

Cabinet – 9 December 2020

Statutory Consultation on Proposed Additional Licensing Scheme for Houses in Multiple Occupation (HMOs).

Portfolio: Councillor Andrew, Portfolio Holder for Regeneration

Service: Money Home Job, Childrens Services

Wards: Paddock, Palfrey, Pleck and St Matthew's

Key decision: No

Forward plan: Yes

1. Aim

To improve the quality of management of Houses in Multiple Occupation (HMOs) in specific Wards of the borough through the introduction of Additional Licensing.

2. Summary

- 2.1 Private renting in Walsall has grown significantly over the last 13 years and as a proportion of all housing stock in the borough.

<u>Table 1</u>	Number of private rented properties	% of all stock as private rented
2007 Stock Condition Survey	8,385	10.3%
2011 Census	12,569	11.7%
2019 Stock Condition Survey	17,970	15.5%

There are numerous high quality landlords and letting agents providing a range of property types throughout the borough to meet a broad range of housing needs.

- 2.2 A key form of private rented property in Walsall is Houses in Multiple Occupation (HMOs). HMOs are properties that are occupied by a least 3 different tenants, forming more than 1 household whereby the tenants share facilities such as cooking or sanitary facilities. The definition of a HMO includes bedsits, shared houses, flats, lettings with their own facilities but which are not self- contained, and some types of poorly converted 'self-contained' flat.
- 2.3 HMOs in general are both a popular and valuable type of residence for many younger residents and for residents on lower incomes who are looking for an affordable home. It is a more accessible form of tenure for many vulnerable

residents than other forms. The Council is committed to ensuring that this type of accommodation, as with other forms, are of a good quality. Quality in this type of accommodation is represented by homes that are kept in good repair condition, they are safe and offer a reasonable standard of basic amenities such as toilets, bathrooms and kitchens and that they are not overcrowded. In essence this means that they are well managed.

- 2.4 It is recognised however, that there are landlords and agents who are managing their HMOs sufficiently ineffectively as to give rise, or to be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public.
- 2.5 The Council has implemented a range of powers and approaches to seek to address many issues but the ongoing pressures are such that a new approach is considered necessary for HMOs in a number of specific parts of the borough where evidence shows the problem of poor management to occur the most.
- 2.6 The implementation of an additional licensing scheme will allow for these properties and their operation to be subject to proactive licensing requirements that would not otherwise be available. A fee is charged by the Council to the landlord for the duration of the licence which has clearly defined conditions which the landlord must satisfy.
- 2.7 Section 56 of the Housing Act 2004 enables councils to designate the whole or any part or parts of its area as subject to Additional Licensing (of HMOs). The purpose of such schemes is to improve standards of property management in the HMO sector. Additional licensing can also contribute to:
 - protecting the health, safety and well-being of tenants and communities;
 - neighbourhood improvement and the prevention and control of anti-social behaviour;
 - easier identification of rogue landlords and enabling action to be taken to respond to their behaviour;
 - addressing problems linked to landlords who can easily take their HMOs outside of current scheme definitions – e.g. some landlords illegally evicting tenants to bring houses under the current mandatory HMO occupancy level of 5 people.
- 2.8 This report sets out the evidence base for the introduction of additional licensing in 4 wards of the borough and seeks cabinet permission to undertake statutory public consultation for its introduction, the proposed licensing conditions and associated fee levels.
- 2.9 Should cabinet agree to these proposals, a further report will be presented to cabinet following completion of the consultation. This further report will provide the outcome of the consultation and request potential approval on the implementation of additional licensing.

3. Recommendations

- 3.1 That Cabinet approves a public consultation exercise in line with the prescribed process for the Additional Licensing of the Wards of Paddock, Palfrey, Pleck and St Matthew's areas shown on Map 1: Appendix 1. This consultation to include proposed licensing conditions (Appendix 2) and associated fee levels (Appendix 3).
- 3.2 That Cabinet receives a further report following the above consultation.

4.1 Report detail - know

Context

- 4.1.1 In accordance with its powers under section 56 of the Housing Act 2004, the Council may designate the entire area of the borough or an area within its district as subject to additional licensing of HMOs. The power is intended to address the impact of poor quality HMOs that fall outside of the mandatory licensing HMO definition and address management issues and poor property conditions.

Methodology and Evidence Base

- 4.1.2 When considering Additional Licensing, councils must ensure that the methodology and evidence base used are as robust as is realistically possible and it must be consistent with the local authority's housing strategy and should be coordinated with the authority's approach on homelessness, empty properties and antisocial behaviour.
- 4.1.3 With this in mind, the methodology used is a 2 stage process;
- Initial assessment
 - Detailed assessment

Initial Assessment

- 4.1.4 Housing conditions are assessed using the Housing Health and Safety Rating System (HHSRS) that identifies 29 potential hazards (including fire safety, excess cold, crowding and space) that can be ranked as either Category 1 or 2. Statutory action by the Council is required against any Category 1 hazard identified.
- 4.1.5 An assessment of HMO conditions (based on the 2019 Stock Condition Survey) has been undertaken and the details below summarises some key data:
- 2,030 HMOs (11.3% of all private rented stock);
 - 356 HMOs (17.5% of all HMOs) have a Category 1 hazard
 - 290 HMOs (14.3% of all HMOs) are considered to be in disrepair
- 4.1.6 These levels of category 1 Hazards and disrepair in HMOs are considered high.
- 4.1.7 As HMOs are often the property of choice for those on lower income due to their affordability (relatively low rental charges), it is noteworthy that the prevalence of low Energy Performance Certificates (EPCs) are also higher in HMOs than broader private rented stock and even higher in the HMOs occupied by low income households:

Table 2	All dwellings	EPCs F and G	%
Private rented	17,970	681	3.8
Low income private rented	5,201	250	4.8

All HMOs	2,030	98	4.8
HMO low income households	587	43	7.3

4.1.8 It is unlawful to provide tenancies for properties with EPCs of F and G, except where specific exemptions have been registered, and the Housing Standards Team are actively tackling this issue. This work is also highlighting a high level of landlords who have either never secured EPCs (since the legislation came in over 10 years ago) or have let their EPC lapse.

4.1.8 The Council has undertaken significant proactive work over many years to promote to landlords changes in housing legislation. Evidence from the applications for mandatory HMO licences over the first 12 months of the extended mandatory licensing has shown that landlords have frequently not been meeting many of the statutory requirements and it has only been through the process of them being required to licence that other housing and related legislation starts to be complied with. Table 3 below summarises an assessment from the first 100 HMO applications received following this change in legislation.

Table 3 HMO applications submitted lacking:	Number of HMOs
A valid gas safety certificate where gas appliances are in place	32
An Energy Performance Certificates (EPCs)	49
A Portable Appliance Testing (PAT) certification	62
An up to date Electrical Certificate	34
An up to date fire alarm test certificate	58
A statement that the furniture meets the relevant fire safety requirements	94

4.1.9 It has been recognised for many years that HMOs can as a result of their layout and/or occupation present a fire safety risk that is 6 times higher than with single household properties. Fire safety is thus a key issue with HMOs and a review of the recent applications received has highlighted that at the point of application and inspection there were serious issues with a significant number of HMOs which can be summarised as follows:

- 55 either lacked or had inadequate fire detection and warning systems
- 57 lacked fire doors with appropriate fire seals / strips;
- 72 lacked door automatic door closers
- 17 lacked appropriate fire doors.

4.1.10 In the first 12 months since introduction of extended mandatory licensing , the Council had to issue 11 statutory notices against landlords of HMOs and in one case a landlord who manages two HMOs has been entered onto the National Database of Rogue Landlords and Agents for their continued failure to address housing issues associated with their HMOs.

4.1.11 As highlighted above whilst the Council's work has been successful in a range of areas, the pressures as a result of the increasing numbers of poorly managed and or maintained HMO properties is having a significant impact on services and communities.

4.1.12 The adoption of an Additional Licensing scheme provides a proportionate layer of control protecting residents and tenants and improving conditions in their HMO properties and is in full accordance with the Council's:

- housing strategy
- homelessness strategy and is
- coordinated with the authority's approach on empty properties and antisocial behaviour.

Detailed Assessment

4.1.14 Further detailed assessment highlights 4 Wards detailed in Appendix 4 and summarised in Table 4 below where it is considered appropriate to propose Additional Licensing based on a combination of factors:

- High number of HMOs
- High percentage of HMOs as a percentage of private rented accommodation
- High percentage of HMOs with Category 1 Hazards
- High Percentage of HMOs with disrepair

Table 4

Ward	Number of HMOs	% of private dwellings that are HMOs	% of HMOs with	
			Category 1 hazards	Disrepair
Paddock	103	12.5%	18.4%	13.6%
Palfrey	196	17.7%	18.9%	21.9%
Pleck	247	17.0%	19.0%	22.3%
St Matthew's	308	13.6%	23.4%	21.1%
Total of above	854	15.1%	20.5%	20.7%
Borough	2,030	11.3%	17.5%	14.3%

4.1.15 Appendix 4 contains a range of background information and statistics about the 4 Wards and compares them with other Wards that have high levels (15.5% or more) private rented dwellings. The 4 wards contain a total of 854 HMOs. If an assumed occupation of HMOs by 4 people is used this means circa 3,416 residents are occupying HMOs in the 4 Wards. This number of HMOs accounts for a total 42.1% of the boroughs total HMOs.

4.1.16 An analysis of population change based on Census 2011 and 2018 ONS Mid-year projections shows that population growth is 7% for the target wards combined compared to a lower rate for the borough of 5%. Growth in St Mathews ward in particular is significantly higher than the borough rate at 12%.

All target Wards have higher population densities than the borough rate with Palfrey and Pleck being significantly higher as shown in the Table 5 below

Table 5

Ward	Population density (people per hectare)
Palfrey	47.3
Pleck	45.3
Paddock	28.7
St Matthew's	28.1
Borough	27.3

4.1.17 Further research (Table F Appendix 4) reveals that there are 38 Lower Super Output Areas (LSOAs) within these 4 wards which have HMOs and based on the English Indices of Deprivation 2019:

- 15 of these are within the top 10% of most deprived LSOAs in England and
- a further 9 are within the top 20% most deprived.

This means that 40% of the LSOAs proposed are in the worst 10% of the most deprived LSOAs in England and a total of 63% of the LSOAs are in the worst 20% most deprived. Analysis also shows that 26% of these LSOAs have relatively declined in deprivation between 2015 and 2019 whilst the remaining have stayed the same.

- 4.1.18 The majority of the LSOAs are noted for having high (and significantly higher than borough, west midlands and national) rates of fuel poverty as shown in Table 6 below. For example, 1 of the LSOAs has the highest of all borough ones and 2 are in the top 1% for fuel poverty in the whole of England.

Table 6 Fuel poverty rates for LSOAs in Additional licensing areas in the highest 5% of English Fuel Poor areas.			
LSOA	Ward	Rate of fuel poverty*	Comment
E01010342	Palfrey	28.3	In highest 1% of English fuel poor LSOAs
E01010269	Pleck	25.9	
E01010341	Palfrey	24.4	In highest 5% of English fuel poor LSOAs
E01010343	Palfrey	24.3	
E01010338	Palfrey	23.2	
E01010344	Palfrey	22.2	
E01010364	Pleck	21.7	
E01010367	Pleck	21.3	
E01010268	Pleck	19.8	
E01010327	Paddock	19.8	
E01010371	St. Matthew's	19.6	
E01010366	Pleck	19.0	
E01010365	Pleck	18.3	
Source:* https://www.gov.uk/government/statistics/sub-regional-fuel-poverty-data-2020			

- 4.1.20 It is therefore proposed to consult on the introduction of Additional Licensing for the 4 wards of Paddock, Palfrey, Pleck and St Mathews.

4.2 **Council Corporate Plan priorities**

- 4.2.1 Developing Additional Licensing has the potential to have a direct positive impact on the Council's abilities to deliver to its priorities as stated in the Corporate Plan 2018-21 in particular;

Communities: Housing provision matches local need and reduces homelessness.

- 4.2.2 It is noted that this work can also have a disproportionate positive effect on some of the Council's most vulnerable customers as evidenced by:

- the high levels of multiple deprivation and
- high incidence of low income households;

in the Wards and HMOs where Additional Licensing is proposed.

4.3 *Risk management*

4.3.1 The two biggest implications to the Council of introducing Additional Licensing within the areas identified are:

- Legal challenge and
- Resourcing.

Legal Challenge

4.3.2 Some additional Licensing schemes nationally have resulted in a range of legal challenges including against Councils who have:

- failed to follow the requirements of the consultation process as per the Housing Act 2004;
- had insufficient rationale for their proposed Additional licensing scheme including where councils have previously sought to 'Additionally License' the whole of their borough area.
- Not set out and charged licence fees in accordance with underlying legislation, Government guidance and case law.

4.3.3 The above risks are considered mitigated by:

- Proposing a consultation scheme in full accordance with the legislation, Government guidance and case law relating to Additional Licensing
- Having a sufficiently robust evidence base to support the proposal of consultation on the Additional Licensing for the 4 Wards identified in this report.
- Ensuring that fees are set and charged as required by underlying legislation, Government guidance and case law.

4.3.4 The council does not have the capacity to effectively introduce an Additional licensing scheme without additional resources. Any effective scheme will require a programme of inspections as part of the licensing application process along with a staffing cohort to respond and enforce the licence conditions and respond promptly to issues arising from an on-going programme of routine inspections throughout the licence period.

4.3.5 Additional staff (and or retention of fixed term staff) would therefore be required, the cost for which would need to be met via fee income. It is estimated that the total cost of operating the schemes will be in the region of £517,000. This is based on the number of licences that are estimated to be issued and the level of resources required to deliver the scheme.

4.3.6 Table 7 below summarises the proposed staffing and Appendix 5 details the staffing and costing projections associated with the proposal.

Table 7 Proposed roles to deliver Additional Licensing

Proposed Post	Grade	Year of operation				
		1	2	3	4	5
Housing Standards Officer	G9	1	1	1	1	1

Technical officers	G7	1	1	1	1	0
Staffing Number Total		2	2	2	2	1

4.3.7 Whilst the exact detail of fees to be charged cannot be determined at this stage, in order to meet the scheme running costs, it is estimated that the Council will be looking at an average cost of £675 per HMO licence for the maximum period of 5 years. As this format of HMOs by their nature have between 3 and 4 tenants this equates to between 86p and 65p per tenant per week:

- £675 / 5 (years) / 3 tenants / 52 week = £0.86 per week
- £675 / 5 (years) / 4 tenants / 52 week = £0.65 per week.

4.3.8 Subject to the outcomes of public consultation, it is also anticipated that fees shall be structured in such a way as to ensure that fees:

a) Are proportionate

Fees for HMOs under this scheme (up to 4 tenants) are expected to be circa 2% below the proposed fee level for mandatory HMO licences (5 tenants and over).

b) Encourage best practice

A range of discounts are proposed:

- 'Early bird discount' (of 15%) to encourage prompt application for an HMO licence;
- Landlords / agents registered with recognised professional organisations (20%)
- Licence duration is reflective of landlord's promptness of application and property condition at the time of licensing. For example, where a landlord applies late, and or fails to provide relevant certificates only makes an application because they have been found out or have to make significant changes to make the property to make the property compliant, they will be considered for a licence with a reduced duration ranging from 1 to 4 years as a maximum.

4.3.9 It is important to note that if a scheme was to be introduced in a meaningful way and if it was to meet its intended goal of improving management standards in HMOs, then it would certainly result in increased levels of enforcement activity in the short term in other parts of the borough. The cost of any additional enforcement activity in these other areas of the borough cannot be paid for via fee income for the proposed licensing scheme and would need to be met using existing resources.

4.5 ***Financial implications***

Consultation stage

4.5.1 The direct financial implications for the Council that arise from this report at this time is £25,000 which is the additional cost for staffing resources and ancillary costs associated with consultation in line with the statutory requirements.

Delivery Stage

- 4.5.2 The Council can charge fees for Additional Licensing provided they reflect the cost of running the scheme. The fee is allowed to reflect all of the costs including the operation of the scheme itself, education about the scheme, and the necessary inspections and enforcement activity to make the scheme effective.
- 4.5.3 The costs of administering Additional Licensing (primarily additional staffing costs) would need to be recouped through an administration fee levied to landlords. Fee income charged would need to be at a sufficient level to pay for additional staffing costs of administering such a scheme and would of course vary depending on the scale of any proposal. As highlighted the current proposal is to set a fee that will fully recover the costs of scheme delivery.
- 4.5.4 It is estimated that the cost of running such a scheme shall be in the region of £517,000 and that average fee income shall be around £675 per property. A range of discounts are proposed and it is noted that those who are accredited and apply earlier will pay £540 and extra charges where landlords fail to apply on time. The proposed Fees and Discounts are contained in Appendix 3
- 4.5.5 The fee structure with average estimated to be £675 is not considered unreasonable or prohibitive. It is considered that professional landlords will be able to successfully manage private rental properties in the designated areas and yield values should remain high enough to attract both investment and finance. It is also acceptable and expected that any short term negative points will disappear as longer term regeneration occurs.
- 4.5.6 The Council will 'split fees' in line with legislation with the first part payable on application and second part payable prior to issuing of the HMO licence.
- 4.5.7 Our understanding of the local property market, market rent levels, and typical buy-to-let mortgage rates, suggests that the majority of landlords will be able to absorb this cost without increasing rent levels. Ultimately the decision to increase rents or not is an individual landlord's business decision. Whilst it is expected that landlords will be able to 'offset' the cost of licence fees in the same way as property insurance some landlords may however subsequently increase rents to recover the costs of the licence. Other areas that have been licensed have not seen an increase in rent due to licensing.
- 4.5.8 Improved tenancy management should reduce costs arising from void periods and tenancy turnover. These should for landlords lead to an increase in total rent received (lower costs associated with marketing and bringing the property back to rental standard following vacation) and these lower costs should 'balance' any impact of fee for licensing. Bringing empty properties back into use will restore confidence in the area in addition to generating income for the individual owners.

4.6 Legal implications

- 4.6.1 Section 56 of the Housing Act 2004 enables councils to designate the whole or any part or parts of its area as subject to Additional Licensing (of HMOs). The purpose of such schemes is to improve standards of property management in the HMO sector.

An HMO for housing purposes is defined by the Housing Act 2004, Section 254 to 264 and Schedule 14. Examples of what is a HMO include:

- shared houses with 3 or more occupants,
- flats with 3 or more occupants within a building and owner occupiers with 3 or more lodgers.

Examples of what is not an HMO are:

- a house (or flat) with 2 unrelated tenants
- a house lived in by the same 'household' e.g. a brother, sister and cousin sharing. The term 'household' is specifically defined for the purposes of the Housing Act by government guidance.

- 4.6.2 The Housing Act 2004 already requires local housing authorities to mandatorily licence Houses in Multiple Occupation (HMOs) if they accommodate more than 5 people who form two or more households. The Act also gives authorities the power to introduce an additional licensing scheme for other smaller HMOs. This power can be considered if any of the following the following criteria is met;

An additional licensing scheme can be introduced providing that certain conditions are met.

- (a) A significant proportion of the HMOs of that description in the area are being managed sufficiently ineffectively as to give rise, or to be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public;
- (b) The authority has regard to any information regarding the extent to which any codes of practice for management standards approved under section 233 have been complied with by persons managing HMOs in the area in question. (This means that any organisation which manages HMOs is able to put in a code of practice which prescribes management standards. The code of practice has to be advertised appropriately and/or adopted by their organisation to be recognised under s233).
- (c) The Local Authority has considered whether there are any other courses of action available to them (of whatever nature) that might provide an effective method of dealing with the problem or problems in question,
- (d) Making the designation will significantly assist them to deal with the problem or problems (whether or not they take any other course of action as well).

- 4.6.3 Additional Licensing will extend licensing to all privately rented HMOs in the proposed areas which are occupied by 3 or more people (including children) who form two or more households, irrespective of the property size and number of storeys. The implementation of additional licensing schemes allow for these properties and their operation to be subject to proactive licensing requirements that would not otherwise be available.

Example 1 - A semi-detached, three-bedroom house where all the rooms have been converted to bedrooms and provide accommodation for four to five people sharing bathroom and kitchen facilities.

Example 2 - A 2 bedroom flat where the 2 bedrooms and lounge are used as bedrooms so has 3 unrelated occupiers and the kitchen and bathroom are shared.

4.6.4 The following premises are exempt (by the Housing Act 2004) from Additional Licensing:

1	Those HMOs that require a Mandatory Licence
2	Buildings controlled or managed by public sector bodies e.g. registered social landlords, police authorities etc.
3	Buildings regulated by other legislation e.g. care homes, detention centres etc.
4	Buildings controlled or managed by an educational establishment (specified by type or otherwise) and occupied by the establishment's students.
5	Buildings occupied by religious communities whose principal occupation is prayer, contemplation, education or the relief of suffering.
6	Buildings occupied by the owner and members of the landlord's household, provided there are no more than two other persons (e.g. lodgers).
7	Buildings occupied only by two persons who form two households.

4.6.5 It is noted that the development of Additional Licensing can have a direct positive impact on the enforcement of a range of other housing and environmental health legislation.

4.6.6 It is a criminal offence to rent out a non-exempt HMO in an area designated as an Additional Licensing area without a licence. Failure to apply for a licence could either lead to:

- a prosecution, with the penalty of a criminal conviction and an unlimited fine or
- a civil penalty fine of up to £30,000.

4.6.7 A landlord of an unlicensed HMO is unable to serve a section 21 notice* under the Housing Act 1988 in relation to a short hold tenancy of the whole or part of any property which is an 'unlicensed house'. Additionally a tenant of an unlicensed HMO is able to secure a Rent Repayment Order (RRO) requiring the landlord to repay their rent for the period of up to 12 months. Where the Council has provided either housing benefit or the Housing element of Universal Credit for an unlicensed HMO it too can consider securing rent repayment order against the landlord.

* It is noted that the government has proposed the repealing Section 21 notices for all private rented properties via the Renters Reform Bill.

4.6.8 A licence will have mandatory conditions attached which relate to circumstances covering conditions such as providing gas and electrical certificates and maintaining health and safety standards.

4.6.9 The Council can also include discretionary conditions and these relate to the management of the property. The proposed licence conditions (mandatory and discretionary) are attached to this document as Appendix 2.

4.6.10 A licence holder (or person bound by the licence conditions) will commit a criminal offence if they fail to comply with any condition of a licence. This offence is punishable by an unlimited fine via prosecution or via civil penalty fine which is currently set by the council at £5,000 per breach.

4.6.11 This proposal does not prevent the council from undertaking further consultation on additional schemes in the future. In fact a number of councils have seen the successes in designation in one area and then moved to further designations once a scheme is established. This can for example, help with phasing of resources and improve the impact of the initial schemes (publicity etc.). It is also noted that as can be common in some areas, tenant's fear of retaliatory eviction or harassment can lead to an under-reporting of their concerns about property conditions and the behaviour(s) of their landlords. Publicity for this proposed scheme may help:

- addressing this on a borough wide basis which could again lend information to any future consideration of additional areas;
- identify other Mandatory licensable HMOs where the landlord has so far failed to seek the required license.

4.6.12 The proposal is in line with:

- a) The existing Housing Strategy (2020-2025) which highlights that the Council is committed to improving the condition and availability of private rented homes in the borough.
- b) The Homelessness Strategy (2018-2022) which supports the appropriate use of the private rented to help with accommodation for homeless households.
- c) Home Energy Conservation Act (HECA) Action Plan which seeks to address fuel poverty especially in the private rented sector within Walsall.

4.7 Procurement Implications/Social Value

4.7.1 There are no procurement implications

4.8 Property implications

4.8.1 There are no direct property implications for the council as public bodies are exempt from licensing.

4.9 Health and wellbeing implications

4.9.1 There are complex interconnections between living conditions, deprivation and health problems. The Council has a statutory duty to tackle what are known as Category 1 Hazards under the Housing Health and Safety Rating System (HHSRS). The HHSRS has 29 hazards that are caused by defects in housing that have a direct impact on health. These include but are not limited to:

- Fire safety
- Excess cold
- Falls
- Crowding and space
- Damp and mould
- Electrical hazards

4.9.2 As indicated earlier in this report evidence highlights that there are:

- significant levels of Category 1 hazards in HMOs in addition to disrepair;
- significant levels of fuel poverty in the LSOAs that are to be targeted with many in the top 5% of fuel poor in the whole of England.

4.9.3 Additional licensing is in accordance with the:

- Marmot Review (Fair society healthy lives)
- NICE Guidelines NG5 and Quality Standard QS117 Preventing excess winter deaths and illness associated with cold homes

as there are numerous direct links between improvement in housing conditions and health and wellbeing improvements.

4.9.4 Poorly managed HMOs can lead to fly-tipping / waste accumulations either by the landlord or tenant which have both an immediate detrimental impact on the local neighborhood and wellbeing of residents and also can act as an attractant to vermin and pests including those with communicable diseases. The cost of dealing with fly-tipping is significant and principally borne by the council.

4.10 Staffing implications

4.10.1 The Council does not have the capacity currently to take forward the proposal with its existing staffing resources. Additional staff would be required to administer and manage:

- a) the consultation process and
- b) the scheme itself, which is proposed to be funded via the License fee income should the proposal be taken forward.

4.10.2 Recruitment to the proposed Additional Licensing roles is to take place following approval of the scheme.

4.11 Reducing Inequalities

- 4.11.1 The implications for reducing inequalities have been taken into account and assessed as set out in a detailed Equality Impact Assessment (EQIA) and this will be re-evaluated after the statutory consultation on Additional Licensing.
- 4.11.2 Additional Licensing is designed to improve standards and relationships and therefore likely promote community cohesion and relations between people from different backgrounds. This scheme is also expected to have positive equal opportunities implications in that it seeks to address key issues relating to substandard HMO accommodation, and as such seeks to target resources towards improving the lives of financially disadvantaged or vulnerable households living in non-decent homes. As indicated earlier in this report the target areas include a range of LSOs with some of the highest multiple deprivation in England.
- 4.11.3 The scheme will apply to all HMO occupants in these areas irrespective of their background or demographics. The increase in information / education around suitable behaviour of both landlords and tenants about their rights and responsibilities will form part of the public consultation. This will most likely result in increased contact with the council by tenants and disadvantaged groups who currently reside in poor quality accommodation.
- 4.11.4 The scheme will contribute towards reducing fuel poverty in the target Wards which have some of the highest rates within the borough (and whole of England).

4.12 Consultation

- 4.12.1 There is a statutory requirement to consult for a minimum period of 10 weeks on any proposals to designate an area subject to Additional Licensing. This report sets out the basis for recommendations to conduct a consultation and for the results of the consultation to be considered as part of the development of the proposed structure of the Additional Licensing scheme. It is proposed to start consultation in early 2021 and it is proposed to run for 12 weeks.
- 4.12.2 The consultation will demonstrate that it has satisfied the legal requirement to take reasonable steps to consult with those people who may be affected by the designation. This includes neighbouring areas outside of the borough boundary.
- 4.12.3 As part of any Additional Licensing Scheme, council's must also consult on:
- a) Boundary for the area(s);
 - b) Fee structure for licences;
 - c) Issues the council is seeking to address and how these will be measured
 - d) Proposed license conditions.
- 4.12.4 A Consultation Plan (Appendix 6) has been produced setting out how the Council will meet these requirements.
- 4.12.5 Initial consultation (in addition to the statutory consultation) has already taken place with key partners who have expressed their support for the initiative:
- Walsall Neighbourhood Policing unit

- West Midlands Immigration Compliance and Enforcement Team
- West Midlands Fire Service – Head of Protection

Others have been contacted about the scheme and no representation received as yet:

- National Residential Landlords Association
- Walsall Private Sector Landlords Forum
- private landlords and agents known to the Housing Standards Service;

5. Decide

5.1 An alternative to Additional Licensing is to 'do nothing' different. This option is not seen as viable as:

- The accommodation provided by the HMO sector is important in meeting the housing needs of many of our residents and action needs to be taken to force poor / rogue landlords to maintain minimum safe housing standards.
- Evidence from the Mandatory licensing of HMOs highlights that there is a continued lack of basic health and safety standards being provided in a substantial number of HMOs.
- Doing nothing different means that the council may fail to protect an increasing number of low income and or vulnerable households who are accommodated in non-licensed HMOs.

5.2 For the reasons listed in this report it is proposed to undertake statutory consultation and to introduce on the proposal of Additional Licensing if this proposal is supported by the consultation outcome.

6. Respond

6.1 This report responds to the new evidence provided by the Walsall Stock Condition Survey and an assessment of the condition of the HMOs that are subject to the existing mandatorily licensed HMOs and the general public dissatisfaction about the lack of regulation for smaller HMOs.

7. Review

7.1 Upon the completion of the statutory consultation a report detailing the results will be referred back to Cabinet for consideration at a future meeting.

Background papers

Housing Act 2004

The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 SI 2006/1715.

Licensing and management provisions in the Housing Act 2004: Draft guidance 2010 (CLG)

NICE Guidelines NG5 and Quality Standard QS117 Preventing excess winter deaths and illness associated with cold homes

Walsall Home Energy Conservation Act Action Plan – July 2020

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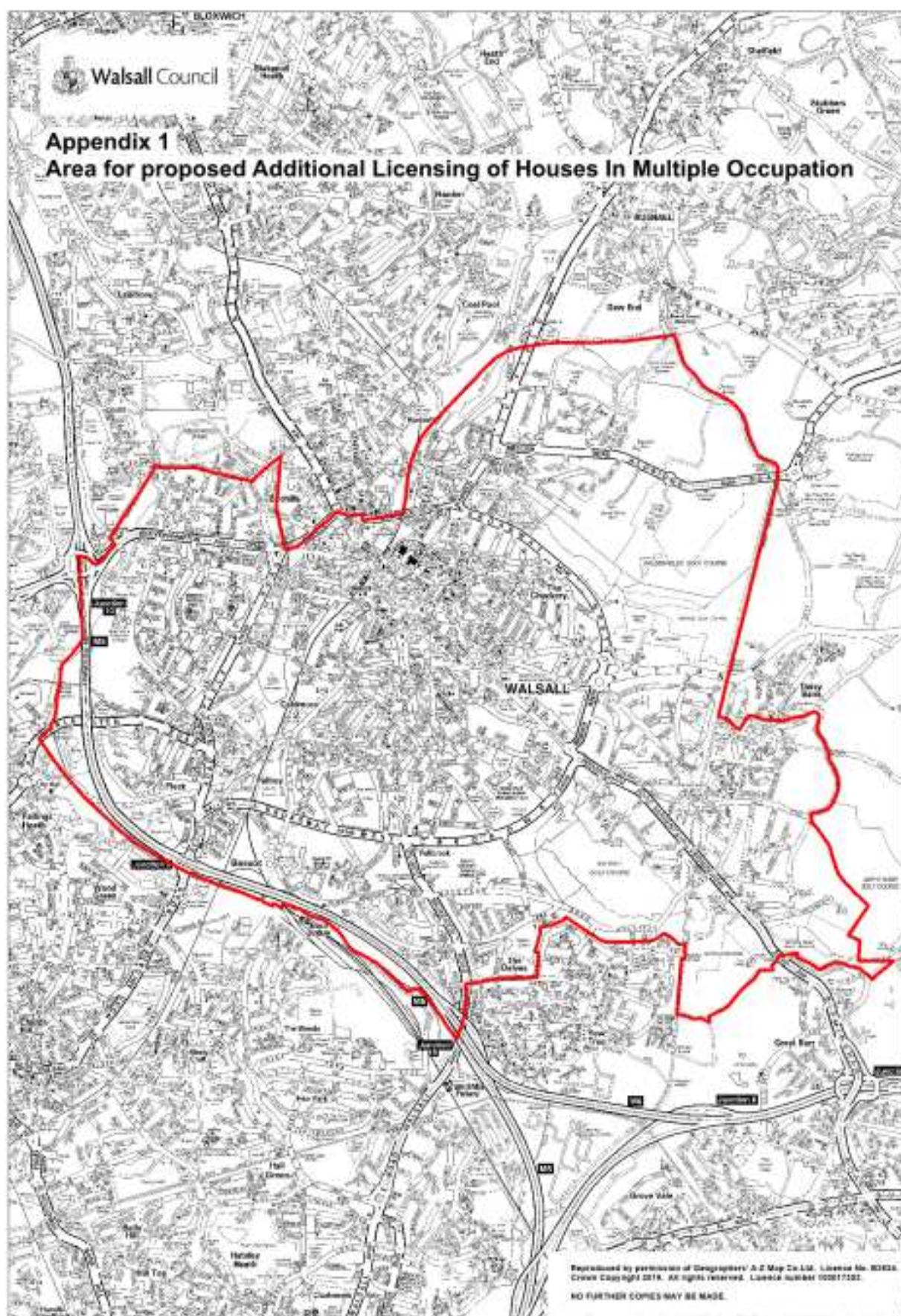
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Appollo Fonka
Team Leader - Housing



Signed
Sally Rowe
Executive Director
Childrens Services

Signed
Councillor A Andrew
Portfolio Holder Regeneration



Appendix 2

Proposed Licensing Conditions for statutory consultation for Additional Licensing

Explanatory Consultation Note:

For Additional licensing the Government requires councils to always use a set of what are known as prescribed conditions. Councils are not permitted to alter or remove any of these conditions. They are set by statute and not 'open' for consultation. These conditions are shown below in Section A and they are numbered 1 to 8 inclusive

The Government also permits two forms of extra types of condition:

- a) Those that are locally agreed by a council – these conditions are 'open for consultation' under the statutory consultation process for the additional licensing scheme. These are in section B and are numbered 9 to xx;
- b) Those that the council applies to a specific HMO licence under the Additional Licensing scheme. These are not open to consultation under the statutory consultation process but are consulted upon directly with the parties (HMO applicant etc.) at the point of an HMO licence being considered. If parties do not agree to the specific additional condition(s) they are able to appeal directly to the First tier tribunal for consideration of the matter. An example, of the nature of 'specific conditions' is where the officer requires that occupancy is reduced to a lower level within a stated period (ie 3 months etc.) this sort of condition is used to provide a landlord with the opportunity to legally and fairly reduce the occupancy levels so that the property is not over-crowded

WALSALL COUNCIL

LICENCE CONDITIONS FOR HOUSES IN MULTIPLE OCCUPATION COVERED BY ADDITIONAL LICENSING

(Housing Act 2004 part 2 Section 67 and Schedule 4)

Address of property:	
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These conditions must be complied with as any contravention may lead to formal enforcement action by the Council. Note that any reference to Licence Holder also applies to the Manager (where applicable) and both parties are jointly responsible for full compliance with the above conditions.

You should take advice from the Council or an independent body if you do not understand a condition.

These conditions must be complied with as any contravention may lead to formal enforcement action by the Council. Failure to meet license conditions can result in a criminal conviction and an unlimited fine or be issued with a financial penalty in line with the council's approved policy.

A. Prescribed Conditions set by Government and required by the Housing Act 2004

<u>1</u> <u>Gas Safety</u>	If gas is supplied to the premises, the Licence Holder must provide to the Council a Landlord's <i>Gas Safety Record issued in accordance with the Gas Safety (Installation and Use) Regulations 1998 (as amended)</i> with respect to all gas appliances, fittings, flues and
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	pipework. Such a Gas Safety Record must have been obtained from a competent person and be dated within the 12 months prior to the date of application for this licence.									
<u>2</u> <u>Furniture and Furnishings</u>	The Licence Holder must ensure that all upholstered furniture supplied by them for use by any occupier of the premises is compliant with the <i>Furniture and Furnishings (Fire Safety) Regulations 1988 (as amended in 1989 and 1993)</i> . They must supply to the Council when requested, a declaration as to the safety of such furniture. Any such furniture which fails to comply with these regulations must be removed from the premises without delay and properly disposed of. Suitable replacement furniture must be provided as appropriate.									
<u>3</u> <u>Electrical Appliances</u>	The Licence Holder must ensure that all electrical appliances supplied by them for use by any occupier of the premises are maintained in a safe condition. They must supply to the Council when requested, a declaration as to the safety of such appliances.									
<u>4</u> <u>Smoke Alarms</u>	The licence holder must ensure that suitable smoke alarms are installed in the property and must keep them in proper working order. The licence holder must supply the authority with a declaration as to the condition and positioning of such alarms.									
<u>5</u> <u>Carbon Monoxide Alarm</u>	The licence holder must ensure that a carbon monoxide alarm is installed in any room in the house which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance. They must keep them in proper working order and supply the authority with a declaration as to the condition and positioning of such alarms.									
<u>6</u> <u>Tenancy Agreement</u>	The Licence Holder must supply to all occupiers of the house a written statement of the terms on which they occupy it.									
<u>7</u> <u>Bedroom Sizes</u>	<p>A room smaller than the specified relevant sizes below must not be used as sleeping accommodation, and communal space in other parts of the HMO cannot be used to compensate for rooms smaller than the prescribed minimum.</p> <table><thead><tr><th>Number of People</th><th>Age in Years</th><th>Minimum Bedroom Floor Area</th></tr></thead><tbody><tr><td>One person</td><td>over 10</td><td>6.51m²</td></tr><tr><td>Two persons</td><td>over 10</td><td>10.22m²</td></tr></tbody></table> <p>Any area of the room in which the ceiling height is less than 1.5m cannot be counted towards the minimum room size.</p>	Number of People	Age in Years	Minimum Bedroom Floor Area	One person	over 10	6.51m ²	Two persons	over 10	10.22m ²
Number of People	Age in Years	Minimum Bedroom Floor Area								
One person	over 10	6.51m ²								
Two persons	over 10	10.22m ²								
<u>8</u> <u>Waste Disposal</u>	The licence holder must ensure that suitable and adequate provision is made for the storage and disposal of domestic refuse from the house and that the council's arrangements for storage and waste disposal are adhered to.									

B. Additional Conditions which the Local Authority proposes to include

These conditions are 'open' for comment as part of the statutory consultation process for additional licensing. They have all been duly considered by the council as being relevant and appropriate for HMOs under an Additional licensing Scheme.

<u>9</u> <u>Electrical Installation Condition</u>	The Licence Holder must ensure that the fixed electrical installation of the premises is inspected and tested at intervals not exceeding five years. This must be carried out by a suitably qualified electrical contractor who should be a member of an approved scheme such as NICEIC, ECA, NAPIT and registered to undertake electrical works in accordance with part P of the Building Regulations. Electrical contractors that are on a relevant competent person scheme can be found at www.competentperson.co.uk
<u>10</u> <u>Electrical Installation Remedial Works</u>	All remedial works equivalent to C1, C2 or FI must be completed as specified and an updated test certificate obtained. Should any remedial works be recommended (C3) on the electrical installation condition report, the Licence Holder must ensure that such works are completed no later than 12 months following the date of the report and must

	inform the Council upon completion of such works.
<u>11</u> <u>Electrical</u> <u>Installation</u> <u>Certification</u>	Test reports on the condition of the electrical installation in the property must be provided to the Council within 7 days of the date of a demand.
<u>12</u> <u>Emergency</u> <u>Escape Lighting</u>	The Licence Holder must ensure that the premises is provided with a satisfactory emergency lighting throughout the communal fire escape route in according to the size, layout and type of accommodation. This must be inspected, tested and serviced by a competent person in accordance with the current British Standards.
<u>13</u> <u>Automatic Fire</u> <u>Detection &</u> <u>Warning System</u> <u>Standard</u>	The Licence Holder must ensure that an automatic fire detection and warning system that is designed and installed to the current applicable British Standard for Houses in Multiple Occupation and is maintained in proper working order.
<u>14</u> <u>Fire Safety</u> <u>Certification</u>	The licence holder must provide maintenance reports to Walsall Council on request within 28 days with regards to emergency lighting, fire detection and alarm systems. The maintenance must be undertaken by a qualified fire alarm engineer and certification provided to confirm the systems complies with the relevant British Standards.
<u>15</u> <u>Fire Fighting</u> <u>Equipment</u>	The Licence Holder must ensure that all firefighting equipment, where provided, is maintained in accordance with the manufacturer's recommendations and that replacement or refilled equipment is provided without delay following any usage which renders it no longer effective.
<u>16</u> <u>Condition of</u> <u>Furniture</u>	The licence holder will ensure that any furniture supplied at the start of a tenancy or licence is in safe and good condition and maintained or replaced as far as it is the Landlord's responsibility throughout the tenancy.
<u>17</u> <u>Information that</u> <u>must be</u> <u>Displayed</u>	<p>A copy of the following documents should be displayed in a prominent position within the property at all times:</p> <ul style="list-style-type: none"> • This licence, or a copy of it • Gas Safety Certificate (If Supplied) • Name and address of Licence Holder OR their Manager • Contact Telephone Number of Licence Holder OR their Manager <p>A schedule of these licence conditions must also be available for viewing by any occupier either by providing copies to each person or by displaying adjacent to the licence</p>
<u>18</u> <u>Property</u> <u>Inspections</u>	<p>The licence holder must ensure that the tenant's right to quiet enjoyment of the property is respected. The licence holder must ensure that the tenant receives at least 24 hours' notice of intention to enter the property specifying the reason entry is required. The only exception is when it would not be reasonable to give such notice and access is urgent, e.g. in an emergency.</p> <p>The licence holder shall ensure that inspections of the property are carried out at least every 6 months to identify any problems relating to the condition and management of the property. The records of such inspections shall be kept for the duration of this licence. As a minimum requirement the records must contain a log of who carried out the inspection, the date and the time of inspection and any issues found and action(s) taken. Copies of these must be provided within 7 days of the Council's demand.</p>
<u>19</u> <u>Fit and Proper</u> <u>Persons</u>	The Licence Holder shall ensure that any person or persons involved with the management of the house are to the best of their knowledge "fit and proper persons" for the purposes of Section 66 of the Act.
<u>20</u>	The licence holder shall ensure that all reasonable and practical steps are taken to prevent and respond to anti-social behaviour. These include written tenancy

<p><u>Tackling Anti-Social Behaviour</u></p>	<p>management arrangements to prevent or reduce anti-social behaviour by persons occupying or visiting the property. Copies of these must be provided to the Council within 7 days of the Council's demand.</p> <p>If the licence holder or manager / manager receive complaints of anti-social behaviour that concern the occupiers of, or visitors to the property or that result from their actions they must comply with requirements (a) to (h) below:</p> <ul style="list-style-type: none"> A) Ensure that written notes are kept of any meetings or telephone conversations or investigations regarding anti-social behaviour. b) If a complaint is received, or anti-social behaviour is discovered, within 7 days the tenant must be informed of the allegations of anti-social behaviour in writing and of the consequence of its continuation. c) Take all necessary steps to establish if it is continuing. d) Where the anti-social behaviour is continuing after 14 days from receipt of the complaint, the licence holder, or their manager must, within 7 days visit the premises and give to the tenant, or leave at the property marked for their attention, a warning letter advising them of the possibility of eviction. e) Where the licence holder or his manager has reason to believe that the anti-social behaviour involves criminal activity the licence holder must ensure that the appropriate authorities (e.g. Police, Council etc.) are informed. f) If after 14 days of giving a warning letter the tenant has failed adequately to address the anti-social behaviour so that it is continuing, the licence holder must take appropriate formal steps under the tenancy agreement, whether to enforce its terms or to terminate it, including, where necessary, by taking legal proceedings against the occupier(s). g) Where the obligation under (f) has arisen, the licence holder must, within 7 days, provide to the Council in writing a plan setting out the steps they proposes to take, and the timescale for taking those steps, in order to resolve the problem h) If the licence holder is invited to do so, they must attend a case conference or Multi-Agency Meeting arranged by the Council or Police (whether following the provision of a plan referred to at (g) above, or generally. <p>There may be instances where anti-social behaviour occurs more than once, but not continuously and possibly several months apart. In such circumstances the licence holder would still be expected to take all reasonable and practical steps to ensure it is effectively dealt with, up to and including eviction.</p>
<p><u>21 Notification of Change of Circumstances</u></p>	<p>The licence holder must inform, in writing, the Council within 21 days of any material change in circumstances including:</p> <ul style="list-style-type: none"> • Change of their address • Change of manager, management arrangements or ownership • Any changes to their, the manager's or any associate's circumstances which could affect their fit and proper person status i.e. any cautions or convictions for any offence involving fraud, dishonesty, violence, drugs, sexual offences (under Sexual Offences Act, schedule 3) discrimination or breach of housing or landlord/tenant law • Any changes to their, the manager's or any associate's circumstances which could affect their fit and proper person status i.e. any cautions or convictions for any offence involving fraud, dishonesty, violence, drugs, sexual offences (under Sexual Offences Act, schedule 3) discrimination or breach of housing or landlord/tenant law • Any proposed changes to the layout of the house that would affect the licence or licence conditions. <p><i>Licence holders should note that some of the changes above may result in either a new application or a variation being required to an existing licence.</i></p>
<p><u>22</u></p>	<p>The number of persons residing in the premises at any one time shall not exceed the maximum number of occupants stated on the licence. The licence holder must not allow</p>

<p><u>Preventing and Tackling Overcrowding</u></p>	<p>the property to be overcrowded and communal rooms (e.g. living rooms) must not be used as bedrooms. If the licence holder becomes aware of overcrowding at the property, they must take all reasonable steps to deal with the issue and advise the authority of the actions taken.</p>
<p><u>23 Care of Common (Shared) Areas</u></p>	<p>The licence holder must make arrangements to ensure that:</p> <ul style="list-style-type: none"> • The common parts in the premises are kept free from obstruction, in a clean condition and in good order and repair. • Common areas, including shared living rooms, kitchens, and hallways are not used for sleeping by tenants or their guests. • Smoking is not permitted in any common area.

24 <u>Maintenance of External Areas</u>	<p>The licence holder must ensure that:</p> <p>At the beginning and for the duration of each letting, the garden and external areas of the property must be free of refuse, litter and excess vegetation and maintained in a reasonable state of repair.</p> <ul style="list-style-type: none">Fencing and other external elements where present, are properly maintained, kept in a clean, clear and/or sound condition.												
25 <u>Bin Provision for Waste Collection and Disposal</u>	<p>The licence holder shall ensure that suitable and adequate provision is made for refuse storage and collection which comprises of closable bins of suitable capacity; including for recycling as specified by Walsall council. The Council currently operates the following 3 kerbside collection services:</p> <table><tr><th>Type of Waste</th><th>Collection Frequency</th><th>Minimum Capacity of Wheeled Bins</th></tr><tr><td>Domestic household general waste</td><td>Fortnightly</td><td>140 litres</td></tr><tr><td>Domestic household dry recyclable materials (commingled)</td><td>Fortnightly</td><td>240 litres</td></tr><tr><td>Household garden waste</td><td>3 weekly</td><td>240 litres</td></tr></table> <p>Bin collection days for properties in Walsall can be found at: https://www.walsall.gov.uk/waste/bincollections</p> <ul style="list-style-type: none">The licence holder shall ensure so far as is reasonably possible that the occupiers make arrangements for the collection of waste in accordance with these provisions and, when the property is unoccupied, adhere to these provisions themselves.The licence holder is also responsible for ensuring that any kind of refuse which the Council will not ordinarily collect (e.g. large items of furniture, hazardous waste etc.) are disposed of responsibly and appropriately.	Type of Waste	Collection Frequency	Minimum Capacity of Wheeled Bins	Domestic household general waste	Fortnightly	140 litres	Domestic household dry recyclable materials (commingled)	Fortnightly	240 litres	Household garden waste	3 weekly	240 litres
Type of Waste	Collection Frequency	Minimum Capacity of Wheeled Bins											
Domestic household general waste	Fortnightly	140 litres											
Domestic household dry recyclable materials (commingled)	Fortnightly	240 litres											
Household garden waste	3 weekly	240 litres											
26 <u>Information Provision for Waste Collection and Disposal</u>	<p>The licence holder shall at the beginning of a tenancy, provide written information to the occupiers of the property indicating:</p> <ul style="list-style-type: none">which day refuse collections will take place;what type of bins to use for household and recycling waste;details of the Council's bulky waste collection service;the occupiers responsibility to put bins out no earlier than 4pm on the day before collection (and be presented by at least 6.30am on collection day) and to return refuse containers within the boundary of the property on the same day that they are emptied or at the latest by 6.30am the day after the collection;that occupiers should make arrangements for any extra rubbish that cannot fit in the bins to be collected and/or disposed of as soon as is reasonably possible and ensure that such rubbish, where possible, is stored at the rear of and within the boundary of the property until collection/disposal;												
27 <u>Provision of Amenities for Cooking, Food Storage and Space Heating</u>	<p>The Licence Holder must ensure that the premises are provided with sufficient and adequate standard amenities for use by the current or intended number of occupiers for Cooking, Food Storage and Space Heating in line with our 'HMO Amenities Standards' which can be found on the following link https://go.walsall.gov.uk/hmo_licensing</p>												
28 <u>Rent and other charges</u>	<p>You must give written receipts to tenants at the time the payment is made for any rent paid in cash. Where rent is paid weekly you must provide a rent book or similar document and this must be kept up to date.</p> <p>During the fixed term of the tenancy agreement, any rent increase proposed must be through the appropriate legal procedure (currently Housing Act 1988 s.13).</p>												
29 <u>Tenancy Deposits</u>	<p>Where a deposit is taken the licence holder must provide the tenant with the relevant information about the Approved Deposit Scheme to which it is protected.</p> <p>In addition to giving the prescribed information to the tenants, you, or your manager,</p>												

	must keep a record of having given this information, such that you have clear evidence of the information having been given to the tenant. Where the deposit is paid in cash, a receipt should be issued stating clearly what this money is for, and the grounds for a refund.
30 <u>Termination of Tenancies</u>	The Licence Holder must use lawful means to seek repossession of the property from any tenant/s or licencees.
31 <u>Lock Changes</u>	Where previous tenants have not surrendered keys, the licence holder will arrange for a lock change to be undertaken, prior to new tenants moving in.
32 <u>Occupancy Levels</u>	Only bedrooms xxxx (this will list specific bedroom numbers where relevant) are suitable for double occupancy in this property. The remainder of the bedrooms must not be occupied by more than a single person.
33 <u>Right to Rent Checks</u>	You must ensure that you undertake all lettings in line with the Right to Rent Scheme including but not limited to securing references. https://www.gov.uk/check-tenant-right-to-rent-documents/who-to-check .
34 <u>Training</u>	In the event that the Council confirms the presence of significant and/or continuous deficiencies in the supervision and/or maintenance of a licensed HMO the licence holder and/or manager may be required by the Council to attend an accredited management training course.
35 <u>Minimum Energy Efficiency</u>	<p>The HMO have a valid (in date not expired) Energy Performance Certificate (EPC) throughout the duration of the licence. The government proposes that private rented dwellings including HMOs must achieve an EPC of a minimum rating of D by 2025. Where a licence is granted up to or past 2025 it will be contingent upon the HMO either:</p> <ul style="list-style-type: none"> • Meeting the minimum EPC level i.e. D by 2025 or • Have a valid exemption and be registered prior to 2025 on the national exemption register. <p>Where the landlord / managing agent of the HMO fails to secure either a) or b) above this condition will be considered breached and action taken under HMO licensing and or Minimum Energy Efficiency Standards.</p>
36 <u>Remedial Works Required</u>	<u>Note:</u> This section is used as relevant to list remedial works that are required at the specific HMO property

Advisory Notes for Landlords:

To help prevent / tackle ASB the Council recommends:

That the licence holder demands references from persons who wish to occupy the house and shall supply evidence of these to the local authority within 7 days of demand. The reference should provide testimony as to the tenant's past record of keeping to tenancy conditions and not committing anti-social behaviour, or provide other genuine and significant evidence as to the likelihood of them keeping to tenancy conditions and not committing anti-social behaviour. The reference must also provide the referee's name, address and either an up to date telephone number or email address. Copies of these references shall be kept for the duration of this licence.

Where prospective tenants cannot, because of their general circumstances, be expected to produce a reference, e.g. they are newly arrived in country, certification from a council officer, saying that the tenancy conditions have been explained and agreed, can act as a reference for the purposes of these Management Conditions.

To help minimise potential for disputes the Council recommends:

That landlords consider the use of inventories and suggests that before the tenant “checks in” a detailed inventory should be completed by the licence holder. It is best practice for the inventory to be initialled on all pages by both parties, signed and dated by them on the last page. A copy should be provided to the tenant whilst retaining a copy for your own records. The inventory procedure should be repeated for “check out” inventory at the end of tenancy. Note: Inventory covers items included within the tenancy and the condition of the Property.

C. Legislation also permits that:

The Council to attach conditions to individual licences if there are issues specific to the property. If and when these are proposed the HMO applicant will be consulted on the conditions prior to the final licence being issued. The Council will consider any representation made by the HMO applicant. The HMO applicant also has a right of appeal to the First Tier Tribunal if they do not agree with a specific condition that is proposed.

Appendix 3

Additional Licensing Proposed Fees and Licence Periods.

Overall

These fees (and fee structure) cover the cost of managing the Additional licensing scheme, including preparing for the scheme, publicising the scheme, training staff, landlords and other stakeholders and the actual administrative costs of processing individual licence applications and compliance monitoring, and do not make a profit for the Council. We don't use the money to pay for legal enforcement work against non-compliant landlords.

The structure ensures that those landlords who work diligently to submit early or on time full and correct applications are not subsidised by those who don't.

Promoting best practice in property management - Discounts for Accredited Landlord

The Council is committed to supporting the improvement of private renting standards within the borough and as such offers a discounted rate for 'accredited' landlords and agents where they are a full member of a national and or regional accredited landlord including:

- Midland Landlord Accreditation Scheme (MLAS)
- National Residential Landlords Association (NRLA Accreditation).

An accreditation discount will be applied if, at the time of applying, the applicant for the HMO licence owns the property and/or is a confirmed member of the Midlands Landlords' Accreditation Scheme or any other recognised national or regional scheme. Local (single council etc.) landlord accreditation schemes do not qualify for a discount. The Council has the final decision as to whether to recognise any scheme put forward by the applicant for a discount.

The accreditation discount to the HMO licence fee will NOT be applied if your application to the accreditation scheme is still pending when you make your HMO application. We will not retrospectively apply the accreditation discount to an existing application and there is no 'proxy' entitlement to the accreditation discount by virtue of an 'association' between a non- accredited and an accredited member.

Where an applicant secures a discount based on being accredited they must retain the accreditation throughout the duration of the licensing scheme. Where their accreditation lapses they will be subject to an additional £100.00 charge.

As indicated in the tables below discounts are also provided for 'early bird' applicants to encourage early registration.

Pre-condition for agents.

Where an agent is managing properties that do not belong to them they will be required to be a member of the Letting Agents Redress Scheme. As this is a statutory requirement no additional discount will be offered to agents signed up to this.

Overseas landlords / managers distant from the property.

Where a landlord is not resident in the UK they must appoint a fit and proper UK based person to manage their HMO for them. The council will usually expect the manager to be 'local' to the borough of Walsall so that they can attend promptly to resident and or council requests / concerns.

LICENCE FEES

There are 2 stages to the fee payment:

The first stage fee payment will need to accompany the licence application.

The second stage fee payment will need to be received when the application is complete, enabling us to carry out the necessary checks to enable the notice of intention to issue the licence, but before the final decision to grant the licence is issued.

The Council will contact the applicant (by email) to confirm when 2nd Stage fee is due. You must pay this within 14 days. Please note no licence will be issued without payment being received of the 2nd Stage fee. If you operate an HMO without a licence you may be subject to legal action by the Council.

Fees and Stages of Fee payment

Fees for 2021/22* Stage payments				
For HMOs of 3 or 4 persons (Please note HMOs of 5 or more persons are subject to Mandatory Licensing)	Non Accredited		Accredited Landlord Fee	
	Stage 1	Stage 2	Stage 1	Stage 2
Standard Fee	£595	£200	£477	£158
	Total £795		Total £635	
Early Bird Fees A 15% reduction in relevant fee for those who apply within first 3 months of the Additional Licensing scheme going live.	£505	£170	£405	£135
	Total £675		Total £540	

*Please note that fees for applications are expected to increase by circa 2% each financial year. They will be published online on the Council's website.

Renewal of HMO Application:

Licence holders renewing a licence for the same property will be charged a 'renewal fee', which is lower than the full HMO application licence fee, provided their application is received within time (i.e. their existing licence has not expired).

If an application for renewal is received and is either incomplete or after the licence has expired then the full application fee will apply.

Renewal Fees for 2021/22* including stages of payment				
For HMOs of 3 or 4 persons	Non Accredited		Accredited Landlord	
Renewal Fee	Stage 1	Stage 2	Stage 1	Stage 2

(No early bird discounts apply)	£415	£140	£330	£115
	£555		£445	

*Please note that fees for applications are expected to increase by circa 2% each financial year. They will be published online on the Council's website.

Licence Fee variation (for example limited to change of manager): £150 accredited landlord and £150 non-accredited. This is paid in a single payment.

Fee Reduction per property for a landlord / manager for additional HMOs

(either mandatory or additional licensed): £50 reduction accredited landlord and £50 reduction non-accredited. This will be applied to the 2nd stage fee (not the 1st stage).

Refunds

There will not normally be any refunds on HMO application fees.

Any refund will be at the discretion of the Council and are limited to the following two scenarios:

- Refunds of 1st Stage fees where a duplicate application has been made for a property or
- Where on review of an application (at 1st Stage) it is decided that the property does not need a license at the time of application (for example, it falls under one of the exemptions).

The refund will be up to 50% of the 1st stage fee paid and 100% of any 2nd stage fee paid. The remainder of the fee will be retained by the Council for the administrative work that has been involved.

There will be no refund for applications where they are refused by the Council.

LICENCE PERIODS

Generally, HMO licences are granted for 5 years. However, the licence period may be reduced in certain circumstances at the discretion of the Council and limited to a period of 1, 2, 3 or 4 years. This includes, but is not limited to, where the property is in a poor state, previous licence conditions have not been met and where the Council has concerns over the competence of the (proposed) licence holder and or (proposed) managing agent.

The Council will normally only issue a licence for a period of 1 Year for all of the following cases:

The application follows an investigation made by the Council
The application follows a request made by the Council for you to apply
Where a property should in the opinion of the Council have been licensed previously
There is evidence of previous poor management of any HMO
The property in the opinion of the Council needed significant improvements before a licence could be considered
History of formal housing notices in respect of the property and or landlord or managing

agent.

Appendix 4

Further details about the 4 wards where Additional Licensing is proposed including selection process.

Assessment Process undertaken:

Stage	Commentary
1	An assessment of data indicating which Wards have the highest number of HMOs. Those with more than 100 HMOs within a ward are awarded a score of 5 (Table A attached).
2	An assessment of data indicating which Wards have the highest rate of HMOs as percentage of all private rented stock. Those with more than the borough rate are awarded a score of 5. (Table B attached).
3	An assessment of data indicating the rate of Category 1 Hazards within HMOs. Those with more than the borough rate of 17% are awarded a score of 10. The 10 is awarded due to the critical issue that Category 1 hazards can create. (Table C attached).
4	An assessment of data indicating the rate of disrepair within HMOs. Those with the same or more than the borough rate of 14.3% are awarded a score of 5. (Table D attached).
5	<p>The scores of the above are then added and the higher the resultant score the higher the Ward is for priority consideration for Additional Licensing. The results are shown in Table E attached.</p> <p>The 4 Wards with the highest score are:</p> <ul style="list-style-type: none">• St Matthew's• Pleck• Palfrey• Paddock
6	Table F has additional data related to the 4 selected Wards based on Lower Super Output areas (LSOAs).

Table A. Wards ranked by number of HMOs

Ward Name	Number of HMOS	Physically many HMOs (Over 100 per Ward awarded 5 points)
St Matthew's	308	5
Pleck	247	5
Willenhall South	205	5
Palfrey	196	5
Birchills Leamore	131	5
Blakenall	129	5
Bentley and Darlaston North	117	5
Darlaston South	117	5
Paddock	103	5
Bloxwich East	70	0
Brownhills	56	0
Pheasey Park Farm	50	0
Bloxwich West	49	0
Rushall-Shelfield	44	0
Aldridge Central and South	43	0
Short Heath	39	0
Aldridge North and Walsall Wood	39	0
Pelsall	34	0
Streetly	31	0
Willenhall North	22	0
Borough Total	2,030	NA

Table B. Wards ranked by highest percentage of private rented that are HMOs

Ward Name	% of private rented that are HMOs	Score of 5 awarded for a rate higher than the borough rate
Palfrey	17.7	5
Pleck	17.0	5
Blakenall	14.2	5
St Matthew's	13.6	5
Willenhall South	13.4	5
Bentley and Darlaston North	12.9	5
Paddock	12.5	5
Darlaston South	11.8	5
Birchills Leamore	10.2	0
Brownhills	9.5	0
Pheasey Park Farm	9.3	0
Bloxwich East	9.3	0
Short Heath	7.0	0
Rushall-Shelfield	6.8	0
Pelsall	6.5	0
Aldridge North and Walsall Wood	6.5	0
Streetly	6.4	0
Aldridge Central and South	6.4	0
Bloxwich West	6.1	0
Willenhall North	4.1	0
Total	11.3	NA

Table C. Wards ranked by highest percentage of Category 1 Hazards in HMOs

Ward Name	% HMOs with Category 1 Hazards	Score of 10 awarded for rates of hazard in HMO that are higher than the borough.
Aldridge Central and South	25.6	10
St Matthew's	23.4	10
Pelsall	20.6	10
Bloxwich West	20.4	10
Pleck	19.0	10
Palfrey	18.9	10
Paddock	18.4	10
Rushall-Shelfield	18.2	10
Willenhall North	18.2	10
Bloxwich East	17.1	0
Bentley and Darlaston North	17.1	0
Willenhall South	15.6	0
Blakenall	15.5	0
Darlaston South	15.4	0
Pheasey Park Farm	14.0	0
Aldridge North and Walsall Wood	12.8	0
Birchills Leamore	12.2	0
Brownhills	10.7	0
Short Heath	10.3	0
Streetly	3.2	0
Borough Total	17.5	NA

Table D. Wards ranked by highest percentage of Hmos with disrepair.

Ward Name	% of HMOs with disrepair	Score of 5 awarded for Ward with same or higher than borough rate for disrepair in HMOs
Pleck	22.3	5
Palfrey	21.9	5
St Matthew's	21.1	5
Bloxwich East	14.3	5
Paddock	13.6	0
Blakenall	12.4	0
Aldridge Central and South	11.6	0
Willenhall South	11.2	0
Birchills Leamore	10.7	0
Bentley and Darlaston North	10.3	0
Pheasey Park Farm	10.0	0
Willenhall North	9.1	0
Pelsall	8.8	0
Darlaston South	8.5	0
Aldridge North and Walsall Wood	7.7	0
Brownhills	7.1	0
Bloxwich West	6.1	0
Streetly	3.2	0
Short Heath	2.6	0
Rushall-Shelfield	2.3	0
Borough Total	14.3	0

Table E. Wards ranked by priority for consideration of Additional Licensing.

Ward Name	Number of HMOS	Score for 'lots' of HMOS	Score for High % of HMOS	Score for Cat 1 Hazard points	Score for HMO disrepair	Total Score
St Matthew's	308	5	5	10	5	25
Pleck	247	5	5	10	5	25
Palfrey	196	5	5	10	5	25
Paddock	103	5	5	10	0	20
Willenhall South	205	5	5	0	0	10
Blakenall	129	5	5	0	0	10
Bentley and Darlaston North	117	5	5	0	0	10
Darlaston South	117	5	5	0	0	10
Bloxwich West	49	0	0	10	0	10
Rushall-Shelfield	44	0	0	10	0	10
Aldridge Central and South	43	0	0	10	0	10
Pelsall	34	0	0	10	0	10
Willenhall North	22	0	0	10	0	10
Birchills Leamore	131	5	0	0	0	5
Bloxwich East	70	0	0	0	5	5
Brownhills	56	0	0	0	0	0
Pheasey Park Farm	50	0	0	0	0	0
Short Heath	39	0	0	0	0	0
Aldridge North and Walsall Wood	39	0	0	0	0	0
Streetly	31	0	0	0	0	0
Total	2,030					

Table F Lower-layer Super Output Areas in Wards for proposed Additional Licensing

The following table shows the results for Lower-layer Super Output Areas (LSOAs) within the Wards identified for potential Additional Licensing where HMOs are present.

The Indices of Deprivation 2015 and 2019 provide a set of relative measures of deprivation for small areas (Lower-layer Super Output Areas) across England, based on seven domains of deprivation. The domains were combined using the following weights to produce the overall Index of Multiple Deprivation:

- Income Deprivation (22.5%)
- Employment Deprivation (22.5%)
- Education, Skills and Training Deprivation (13.5%)
- Health Deprivation and Disability (13.5%)
- Crime (9.3%)
- Barriers to Housing and Services (9.3%)
- Living Environment Deprivation (9.3%)

Table showing LSOA with HMOs in the 4 proposed Target wards and the Index of Multiple Deprivation (IMD) 2015 and 2019 recorded. Source IMD 2015 and 2019

LSOA code (2011)	Ward Name	Index of Multiple Deprivation (IMD) Rank (where 1 is most deprived) 2015	Index of Multiple Deprivation (IMD) Decile (where 1 is most deprived 10% of LSOAs) 2015	Index of Multiple Deprivation (IMD) Rank (where 1 is most deprived) 2019	Index of Multiple Deprivation (IMD) Decile (where 1 is most deprived 10% of LSOAs) 2019
E01010368	St. Matthew's	728	1	820	1
E01010371	St. Matthew's	370	1	1,053	1
E01010364	Pleck	2,119	1	1,573	1
E01010369	St. Matthew's	2,150	1	1,774	1
E01010269	Pleck	1,463	1	2,024	1
E01010366	Pleck	1,858	1	2,240	1
E01010367	Pleck	3,213	1	2,277	1
E01010342	Palfrey	2,941	1	2,308	1
E01010318	St. Matthew's	2,658	1	2,583	1
E01010365	Pleck	1,969	1	2,652	1
E01010363	Pleck	3,923	2	2,740	1
E01010363	St. Matthew's	3,923	2	2,740	1
E01010340	Palfrey	1,939	1	2,773	1
E01010372	St.	3,706	2	3,042	1

	Matthew's				
E01010370	St. Matthew's	2,885	1	3,062	1
E01010343	Palfrey	3,861	2	3,544	2

LSOA code (2011)	Ward Name	Index of Multiple Deprivation (IMD) Rank (where 1 is most deprived) 2015	Index of Multiple Deprivation (IMD) Decile (where 1 is most deprived 10% of LSOAs) 2015	Index of Multiple Deprivation (IMD) Rank (where 1 is most deprived) 2019	Index of Multiple Deprivation (IMD) Decile (where 1 is most deprived 10% of LSOAs) 2019
E01010335	Palfrey	3,766	2	3,599	2
E01010362	Pleck	4,116	2	3,606	2
E01010268	Pleck	3,760	2	3,740	2
E01010344	Palfrey	4,168	2	3,959	2
E01010270	Pleck	5,774	2	4,534	2
E01010341	Palfrey	4,100	2	5,636	2
E01010338	Palfrey	5,611	2	6,486	2
E01010336	Palfrey	7,969	3	6,566	2
E01010327	Paddock	7,740	3	7,487	3
E01010361	Pleck	12,289	4	9,291	3
E01010330	Paddock	10,721	4	9,727	3
E01010325	St. Matthew's	11,202	4	11,750	4
E01010337	Palfrey	13,152	5	12,426	4
E01010339	Palfrey	16,640	6	15,191	5
E01010326	Paddock	19,335	6	16,719	6
E01010317	St. Matthew's	22,487	7	20,253	7
E01010373	St. Matthew's	23,605	8	21,616	7
E01010333	Paddock	24,522	8	23,670	8
E01010334	Paddock	28,234	9	27,073	9
E01010332	Paddock	27,631	9	27,237	9
E01010331	Paddock	26,826	9	27,961	9
E01010328	Paddock	26,710	9	28,287	9

Appendix 5 Draft Budget projections for Additional Licensing

Estimated Costs of delivery of Additional Licensing and rationale for overall fee structure

Costs	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Housing Standards Officer (Grade G9)	£48,342	£48,342	£48,342	£48,342	£48,342	£241,710
Technical officer (Grade G7)	£38,965	£38,965	£38,965	£38,965	£0.00	£155,860
Overheads (including upgraded software) and legal costs	£26,191	£26,191	£26,191	£26,191	£14,503	£119,271
Overall Total	£113,498	£113,498	£113,498	£113,498	£62,845	£ 516,814

Projected Income	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Early Bird applicants including accredited landlords	£283,635	£ -	£ -	£ -	£ -	£283,635
Accredited landlord (non-early bird)	£ -	£8,414	£8,414	£8,414	£8,414	£33,656
Standard Fee	£15,486	£34,844	£34,844	£34,844	£34,844	£154,862
Fines / enhanced fees	£6,000	£6,000	£7,000	£12,000	£14,000	£45,000
Income Total	£305,121	£49,258	£50,258	£55,258	£57,258	£517,153

Appendix 6 Consultation Plan – Additional Licensing

Background

To support the consultation and to ensure that all consultees, especially landlords, have sufficient information to allow for intelligent consideration and response (something noted during judicial reviews such as in Croydon), significant effort will be made to ensure that a range of supporting information is readily available including;

- a) Copy of this report in its entirety (including all Appendices)
- b) Map of proposed Additional Licensing Area
- c) Conditions to be used for HMOs in addition to the existing mandatory conditions
- d) Fees for the licences
- e) Time period for licences
- f) Answers to frequently asked questions about Additional Licensing.

Material used in the consultation will be developed in close partnership with the council's Corporate Consultation & Customer Feedback Officer. As a result all consultation materials will be designed in line with the Council's Corporate Consultation Strategy, quality assured by The Consultation Institute. Furthermore the research will be conducted in adherence with the Market Research Society Code of Conduct.

All material will be produced in a way to ensure it provided sufficient information to allow informed comment, clearly explaining complex information and signposting to where further information could be found. All materials were professionally designed and printed by the council's award winning Print and Design service.

The team will nominate a dedicated consultation officer to specifically lead on the statutory consultation. This officer will act as the council's main point of contact for those wanting further information or advice for how to respond.

Note: Depending upon the timing of the consultation and the state of Covid-19 'lockdown', additional or adjusted methods of consultation and communication will be considered and where appropriate undertaken.

Key methods of Consultation will include the following.

Council Website:

A news item on the front page of the Council website detailing the consultation and linking to the housing web pages where further information can be found;

- Original Cabinet report
- Proposed licensing conditions (as separate appendices for ease of access)
- Answers to frequently asked questions
- Maps showing the proposed boundary to the Additional Licensing Area
- A link to the online survey for landlords and agents
- Contact details

Direct mailing to residents and to businesses / organisations (including but not limited to landlords and agents):

Direct mailing delivered to all addresses within and surrounding the proposed area for Additional licensing. This included residents who were private tenants. Packs contained a covering letter explaining the consultation, a detailed map, paper questionnaire and pre-paid reply envelope

Direct e-mail sent to landlords and agents:

Emails will be sent to landlords and agents who have attended previous Walsall landlord forums. The email will explained the consultation and provide direct links to the detailed information on the website and a specially designed online questionnaire for landlords / agents; which itself includes direct links to supplementary information to aid understanding and completion.

Walsall Landlord Forum

A council officer will attend a forthcoming forum to advise on a specific Agenda Item – ‘Additional licensing consultation’. Attendees will be asked to forward to the council any additional contact details of individuals / organisations who they think may not have already received information about Additional Licensing.

Public information and consultation sessions

A number of public information and consultation sessions will be held in the area. The informal drop in sessions will give people the opportunity to find out about the draft proposals and how to have their say.

Other

Consultation with internal council services will involve:

- Planning, environmental health, public health, clean and green services.
- Employees via Staff notice boards throughout Walsall Civic Centre (a key place of employment for local people). Communication and promotion via social media and traditional media : Council Facebook pages and Council Twitter account and article in Walsall Express and Star

Posters will be displayed

Posters will be displayed in the following venues throughout the area. The posters will give information about the Additional Licensing proposal, how people can get involved and include the web address and times of drop in sessions:

- Doctors surgeries / Health centres
- Schools
- Libraries
- Supermarkets
- Social clubs

Landlord Associations

The following major national private landlord organisations will be emailed with details about the proposal and asked to publicize it to their members through their networks;

- The National Residential Landlord Association (NRLA)
- UK Association of Letting Agents

Key social sector landlords

Social sector landlords with stock in the borough including Whg and Accord will be consulted on the proposals via the Walsall Housing Partnership.

Neighbouring Councils

The following neighbouring Councils will be consulted by email on the scheme: Wolverhampton, Sandwell, Dudley and Lichfield District Council.