
To: Regulatory Functions Board
On: 22 May 2019

Report by: Director of Finance & Resources

Heading: Review of Licensing of Houses in Multiple Occupation (HMO)

1. Summary

- 1.1 Officers have carried out a review of the Council's Houses in Multiple Occupation Scheme and the Licensing Conditions. This has resulted in proposed revised Conditions and the preparation of a streamlined Benchmark Standards for Houses in Multiple Occupation which is recommended for the Board's approval.
- 1.2 The proposed Conditions reflect recent changes to tenancy and housing law as well as seeking to facilitate better enforcement of HMO Licences.
- 1.3 The proposed Benchmark Standards is a full-scale revision of the Scheme which allows the applicants for these licences to better understand the standards and expectations of Renfrewshire Council. The Benchmark Standards will also facilitate better regulation of HMO Licences.
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2. Recommendations

- 2.1 To approve the Licensing Conditions for a House in Multiple Occupation as set out in Appendix 1 with the Conditions being applied to all applications for a Houses in Multiple Occupation Licence received after 1 July 2019;
- 2.2 To approve the Benchmark Standards for a House in Multiple Occupation as set out in Appendix 2 with the Benchmark Standards being applied to all applications for a House in Multiple Occupation Licence received after 1 July 2019 relative to Condition 1 of the Conditions proposed in paragraph 2.1; and

- 2.3 To instruct officers to make any necessary changes to the HMO licensing application procedures and practices as required to implement the Conditions and Benchmark Standards.

3. **Background**

- 3.1 In 1991, Local Authorities were given a discretionary power to introduce licensing of Houses in Multiple Occupation under the Civic Government (Scotland) Act 1982. In 2000, an Order made under the 1982 made it mandatory for all Local Authorities to introduce an HMO licensing regime. The Housing (Scotland) Act 2006 moved the regulation of HMOs into housing legislation to allow better strategic links with other housing policy.
- 3.2 On 2 October 2003, the Regulatory Functions Board approved the Licensing of Houses in Multiple Occupation Scheme and Licensing Conditions which currently apply. Both the Scheme and Licensing Conditions were based on recommendations found in the Scottish Government's "Mandatory Licensing of Houses in Multiple Occupation: Statutory Guidance for Local Authorities", first published in 2000.
- 3.3 Both the Scheme and the Conditions have undergone piecemeal changes following updates to the "Statutory Guidance for Local Authorities". The Scheme, as it stands, replicates a significant portion of the statutory guidance and legislative provisions. Given changes to housing and tenancy law, the Scheme and the Conditions now require to be updated. Accordingly, officers have now undertaken a full review of the Scheme and the Conditions not only to update the documents but also to revise these to make it clear what standards are expected of licence holders by Renfrewshire Council. This will facilitate better regulation of HMO Licences issued by Council.
- 3.4 Officers recommend replacing the Scheme with the Benchmark Standards found in Appendix 2. The current Scheme copies parts of the Statutory Guidance word for word. In contrast, the Benchmark Standards advises that the standards found in the Statutory Guidance must be complied with and also provides additional standards which must also be complied with. This will ensure that the Benchmark Standards remain up to date should the Statutory Guidance be revised. The Conditions found in Appendix 1 includes a condition that the Benchmark Standards must be adhered to.
- 3.5 The proposals would remove some provisions in relation to other legislative regimes. As with any licensing regime, care should be taken to ensure that other statutory provisions unrelated to HMO licences are not enforced through the HMO licensing regime. The current Scheme contains detailed provisions in relation to health and safety, product safety and food safety, which have been removed. Instead, the proposed Benchmark Standards provide an expectation that applicants

are aware of their obligations in relation to health and safety, product safety and food safety.

- 3.6 The other major change relates to the fire safety provisions. The fire safety provisions contained in the HMO scheme are duplicated from previous Statutory Guidance. These recommendations have been superseded by a variety of different guidance from the Scottish Government including the *Practical Fire Safety Guidance for Small Premises Providing Sleeping Accommodation* and *Practical Fire Safety Guidance for Medium and Large Premises Providing Sleeping Accommodation*. These recommendations fall within the remit of the Scottish Fire and Rescue Service. As stated in the current Statutory Guidance, fire safety is principally dealt with through the Fire (Scotland) Act 2005 and section 71 of the Fire (Scotland) Act 2005 restricts the extent to which licensing regimes can deal with fire safety. Accordingly, following consultation with Scottish Fire and Rescue Service, a new provision is contained in the Benchmark Standards at Standard BS4.
- 3.7 It is recommended that these changes are approved with effect for all new applications received after 1 July 2019.

Implications of the Report

1. **Financial – none**
2. **HR & Organisational Development - none**
3. **Community Planning –**
Building strong, safe and resilient communities – The improvement of the licensing regime will help contribute to safer communities.
4. **Legal - none**
5. **Property/Assets – none**
6. **Information Technology – none.**
7. **Equality & Human Rights -**

The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report and each application would be considered against these specific impacts. If required following implementation, the actual impact of the recommendations and the

mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.

8. **Health & Safety** – None.
9. **Procurement** – None
10. **Risk** - the decision to adopt the policy itself carries minimal risk. However, any decision to refuse an application following adoption of the policy may result in interested parties appealing a decision of the Board to the Sheriff Court.
11. **Privacy Impact** – none
12. **Cosla Policy Position** – not applicable

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Housing (Scotland) Act 2006

Licensing Conditions for Houses in Multiple Occupation

1. The licence holder must take steps to ensure that the premises, fittings and furniture, including fire precautions, equipment, plumbing, gas, electrical installations, and appliances are maintained throughout the period of the licence to standard required by Renfrewshire Council Benchmark Standards for Houses in Multiple Occupation (the "Benchmark Standards") and that the property remains at all times wind and water tight.
2. The licence holder must hold certificates required by the Benchmark Standards including safety certificates for heaters, certificates for the electrical system, PAT certificates, and gas safety certificates. The licence holder shall at all times be in a position to exhibit such documents on demand to the licensing authority. Where any certificate is due to expire during the term of the licence this must be renewed so that there is no break in continuity of certification.
3. The premises shall be provided with:
 - a. adequate means of escape in case of fire;
 - b. adequate means of ensuring that the means of escape can be safely and effectively used at all times;
 - c. adequate and suitable firefighting equipment;
 - d. a suitable fire detection and alarm system complying with relevant legislative standards;
4. The licence holder must ensure that advice to occupiers on action to be taken in the event of an emergency is clearly and prominently displayed within the premises.
5. The licence holder shall ensure that the premises at all times be structurally sound and by their nature be capable of carrying all loads imposed on them in compliance with the relevant British Standards in relation to loading of buildings.
6. All battery operated CO alarms installed in the premises must be replaced every five years.
7. Liquid Petroleum Gas (LPG) must not be used or stored in the premises.

8. The licence holder shall ensure that there is adequate insurance cover in place in respect of the premises. The property must be insured for its full reinstatement value. Public liability insurance cover should be held in the sum of £5 million.
9. The licence holder shall ensure that no alterations be permitted to the premises without the written permission of the licensing authority.
10. When there is any change to the information supplied to the licensing authority, including home address and contact details, the licence holder must notify Renfrewshire Council within 7 days of the change.
11. The licence holder must maintain the property so it meets the repairing standard as defined by the Housing (Scotland) Act 2006 and must keep the following maintained:
 - a. the structural fire precautions;
 - b. exterior routes to a place of safety (including routes from below emergency escape windows); and
 - c. installations for gas, electricity and other service and utility provisions.
12. The tenancy agreement for all residents must contain the statutory terms as prescribed by the Private Residential Tenancies (Statutory Terms) (Scotland) Regulations 2017 or any successor legislation, unless the tenancy agreement was entered into prior to 1 December 2017 or a statutory exemption applies. Copies of all current tenancy agreements must be exhibited on demand to the Licensing Authority.
13. The licence holder, when requested, must exhibit to the licensing authority any records retained in relation to the following:
 - a. The number of residents occupying the property; and
 - b. Dates of entry and departure of each resident.
14. The licence holder shall use all available means to ensure that no disturbance or anti-social behaviour arises within or from the premises.
15. The licence holder must ensure that actions to secure repossession must only be by lawful means.

16. The licence holder shall comply with the current regulations regarding the maximum resale price of gas and electricity supplied, as appropriate.
17. Adequate facilities must be provided for the storage and disposal of refuse and include adequate recycling facilities.
18. The licence holder shall ensure that residents' mail is available to residents on a daily basis.
19. The licence holder shall ensure that telephone socket is installed in the premises which residents can connect a telephone to for the purpose of calling the emergency services.
20. The number of persons residing at the premises at any one time shall not exceed the maximum number stated in the licence.
21. The licence holder shall allow free access to the premises for the following officials for licensing purposes:
 - a. any authorised officer of Renfrewshire Council;
 - b. any officer of Police Scotland; and
 - c. any officer of Scottish Fire and Rescue Service.
22. The licence holder shall display the licence and these conditions in a prominent position where it can be conveniently read by residents.
23. The licence holder shall deliver this licence document to Renfrewshire Council within seven days of the cancellation by the licence holder, or variation or revocation of the licence by Renfrewshire Council.

Appendix B



Housing (Scotland) Act 2006 Benchmark Standards for Houses in Multiple Occupation

- BS1. Prior to the granting or renewal of a house in multiple occupation (“HMO”) licence, all newly constructed, altered, converted or extended premises intended to be used as a HMO living accommodation will be inspected by Council Officers to ensure the HMO living accommodation complies with building standards applicable to the building as provided in the Buildings (Scotland) Act 2003 (as amended), the Buildings (Scotland) Regulations Act 2004 (as amended) or any successor legislation.
- BS2. The Health and Safety Act 1974 and accompanying regulations apply to HMO living accommodation where persons are employed on the premises. When applicable, the licence holder must be aware of their statutory obligations.
- BS3. Current legislative food standards apply to HMO living accommodation where food is provided as part of the living arrangements. When applicable, the licence holder must be aware of their statutory obligations.
- BS4. Enforcement of fire safety in licensable HMO living accommodation is the responsibility of the Scottish Fire and Rescue Service. Council officers will however take into account fire safety when inspecting the HMO living accommodation to ensure that it constitutes suitable living accommodation. Where any concerns are noted, these will be passed to the Scottish Fire and Rescue Service for their consideration as appropriate. Licence holders must be aware of their obligations under the Fire (Scotland) Act 2005 to conduct fire risk assessments and provide appropriate fire safety measures to ensure the safety of occupants. Licence holders should also be aware of any statutory guidance issued by the Scottish Government, which provides benchmarks for fire safety within relevant premises. When in doubt, advice should be obtained from a competent fire safety specialist. Both the Scottish Government and the Scottish Fire and Rescue Service recommend that duty holders who wish to contract the services of external fire safety risk assessors verify that the assessor is competent in fire risk assessment. Further information on risk assessor competence can be found at http://www.fireScotland.gov.uk/media/1173445/sfrs_advice_on_fire_safety.pdf

BS5. If furnishing or products are provided to occupants of the HMO living accommodation then the licence holder must be aware of their statutory obligations in relation to product safety.

BS6. HMO living accommodation must, unless otherwise agreed in writing with the licensing authority, comply with the standards and recommendations provided for in relation to the suitability of HMO living accommodation in the Statutory Guidance for Scottish Local Authorities issued under section 163 of the Housing (Scotland) Act 2006 or any successor statutory guidance.

In addition, HMO living accommodation must, unless otherwise agreed in writing with the Licensing Authority, comply with the following additional standards:

AS1. Space and Layout

Every stair for a change in level of more than 600mm must have a handrail on at least one side, fixed at a height of at least 840mm and not more than 1m above the pitch line of a flight or surface of a landing.

AS2. Security

Secure locks must be placed on all access doors. All door locks must be capable of being opened from the inside without a key. The licensing authority may require additional security, including locks on accessible windows which may present a security risk.

AS3. Sanitary facilities, water and drainage

Any WC compartment must be suitably ventilated and, as a minimum, any ventilator must have an opening area of 1/30th of the floor area of the WC compartment it serves or a mechanical extraction capable of at least 3 air changes per hour.

AS4. Provision of heating

A. Solid fuel appliances must be certified for safe use by a HETAS approved engineer or equivalent. Inspection and certification of solid fuel appliances are to be carried out at a frequency determined by the HETAS approved engineer.

B. Any living accommodation in a smoke controlled area of Renfrewshire must ensure that any solid fuel appliance being used is exempt or that authorised fuels are used.

C. Oil fired heaters must be certified safe for use by an OFTEC Registered Technician or equivalent. Inspection and certification of solid fuel appliances are to be carried out at a frequency determined by the OFTEC Registered Technician.

- D. Inspection and certification of solid fuel and oiled heaters are to be carried out at a frequency determined by the HETAS approved engineer (or equivalent) or OFTEC Registered Technician (or equivalent) as applicable.

AS5. Chimneys and Flues

- A. All chimneys/flues that are in use must be cleaned annually and a valid certificate provided by a member of The Guild of Master Chimney Sweeps or The National Association of Chimney Sweeps or equivalent. The licence holder must retain the current certificate and those of the previous two years.
- B. Open-flued combustion appliances should not be fitted in the same room (or in an adjoining room) as an extract fan. If no reasonable alternative is available, a spillage test must be carried out on the appliance. If the appliance is to burn solid fuel, the spillage test must be carried out by a HETAS approved engineer or equivalent. If the appliance is a gas appliance, the test must be carried out by a Gas Safe engineer or equivalent. The appliance must comply with all current relevant legislative standards.

AS6. Electrical Safety

- A. Any work to electrical installations must be carried out by an appropriately qualified person and in accordance with the relevant regulations, statutory guidance and all current legislative standards.
- B. All bathrooms and shower rooms must be provided with an IP44 rated light fitting.