

Worcester City Council

Strategic Housing Services

Public Consultation Document

Additional Licensing of Houses in Multiple Occupation  
(HMOs)

October 2014

This consultation document sets out evidence to support the proposal to implement an additional licensing scheme for Houses in Multiple Occupation (HMOs) within the boundaries of Worcester City.

In October 2014 the Cabinet of Worcester City Council agreed that evidence should be gathered to investigate if the legislative conditions for introducing additional HMO licensing can be met, and to undertake a 12 week public consultation as required by the Housing Act 2004 (Section 56). Once this process has been completed the Cabinet will make a final decision whether to implement additional licensing and if so, the detail of the licensing scheme.

This document explains the background to support an additional licensing scheme in Worcester and the proposed details of the scheme and how it could work in practice.

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## 1. Introduction

Worcester City Council works in partnership with landlords and property managers/agents to improve the safety and quality of the housing stock within the City. In doing this the Council recognises that some landlords want to co-operate with the Council and that there are well managed properties in a satisfactory condition. However, some landlords do not meet the property and management standards required and resources are focussed towards advice, guidance, inspecting and enforcing standards to ensure adequate standards exist.

The Housing Act 2004 introduced mandatory licensing for some HMOs (over 3 storeys high with 5 or more occupants) and provided local authorities with the power to introduce additional licensing for other properties. To date the Council has licensed 187 of these types of properties. In Worcester City, two storey HMOs form the highest number and are typically 3 bedroom semi-detached houses converted into shared accommodation

HMO licensing provides greater protection for the occupants of HMOs in terms of health, safety and welfare. It also helps to improve the management of the property which is beneficial for occupants and for the wider community.

The overall aim of HMO licensing is to ensure that HMOs in the private rented sector meet legal standards are properly managed and in particular:

- Ensure that those properties that potentially pose the highest risk to occupants are identified and improved.
- That safety and management standards comply with minimum requirements, and that problems likely to affect members of the public as a result of ineffective management are reduced.

When properties are neglected or poorly managed the impact on tenants and the local community can be considerable. Additional licensing will enable Housing Services and partners to work with landlords to raise standards in the shared private rented sector and to significantly reduce the impact that large concentrations of private rented accommodation have on the surrounding neighbourhoods.

The Act outlines the steps that must be taken in order to introduce additional licensing which will be outlined later, but evidence is gathered to justify a scheme and the local community, landlords, residents, tenants and other stakeholders must be consulted on the proposals to ensure that views are considered.

The consultation period will be from Monday 10 November until Friday 30 January 2015 and the results will be reported to Worcester City Council Cabinet in March 2015.

There will be questionnaires on-line and in paper format as well as opportunities for local communities to give their views about the proposal. The results of the consultation will be reported back to Cabinet before final approval in order that the consultation comments can be considered.

## 2. The Reason for Introducing Additional Licensing

There are a number of reasons why the Council is proposing to introduce additional licensing:

### a) Increase in Private Rented Property in Worcester City

One reason for proposing the licensing of all HMOs within the City is the increase that has been seen in recent years in the private rented sector. In Worcester City, nearly 18.2% of all residential dwellings are privately rented which is an increase from 12% in 2001<sup>1</sup>. This means that 33% of dwellings in Worcester are rented and around a third of households in Worcester City live in rented accommodation, as 14.8% of the stock is social rented.

In 2004<sup>2</sup>, it was estimated that there are between 1,500 and 2,000 HMOs in the City with the highest numbers located in the Wards of St Johns, Cathedral and Arboretum. There have also been large increases in the private rented tenure in other Wards as can be seen from the table below.

There have been very high percentage increases in all wards, but significantly more in the wards of Nunnery (257%), Warndon North (186%) and Warndon South (153%). It is noted that these figures are for all rented and not necessarily HMOs, but the situation is that the location of non licensable HMOs is largely unknown. This means that the only means of checking on safety and standards is when complaints are made. However, the increase in the private rented sector is an indicator that the number of HMOs has also increased.

### Privately Rented Stock in Worcester City - Office of National Statistics 2001 and 2011 Census

Area Name	Private Rented Housing % (2001)	Private Rented % (2011)	% Increase in 10 years
Arboretum	20.29	33.8	67%
Battenhall	9.08	15.49	70%
Bedwardine	4.9	10.24	108%
Cathedral	18.48	35.25	91%
Claines	5.04	11.02	118%
Gorse Hill	5.15	13.03	153%
Nunnery	3.05	10.91	257%
Rainbow Hill	8.81	18.28	107%
St Clement	9.36	18.14	95%
St John	7.97	18.23	129%
St Peter`s Parish	5.43	14.59	160%
St Stephen	6.35	13.65	114%
Warndon	4.62	9.75	111%
Warndon Parish North	6.99	20.03	186%
Warndon Parish South	7.14	18.46	158%

<sup>1</sup> Office of National Statistics, Census 2001 and 2011

<sup>2</sup> Worcester Private Sector Stock Condition Survey 2004

b) Safety, Standards and Management

When the Housing Act 2004 was enacted, mandatory licensing was aimed at improving safety, standards and management of properties of 3 or more storeys with five or more occupants and to date 187 have been licensed in Worcester City. There are estimated to be 200 in total. There were estimated to be between 1,500 and 2000 HMOs in 2004<sup>3</sup> in total, which means that the two storey HMOs make up the highest number. A private sector stock condition survey is currently being completed which will provide up to date figures.

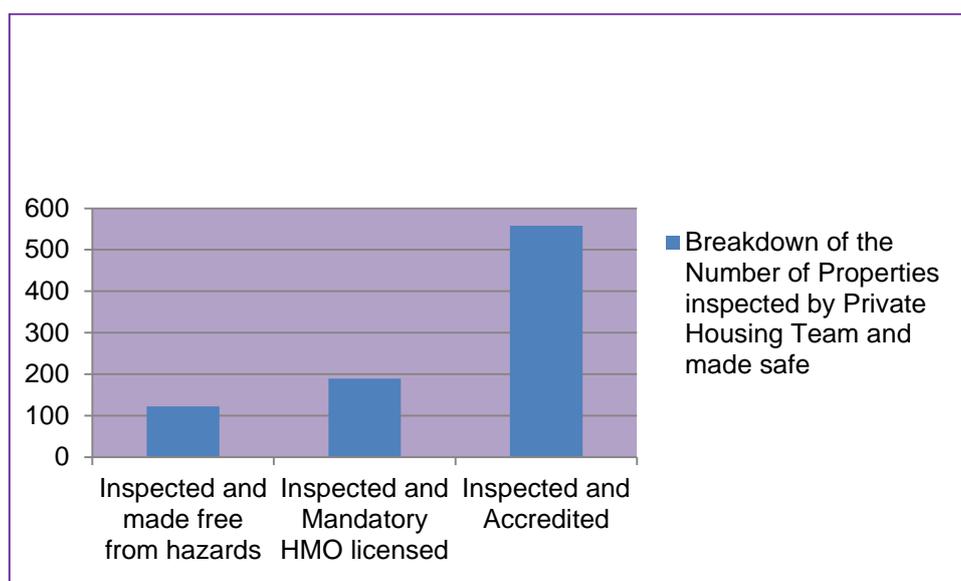
Of these 1,500 to 2,000, 11% were estimated to be unfit, 75% were considered to have inadequate fire safety measures and 25% with inadequate amenities. HMOs represent 4% of the total housing stock which is high compared with the national average of 1.9%.

A very high proportion of all HMOs licensed to date, 92%, required works to the property before they were licensed. It has been recognised by the fire service that the annual risk of death in two storey HMO properties where residents are unrelated due to fire is six times higher than in comparable single occupancy homes. This increases to 16 times higher in 3 storey properties so it is very important that landlords provide safe houses.

The Council responds to tenant complaints regarding property conditions and on average deal with 170 per year, a sizeable proportion of which are received from the private rented sector. A Government prescribed inspection is carried out referred to as a Housing Health and Safety Rating System (HHSRS) and is an evaluation of the potential risks to health and safety from any deficiencies identified in dwellings. If a high risk (referred to as category 1 risk) is identified, then the Council can serve notices on the landlord to carry out works and repairs.

The table below provides a summary of the breakdown of the number of properties inspected by the City and made safe since 2004. This includes all properties and not solely HMOs.

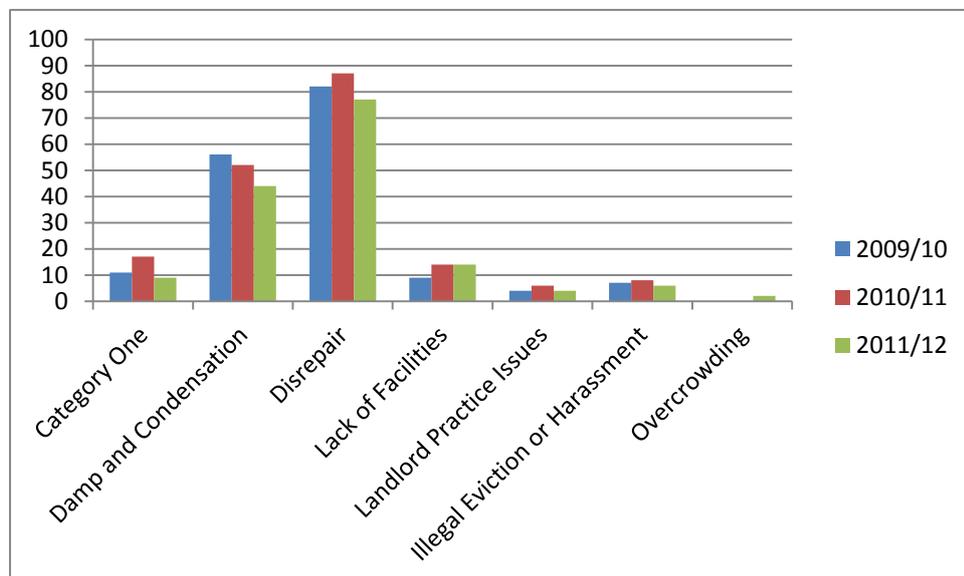
**Breakdown of the Number of Properties Inspected and Made Safe since 2004**



<sup>3</sup> Worcester City Private Sector Stock Condition Survey 2004

The table below shows the number of property condition complaints by type from 2009/10 to 2011/12.

**Number of property condition complaints received by type from 2009/10 to 2011/12**



Strategic Housing Services commissioned research in 2012<sup>4</sup> into the private rented sector and local agents were interviewed as part of that research. The agents stated that landlords were specifically buying 3 bedroom semi-detached properties to avoid the requirements for licensing.

Therefore, the extension of licensing to all HMOs would ensure that all HMOs are up to the required standard and that “fit and proper” persons are managing the properties.

c) The Expansion of Worcester University

The rapid expansion of Worcester University over the past 7 years (10,085 students in 2010/11) with increased numbers and need for accommodation has also resulted in an increase in HMOs and it is likely that the number of HMOs will increase as has happened in other areas where additional licensing has been introduced (Bath, Southampton, Portsmouth).

d) A Professional Business Market Place

The vision is for Worcester to be a great city with a great future and additional licencing will help to create a professional private rented sector market which will enhance the conditions to grow the economy and create new jobs. The Council currently works in partnership with many landlords who are co-operative and willing to provide a housing option in a professional manner. However, there are many in existence who do not take their responsibilities seriously or prefer to operate “under the radar”. Additional licensing will

<sup>4</sup> Strategic Housing Project 2012

ensure that there is a level playing field and that all landlords in Worcester will support a professionally managed business in the market place rather than an ad-hoc business with limited regulation.

There are other factors such as anti-social behaviour and issues about rubbish and deterioration of the environment in communities. With all of these factors in mind, there is a need to introduce additional licensing in order to locate these HMOs and make sure that they meet safety and management requirements and ensure the safety of the occupants.

### **3. Legislation**

The Housing Act 2004 came into force in 2006 and changed the way in which HMOs are regulated. Additional licensing can be applied to some or all of the HMOs within the City boundaries.

An HMO is a property occupied by three or more persons from two or more households; a household could be a single person or persons related to each other.

A family or single household can consist of husband, wife, co-habitee, child, step-child, foster-child, grandchild, parent, step-parent, foster-parent, grandparent, brother, half-brother, sister, half-sister, aunt, uncle, niece, nephew, cousin.

In the Act, the definition of a HMO is technically complex. The following is a summary of the HMO definition in Section 254 of the Act taken from the Department of Communities and Local Government (DCLG) publication, "A guide to the licensing and management provisions in Parts 2, 3 and 4 of the Housing Act Draft". This document can be found on the website:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/7813/1446472.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7813/1446472.pdf)

#### **Meaning of an HMO**

In order for a building or part of a building to form an HMO it must fall within the meaning of one of the following descriptions:

- A building in which more than one household shares a basic amenity e.g. a bathroom, toilet or cooking facilities. This is called "the standard test"
- A flat in which more than one household shares a basic amenity (all of which are in the flat) e.g. a bathroom, toilet or cooking facilities. This is called "the self-contained flat test"
- A building that has been converted and does not entirely comprise of self-contained flats. This is called "the converted building test"
- A building which is comprised entirely of converted self-contained flats and the standard of the conversion does not meet, at a minimum, the standard required by the 1991 Building Regulations, and less than two thirds of the flats are owner occupied. This type of building is also known as a s257 HMO.

## **Buildings that are not HMOs**

The following is a summary from Schedule 14 of the Housing Act 2004 also taken from the DCLG publication mentioned above.

Some buildings are not HMOs for the purpose of the Housing Act 2004 even if they meet the requirement of the HMO definition. These buildings are:

- Those under the management or control of a local housing authority, a registered social landlord or certain other public bodies;
- Those regulated under other enactments, such as care homes, children homes and bail hostels etc;
- Those occupied solely or mainly by students studying a full time course of further and higher education at a specified education establishment which manages the building in question and the specified education establishment is subject to an approved code of practice and the building in question is subject to that code;
- Those that are occupied for the purpose of a religious community whose main occupation is prayer, contemplation, education or the relief of suffering. This exemption does not apply to a converted block of flats within the meaning of s257 of the 2004 Act occupied by such a community.
- Those that are occupied by a freeholder or along leaseholder and any member of his household (if any) and any other persons not forming part of his household and not exceeding two in number (e.g. owner occupiers household and one or two lodgers). This does not apply to s257 HMOs;
- Those that are occupied by only two persons each of whom form a single household e.g. a flat share of no more than two persons.

## **Mandatory Licensing**

The Act introduced a new duty on local authorities to operate a mandatory licensing scheme for certain houses in multiple occupation which consist of three or more storeys with five or more occupants (not including properties converted entirely into self-contained flats). Mandatory licensing requires HMOs to be suitably equipped with amenities and facilities for the number of occupants and ensures they are effectively managed by “fit and proper persons”. The licence specifies the maximum number of people who may live in the HMO and includes specific conditions which apply to every licence.

## **Discretionary Licensing**

The Act contains provisions enabling Local Authorities to extent licensing to other properties to address particular problems that may exist. These additional provisions include “Additional Licensing” of HMOs.

## **4. Proposals**

Worcester City Council would like to introduce an additional licensing scheme across the City. It is proposed that the scheme will be Worcester City wide in line with Article 4 for HMOs. Article 4 is a planning restriction that aims to limit the number of HMOs in each area to prevent HMOs from dominating neighbourhoods and ultimately having an impact on the environment and supply of family accommodation in those areas. The reason for the scheme being area wide is that private rented has increased in all wards and the City is small in size.

### **HMOs to be included in the proposed scheme**

The proposed scheme includes all HMOs in the City with 3 or more occupants, whether 1, 2 or 3 storey, which are not already subject to mandatory licensing. This includes properties referred to as s257 properties. These are buildings converted entirely into self contained flats not in accordance with the 1991 building regulations and therefore unlikely to meet the same standards as post 1991 conversions.

### **The exception is:**

Purpose built student accommodation where the organisation has signed up to the ANUK/Unipol Code of Standards for Larger Residential Developments of The National Code of Standards for larger Developments.

### **Licensing Conditions**

The proposed scheme would tackle specific problems by applying conditions to all licences. There are statutory conditions that must be applied to all licences as stated in Schedule 4 of the Act. HMOs licenced under an additional licensing scheme must also comply with standards contained in "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 and other Houses (Additional Provisions) (England) Regulations 2007". These standards have been incorporated into the City standards for licenced HMOs. They are currently used in the mandatory HMO licensing scheme and it is proposed that HMOs subject to additional licensing will also have to comply with these standards (Appendix x).

<http://www.worcester.gov.uk/documents/10499/20692/Standards-Conditions-and-Man-Regs-2014-09-11+-+.pdf/a1e3f456-cd8b-4c2a-9d2d-1b7dacbcd3e9>

These standards currently apply to accredited properties and persistent non-compliance can lead to removal of a person's fit and proper person status meaning they can no longer directly manage a licensable property. This condition is proposed for any additional licensing scheme.

It is also proposed to introduce an "Undertaking of Good Practice" which tenants and landlords will have to sign up to. This undertaking will assist landlords to improve management and ensure that everyone is aware of their responsibilities.

## **5. Council priorities and other implications**

Additional licensing will also impact on the following areas:

- a) Following the introduction of the shared room allowance limit for single people under the age of 35, there is an expectation that there will be an increase demand for shared accommodation in order to avoid homelessness. Additional licensing will help to improve standards across the board and not just for students.
- b) Occupancy can be managed to avoid overcrowding.
- c) Occupants and managers will be made aware of their responsibilities towards reducing anti-social behaviour through licensing conditions.
- d) Additional licensing will result in the private rented sector becoming more professional and one that Worcester can be proud of.
- e) Additional licensing will promote working with landlords while taking a stronger position with those that don't engage with the Council.
- f) Fire safety is an extremely important issue and additional licensing will ensure minimum fire safety standards are achieved.

## **6. How will additional licensing work in practice?**

Any landlord who owns or manages an HMO that falls within the additional licensing scheme will need to apply to Worcester City Council for a licence.

The Council must give a licence if it is satisfied that:

- a) The HMO is reasonably suitable for occupation by the number of people allowed under the proposed licence or capable of being made suitable through licensing options.
- b) The proposed licence holder is a "fit and proper person".
- c) The proposed licence holder is the most appropriate person (s) to hold the licence.
- d) The proposed manager, if not the licence holder, is a "fit and proper" person.
- e) The proposed management arrangements are satisfactory.
- f) The person involved in the management of the HMO is competent.
- g) The appropriate licence fee is payable.

The Council can refuse to issue a licence if the above requirements are not met.

Landlords can appeal to the Residential Property Tribunal Service against decisions by the Council to refuse a licence and if prosecuted for unsafe practices can face a fine up to £20,000. They also risk being prevented from managing a licensable HMO in the future.

## **7. Benefits of additional licensing**

- a) **Improvements to accommodation** will be secured through licensing conditions to ensure adequate facilities, improved energy efficiency, suitable room sizes and better waste management.
- b) **Improvements to health and safety** will be secured by ensuring gas and electrics are safe and suitable fire precautions are in place.
- c) **Sustainable improvements to the areas within the City** where HMOs are more prevalent through licensing conditions to improve neighbourhoods by requiring occupants and managers adhere to the Code of Good Management Practice where 24 hour contact details are given to tenants and the landlords and tenants are reminded of their responsibility.
- d) **Better value for money** secured by a proactive approach to the regulation of HMOs. By making a concerted effort, an increasing presence and regularly visiting HMOs, it is likely that a more long term sustained improvement to overall property conditions and neighbourhood environments will occur.
- e) **Consistent approach to safety and property conditions** for tenants living within HMOs. Licensed properties will be subject to a common set of conditions controlling property maintenance, facilities and safety standards.
- f) **Level playing field for landlords.** Those who are not considered “fit and proper” by the Council because of a criminal record or history of poor housing management may not be permitted to hold a licence. All HMOs within the selected area will be inspected and checked to ensure minimum standards are met.

## **8. Fees**

Fees will be calculated to recover the costs of the proposed scheme and views will be sought in the consultation:

### **HMO License Fees**

The HMO licensing scheme is required to be self-financing. In order to recover costs a licensing fee as shown above will be charged. This fee has been calculated in accordance with a Government toolkit and covers the cost of administration, issuing of licences/accompanying documents, inspections, licensing enforcement and monitoring of properties. The resultant fee is estimated to be £670 per HMO for additional licensing. Views will be sought about the fee and various ways that it can be collected.

The scheme will be reviewed before the end of the 5 year period.

## **Consultation Questionnaires/feedback**

We would like to know what you think about the proposal to introduce Additional Licensing for HMOs and a questionnaire is available on the Council website (surveymonkey). Paper versions are available at the following location for you to complete if you do not have access to a computer:

Worcestershire Hub Customer Service Centre  
The Hive,  
Sawmill Walk,  
The Butts,  
Worcester,  
WR1 3PB

Consultation questionnaires can be requested by e-mail and should be returned either via the e-mail address, [privatehousing@worcester.gov.uk](mailto:privatehousing@worcester.gov.uk) or by taking the questionnaire to the customer service centre.

If you would like to discuss the proposal with anyone, then telephone our call centre

Telephone: 01905 722233