

Key Decision Required:	Yes	In the Forward Plan:	Yes
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CABINET

19TH MARCH 2021

**JOINT REPORT OF THE CORPORATE GOVERNANCE & FINANCE PORTFOLIO HOLDER
AND THE HOUSING PORTFOLIO HOLDER**

A.8 HOUSES IN MULTIPLE OCCUPATION (HMO) POLICY
(Report prepared by Peter Russell)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT
To recommend a Houses in Multiple Occupation (HMO) Policy for adoption by the Council.

EXECUTIVE SUMMARY
The HMO Policy sets out the Council’s corporate approach to the approval of HMO’s and the required management expectations and standards for HMOs in the District.

RECOMMENDATION(S)
<p>It is recommended that Cabinet:</p> <ul style="list-style-type: none"> • Adopts the HMO Policy; and, • Delegates authority to the Housing Portfolio Holder to make updates or amendments to the policy, if required, after it is adopted.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES
<p>The decisions will contribute to the following priorities in the Corporate Plan 2020-2024:</p> <p>Community Leadership Through Partnerships</p> <p>The policy will contribute to the overall aims of the Corporate Enforcement Strategy through the delivery of high quality affordable services, engaging with the community and effective partnership working to promote healthier lifestyles and well-being in the district as well as tackling homelessness.</p> <p>Building Sustainable Communities for the Future</p> <p>The policy will play a key role in ensuring that private tenants in the district can live in a safe and decent home. Good quality housing contributes to positive health and wellbeing that are the key foundations of a sustainable community.</p>

FINANCE, OTHER RESOURCES AND RISK
<p>Finance and other resources</p> <p>The implementation of this policy can be met through existing resources in the Planning and Housing & Environmental Departments. Fees obtained through planning and licensing applications help to meet the administrative costs of enforcing the standards and requirements for HMO’s set out in the policy.</p>

Risk

A failure to tackle the proliferation of HMO's and not enforcing management standards could lead to an increase in anti-social behaviour, damaging community relations and the council's reputation.

LEGAL

A property is defined as an HMO in the Housing Act 2004 if both the following apply:

- at least three tenants live there, forming more than one household and;
- the occupiers share essential living accommodation such as a kitchen, toilet or bathroom.

A household consists of a single person or members of the same family who live together.

A family includes people who are:

- married or living together – including people in same sex relationships or;
- relatives or half-relatives, for example, grandparents, aunts, uncles or siblings or;
- step-parent's and step-children .

Common examples of HMO's would include house or flat shares, bedsit type accommodation with shared facilities and B&B type accommodation for persons who have no other home, where that is the predominant use. Converted blocks of flats, as defined in Section 257 Housing Act 2004, are HMO's if they do not meet the Building Regulations standards that were in force in 1991.

In planning terms, there is a District wide Article 4 Direction in operation in the Tendring area. The Article 4 Direction came into force in May 2013. This means that the creation of HMOs and bedsits in the District (in the majority of cases) requires planning permission in line with national planning regulations

Mandatory HMO Licensing was first introduced in Part II of the Housing Act 2004 and came into force in 2006. The rules on HMO licensing were amended in October 2018 and now, a HMO must be licensed if it accommodates **at least 5 people in 2 or more different households**. The changes were made to the HMO licensing regime following extensive consultation and concerns about some landlords letting sub-standard properties. It is a legal requirement for a landlord to obtain a licence from the Council in order to lawfully let the property if the mandatory licensing conditions are met.

In order to issue a licence for an HMO, the Council must be satisfied that the property is, amongst other things, suitable for occupation by a specified maximum number of people and/or households. Regulations entitled the 'The Licensing and Management of Housing in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 have been issued which prescribe minimum standards that each local authority must have regard to in terms of washing, toilet and kitchen facilities, heating and fire precautions.

More recently, The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018 brought in minimum standards regarding room sizes and waste disposal.

It is an offence if the landlord or other person in control of the HMO either fails to apply for a licence for a licensable property, or allows a property to be occupied by more people than are permitted under the terms of the licence without reasonable excuse. A civil

penalty or an unlimited fine upon conviction may be imposed. It is also an offence to break any of the licence conditions without reasonable excuse and again, a civil penalty or unlimited fine upon conviction may be imposed.

It is also an offence for a landlord to fail to comply with Management Regulations in respect of HMO's, specifically The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 and The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007. A civil penalty or unlimited fine upon conviction may be imposed in respect of breaches. It is important to note these regulations must be complied with at all times.

Not all HMO's are required to be licensed which applies to properties where at least three but less than five tenants live in a property forming more than one household and where some essential living accommodation such as a kitchen, bathroom or toilet are shared. Such properties are deemed to be less risk than those HMO's that require a mandatory licence but whilst, a licence is not required by law, the properties are still required to meet standards as set out in the Housing Health and Safety Rating System which was introduced in Part I of the Housing Act 2004.

Other civil remedies are available to the Council such as Interim Management Orders, Final Management Orders, Rent Repayment Orders, Prohibition Orders and Emergency Prohibition Orders. The Council must keep a register of mandatory licensable HMO's in the district and this must be made available for inspection by any member of the public.

In April 2018, the Homelessness Reduction Act came into force and the Act imposed new duties on the Council in terms of tackling and assessing homelessness. The Council now has a duty to prevent or relieve homelessness for each person who approaches for assistance. The prevention duty can last up to 56 days and if homelessness cannot be prevented, the Council then owes the person a homelessness relief duty. This means that the Council has to actively work with each and every client to source accommodation and this is regardless of whether the person will be owed a full housing duty (i.e. the person has a priority need for accommodation and is unintentionally homeless). The lack of affordable housing in the district means that the Council has to source accommodation in the private sector and for those under the age of 35 subject to the shared accommodation rate, a placement in an HMO is the only viable option.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder/Equality and Diversity/Health Inequalities/Consultation/Public Engagement/Climate Impact

Crime and Disorder

The policy will help reduce incidence of anti-social behaviour arising in and around HMO's and will improve community relations.

Equality and Diversity

The policy, at Section 1.4 contains a statement on equality and diversity

Health Inequalities

The control of and management expectations for HMO's as set out in the policy will help to address health inequalities in the district.

Climate Impact

The policy itself will have little impact in contributing to achieving the Council's net zero emissions by 2030 and HMO's are generally considered as "hard to treat" when it comes to improving heating conditions. However, the work carried out in enforcing and improving housing conditions will present opportunities to improve the provision of additional insulation and improved heating systems in HMO's, which will contribute to a district-wide reduction in emissions.

Ward

All wards are covered by the policy

PART 3 – SUPPORTING INFORMATION

Background

The Council adopted its Corporate Enforcement Strategy in September 2017 and the Strategy sets out the Council's corporate approach and ethos for enforcement across all departments of the Council. The HMO policy will ensure that there is a joined-up, corporate approach to prevent the proliferation of HMO's and enforcement of standards.

The Council adopted the Article 4 Direction because of concerns about the impact that an increasing number of HMOs and bedsits, both new-build proposals and the conversion of existing properties, will have on the health of residents, the economy of the District and the physical character of our towns and villages. An increasing number of large residential properties, hotels and guesthouses and former care homes in central parts of our seaside towns have been lost to HMOs and bedsits, which will result in the permanent loss of valuable visitor accommodation, (essential to the tourism economy), and poor living conditions and resultant health problems for tenants.

Furthermore, the concentration of low-cost accommodation within town centre areas can result in a high proportion of people with personal, financial or health issues moving into the area (sometimes from outside of the District) and being concentrated together in one area. This can place undue pressure on the public services within those areas (such as doctors' surgeries) The proliferation of HMO's can detract from the public perception of the area (which is all important for the purposes of attracting visitors, tourists and investors to spend money in the local economy).

There are currently 34 HMO's in the Tendring District that require a mandatory licence and there are an estimated 149 non-licensable HMO's in the District. In the last 18 months, the Council has issued prohibition orders on two HMO's in Clacton-on-Sea leading to the suspension of the HMO licences and has issued one Emergency Prohibition Order on another HMO leading to the revocation of the licence and civil penalties being imposed totalling £70,000 in respect of breaches of management regulations which are being challenged.

The country is currently in the midst of the Covid-19 pandemic. Whilst the government has brought in measures to temporarily halt evictions (for example, from August 2020, private landlords are now required to give at least six months' notice unless there has been a serious breach of the tenancy), there is a likelihood that many residents in the district will face financial hardship or unemployment and as a result become threatened with

homelessness. In the quarter April-June 2020, the Council owed a homelessness relief duty to 80 single person households, 38 of whom were under the age of 35 and therefore subject to the shared accommodation rate.

FURTHER HEADINGS RELEVANT TO THE REPORT

None

BACKGROUND PAPERS FOR THE DECISION

None

APPENDICES

HMO Policy