not need to re-licence at the start of the new scheme.

The Council will provide guidance and support throughout the scheme to landlords to help bring property conditions up to the required standard ensuring landlord responsibilities are met.

Once the Council are contacted or we determine properties are HMOs we initially will determine if the property requires licensing, refer to the following to determine which properties will require a HMO licence <http://www.newport.gov.uk/en/Planning-Housing/Housing/Rented-housing/Houses-in-Multiple-Occupation/Properties-requiring-a-licence.aspx> . If the property is a HMO we will send a HMO application form <http://www.newport.gov.uk/en/Planning-Housing/Housing/Rented-housing/Houses-in-Multiple-Occupation/Houses-in-multiple-occupation.aspx> as detailed in Appendix B and HMO guidance notes to the applicant as detailed in Appendix C and D. The Council are in the process of creating an online application for an HMO licence.

The Council offer an advisory pre-licensing HMO inspection service where the Council will:

- Inspect the property
- Advise the landlord of the HMO licensing requirements and process

- Help with the application form
- Provide the landlord with a schedule of works and a floor plan for consideration.

Information can be located: <http://www.newport.gov.uk/en/Planning-Housing/Housing/Rented-housing/Houses-in-Multiple-Occupation/HMO-pre-licence-advisory-service.aspx>

Enforcement of the proposed scheme for unlicensed HMOs or where there are legislative breaches will be taken in line with the Council's Enforcement Policy <http://www.newport.gov.uk/documents/Policies/Public-Protection-Enforcement-Policy-November-2013.pdf>

HMO licence application process

It is the Council's intention to continue to make the application process for landlords streamlined. A Support Officer monitors HMO applications as previous schemes have shown that applications are often either not received or are invalid. Once a HMO application is received the application process includes the determination if the landlord or proposed licence holder is a "fit and proper" person. This requires the submission of a basic disclosure obtained from The Disclosure and Barring Service showing any unspent convictions, unlawful discrimination and prosecutions under housing, public health, environmental health or landlord and tenant law etc. The Council will make checks into a person's "fit and proper" status. For a HMO application to be valid the Council will require the following documents with the application form:

- Current satisfactory gas certificate
- Current satisfactory electrical installation condition certificate
- Current satisfactory fire detection test certificate
- Current satisfactory portable appliance test certificate: PAT if applicable
- Current satisfactory emergency lighting test certificate if applicable
- Energy Performance Certificate
- Layout plan displaying the number and arrangement of rooms and facilities
- Basic disclosure obtained from The Disclosure and Barring Service
- Evidence of permanent residential address for Proposed Licence Holder/Owner & Managing Agent (if applicable)

- Declaration of Understanding relating to fire precautions, waste management and antisocial behaviour (signed by each occupying tenant) <http://www.newport.gov.uk/documents/Housing-documents/HMO/HMO-Appendix-A-Declaration-of-understanding.pdf> as detailed in Appendix F.

An invoice for the licence fee will be sent on receipt of a complete application which will be request payment within 14 days. Once the invoice is paid, the Council will follow the same process as with Mandatory HMO licensing and will issue a draft HMO licence. This draft licence will be sent to the proposed licence holder, the managers if applicable and property Owner (if this differs), and Licensing Officers will consult with Statutory Consultees; Council’s Planning Department and SWFRS. Following the consultation draft period if decided to proceed the Licensing Officer will issue the final HMO licence.

Proposed fees

The Council must ensure that the fee income is both reasonable and proportionate and does not exceed the cost of running the scheme, including the processing of applications, monitoring compliance and enforcing the scheme.

HMO licences are not transferable i.e. a change of a licence holder will require a new application and payment. Fees will be reviewed annually and they may be adjusted to reflect changes in costs as appropriate. Fees are agreed as part of the Council’s Corporate budget process.

The Council propose to continue to use the current fee structure to cover the processing and checking of applications, making statutory judgements, fit and proper assessments, taking and monitoring payments, processing and issuing draft and final licences, maintaining information, arranging and undertaking inspections, travel costs, revisit inspection costs to monitor and ensure compliance with housing standards, enforcement of the scheme, promotion and publication.

The aim of the fee structure is to charge landlords a higher fee for larger properties in order to cover the additional resources that are used when the Council licenses such properties.

The Council is proposing to apply the fees to both Mandatory and Additional licensing. The current fee structure and amounts are shown below for information, but please note that the amounts may change before the start of the proposed scheme, due to the timing of the Corporate budget process.

	3-5 Households	6+ Households
New HMO application	£937.04	£54.08 per additional unit
Renewal of HMO application before expiry	£740.48	£54.08 per additional unit

Renewal of HMO application after expiry	£937.04	£54.08 per additional unit
HMO application following revocation of prior licence	£740.48	£54.08 per additional unit

Property inspection required	
Change of layout	£84.24
Change of occupancy	£84.24
Pre-licence HMO Inspection Service (optional service)	£200 plus Vat
Additional schedule of work and floor plan for different proposed layouts	Additional £50 plus Vat per schedule of work and floor plan

No property inspection required	
Change of manager	No charge

What happens after the public consultation?

The results of the consultation will be considered and a report to the Cabinet Member for Licensing & Regulation will be prepared. This will be the subject of consultation with all Elected Members of the Council before a decision is taken by the Cabinet Member.

**APPENDIX A:
Prosecutions**

Person Prosecuted	██████████
Offence	Unlicensed HMO Management Regulation failings (The Licensing and Management Of Houses in Multiple Occupation (Additional Provisions) (Wales) Regulations 2007) Housing Act 2004 Emergency Prohibition Order non-compliance. HMO licence conditions failings
Date	13/06/2014
Verdict	Guilty plea
Fines	£4,700 Management and HMO, £2,537 costs, £120 Victim Surcharge
Mandatory or Additional	Mandatory

Person Prosecuted	██████████
Offence	Unlicensed HMO Management Regulation failings (The Licensing and Management Of Houses in Multiple Occupation (Additional Provisions) (Wales) Regulations 2007) Housing Act 2004 Emergency Prohibition Order non-compliance
Date	06/06/2014
Verdict	Guilty Plea
Fines	£7680 HMO and Management, £1571 costs, £64 Victim Surcharge
Mandatory or Additional	Mandatory

Person Prosecuted	[REDACTED]
Offence	Unlicensed HMO Management Regulation failings (The Licensing and Management Of Houses in Multiple Occupation (Additional Provisions) (Wales) Regulations 2007) Failure to provide access
Date	11/05/2015
Verdict	Guilty Plea
Fines	£720 HMO, £1507.00 Costs, £72 Victim Surcharge
Mandatory or Additional	Additional

Person Prosecuted	[REDACTED]
Offence	Unlicensed HMO Management Regulation failings (The Licensing and Management Of Houses in Multiple Occupation (Additional Provisions) (Wales) Regulations 2007)
Date	21/08/2015
Verdict	Guilty plea
Fines	For failing to licence a HMO under the Housing Act 2004, fined £10,000 (it was £15,000 but reduced to £10,000 for early guilty plea). For the remaining 10 offences of failing to comply with the 2006 Management Regulations, fined £1000 for each offence (it was £1500 but reduced to £1000 due to the early guilty plea). Costs of £1229 and a victim surcharge of £120.
Mandatory or Additional	Additional

Person prosecuted	██████████
Offence	Unlicensed HMO Management Regulation failings (The Licensing and Management Of Houses in Multiple Occupation (Additional Provisions) (Wales) Regulations 2007)
Date	25/04/2018
Verdict	Found guilty in absence
Fines	£5280 HMO and Management, £1250 costs, Victim Surcharge £44
Mandatory or Additional Licensing	Additional

Person prosecuted	██
Offence	Unlicensed HMO Management Regulation failings (The Licensing and Management Of Houses in Multiple Occupation (Additional Provisions) (Wales) Regulations 2007) Housing Act 2004 Emergency Prohibition Order non-compliance. A person commits an offence if he fails to comply with the requirements under Section 235. Where an offence under the act is committed by a body corporate, officers of the body corporate also commit an offence if attributable to any neglect. Rent Repayment Order under Housing Act 2004 Section 73, further to the conviction of an offence under S72 (1) of the Housing Act 2004
Date	07/10/2016
Verdict	Guilty plea
Fines	£3,600 HMO, £4500 Management Rent Repayment Order 5 th December 2016 to recover £5257.31 of Housing Benefits
Mandatory or Additional Licensing	Additional

Person prosecuted	[REDACTED]
Offence	<p>Unlicensed HMO</p> <p>Management Regulation failings (The Licensing and Management Of Houses in Multiple Occupation (Additional Provisions) (Wales) Regulations 2007)</p> <p>A person commits an offence if he fails to comply with the requirements under Section 235. Where an offence under the act is committed by a body corporate, officers of the body corporate also commit an offence if attributable to any neglect.</p>
Date	07/10/2016
Verdict	Guilty plea
Fines	£4,500 HMO, £4500 Management, £2022.50
Mandatory or Additional Licensing	Additional

Person prosecuted	[REDACTED]
Offence	<p>Unlicensed HMO</p> <p>Management Regulation failings (The Licensing and Management Of Houses in Multiple Occupation (Additional Provisions) (Wales) Regulations 2007)</p> <p>A person commits an offence if he fails to do anything required of him by a notice under section 235. Where an offence under the act is committed by a body corporate, officers of the body corporate also commit an offence if attributable to any neglect.</p>
Date	14/11/2017
Verdict	Guilty plea
Fines	£20,250 HMO, £5,364.55 costs, Victim Surcharge £120
Mandatory or Additional Licensing	Additional

Person prosecuted	██████████
Offence	<p>Unlicensed HMO</p> <p>Management Regulation failings (The Licensing and Management Of Houses in Multiple Occupation (Additional Provisions) (Wales) Regulations 2007)</p> <p>Housing Act 2004 Emergency Prohibition Order non-compliance.</p> <p>A landlord commits an offence under Section 7(5) if he carries out property management activities without a licence to do so under Part 1 of the Housing (Wales) Act 2014.</p>
Date	19/05/2017
Verdict	Guilty plea
Fines	£1500 HMO, £1500 RSW, £1400 Management, £1000 Costs, £170 Victim Surcharge
Mandatory or Additional Licensing	Additional

Person prosecuted	██████████
Offence	<p>Unlicensed HMO</p> <p>Management Regulation failings (The Licensing and Management Of Houses in Multiple Occupation (Additional Provisions) (Wales) Regulations 2007)</p>
Legislation prosecuted under	Section 72(1) of the Housing Act 2004 & Section 234(3) of the Housing Act 2004
Date	20/10/2017
Verdict	Found guilty in absence
Fines	£3000 HMO, £5000 Management £170 victim surcharge
Mandatory or Additional Licensing	Additional

APPENDIX B: HMO Application form

<http://www.newport.gov.uk/documents/Housing-documents/HMO/HMO-application-form.pdf>

APPENDIX C: HMO Guidance notes (assistance when applying for a HMO licence)

<http://www.newport.gov.uk/documents/Housing-documents/HMO/HMO-Guidance-Notes.pdf>

APPENDIX D: HMO Licensing Standards (standards for HMOs subject to licensing)

<http://www.newport.gov.uk/documents/Housing-documents/HMO/HMO-Standards-October-2018.pdf>

APPENDIX E: HMO Licence Conditions

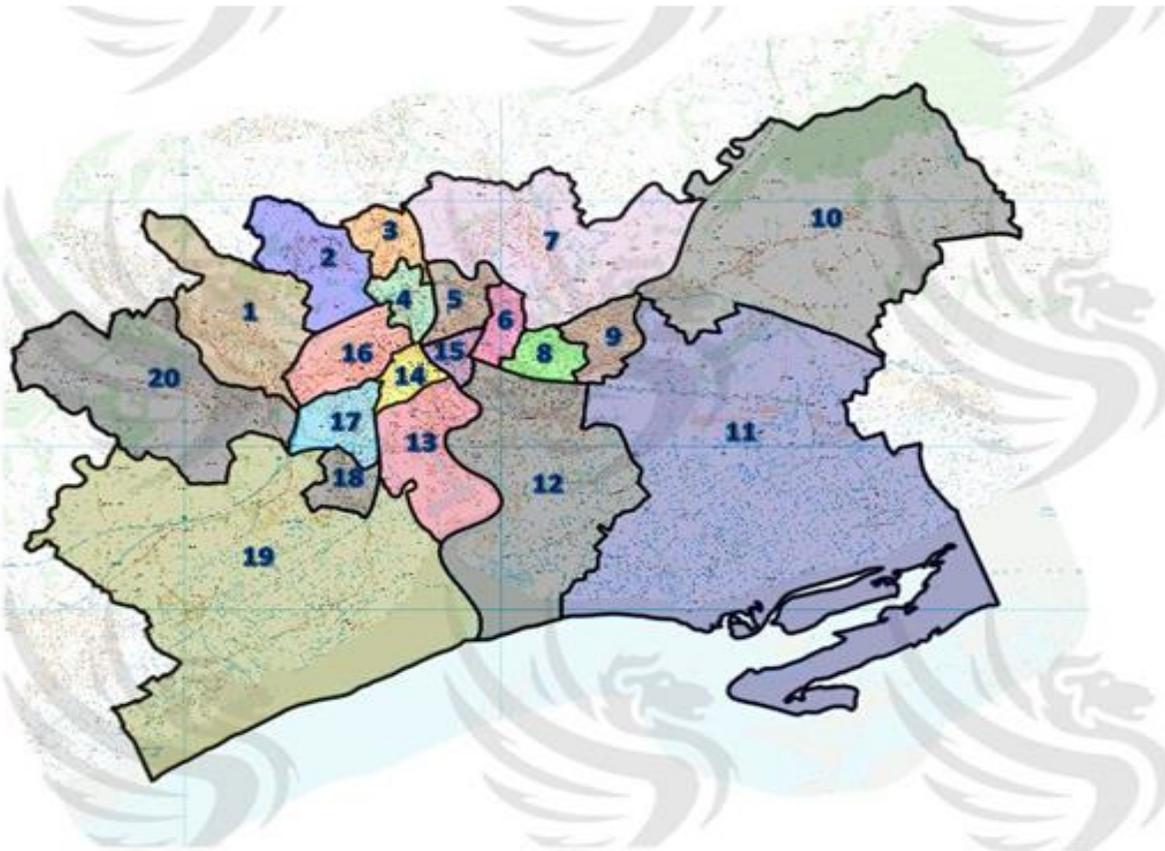
<http://www.newport.gov.uk/documents/Housing-documents/HMO/HMO-Licensing-conditions-October-2018.pdf>

APPENDIX F: Declaration of Understanding

<http://www.newport.gov.uk/documents/Housing-documents/HMO/HMO-Appendix-A-Declaration-of-understanding.pdf>

APPENDIX G: Map of proposed Additional (HMO) Licensing area

Page 40



<u>No</u>	<u>Ward Name</u>
1	Rogerstone
2	Bettws
3	Malpas
4	Shaftesbury
5	St Julians
6	Beechwood
7	Caerleon
8	Alway
9	Ringland
10	Langstone
11	Llanwern
12	Lliswerry
13	Pillgwenlly
14	Stow Hill
15	Victoria
16	All-yr-Yn
17	Gaer
18	Tredegar Park
19	Marshfield
20	Graig

Appendix B

Additional Licensing Scheme 2019

Public Consultation Responses

The following letter was received from Gwent Police in response to the consultation:



Chief Inspector Richard Blakemore
Ardal Plismona Lleol Dwyrain / East Local Policing Area
Heddlu Gwent / Gwent Police
www.gwent.police.uk
01633 838111 Est / Ext 720 3015
07464645422

16th December 2018

Nicola McGrath
Principal Environmental Health Officer Housing
Newport City Council
Room 716
Civic Centre
Newport
NP20 4UR

Dear Ms McGrath

**Re: The Housing Act 2004: House in Multiple Occupation Additional Licensing
Public Consultation.**

I would like to formally acknowledge support for the HMO (House in Multiple Occupation)
Additional Licensing scheme.

Reducing anti-social behaviour in HMOs will support one of the aims within the Safer Newport
element of the City Wellbeing Plan. In addition the provision of good quality, safe
accommodation supports resilient communities and protects individuals which will assist with
the strategic aims within One Newport.

Yours sincerely

A handwritten signature in black ink that reads 'R. J. Blakemore' with 'Ms.' written below it.

**Chief Inspector Richard Blakemore
Neighbourhood Support**

The results of the online questionnaire are as follows:

1. Which of the following best describes you?

	Number of people	Percentage of people
An owner-occupier of a property in Newport	13	37.14%
A tenant renting housing in Newport	7	20.00%
A landlord operating a property in Newport	7	20.00%
An agent letting or managing rented properties in Newport	2	5.71%
A business operating in Newport	0	0.00%
A community group or charity operating in Newport	1	2.86%
Other	5	14.29%
Total responses	35	

Comment on results: A surprising number of owner occupiers responded to the questionnaire.

2. To what extent would you support the proposal to continue to operate Additional Licensing in Newport?

	Number of people	Percentage of people
Fully support	10	28.57%
Partially support	1	2.86%
Do not support	24	68.57%
Do not know / not sure	0	0.00%
Total responses	35	

Comment on results: 92% of owner occupiers said they did not support the proposal. This was surprising as those categorising themselves as owner occupiers were presumably not landlords or tenants, and these individuals would not normally have a strong reason to oppose HMO licensing.

When it came to tenants, 43% said they supported the proposal, while the remainder said they did not.

Of the 9 responses from landlords and managing/letting agents, 78% said that they did not support the proposal.

3. What impact, if any, do you feel continuing Additional Licensing in Newport would have on you?

	Number of people	Percentage of people
A positive impact	8	22.86%
No impact	3	8.57%
A negative impact	23	65.71%
Don't know / not sure	1	2.86%
Total responses	35	

The same owner occupiers who said they were opposed to the proposal said they felt that the scheme would have a negative impact on them. No reasons were provided for this.

The one owner occupier in support of the proposal said that they felt there would be a positive impact and gave the following reason: *“There are a large number of hmo properties near me and I would be very concerned if licensing were removed as the standard of the accommodation would fall and tenants would be put at risk.”*

Those tenants that did not support the proposal said that they felt there would be a negative impact on them, but no reasons were provided for this.

The landlords provided the following reasons for their views on the impact of the scheme:

“Landlords are currently being bombarded with additional legislative changes which are very expensive to comply with and are together draining any profit from landlords with mortgages. Section 24 of the Finance Act has a huge impact on profitability is a primary cause of landlords selling up and thereby reducing the number of PRS homes available at a time when rental demand is growing. The HMO licences fee is excessive. The Rent Smart Wales scheme vets the suitability (in a more in depth manner) of all landlords and any managing agent and as such negates the need for an individual Welsh council to do so. The Environmental Health dept is already geared up to deal with complaints, surely that is all that is required?”

“I had 4 young men staying in a large house. They kept the place immaculate, including the gardens. Additional licensing forced me to change to renting to a professional family. Since then the place is a tip, they do not open windows and for the first time ever there is mould in some areas. The wear and tear plus damage has been terrible. The gardens are over grown and I have had to pay for remedial works. Such is the problem that I am seriously considering serving a Section 20 on them, before the property becomes uninhabitable.”

“I believe that licencing raises the standard of properties”

“Depending on the detail it has the potential to: - improve standard of housing - allow increased rent for better quality of housing - address rogue landlords It may also: - drive landlords out of the PRS due to micro management - drive landlords out of the PRS due to unsustainable costs - ignore and push rogue landlords further under ground as resources on focussed on administrating the already 'decent' landlords”

4. Do you think that the type of HMO properties targeted by the scheme are correct?
(See the Review and Proposal document for details)

	Number of people	Percentage of people
Yes	9	25.71%
No	23	65.71%
Do not know / not sure	3	8.57%
Total responses	35	

Of those respondents that said no, the following reasons were given:

“It would be more understandable for 3 storey properties plus where there are additional safety requirements, but to force licensing on 2 storey 3/4 bedroom properties is heavy handed.”

“My experience leads to believe this catch additional licensing is more about revenue raising than raising standards.”

5. Given the data presented in the Review and Proposal document, do you agree that Additional Licensing in Newport has maintained or improved standards in this type of private rented housing?

	Number of people	Percentage of people
Yes	8	22.86%
No	24	68.57%
Do not know / not sure	3	8.57%
Total responses	35	

Of those that responded no or don't know/not sure, the following reasons were given:

“Possibly in the past but my view has changed since the introduction of Rent Smart Wales.”

“I cannot comment on other properties but I do not believe that Additional Licensing has improved the 'standard' of the properties that I let. As a decent landlord with a conscience I have always tried to provide decent accommodation (despite tenants occasionally destroying my properties that were provided to them in a decent condition). The only difference now is that I pay NCC to prescribe how I do that and to ensure that I have carried out what they prescribe.”

Of those that responded yes, the following reasons were given:

“Tenant living standards are improved and their safer in their homes”

“I believe substandard properties have been forced to comply”

“I believe it has maintained and improved standards in housing”

“Based on figures.”

6. To what extent do you feel the Licensing fees are reasonable or unreasonable? (See the Review and Proposal document for details)

	Number of people	Percentage of people
Totally reasonable	5	14.29%
Fairly reasonable	4	11.43%
Fairly unreasonable	2	5.71%
Totally unreasonable	21	60.00%
Don't know / not sure	3	8.57%
Total responses	35	

Comment on results: Of the 23 respondents that felt the fees were fairly or totally unreasonable, 4 were landlords, 2 were letting/managing agents and surprisingly 12 were owner occupiers. 4 were tenants.

The following reasons were provided from those respondents:

“The cost of the licence eats a big hole in an already reducing profitability. If the council's intention is to drive more landlords out of the PRS then they might well get their wish. Will be interesting to see how they go onto house the hundreds/thousands of additional people unable to find a home they can afford who then turn to the council for assistance.”

“The year on year increase exceeds both RPI and CPI, which is unjustifiable. Also, I do not believe that my properties cost as much as the Licensing Fee charges for NCC to manage and administer. I believe that I am paying more than the actual cost so that money goes into a pot to fund other work of NCC with regards to HMOs and the Licensing. This should not be the case. Just because I am landlord, I should not be expected to pay towards other landlord or PRS related issues any more than any other member of the Newport community. I should be expected to pay for my properties only and if further money is required for further resourcing within the department then it should come from central NCC funding and/or council tax from everyone.”

Of the 9 respondents that felt that the fees were fairly or totally reasonable, 1 was an owner occupier, 3 were tenants, 3 were landlords, 1 was the Fire & Rescue Service and one did not specify. 2 of the landlords who said the fees were fairly reasonable were those that said they did not support the proposal to continue the licensing scheme.

The following reasons were provided by the respondents who felt that the fees were fairly or totally reasonable:

“Not as high as some councils.”

“I do think it is on the expensive side and would hate for landlords to be seen as a cash cow as this will have a negative effect on tenants”

7. Do you feel that the standard licensing conditions are reasonable and improve the standard of this type of private rented housing? (See the Review and Proposal document for details)

Comment on the results: Unfortunately it appears that this question was often mis-read, as 67% of those who said that they did **not** support the proposal **not** to continue with Additional

Licensing, were those that earlier in the questionnaire said they did **not** support the scheme continuing.

As this question was often mis-read, the reasons given for some of the responses must be read with caution, however they were as follows:

“This would be the wrong direction to take as it is only via licensing that standards are maintained. Tenants are often too intimidated to make complaints and the general public are not aware of what is required so may not realise that this option is available”

“Why penalise decent landlords with hefty and unnecessary licence costs when they are providing good quality accommodation?”

“I would fully support such a move. I have always tried to keep my properties at a standard where I would be happy to live in them myself. Please remember that there are rogue tenants too.”

“Having provided decent accommodation within the NCC area for over 15 years I have spent substantial time and finances conforming to what at times has been constantly changing and whimsical policy regarding HMO and Additional Licensing. To remove Additional Licensing now would render all that time and money wasted and allow unregulated properties to enter the market, most probably at a lower rental price point and you would possibly see a race to the bottom.”

“Needs additional licensing”

8. What impact, if any, do you feel NOT operating an Additional Licensing Scheme would have on you?

	Number of people	Percentage of people
A positive impact	13	37.14%
No impact	5	14.29%
A negative impact	11	31.43%
Don't know / not sure	6	17.14%
Total responses	35	

The following reasons were given for some of the responses to this question:

“Property standards would fall and hmo properties would not be managed as well as they are now”

“Well for one thing I'd have more money available to spend on my properties! £850 would buy a new kitchen for my tenants!”

“In my case I could have continued to offer a home to 4 nice lads who kept the house and gardens immaculately. Now the place although complying with the law, is a disgrace.”

“Less fees to pay”

“It would lead to less safe, poorer quality, unregulated properties entering the market. Quality of property would reduce as corners were cut in order to offer cheaper rents and increase profits.”

“No scope for improvement”

9. If you have any suggestions on how the Council can improve HMO properties in the private rented sector, please tell us in the box below.

The following comments were made:

“More inspections of hmos”

“More help to tenants as we hardly hear from you”

“Make the standards they have to obtain stricter to ensure the properties are safe healthy homes for residents”

“Carry out compulsory purchase of properties left void, unmanaged or dilapidated.”

“Encourage empty floors above shops to be utilised as accommodation.”

“Give them bigger bins - more households in a property = more rubbish.”

“You have no option with mandatory licensing. You do have an option with additional licensing to prevent travesties like my case.”

“Focus the majority of resources upon rogue landlords, not chasing the minor detail with what are essentially decent landlords.”

Comment: The views relating to compulsory purchase of empty properties and encouraging the use of empty floors above shops are outside of the scope of Additional Licensing.

10. If you have any further comments on the proposal, please use the box below.

The following comments were made:

“Write to tenants more often deliver tenant factsheets with advice Work with benefits as they have records of private tenants to liaise with tenants and send info out via email regular on standards expected in housing so we know who to contact if your home differs!”

“I believe the council should make more effort identifying those landlords, HMO and otherwise, not registered with RSW and penalise them. I have reported 2 RSW unlicensed landlords to RSW but no action has been taken. RSW unlicensed landlords are the ones most likely to be providing shoddy/dangerous accommodation.”

“As with anything, the devil is in the detail. Additional Licensing is in theory a good thing, as long as it addresses the basics such as fire regs, safety, minimum living standards etc. Once it starts to prescribe anything other than the basics then it becomes both intrusive, unsustainable and ineffective. Also of major importance is that NCC puts responsibility upon the tenant (where appropriate) as to their part within the PRS and HMO. Unless officially identified as a vulnerable person then a tenant is a grown responsible adult that is as much a part of society as anyone else, and should not be portrayed or assumed to be the victim in the landlord/tenant equation. As such, NCC should pursue and enforce against tenants as and when they are the problem.”

The following letter was received from the Residential Landlords Association.

Comment: This letter was received after the consultation had closed. It makes a number of interesting points, which have been considered carefully before setting out the Preferred Option set out in the Cabinet Member Report to which this is an appendix.



Newport City Council
Civic Centre
Godfrey Road
Newport
NP20 4UR

16th January 2019

To whom it may concern,

Additional Licensing Proposal

Thank you for the opportunity to respond to the above consultation.

We have read through your consultation documents, and though we appreciate the issues that the Council have mentioned and the effect they can have on tenants, landlords and the housing market proposed, the RLA is opposed to the proposed Additional Licensing Scheme.

Additional Cost

We understand that the Council's Corporate Plan 2017-2022 wants to support the mission of improving people lives in the city, and the overall Improvement Plan Objectives of delivering a "Safer City".

Good landlords will apply for licences and, likely, pass the cost on to tenants in the form of increased rents, doing nothing to address affordability, while the worst landlords – the criminal operators – will simply ignore the scheme, as they do many other regulations. To avoid financial difficulties, the council, if it goes ahead with the scheme, should increase the level of discount available to landlords.

Gaskin v Richmond 2018 & Fees

In *R(Gaskin) v LB Richmond Upon Thames* (2018) EWHC 1996 (Admin) the High Court overturned a prosecution against Mr Gaskin and gave substantial guidance on fees and other points associated with HMO licensing and by implication selective licensing, schemes under the Housing Act 2004.

Mr Gaskin had been prosecuted for not having a proper HMO licence for his property. He was of the view that he had made a proper application and that this had been unreasonably rejected by Richmond. Mr Gaskin was applying for a renewal of his licence and refused to provide the full list of information that the local authority was seeking such as names of current tenants and the terms of their tenancy agreements. The requirements for a renewal

RESIDENTIAL LANDLORDS ASSOC.

1 Roebuck Lane, Manchester, M33 7SY T +44 (0) 3330 142 998 E info@rla.org.uk
Residential Landlords Assoc. is a trading name of Residential Landlords Association Ltd. Company No. 2869179.
www.ria.org.uk



licence were amended and simplified in 2012 by the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (Amendment) (England) Regulations 2012. The High Court agreed with Mr Gaskin and found that the only information that could be sought on a licence renewal application was that set out in the amended regulations.

As you will be aware, the *Gaskin* case was specifically focused on the fees charged for a licence. The outcome was that a fee should just be for the application and there should not be additional charges, such as late application fees, or a fee to transfer a licence. We hope that the council takes into consideration the findings of this court case, and only asks for information set out in the relevant regulations, and nothing else. This includes taking the licence fee in 2 parts, one part on receiving the application, and the other part payable to the council once the licence is granted. The council, if it chooses to continue with Additional licensing, should revise its fee structure to reflect the findings of *Gaskin v Richmond*.

Disclosure and Barring Service requirement

As part of the council's criteria for an acceptable HMO application process, it is required that a basic disclosure obtained from The Disclosure and Barring Service be submitted to qualify the landlord or proposed licence holder as a "fit and proper person". It is not unreasonable for the council to ask for such documentation, but this should not be an additional cost to the landlord, as the cost should be included in the licence fee. The council can carry out the disclosure themselves and add the cost to the licensing fee, but it is unreasonable for the council to request the landlord to do this in addition to paying the £937.04 for the licence fee as well.

Impact of Welfare Reform

According to research done by RLA PEARL, 61% of landlords that let to tenants on Universal Credit have experienced their UC tenants going into rent arrears in the past 12 months. This is over double from 27% of landlords in 2016, and a significant increase from the previous year where it was 38% of landlords. PEARL also found out that the amount owed by Universal Credit tenants in rent arrears has increased by 49% in comparison to the previous 12 months. This has increased from £1,600.88 in 2017 to £2,390.19. Rent arrears for Universal Credit tenants are likely to be driving homelessness, with 28% of landlords regaining possession of their property from a UC tenant and the primary reason being rent arrears (77% of landlords).

The significant increase in rent arrears for both 'UC' tenants and 'legacy' Housing Benefit tenants also points to much wider issues than just the implementation of Universal Credit. The findings suggest that the freeze to LHA rates since 2016 and that LHA rates had not increased with market rents between 2010 and 2021 is likely to be driving the increase in rent arrears for tenants that claim benefits. More and more landlords are planning to sell properties in the next 12 months. This now stands at 22% and is up three percentage points since 2016. While the proportion of landlords looking to buy properties has continued to decline, and more landlords are planning to sell than buy. This indicates a chronic undersupply of privately rented homes in the future.

Many landlords may be in a situation where they are not able to pay both licensing fees, Rent Smart Wales registration fees, possible increase fees from the introduction of banning

RESIDENTIAL LANDLORDS ASSOC.

1 Roebuck Lane, Manchester, M33 7SY T +44 (0) 3330 142 998 E info@rla.org.uk
Residential Landlords Assoc. is a trading name of Residential Landlords Association Ltd. Company No. 2869179.
www.ria.org.uk



of agency fees, reduction in mortgage relief tax and deal with rent arrears on their properties, resulting in financial difficulties for landlords, and may lead to an increase of demand on council services as they consider leaving the sector.

Variation of a licence charge

The charge for "change of occupancy" **£84.24** could very well be classed as a variation of the licence, which cannot be charged by the council. The power to charge a fee is set out in s63(3) of the Housing Act 2004 and is limited by s63(7). These state that a fee must reflect the cost of running the scheme. The fee is however allowed to reflect all the costs including the operation of the scheme itself, education about the scheme, and the necessary inspections and enforcement activity to make the scheme effective. No charge can be made in respect of any other function under the licensing regime, such as a variation of a licence, a Temporary Exemption notice or anything else.

Pressure on non-licensed areas

Landlords, especially those with properties outside the licence area will become risk-averse in terms of the tenants they let to. Tenant problems such as anti-social behaviour are impossible for the landlord to address alone and landlords will not wish to risk a breach of licensing conditions that may affect their ability to let properties elsewhere. Some may seek to evict already challenging tenants. This could mean additional costs to other council services, as they pick up the pieces created by the disruption to the lives of already vulnerable tenants.

Raising Standards

There is little evidence that licensing schemes improve housing standards. The focus of staff becomes the processing and issue of licences, while prosecutions centre on whether a property is licensed or not, rather than improving management standards and property conditions. Additionally, the decent homes standard is a measure of the standard of housing and has no legal applicability to PRS housing. The Housing Health and Safety Rating System (HHSRS) is the relevant standard for the PRS.

Furthermore, the Renting Homes (Wales) Act 2016, will seek to introduce a new universal standard for renting in Wales. The legislation will seek to grant one, simple to use piece of legislation for reference on what will be required of Private Sector Landlords. The use of further continuing licensing schemes would be seen to undermine the Welsh Government's work as well reducing the overall effectiveness of the provisions relating to Fitness for human habitation (FFHH) which will replace HHSRS.

The matters considered are those similar to HHSRS with prescribed and considered matters.

There will be two types of matters to consider as to whether a property is suitably fit, these are categorised as:

RESIDENTIAL LANDLORDS ASSOC.

1 Roebuck Lane, Manchester, M33 7SY T +44 (0) 3330 142 998 E info@rla.org.uk
Residential Landlords Assoc. is a trading name of Residential Landlords Association Ltd. Company No. 2869179.
www.rla.org.uk



Prescribed Matters

- Prescribed Matters relate to electrical safety, smoke alarms and CO2 alarms.
- Electrical safety will generally cover the inspection of all electrical outlets and ensure that they are set to a British Standard (BS7671).
- Smoke alarms, the consultation sought to seek clarification of the position on whether the smoke alarms should be hardwired or interlinked
- Carbon Monoxide alarms should be provided when gas burning applications are being used.

Considered Matters

- The considered matters to which will determine that the dwelling is FFHH are based on the 29 matters and circumstances from the House Health and Safety Rating System (HHSRS). Examples are as follows:
- Damp and mould growth
- Asbestos and manufactured mineral fibres
- Biocides
- Carbon monoxide and fuel combustion products
- Lead
- Domestic hygiene, pests and refuse
- Un-combusted fuel gas

When considering Prescribed Matters, if it is found that any of these three matters aren't met, then no matter how many of the considered matters have been met, the home will not be considered fit for human habitation. A landlord who rents a dwelling which is not FFHH, or who fails to rectify an issue causing the dwelling to be unfit, may risk having their landlord licence revoked under Rent Smart Wales and possible breach of contract in the courts.

We believe that the measures contained in the Renting Homes (Wales) Act 2016 will be sufficient to improve housing standards.

Rent Smart Wales also requires landlords to complete training and registration, which increases the standards of knowledge that Landlords have in Wales, which has gone in a long way to increasing and professionalising the sector.

Overall there are several mechanisms already in place to improve standards, we would recommend enforcing these laws instead of further licensing. Especially considering our recent research conducted by our research arm PEARL into enforcement by local authorities. We found that out of all of the complaints made between 2012/13 – 2017/18 to local councils in Wales only 7% resulted in some sort of action made against the landlord. Newport council has received over 14,000 complaints from tenants in 2017/18, which indicates that there is a lack of enforcement of the current laws. We would rather see an

RESIDENTIAL LANDLORDS ASSOC.

1 Roebuck Lane, Manchester, M33 7SY T +44 (0) 3330 142 998 E info@rla.org.uk
Residential Landlords Assoc. is a trading name of Residential Landlords Association Ltd. Company No. 2869179.
www.rla.org.uk



investment in enforcement rather than further licencing schemes that do nothing more than prosecute for not being licensed rather than for failing to adhere to standards.

Conclusion

In conclusion, rather than expanding an ineffective licensing scheme, the council should use cross-departmental and multi-agency working and effective use of existing housing legislation to support tenants and landlords in maintaining tenancies, housing condition and management standards.

We also support the use of the council tax registration process to identify private rented properties and landlords. Unlike licensing, this does not require self-identification by landlords, making it harder for so-called rogues to operate under the radar. There are alternatives to licensing. The RLA supports a system of self-regulation for landlords whereby compliant landlords join a co-regulation scheme which deals with standards and complaints in the first instance, while those outside the scheme remain under the scope of local authority enforcement. More information can be supplied if required.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'D Haig', written over a horizontal line.

Douglas Haig
Vice Chairman of the RLA
Managing Director of the RLA Wales

RESIDENTIAL LANDLORDS ASSOC.

1 Roebuck Lane, Manchester, M33 7SY T +44 (0) 3330 142 998 E info@rla.org.uk
Residential Landlords Assoc. is a trading name of Residential Landlords Association Ltd. Company No. 2869179.
www.ria.org.uk

Fairness and Equalities Impact Assessment (FEIA)

Version 3.6 May 2017

The purpose of this assessment is to provide balanced information to support decision making and to promote better ways of working in line with equalities (Equalities Act 2010), Welsh language promotion (The Welsh Language (Wales) Measure 2011), sustainable development (Wellbeing of Future Generations (Wales) Act 2015), and the four parameters of debate about fairness identified by the Newport Fairness Commission (NFC Full Report to Council 2013).

Completed by: Jonathan Keen **Role:** Manager

Head of Service: Gareth Price **Date:** 02/01/2019

I confirm that the above Head of Service has agreed the content of this assessment

Yes

When you complete this FEIA, it is your responsibility to submit it to
impact.assessments@newport.gov.uk

1. Name and description of the policy / proposal being assessed. Outline the policy's purpose.

Renewal of the Council's city-wide Houses in Multiple Occupation Additional Licensing Scheme for another 5 years, from 1 June 2019.

Additional Licensing is provided by the Housing Act 2004 and allows the Council to choose to regulate smaller Houses in Multiple Occupation (HMOs) and self-contained flats, in addition to the 3 storey properties that are required to be regulated under Mandatory Licensing.

HMO Licensing is designed to ensure housing conditions are safe for tenants, including ensuring that appropriate fire safety measures are in place, and ensures that landlords are 'fit & proper persons' to operate such properties i.e. they have no serious criminal convictions for violence etc.

HMO Licensing ensures that properties are safe at the beginning of the 5 year licence term and that they are also proactively inspected during the licence term. The frequency of the inspections is determined by the risk rating of each property.

The Council currently licenses around 420 properties with an average of 77% licensed per year over the current 5 year scheme being under Additional Licensing. Without such a scheme, the Council would have to rely on tenants complaining about housing conditions and deal with such issues reactively. Additional Licensing also provides additional enforcement powers to rectify poor standards of management (leading to unsafe housing conditions), which would not be available to Council officers otherwise.

The Council has operated Additional Licensing since December 2008.

2. Outline how you have/ will involve stakeholders who will be affected by the policy/proposal

Between 8 October and 16 December 2018, a 10 week public consultation was undertaken to seek the views of all stakeholders.

The consultation was publicised using the Council’s website, social media channels, direct emails to landlords, an advert in the South Wales Argus and an article in Newport Matters. National organisations representing landlords were written to directly encouraging them to express their views, as were property management and letting agents in the city. Gwent Police and South Wales Fire & Rescue were also directly contacted. We hoped to gain the views of tenants and owner occupiers as well as landlords.

3. What information/evidence do you have on stakeholders? e.g. views, needs, service usage etc. Please include all the evidence you consider relevant.

- 453 service requests were received between 2014 and 2018 in relation to properties subject to Additional Licensing. These were mainly from tenants.
- Reactive and proactive inspections continue to find hazards in properties requiring action to protect tenants’ health and safety. There is often reluctance on the part of tenants to complain to the Council, and a lack of understanding of what standards are appropriate and therefore when a complaint should be made.
- Limited conclusions can be drawn from the public consultation as the response rate was poor but some data is set out in the Cabinet Member report.
- A minority of landlords continue to try and operate licensable properties without a licence and these properties are often found to be sub-standard and/or poorly managed. Licensing a property ensures that the landlord is provided with appropriate advice by officers and the property is brought up to standard where necessary; licensing is not a ‘paper exercise’.

4. Equalities and Welsh language impact

Protected characteristic	Impact:			Provide further details about the nature of the impact in the section below. Does it: 1. Promote equal opportunity 2. Promote community cohesion 3. Help eliminate unlawful discrimination/ harassment/ victimisation?
	Positive	Negative	Neither	
Age	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Additional HMO Licensing helps to protect all age groups as the standards are applied equally to all properties.

Protected characteristic	Impact:			Provide further details about the nature of the impact in the section below. Does it: 1. Promote equal opportunity 2. Promote community cohesion 3. Help eliminate unlawful discrimination/ harassment/ victimisation?
	Positive	Negative	Neither	
				<p>Children are protected from living in overcrowded and/or unsafe conditions, which can have a major impact on their education and future prospects.</p> <p>Younger and Older people may be more reluctant to complain about unsafe housing, as they may find it more daunting or challenging to access alternative accommodation if they are asked to leave the property. Therefore proactive regulation of properties is effective.</p> <p>Ensuring that properties are managed appropriately and landlords are prevented from operating sub-standard properties, prevents a downward spiral of property conditions in communities and therefore helps to promote community cohesion.</p> <p>Licensed properties must be operated by landlords who are 'Fit & Proper' to do so and this helps to eliminate harassment, victimisation etc. and illegal evictions.</p>
Disability	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Additional HMO Licensing helps to protect those with disabilities as the standards are applied equally to all properties.
Gender reassignment/ transgender	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Licensed properties must be operated by landlords who are 'Fit & Proper' to do so and this helps to eliminate harassment, victimisation etc. and illegal evictions.
Marriage or civil partnership	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Pregnancy or maternity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Additional HMO Licensing helps to protect individuals as the standards are applied equally to all properties.
Race	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Licensed properties must be operated by landlords who are 'Fit & Proper' to do so and this helps to eliminate harassment, victimisation etc. and illegal evictions.</p> <p>All landlords are regulated consistently regardless of their race. Additional advice and support is provided to landlords who may struggle to understand the legal requirements due</p>

Protected characteristic	Impact:			Provide further details about the nature of the impact in the section below. Does it: 1. Promote equal opportunity 2. Promote community cohesion 3. Help eliminate unlawful discrimination/ harassment/ victimisation?
	Positive	Negative	Neither	
				to language skills etc.
Religion or Belief or non-belief	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Licensed properties must be operated by landlords who are 'Fit & Proper' to do so and this helps to eliminate harassment, victimisation etc. and illegal evictions.
Sex/ Gender Identity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Licensed properties must be operated by landlords who are 'Fit & Proper' to do so and this helps to eliminate harassment, victimisation etc. and illegal evictions.
Sexual Orientation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Licensed properties must be operated by landlords who are 'Fit & Proper' to do so and this helps to eliminate harassment, victimisation etc. and illegal evictions.
Welsh Language	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

5 How has your proposal embedded and prioritised the sustainable development principle in its development?

Sustainable Development Principle	Does your proposal demonstrate you have met this principle? Describe how.
 <p>Long Term</p> <p>Balancing short term need with long term needs</p>	<p>Continuing with Additional Licensing ensures that this part of the private rented sector is regulated in a long term way. This provides stability to the sector and therefore confidence to landlords who wish to operate such properties. Communities are therefore supported in a long term, proactive way.</p> <p>Some landlords will be deterred by Additional Licensing from operating such properties. In some cases this will be a positive impact, however in the case of responsible landlords this would be regrettable and would impact on housing provision in the long term.</p>
 <p>Collaboration</p> <p>Working together to deliver objectives</p>	<p>This type of regulation ensures that South Wales Fire & Rescue can act in partnership with the Council, as they are consulted on all HMO fire plans and schedules of work for properties. The Fire Service do not have powers to regulate such properties; the Council must regulate them.</p>
 <p>Involvement</p> <p>Involving those with an interest and seeking their views</p>	<p>Efforts have been made to consult all stakeholders on the proposal to continue with Additional Licensing, but the response was disappointing.</p> <p>Stakeholders will continue to be involved in a variety of ways going forward.</p>
 <p>Prevention</p> <p>Putting resources into preventing problems occurring or getting worse</p>	<p>Licensing of private rented properties is an important strategy to ensure the Council is proactive and not just responding to complaints and incidents.</p> <p>The Council also delivers functions to enable Rent Smart Wales (registration and licensing of landlords) to be delivered across Wales, with the aim of improving standards of property management.</p>

Sustainable Development Principle	Does your proposal demonstrate you have met this principle? Describe how.
 <p>Considering impact on all wellbeing goals together and on other bodies</p>	<p>Additional Licensing has a positive impact on the following Well-being goals:</p> <p>Well-being goals:</p> <ul style="list-style-type: none"> • A prosperous Wales – licensing provides a level playing field for landlords and therefore supports responsible businesses. Property standards are improved and maintained ensuring the housing conditions do not negatively impact on residents’ lives affecting their employment etc. • A healthier Wales – safe and warm accommodation is a crucial and fundamental factor that supports the health of occupiers. • A Wales of more cohesive communities – properties in poor condition or occupied by those acting in an anti-social manner can have a negative impact on communities; therefore appropriate regulation can support communities. Properties that are safe and well-maintained are more likely to attract and retain responsible tenants, who are more likely to play a positive role in a community. <p>There would continue to be a positive impact on Newport City Council’s Well-being Goals from Additional Licensing:</p> <ul style="list-style-type: none"> • To improve skills, educational outcomes and employment opportunities – educational outcomes can be negatively affected by poor housing conditions. • To enable people to be healthy, independent and resilient – see above. • To build cohesive and sustainable communities – see above.

6 Will the proposal/policy have a disproportionate impact on a specific geographical area of Newport?

No – Additional Licensing applies to all Electoral Wards in order to ensure that the scheme does not distort the local housing market.

7 How does the proposal/policy relate to the parameters of debate about Fairness identified by the Newport Fairness Commission

Parameter 1 deals with equal treatment whilst recognising difference. The proposal is to continue with Additional Licensing which in effect treats all stakeholders involved in such HMOs equally.

Parameter 2 deals with “mutual obligations between citizens and local government”. Local Government’s responsibility is to help ensure the safety, security and wellbeing of citizens in their communities and appropriate licensing is one way to deliver on this responsibility.

Parameter 3 deals with “interdependency and reciprocity within community relations”. As mentioned previously, appropriate regulation to try and prevent properties and tenants from damaging communities is important.

Parameter 4 deals with “transparency and accountability in decision making”. A public consultation has been undertaken in order to seek as many views from stakeholders as possible. This FEIA will form part of a Cabinet Member report and all Elected Members will have the opportunity to express their views on the proposals, to inform democratic decision making.

8 Taking this assessment as a whole, what could be done to mitigate any negative impacts of your policy and better contribute to positive impacts?

We will ensure that the Scheme is operated in an efficient way that provides a positive service to landlords who wish to operate such properties.

We will also ensure that the fees for licences are reasonable in that they accurately reflect the cost of operating HMO licensing in Newport.

9 Monitoring, evaluating and reviewing

The Scheme will be continually monitored. The number of licences and the number of hazards in such HMOs is reported to the Welsh Government on a yearly basis.

10 Involvement

This FEIA will form part of the Cabinet Member report which will be published by the Council. Our web pages will clearly set out the requirements for landlords and how they can access our service.

11 Summary of Impact (for inclusion in any report)

Equality Act 2010 AND Welsh Language

The proposal to continue with Additional Licensing in Newport will have a positive impact on some protected characteristics and no negative impacts are noted.

There is no Welsh Language impact.

Wellbeing of Future Generations (Wales) Act 2015

The proposed Scheme will support a number of the Well-being goals set out in the Act.