

CABINET

7 FEBRUARY 2006

HOUSES IN MULTIPLE OCCUPATION - MANDATORY LICENSING
HOUSING HEALTH AND SAFETY RATING SYSTEM AND ENFORCEMENT POWERS

REPORT OF DIRECTOR OF COMMUNITIES

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RECENT REFERENCES:

H40 - Private Sector Housing Renewal Strategy – Housing Performance Improvement Committee 9 November 2004.

EXECUTIVE SUMMARY:

This report summarises the requirements imposed on the Council by the Housing Act 2004 for the implementation of mandatory licensing of Houses in Multiple Occupation (HMOs) and the introduction of the new Housing Health and Safety Rating System (HHSRS) and the implications for the Private Sector Housing Renewal Strategy.

RECOMMENDATIONS:

1. That Cabinet note the information in this report and approve that the following measures be incorporated in the Council's Private Housing Sector Renewal Strategy:
 - i. a mandatory licensing scheme be introduced for Houses in Multiple Occupation as required by Section 61, Housing Act 2004
 - ii. the existing housing fitness standard be replaced by the Housing Health and Safety Rating System as required by Section 1, Housing Act 2004
2. That Cabinet
 - (a) authorises the Director of Communities to:-
 - approve the issue of mandatory licences;

- exercise associated powers regarding revocation of licences and the approval of temporary exemption notices;

in respect of the provisions of Part 2 of the Housing Act 2004 (Licensing of Houses in Multiple Occupation) and

- issue notices and exercise all other enforcement powers in connection with the Housing Health and Safety Rating System

in respect of the provisions of Part 1 of the Housing Act 2004 (Housing Conditions); and

- (b) recommends to Council that Part 3 of Section 6 of the Constitution (Scheme of Delegation to Officers) be amended accordingly.

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HOUSING HEALTH AND SAFETY RATING SYSTEM AND ENFORCEMENT POWERSREPORT OF DIRECTOR OF COMMUNITIESDETAIL:1 Introduction and background

- 1.1 The Housing Act 2004 introduces significant changes for local housing authorities' (LHAs) duties and responsibilities for the improvement of the private sector housing stock. The first priority is the Government's commitment to improve the quality and safety of high risk houses in multiple occupation (HMOs) by way of mandatory licensing. The second objective is to replace the long serving housing fitness standard with a new, risk based, Housing Health and Safety Rating System (HHSRS) to assess the safety condition of dwellings.
- 1.2 The above requirements and changes become effective on 6 April 2006 when the respective Commencement Orders come into force.

2 Mandatory licensing of Houses in Multiple Occupation

- 2.1 A House in Multiple Occupation which must be licensed is defined as:

a house of three storeys or more (including basements and/or attics, if occupied), occupied by 5 or more persons that comprise more than one household; a licence holder must be deemed to be a fit and proper person to manage or control a licensed HMO

- 2.2 HMOs have a valuable role to play as a tenure option within the private rented market to sustain choice and flexibility within this sector. However, it is also recognised that these properties present a greater risk to occupants as regards safety, fire hazards/means of escape and insufficient amenity provision and that satisfactory standards of management are not always achieved or maintained.
- 2.3 The Housing Act 2004 provides the powers and legal framework for implementing mandatory licensing and places a legal duty on landlords of licensable HMOs to obtain a licence to commence or to continue the operation of such premises.
- 2.4 Local Housing Authorities are required to issue a licence following a valid application and within a 'reasonable time'. A reasonable charge can be made for each licence issued. A LHA may include conditions in a licence relating to the property as regards its condition, safety and amenity provision, management, use and occupation. A licence applicant must be deemed to be a fit and proper person before a licence is issued.

3. Implementing mandatory HMO licensing

- 3.1 From desk-top records, it is estimated that there are in the region of 100 to 150 licensable HMOs in the district. A vital stage in the process is to alert landlords and letting agencies to make them aware of the new requirements and of their responsibility to obtain a licence where appropriate. Prior to the formal commencement (6 April 2006), officers will be undertaking the following actions:
- i. distribution of information leaflets to all known and possible licensable HMOs
 - ii. media advertising and public notices in local newspapers
 - iii. presentations to and communications with the Winchester Landlords Forum, and the Accommodation Officers and student unions at the University and local colleges
 - iv. information to be distributed to letting agents and estate agents in the district
 - v. information to be placed on the Council's web site
 - vi. article/s in the Council's newspaper - 'Perspectives'
- 3.2 A consultation exercise will be undertaken with landlords as to the proposed licence charge. The calculation of the charge will be modelled on the scheme currently being produced by a group of Hampshire LHAs to ensure an acceptable level of consistency across authorities in the county. Details of the proposed charge will be subject to a subsequent report and will be published on the Council's web site.

4 Licence applications

- 4.1 Effective licensing is dependant on obtaining sufficient and relevant information about the property, the applicant and the occupants. Complete applications should both ease and speed the process. In conjunction with other LHAs in the county, a model application form will be devised for each authority to adapt and adopt for use. The Council will adopt an agreed set of licence conditions and management standards based on regulations and guidance to be issued by the Office of the Deputy Prime Minister. Satisfactory compliance with these requirements will be a prerequisite before a licence is issued.
- 4.2 Completed applications must be determined 'within a reasonable time' (section 55, Housing Act 2004). A licence can be issued for a period not exceeding 5 years from the operative date specified in the licence and may not relate to more than one HMO.
- 4.3 The Council will take the most appropriate course of action where licensable HMOs or licensed properties fail to meet or to maintain compliance with licence conditions and management standards. A register of licensed properties must be kept and made accessible, on request, for public examination. A performance target for dealing with applications will be set following completion of the initial stages of the process outlined above. There is no capital allocation for grant aid to assist landlords with any costs that may be incurred to meet licence standards.

5. Housing Health and Safety Rating System (HHSRS)

- 5.1 The new system applies to all domestic dwellings and will replace the existing housing fitness standard and the current enforcement powers. This represents a significant change to the way a dwelling is assessed as being suitable for occupation. The subjectivity of the fitness standard is replaced with an objective risk based method. The objective is to identify and quantify the severity of, and the removal or reduction of, health and safety hazards across a wider range of features within and around domestic dwellings. The new system assesses twenty nine categories of housing hazards including factors which were not covered adequately or at all by the fitness standard. A scoring method incorporating both the likeliness and potential harm of identified hazards will determine the risk category and provide the basis for the most appropriate course of remedial action to be taken.
- 5.2 Identified hazards are scored in accordance with the HHSRS assessment tables and the allotted score for each hazard is placed in a prescribed category within a series of scoring bands. The bands, from A to J, determine the subsequent remedial action the LHA must, or may, take to eliminate identified hazards.
- 5.3 For all 'Category 1' hazards (bands A, B and C), the LHA must take appropriate and effective remedial action. For all 'Categories 2' hazards (bands D to J), the LHA may take similar action. Therefore, the former imposes a duty and the latter provides a power, to take action.
- 5.4 HHSRS assessments are based on the risk to the potential occupant/s and visitors who are most vulnerable to that risk. A justification as to the assessed risk and hazard score must be stated for each identified hazard. This is necessary in order to justify the most appropriate course of action to remove or reduce each hazard.

6. Enforcement of HHSRS

- 6.1 The Housing Act 2004 introduces new enforcement powers and procedures to remove or reduce identified hazards in dwellings. The LHA is required to determine the most appropriate course of action and to utilise the statutory powers effectively to achieve this objective. The Act stipulates that action must be taken to remove any Category A to C hazards and provides a power to resolve any Category D to J hazards. Enforcement measures are taken in accordance with the adopted Enforcement Concordat which sets out the general principals and approach when considering enforcement action in the private sector housing stock.
- 6.2 The enforcement measures comprise of the following:
- i. Improvement notice - remedial action to remove identified hazards
 - ii. Prohibition order - prohibit the use of hazardous premises for occupation
 - iii. Hazard awareness notice - advising on the existence of identified hazards
 - iv. Emergency remedial action - to remove imminent risk of serious harm
 - v. Emergency Prohibition order - prohibit occupation with immediate effect
 - vi. Demolition order / Clearance area/s (Housing Act 1985)

- 6.3 LHAs must prepare a statement of reasons for their decision to take enforcement action and for the relevant course of action determined as being the most appropriate. A copy of the statement must accompany every notice or order served as shown above. No specific annual target can be set due to the reactive nature of unscheduled complaints that may require investigation and follow up action.
- 6.4 Informal action - except in cases of imminent risk to occupants or subsequent failure to resolve identified hazards, it is Council policy in the first instance to pursue informal measures to remove any identified hazards. This approach is incorporated in the Private Sector Housing Renewal Strategy and complements the Enforcement Concordat. Officers will continue to inform and encourage property owners, landlords and agents to undertake their responsibilities for ensuring dwellings are safe and fit to occupy.
- 6.5 The Council may offer means tested discretionary grant aid for vulnerable households towards the cost of removing identified hazards with priority given to resolving Category 1 hazards.

OTHER CONSIDERATIONS:

7. CORPORATE STRATEGY (RELEVANCE TO):

- 7.1 Responsibility for ensuring the quality of living conditions in the private sector housing stock is a core duty of the Council. Such issues are a key part of the Corporate Strategy, in particular *“addressing the longer term aim of providing decent affordable homes for all sectors of our community”*.
- 7.2 Housing Strategy 2004-07: 'Shaping up for the Future' - sets out the key aims of the present Private Sector Housing Strategy, which will ensure that the service is:
- targeted and delivered where it is most needed
 - makes the best use of capital allocations to protect/improve housing stock
 - meets the needs of our customers and the wider community
 - is integrated with local and national policies

8. RESOURCE IMPLICATIONS:

- 8.1 At the present time there are no additional staff resource implications in the Private Sector Housing team for the introduction and implementation of mandatory licensing of Houses in Multiple Occupation or for the replacement of the existing fitness standard with the new Housing Health and Safety Rating System. Some increased administration time will be required for setting up and maintaining a database for licensing purposes. Staff training programmes are nearing completion to provide the necessary competency needed to implement mandatory licensing and the application of the HHSRS, to commence in April 2006.
- 8.2 It will be necessary to review the impact and outcomes of both requirements and to assess the subsequent implications this may have on present staff resources. A review should follow within twelve months of the implementation of both changes.

BACKGROUND DOCUMENTS:

ODPM: Circular 05/2003: Housing Renewal

Private Sector Housing Renewal Strategy 2003

Housing Act 2004

Houses in Multiple Occupation and selective licensing - draft regulations (Nov 2005)

Housing Health and Safety Rating System Regulations 2005

ODPM: Enforcement Guidance (draft) 2005