

**HOMES POLICY DEVELOPMENT GROUP
15 SEPTEMBER 2020**

Update on Houses in Multiple Occupation

Cabinet Member(s): Councillor Bob Evans
Responsible Officer: Simon Newcombe, Group Manager for Public Health and Regulatory Services

Reason for Report and Recommendation: To provide an update on the current activities being undertaken in relation to Houses in Multiple Occupation (HMOs) and HMO licensing. This report is for note as there are no decisions needed in respect of this activity.

Financial Implications: There are no financial implications as this activity forms part of the statutory duties undertaken by the service.

Budget and Policy Framework: There is a fee for a landlord to apply for a licence. This fee has been set taking account of the officer time and resources required to process the application. As the number of licensable properties is largely unknown it is not possible to set an income budget for this activity.

This activity is a statutory duty and as a regulatory licensing function with enforcement powers it is covered by the Council's adopted Enforcement Policy (Policy Number: PH/EP/01/19, February 2019).

Legal Implications: Mandatory private sector HMO licencing is a statutory duty for the local housing authority (Mid Devon District Council) to administer and delegated powers to do so are held by Public Health and Regulatory Services under their wider private sector housing standards function. The Housing Act 2004 also places a duty on the local housing authority to inspect dwellings where they suspect a hazard may be present and to take enforcement action where a serious hazard has been identified. It also has a duty to take action where a property that requires a licence does not have one in place.

Risk Assessment: If we did not undertake this activity we would not be carrying out our statutory duty and local residents may be at risk from sub-standard accommodation.

Equality Impact Assessment: An EIA has not been undertaken in respect of this report.

Relationship to Corporate Plan: This activity relates to the Homes priority in the corporate plan in respect of working with landlords and promoting the regeneration of town centres. It also relates to the Community priority by seeking to address health and housing inequalities across the district by ensuring the private rented sector is in good condition and well managed.

Impact on Climate Change: Where housing conditions are poor in terms of heating and insulation, we encourage energy efficient measures to be installed.

1.0 Background

- 1.1 The Housing Act 2004 introduced a requirement for certain types of house in multiple occupation (HMO) to be licenced by the local housing authority. HMOs with shared facilities that are occupied by five or more people, forming two or more households require a licence from Mid Devon District Council.
- 1.2 Mandatory HMO licencing was introduced to meet the following main objectives:
 - To regulate the **management** of these properties.
 - To ensure the **safety** of the occupiers.
 - To reduce the **impact** of these properties on local neighbourhoods by regulating anti-social behaviour.
 - To ensure this type of accommodation remains a **viable** housing option for single people and/or those people on low incomes.
- 1.3 Well managed and maintained properties of this type are actively encouraged to help provide safe, low cost accommodation for different members of the community. There is a lack of this type of accommodation in the area and as a result there is significant demand. Wherever possible we will support landlords to develop their properties into HMOs that meet the required standards to meet this need.
- 1.4 We currently have 17 licensed HMOs across the district. Based on the stock condition survey that was undertaken in 2010 we believe that approx. 50 properties may require a licence.
- 1.5 We have undertaken a number of projects to try and identify properties that require a licence. This includes the Rogue Landlord's project that was undertaken in Cullompton in 2019. This project highlighted that a number of the residents in this area are migrant workers and were generally unaware of the requirements relating to housing conditions and licencing. The area surveyed concentrated on Fore Street and did not find any HMOs that we were not already aware of, but did find that a number of residents were living in very poor housing conditions.
- 1.6 The work on this project began to highlight other areas of concern relating to the potential exploitation of this group and in the last 12 months a number of residential properties have been brought to our attention where there have been reports of multiple people living in overcrowded conditions.

2.0 Regulatory Challenges with HMOs

- 2.1 There are a number of challenges in respect of getting a property licensed and/or ensuring the property is maintained and properly managed.
- 2.2 Our aim is to bring as many HMOs within the licencing regime as possible to enable us to manage and regulate them effectively. The challenges associated with this are as follows:

- **Proving the property is occupied by 5 people** – finding and proving that 5 people are in occupation can be difficult when there is no tenancy agreement or receipts for rent payments. A large proportion of the population living in this accommodation are transient so each visit to the property may identify a different set of tenants in different circumstances.
- **Proving the property is occupied by 2 or more households** – where communication is an issue, it can be difficult to establish whether or not the tenants are part of the same family. In particular, with migrant workers their definition of family is different and often coming from the same village is considered to them to be the same family. This makes it difficult for us to prove there is more than one household.
- **Finding the person responsible** – there is a significant amount of subletting in this sector. This makes it difficult to identify who should be held accountable for management and licensing.

2.3 If we are unable to prove that the property is an HMO we are unable to use the legislation that regulates the management of the property or require it to be licensed.

2.4 In addition to the regulatory challenges, Covid 19 has delayed progress in dealing with these properties. Overcrowded properties and HMOs are higher risk environments due to the nature of the occupancy. People are living in close proximity and do not necessarily understand or know about the risks and measures required to reduce spread. This has meant that they are extremely high risk for officers to attend and it is only in the last month that we have been satisfied that we can put appropriate procedures in place to be able to carry out visits to these properties.

3.0 The Current approach to dealing with HMOs

3.1 Based on the reports we have received in the last 12 months and information we have gathered from a number of sources including residents, the police, and from the local employers, we have 30 properties that we are actively investigating.

3.2 Some of these properties are being dealt with in respect of overcrowding as they are clearly not suitable to be used as an HMO or have the ability to be licensed as one. This will relate to one and two bedroom properties that simply cannot be used as a licensable HMO due to size.

3.3 For many of these properties we have uncovered a significant amount of subletting. This means that the landlord of the property believes they have let it to a single household. Our investigation has then identified that the tenant with the tenancy agreement does not in fact live there and has sublet the property to a number of individuals. In these cases the owner of the property is usually receiving the rent they agreed with the tenant but the tenant is making significantly more money out of the property by subletting the rooms.

3.4 This situation poses a significant challenge in respect of who is the responsible person and who should apply for the licence.

- 3.5 Our approach so far has been to write to all the properties we are actively investigating giving the option to apply for Temporary Exemption from licensing or to apply for a licence.
- 3.6 The temporary exemption gives the owner three months to ensure the property is put into a position where it no longer needs a licence and is likely to lead to the eviction of the tenants.
- 3.7 This is not ideal, particularly in the current situation as to have the tenants remain in one place, as long as it is safe for them to do so, is better in respect of reducing the spread of Covid 19.
- 3.8 We have done everything we can to ensure that the landlord chooses to licence rather than evict but unfortunately it is rare for this to happen.
- 3.9 Where evidence has been gathered that a property is an HMO, needs a licence or is subject to the HMO management regulations then we will follow through the enforcement process as detailed in the current Enforcement Policy.
- 3.10 Depending on the severity of the issues, initially the landlord will be given the opportunity to comply with the regulations or to submit an application for a licence. Failing to comply with these sanctions is an immediate offence with the only recourse being prosecution or civil penalty. Therefore, if progress is not made following an informal approach we will pursue more formal action.
- 3.11 If the contraventions are serious and pose a significant risk to health and safety then we will pursue prosecution without informal action. In 2019 we successfully prosecuted the owner of the Manor House Hotel in relation to serious breaches of HMO management regulations and we are in the process of pursuing another case at the moment.

4.0 The Way Forward

- 4.1 Where a temporary exemption has been applied for and we believe it is reasonable for us to issue one we have done so with the intention to review each of these in three months' time. If these properties still require a licence at that time they will be required to apply for one.
- 4.2 For those properties where there has been no landlord engagement; or we are continuing to get reports about them; or that we have suspicions over how the property is being used; we are undertaking a series of unannounced visits. These visits are for us to identify the nature of the occupation with a view to taking enforcement action as necessary.
- 4.3 Each property is being risk assessed before visiting in respect of Covid 19 and an interpreter is being used on the visits to help us gather as much information as we can where the tenants are migrant workers.
- 4.4 So far only one of the 30 properties has decided to apply for a licence.

5.0 Next steps

- 5.1 We will continue to respond to reports of potential HMOs and overcrowded properties with a view to encouraging more licensed HMOs.
- 5.2 We will revisit and review those properties that have been granted a Temporary Exemption Notice.
- 5.3 We have introduced a new landlord registration scheme and we are encouraging all landlords to sign up to this so that we are better able to offer advice and training across the whole private rented sector.
- 5.4 We have produced advice leaflets for landlords to encourage them to provide more HMO accommodation.
- 5.5 We have also re-introduced 'Pin Point' which is an online notice board for landlords that provides details on changes to legislation and other information that may be of use including links to webinars. Landlords are able to sign up to this to receive regular updates.
- 5.6 Sadly, we are unable to hold our popular Landlord Networking Event this year but we will be holding the event next year. Instead, we have offered landlords a series of webinars and will continue to look for opportunities to provide more of these in the future.
- 5.7 We will continue to use our expertise to work towards improving the private rented sector through support and education; whilst using enforcement powers where necessary.

6.0 Recommendation

- 6.1 The PDG is asked to note the contents of this report.

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Circulation of the Report: Cabinet including Cllr Simon Clist, Cabinet Member for Housing, Leadership Team, Group Managers and Legal Services

Background Papers:

Enforcement Policy 2019

<https://www.middevon.gov.uk/residents/health-and-wellbeing/public-health-and-regulatory-services/public-health-enforcement-policy/>