

Cabinet – 20 October 2021

Additional Licensing Scheme for Houses in Multiple Occupation (HMOs) - Statutory Consultation Results

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 Additional Licensing requires landlords of private rented Houses in Multiple Occupation (HMOs) that are occupied by 3 or 4 unrelated people, to apply to the Council for a Licence. Those HMOs occupied by 5 or more unrelated people are already subject to Mandatory licensing. HMO licensing (Additional or Mandatory) puts conditions that HMO landlords must meet in order to let the property out. These conditions are aimed at improving the condition and management of the HMOs. They range from topics such as minimum bedroom sizes to the provision of safety certificates and councils can also set other conditions that they consider appropriate for their specific scheme. Additional Licensing schemes last for up to 5 years from introduction and can cover part or a whole of a borough (if there is justification).

2.2 In December 2020 cabinet approved that statutory consultation should be undertaken on the proposal to introduce Additional Licensing of HMOs in 4 wards in the borough. This consultation was undertaken between 22 February 2021 and 6 June 2021 and the majority of responses were from residents. This report provides a summary and analysis of the consultation results and a recommendation to designate the areas shown on Map 1 Appendix 1 for Additional Licensing starting later in 2021.

3. Recommendations

3.1 That Cabinet notes and considers the matters raised by the consultees / petitioners and the responses to the same (Appendix 6).

3.2 That Cabinet approve the following: -

- i. Designate the Wards of Paddock, Palfrey, Pleck and St Matthew's areas shown on Map 1 (Appendix 1) as subject to Additional Licensing under Section 56(1)(a) of the Housing Act 2004 for all private rented Houses in Multiple Occupation (HMOs):

- that contain three or four occupiers irrespective of the number of storeys;
- defined under Section 257 of that Act where the freehold of the whole property belong to the same 'person' and they are mainly or wholly tenanted, including those with resident landlords;
- ii. That the designations in paragraphs i. above come into force on the 1 September 2022 for a period of 5 years;
- iii. Authorise the Executive Director Children's Services to sign the Walsall Council Designation of an Area for Additional Licensing of Houses in Multiple Occupation 2021 as attached at Appendix 2
- iv. Resolve to adopt the proposed fees and charges structure as attached at Appendix 4 and review those fees annually to ensure they remain reasonable and proportionate and address any issues relating to surpluses or deficits in accordance with case law.

4.1 Report detail - know

Context

- 4.1.1 Before making a designation for Additional Licensing under Part 2 of the Housing Act 2004, the Council must take all reasonable steps to consult persons who are likely to be affected by the designation, and consider any representations made in accordance with the consultation.
- 4.1.2 Cabinet in December 2020 agreed, in accordance with its powers under section 56 of the Housing Act 2004, to undertake statutory consultation for Additional Licensing of HMOs for the Wards of Paddock, Palfrey, Pleck and St Matthew's areas shown on Map 1 (Appendix 1).
- 4.1.3 The statutory consultation period is a minimum period of 10 weeks. The consultation for this proposal has been for an extended 15-week period.

Results of the Statutory Consultation

- 4.1.4 The consultation was well-publicised and had a strong response from a broad range of interested parties, including landlords, landlord associations, tenants, and residents. As an example, 32,000 leaflets were delivered to homes, and businesses both within the area and adjacent to the area.
- 4.1.5 An online survey questionnaire was the key method of consultation. Additionally, people were given the opportunity to write in with their views. 223 questionnaires were completed, many with detailed comments and there were also 40 written submissions made. A total of 263 responses were received
- 4.1.6 Due to the Covid 19 pandemic additional / substituted methods of promotion of the consultation were also used in addition to extending the consultation period to 15 weeks in total (i.e. above the statutory minimum of 10 weeks). The consultation included the following among other methods (not exhaustive)
- A dedicated webpage with all relevant information
 - Online questionnaire to enable landlords, tenants, residents, businesses and relevant partner organisations to provide feedback or comments
 - Significant social media promotion on a variety of platforms
 - Power-point presentation available on web-site
 - Over 32,000 direct mailing to all properties and businesses located within and immediately surrounding the proposed scheme area
 - Direct mailing to all landlords on our mailing list
 - Email to all partner organisations like the Police, Fire Services,

Immigration, Social landlords, etc.

- Letters to Chief Executive Officers of all neighbouring local authorities
- Email to local and national landlord and tenant representative organisations
- Email to housing standard teams of all neighbouring local authorities
- Posters put up in key locations and within some public and business premises within the proposed scheme area
- Online question and answer session with councillors from the proposed scheme ward areas

Key Findings

Overall

- 4.1.7 Overall, support for the Additional Licensing scheme is very strong. For the questionnaire which was completed by the vast majority of all respondents 73% of respondents fully support the proposals for Additional Licensing with a further 10% who partially support it. 10% of the respondents reported opposition to the scheme because they considered that the scheme would actually increase the number of HMOs in the area (which they were opposed to) or they object to HMOs per se. It was deduced from telephone enquiries that some residents wrongly assumed that the name 'additional licensing' implied the council consulting on a proposal to grant more HMO licences. The same issue came through on written responses, for example of 20 residents who opposed the scheme 18 did so on the basis that they opposed HMOs and considered that the scheme would promote an increase in the same.
- 4.1.8 The full consultation report and results is attached at Appendix 5 this also includes the Council's consideration of responses to the consultation and any changes to the proposal.
- 4.1.9 Opposition to the scheme that did not include the reasons indicated in 4.1.7 was limited to 4% of the questionnaire respondents. Detailed opposition was submitted by the National Residential Landlords Association (NRLA) and the Walsall Landlords Steering Group and their observations are covered in Appendix 5.4.
- 4.1.10 All representations made in accordance with the consultation were considered and as a result, the proposed scheme is recommended to be approved as originally proposed with the amendments detailed below in 4.1.15 and 4.1.18 was amended to:

b) Fees

- 4.1.11 The Council has considered the learning outcomes from other Local Authorities that have introduced similar schemes and has structured the scheme in such a way that benefits those landlords and agents that are compliant and provides incentives to improve compliance, whilst managing the opportunities for the non-compliant landlords through higher fees and shorter licences. This is reflected in the fees and charges structure and the eligibility for licences.
- 4.1.12 The consultation asked respondents to comment on the proposed HMO licence fees, which have been structured to recover full costs of the scheme (in line with legislation and council policy). The responses to the questions related to fees highlighted the following.
- The majority (54%) stated that those fees proposed were not enough. 76% of the respondents who stated this suggested an average fee level. These ranged from £990 to £9,999. The average fee (arithmetic mean) was £2,862.

- A small number of respondents (5%) consider the fees to be too high but do not provide a suggested fee level.
- 57% support the proposal to offer an early bird discount with 12% being undecided.
- 48% support the proposal for all landlord /agents who are accredited to only pay a reduced fee with 16% being undecided.

4.1.13 The high number of respondents who consider the fees to not be sufficient is a key issue as it is also linked in the main to the many respondents considering that the proposed staffing levels to administer the Additional Licensing scheme were too low and would not lead to the achievement of the benefits and improvements being sought.

4.1.14 This matter has been reviewed in detail and it is proposed that the staffing complement is increased to include an additional Housing Standards Officer to assist with property inspections and HMO related enforcement. The additional annual cost of this is estimated at £48,342. It is expected that this additional member of staff will increase to an extent the level of fines received via enforcement for the council to a total of £56,500 for the scheme duration.

4.1.15 Based on the above and particularly the feedback from the statutory consultation it is proposed to amend the proposal by increasing the staffing complement and fees as indicated in 4.1.14 above and Appendix 4. The table below summaries the new proposed fees and as detailed provides a discount for early bird applicants and for those who are accredited.

Landlord type	Early bird	Non-early (i.e. standard fee)
Accredited	£730	£835
Non-accredited	£890	£1,045

The increase in fees is considered:

- Proportionate as it has been split using the same ratios as the original proposal and continues in line with council policy and legislation to seek to recover full costs of the scheme and;
- Reasonable as it equates to an average fee of £885 and rates of below:
 - $\text{£885} / 5 \text{ (years)} / 3 \text{ tenants} / 52 \text{ weeks} = \text{£1.13 per week}$
 - $\text{£885} / 5 \text{ (years)} / 4 \text{ tenants} / 52 \text{ weeks} = \text{£0.85 per week}$

For those landlords who to take advantage of the early bird discount and are accredited the fees equate to:

- $\text{£730} / 5 \text{ (years)} / 3 \text{ tenants} / 52 \text{ weeks} = \text{£0.94 per week}$
- $\text{£730} / 5 \text{ (years)} / 4 \text{ tenants} / 52 \text{ weeks} = \text{£0.70 per week}$

4.1.16 The NLRA highlighted in consultation two key matters relating to fees:

- That the proposal for a fee for variations in HMO licences was potentially unlawful and open to legal challenge. Officers have reviewed this matter in more detail (*Oxford City Council v Crompton*) and it is recommended to remove any fees for HMO licence variations (both for additional licensing and for mandatory licensing);
- That the council should only require payment of the second stage of the HMO licence fee once the License is issued. Officers have reviewed this matter in more detail (Administrative Court in *Gaskin, R (On the Application Of) v Richmond Upon Thames London Borough Council & Anor* [2018] EWHC 1996) and it is recommended that the second stage fee will only be sought at the stage when the council is satisfied a Licence is to be issued. Where an applicant chooses to pay all fees 'upfront' a refund of the second stage will be made if their licence is not issued.

c) Proposed Licence Conditions

4.1.17 70% of respondents to the questionnaire agreed that the proposed Additional licence conditions are reasonable, and that they will help improve the standard of private rented housing. This is considered a significant level of support as only 19% did not agree and 11% did not know whether they would or not.

4.1.18 Following further consideration it is proposed that:

- a) on a technical basis relating specifically to what are known as s257 HMOs to only include those s257 HMOs where the freeholder is in control of the whole property (a building or part of a building converted into self-contained flats where the conversion was not made to the required Building Regulations);
- b) that relating to electrical inspections of HMOs that all remedial works equivalent to what are referred to under the relevant regulations as C1, C2 or FI must be completed as specified and an updated written confirmation obtained upon completion of such works. Landlords and managing agents will be recommended as best practice to also undertake works to remedy C3
- c) the original proposed local condition about landlords needing to provide 'prior notice' to tenants before entering an HMO is to be removed as the statutory HMO regulations already cover this matter.

4.1.19 As indicated in Appendix 5.4 there were no specific suggestions from those opposed to the conditions to their re-wording or for any specific conditions to be removed.

4.1.20 In line with legislation the time period for the scheme is proposed as follows:

Date		
22 October 2021	Cabinet agreement	Authority provided and timetable set
8 November 2021	Public Notice issued with Declaration date of 1 September 2022	Legal requirement to issue notice for public.
Minimum of 3 months required between Public Notice and Scheme Designation		
1 March 2022	Scheme opens for applications to be made.	Period of 6 months provided for landlords to make applications
1 September 2022	Scheme Designated	Legal action can commence on landlords who have failed to make application(s) for a licence.

It has been agreed to enable landlords to secure lower fees through an early bird scheme with the lowest fees available for March 2022, next lowest from April to end of August 2022.

4.2 Council Corporate Plan priorities

4.2.1 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 sector to help with accommodation for homeless households.

- 4.2.2 Home Energy Conservation Act (HECA) Action Plan which seeks to address fuel poverty especially in the private rented sector within Walsall. 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 As highlighted to cabinet in December 2020 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 The recommendations have the potential to be challenged but the risk of these being overturned is considered minimal.

- 4.3.3 The consultation was designed to ensure compliance with legislation and the statutory guidance, thereby minimising the risk of legal challenge and the structure of fees, charges and discounts have been ratified through this process.

- 4.3.4 The consultation provides detailed and overwhelming support for the introduction of Additional Licensing including from the questionnaire:

- 60% of all those living in the proposal area said they have had problems with HMOs in the last 5 years;
- 73% of all respondents consider that the landlords and letting agents of HMOs in the proposal area are managing their HMOs either not at all responsibly or in 'a not very reasonable' manner.
- 94% of all respondents and 98% of those who live in the proposal area consider the council should have more control over the management of HMOs by landlords / letting agents in the proposal area
- 73% fully support the proposals for Additional Licensing with a further 10% who partially support it. It is also notable that 10% of the respondents opposing it did so on basis that they consider that the proposal will increase the actual number of HMOs and they are against HMOs per se or think that the fees are too low to enable it to be appropriately enforced.

Resourcing

- 4.3.5 Resourcing is to be funded directly from the income generated by the scheme including both fees and fines (civil penalty payments by those who fail to comply).

4.4 Financial implications

- 4.4.1 Section 63 of the Housing Act 2004 permits the Council to require any application for a licence under Part 2 (including Additional Licensing) to be accompanied by a licence fee and that this fee may properly cover all costs incurred by the Council in carrying out its functions.
- 4.4.2 The financial modelling of the scheme estimates income and expenditure cash flows as below and is modelled to break even over its 5-year life. The fee charges structure used in the consultation was based on 'rates for' 2021/22. The consultation documents also highlighted that fees would normally increase by circa 2% each financial year, to keep pace with cost increases.
- 4.4.3 As indicated in 4.1.15 and further to the statutory consultation it is proposed to increase the staffing levels for the scheme. This additional cost is to be met directly from an increase in individual application fees and from additional income from fine payments generated by the officer. Appendix 4 contains the current proposed fees for 2021/22.
- 4.4.4 The table below shows the overall expected budget (expenditure and income) for the scheme.

	Full Year of operation					Total £M
	1 £M	2 £M	3 £M	4 £M	5 £M	
Expenditure	0.162	0.162	0.162	0.162	0.162	0.810
Income	(0.563)	(0.203)	(0.014)	(0.015)	(0.015)	(0.810)
Net Total	(0.401)	(0.041)	0.148	0.147	0.147	0.000

4.5 Legal implications

Overall

- 4.5.1 For the Council to designate an Additional Licensing Scheme it must proceed through the statutory process as laid out in Section 56 and 57 and the guidance issued under the Housing Act 2004: Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2010.
- 4.5.2 Consultation has been undertaken which exceeds the level required under the statutory requirements.
- 4.5.4 The timescale for implementing this decision is for the designation to commence on 1 September 2022. This requirement is to provide the Council with sufficient time to conclude the reporting process and to comply with Section 58 of the Housing Act 2004, which states that a designation cannot come into force until 3 months after the date when the designation was made.

Review and subsequent additional licensing schemes

- 4.5.4 Individual Additional Licensing Schemes must last no longer than 5 years. During this time councils are able to review them and if they consider it necessary they can seek to re-introduce them through the same statutory process (i.e. assessment, statutory consultation and formal resolution).
- 4.5.5 The current proposal does not prevent the council from undertaking further consultation on separate additional schemes elsewhere in the borough in the

future. A number of councils have seen the successes in designation in one area and then moved to further designations once a scheme is established.

- 4.5.6 The feedback from the statutory consultation supports the consideration of another part of the borough to be considered for Additional Licensing. It is proposed to report to cabinet on this in 2022 when the current scheme has been statutorily introduced and following further review of available data.

4.6 Procurement Implications/Social Value

- 4.6.1 There are no procurement implications.

4.7 Property implications

- 4.7.1 There are no direct property implications for the council as public bodies are exempt from Additional Licensing.

4.8 Health and wellbeing implications

- 4.8.1 As highlighted to Cabinet in December 2020 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). There are also poor management practices relating to HMOs which impact negatively on the health of the immediate and neighbouring occupants of these properties. These cannot be addressed through the use of existing statutory powers.

- 4.8.2 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.

- 4.8.3 Poorly managed HMOs can lead to fly-tipping / waste accumulations either by the landlord and 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. Walsall Waste and Street cleansing highlight that the proposal will massively help them particularly around issuing of correct capacity for waste collection for HMO properties and help to lower contamination of recycling.

- 4.8.4 The consultation results showed a range of public health issues being as key concerns for residents. A total of 59% of respondents to the questionnaire highlighted that in the last 5 years they had experienced problems with an HMO in the area they either live, work or operate a business from. This increases to 60% for those who live in the proposal additional licensing scheme area.

- 4.8.5 Respondents to the questionnaire separately identified the issues in the table below as problems in the proposed additional licensing area.

Public Health Issue	Very big problem	Fairly big problem	Total (consider at least a fairly big problem)
Pests and vermin e.g. rats, mice etc.	35%	25%	60%

Rubbish or litter lying around	63%	25%	88%
Fly tipping	51%	26%	77%
Noisy neighbours or loud parties	26%	32%	58%

4.9 Staffing implications

4.9.1 The proposal includes for additional staff to be funded by scheme income (fees and fines). Recruitment to the new roles is to take place in time for the launch of the Scheme.

4.10 Reducing Inequalities

4.10.1 The implications for reducing inequalities have been taken into account and assessed as set out in the updated Equality Impact Assessment (EQIA) July 2021.

4.10.2 The results for those completing the online questionnaire (who also completed the equality section) showed the details below:

Gender					
Male	41%	Female	52%	Prefer not to say	7%
Age					
16 to 24	5%	25 to 44	28%	45 to 64	47%
65 and over	16%			Prefer not to say	5%
Physical or mental health conditions or illnesses lasting or expected to last 12 months or more					
Yes	14%	No	77%	Prefer not to say	9%

Condition or illness / conditions or illnesses that reduce ability to carry out day-to-day activities					
Yes a little	11%	Yes a lot	21%	Not at all	60%
				Prefer not to say	8%
Ethnic Group or background					
White	64%	Mixed / multiple ethnic groups	3%	Asian or Asian British	14%
Black / African / Caribbean / Black British	2%	Other ethnic group	1%	Prefer not to say	15%

4.10.3 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 and or vulnerable households living in non-decent homes. The Scheme area includes Low super output areas (LSOAs) with some of the highest multiple deprivation in England and will help to contribute towards reducing fuel poverty in the area which has some of the highest rates within the borough (and whole of England).

4.11 Climate Change

4.11.1 The proposal is expected to have a positive impact upon climate change including:

- tackling private rented HMOs that fail to meet the Minimum Energy Efficiency Standards – seeking to ensure compliance;
- promoting home energy and insulation grants to private landlords;
- improved management of HMOs is expected to lead to greater compliance with domestic waste arrangements and reduce litter and fly-tipping.

The actions in a. and b. above are expected to help increase energy efficiency and reduce domestic related carbon emissions

4.12 Consultation

4.12.1 Statutory consultation has been undertaken on the proposal and the Report of Findings and the Council's responses to observations that have been made are shown in Appendix 5.

4.12.2 The level of response is considered to be high, for example, 265 respondents to the consultation.

5. Decide

5.1 December 2020 Cabinet decided to undertake statutory consultation on the Additional Licensing proposal. An alternative to introducing the Additional Licensing scheme is to 'do nothing' different. This option is not seen as viable as:

- The results of the consultation are overwhelmingly supportive of the same proposal.
- 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 by the landlords prior to securing a licence.
- Doing nothing different means that the council will fail to protect an increasing number of low income and or vulnerable households who are accommodated in increasing numbers of non-licensed HMOs.

5.2 For the reasons listed in this report it is proposed to proceed with the proposal for Additional Licensing.

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. It directly responds to the statutory consultation undertaken on Additional Licensing.

7. Review

7.1 A detailed review of the statutory consultation responses has been undertaken and in summary this provides overwhelming support for the proposal.

7.2 As indicated in 4.5.4 the council is able to review Additional Licensing during the lifetime (5 years) of its operation and if it considers it necessary the council can seek to re-introduce it through the same statutory process (i.e. assessment, statutory consultation and formal resolution).

7.3 The NRLA, whilst objecting to the proposed scheme, suggest that the council should it be minded to adopt Additional Licensing, consider producing an annual summary of outcomes so that all parties can see what progress has been made. The suggestion by the NRLA is supported as it is considered best practice to ensure that outcomes of the scheme are publicised. It is proposed that such reports are available on-line for all parties to review.

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 (HECA) Action Plan – June 2021

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Signed

Sally Rowe

Executive Director

Childrens & Customer

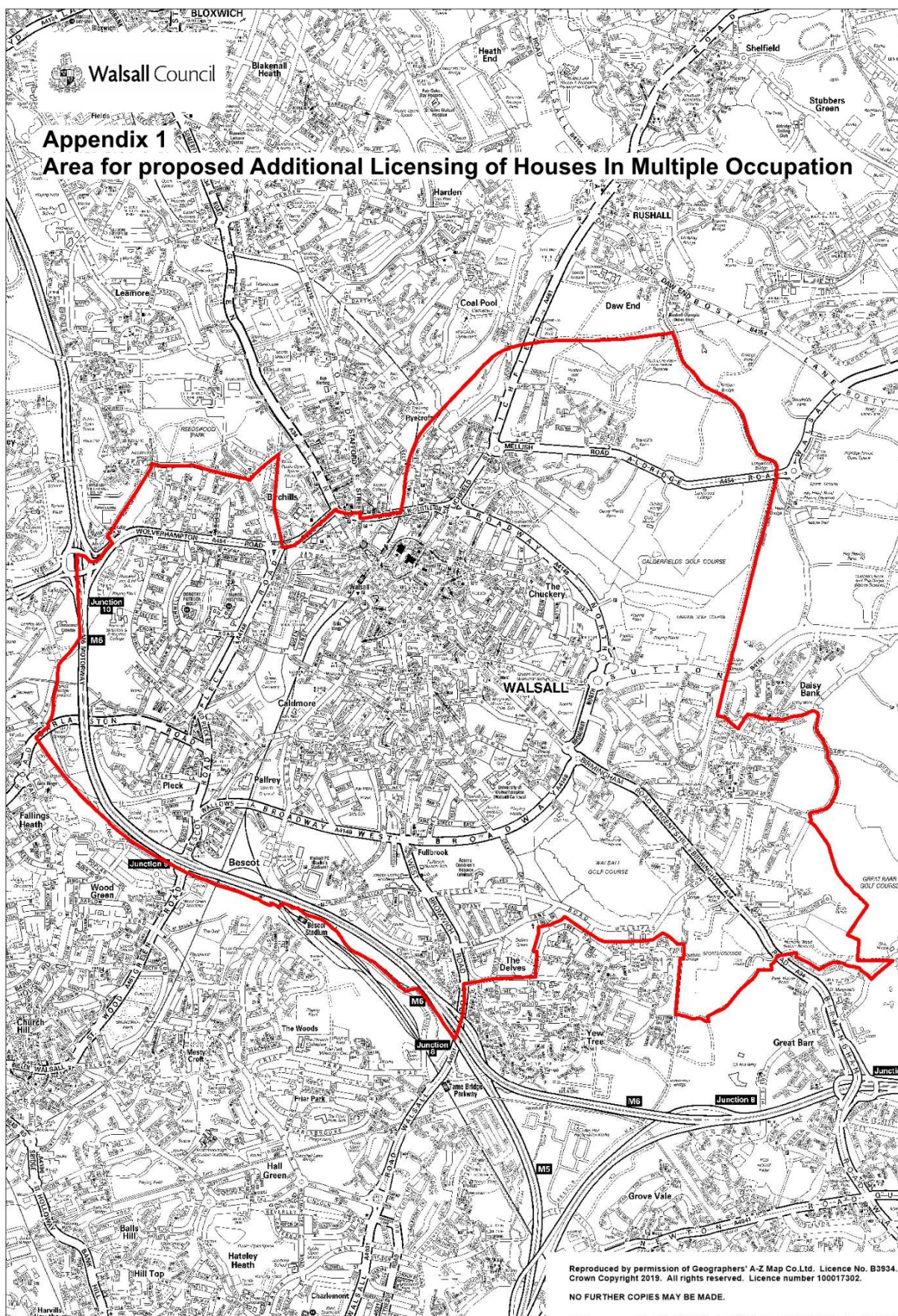
12.10.2021

Signed

Councillor A. Andrew

Portfolio Holder Regeneration

12.10.2021



Appendix 2

THE WALSALL METROPOLITAN BOROUGH COUNCIL DESIGNATION OF FOUR COUNCIL WARDS FOR ADDITIONAL LICENSING OF HOUSES IN MULTIPLE OCCUPATION 2022

Walsall Metropolitan Borough Council (“the Council”) in exercise of its powers under section 56 of the Housing Act 2004 (“the Act”) hereby designates for additional licensing of Houses in Multiple Occupation (“HMOs”) the area described in paragraph 4.

CITATION COMMENCEMENT AND DURATION

1. This designation may be cited as the “Walsall Metropolitan Borough Council Designation of an Area for Additional Licensing of Houses in Multiple Occupation 2022”
2. This designation is made on 22 October 2021 and shall come into force on 1 September 2022. The designation falls within the description of designations for which the Secretary of State has issued a General Approval dated 26 March 2015.
3. This designation shall cease to have effect on 28 August 2027 or earlier if the Council revokes the scheme under section 60 of the Act.

AREA TO WHICH THE DESIGNATION APPLIES

4. This designation shall apply to the wards of Paddock, Palfrey, Pleck and St Matthew’s as delineated and edged red on the map at Appendix 1 (“the Area”).

APPLICATION OF THE DESIGNATION

5. This designation applies to HMOs of the description specified in Appendix A within the Area unless –
 - a. The HMO is subject to an Interim or Final Management Order under Part 4 of the Act;
 - b. The HMO is subject to a temporary exemption under section 62 of the Act;
 - c. The HMO is required to be licensed under section 55 (2)(a) of the Act (Mandatory licensing)
 - d. The HMO is specifically excluded from the scheme as detailed in Appendix B.

EFFECT OF THE DESIGNATION

6. Subject to paragraph 5 above every HMO of the description specified in that paragraph in the Area shall be required to be licensed under section 61 of the Act.
7. The Council will comply with the notification requirements contained in Section 59 of the Act and shall maintain a register of all houses registered under this designation as required by section 232 of the Act.

8. Landlords, persons managing or a tenant within the Area should seek advice from the Council by contacting them as specified in paragraph 14 to ascertain whether their property is affected by this designation.

CONSEQUENCES OF FAILING TO LICENCE A HMO

9. A person who fails to licence a property which requires licensing by virtue of this designation or allows a licensed property to be occupied by more households or persons other than as authorised by a licence, is liable to prosecution and upon summary conviction is liable to an unlimited fine by virtue of Section 72 of the Act. The Council may, as an alternative to prosecution, impose a financial penalty of up to £30,000.00 by virtue of section 249A of the Act.
10. A person who breaches a condition of a licence is liable upon summary conviction to a level Walsall Metropolitan Borough Council fine (section 72 of the Act). The Council may as an alternative to prosecution impose a financial penalty of up to £30,000 (section 249A of the Act).
11. The tenant(s) and/or the Council may apply to the First-Tier Tribunal (Residential Tribunal) under the provisions of section 41 of the Housing and Planning Act 2016 for a rent repayment order.
12. No section 21 notice pursuant to the Housing Act 1988 (recovery of possession on termination of shorthold tenancy) may be given in relation to a shorthold tenancy of a part of an unlicensed HMO so long as it remains unlicensed.

INSPECTION OF THE DESIGNATION

13. The Council is the Local Housing Authority which made the designation. Subject to paragraph 15, the designation may be inspected online at: <https://go.walsall.gov.uk/housing/additional-licensing>.
14. The Council will ensure copies of the designation are available for members of the public to view by emailing digital copies of the designation upon receipt of a request to the Housing Standards & Improvement team (HMOs@Walsall.gov.uk).
15. Information, advice and applications relating to HMO licensing, including Additional licensing, should be made to the Council's Housing Standards & Improvement Team as follows:

Post: Housing Standards & Improvement Team, 1st Floor, Walsall Metropolitan Borough Council, The Civic Centre, Darwall Street, WS1 1TP,
Telephone: 01922 652171
Email: HMOs@Walsall.gov.uk
Webpage: <https://go.walsall.gov.uk/housing/additional-licensing>

Signed: Sally Rowe, Executive Director, Children Services

Appendix A – HMOs subject to the Designation

For the purpose of this designation and subject to paragraphs 6 to 10 below a building or part of a building is a HMO if it falls into any of the categories detailed in paragraphs 1 – 5 below.

1. A building or a part of a building is a HMO if:-
 - a. It consists of one or more units of living accommodation not consisting of a self-contained flat or flats; and
 - b. The living accommodation is occupied by persons who do not form a single household (see paragraph 6 and section 258 Housing Act 2004); and
 - c. The living accommodation is occupied by those persons as their only or main residence or they are to be treated as so occupying it; and
 - d. Their occupation of the living accommodation constitutes the only use of that accommodation; and
 - e. Rents are payable or other consideration is to be provided in respect of at least one of those person's occupation of the living accommodation; and
 - f. Two or more of the households who occupy the living accommodation share one or more basic amenities or the living accommodation is lacking in one or more basic amenities.
2. A self-contained flat is a HMO if paragraphs 1(b) to 1(f) apply.
3. A converted building or a part of a converted building is an HMO if:-
 - a. It is a converted building; and
 - b. It contains one or more units of living accommodation that do not consist of a self-contained flat or flats (whether or not it also contains any such flat or flats); and
 - c. The living accommodation is occupied by persons who do not form a single household; and
 - d. The living accommodation is occupied by those persons as their only or main residence or they are to be treated as so occupying it; and
 - e. Their occupation of the living accommodation constitutes the only use of that accommodation; and
 - f. Rents are payable or other consideration is to be provided in respect of at least one of those person's occupation of the living accommodation.
4. It is a converted block of flats to which section 257 of the Act applies (further detail is contained within said section of the Act) where the Freehold of the building belongs to the same person.
5. A HMO declaration is in force in respect of the building under section 255 of the Act
6. Persons are to be regarded as not forming a single household unless:-
 - a. They are all members of the same family, or
 - b. Their circumstances are circumstances of a description specified for the purposes of this section in regulations made by the appropriate national authority.

7. A person is a member of the same family as another person if:-
- a. Those persons are married to each other or live together as husband and wife (or in an equivalent relationship in the case of persons of the same sex);
 - b. One of them is a relative of the other; or
 - c. One of them is, or is a relative of, one member of a couple and the other is a relative of the other member of the couple.
8. For those purposes:-
- a. A “couple” means two persons who are married to each other or otherwise fall within 7a;
 - b. “relative” means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin;
 - c. A relationship of the half-blood shall be treated as a relationship of whole blood; and
 - d. The stepchild of a person shall be treated as his child.
9. A person is still to be treated as occupying a building or part of a building as their only or main residence even where it is occupied by the person:-
- a. As the person’s residence for the purpose of undertaking a full-time course of further or higher education;
 - b. As a refuge; or
 - c. For occupation by a migrant or seasonal workers (where the occupation is provided by their employer or agent); or
 - d. For occupation by asylum seekers and their dependents when such accommodation is provided under section 95 of the Immigration and Asylum Act 1999 and provided on behalf of the UK Board Agency.
 - e. In any other circumstances which are circumstances of a description specified for the purposes of this section in regulations made by the appropriate national authority.
10. “Refuge” means a building or part of a building managed by a voluntary organisation and under wholly or mainly for the temporary accommodation of person who have left their homes as a result of:-
- a. Physical violence or mental abuse, or
 - b. Threats of such violence of abuse, from persons to whom they are or were married or with whom they are or were co-habiting.

Appendix B:

Buildings that are not HMOs for the purpose of the Act (other than HMOs under Part 1 of the Act) in accordance with Schedule 14 of the Act

Introduction: buildings (or parts) which are not HMOs for purposes of this Act (excluding Part 1)

- 1 (1) The following paragraphs list buildings which are not houses in multiple occupation for any purposes of this Act other than those of Part 1.
- (2) In this Schedule “building” includes a part of a building.

Buildings controlled or managed by public sector bodies etc.

- 2 (1) A building where the person managing or having control of it is —
 - a local housing authority,
 - (aa) a non-profit registered provider of social housing,
 - a body which is registered as a social landlord under Part 1 of the Housing Act 1996 (c. 52),
 - a police and crime commissioner,
 - the Mayor's Office for Policing and Crime,
 - a fire and rescue authority, or
 - a health service body within the meaning of section 9 of the National Health Service Act 2006.
 - (2) In sub-paragraph (1)(e) “ fire and rescue authority ” means a fire and rescue authority under the Fire and Rescue Services Act 2004 (c. 21).
- 2A. A building—
- (a) which is social housing within the meaning of Part 2 of the Housing and Regeneration Act 2008, and
 - (b) where the person managing or having control of it is a profit-making registered provider of social housing.

Buildings controlled or managed by a co-operative society

- 2B (1) A building where—
- (a) the person managing or having control of it is a co-operative society whose rules are such as to secure that each of the conditions set out in sub- paragraph (2) is met, and
 - (b) no person who occupies premises in the building does so by virtue of an assured tenancy, a secure tenancy or a protected tenancy.
- (2) The conditions are—
- (a) that membership of the society is restricted to persons who are occupiers or prospective occupiers of buildings managed or controlled by the society,
 - (b) that all management decisions of the society are made by the members (or a specified quorum of members) at a general meeting which all members are entitled to, and invited to, attend,
 - (c) that each member has equal voting rights at such a meeting, and
 - (d) that, if a person occupies premises in the building and is not a member, that person is an occupier of the premises only as a result of sharing

occupation of them with a member at the member's invitation.

- (3) For the purposes of sub-paragraph (1) “co-operative society” means a body that—
- (a) is registered as a co-operative society under the 2014 Act or is a pre-commencement society (within the meaning of that Act) that meets the condition in section 2(2)(a)(i) of that Act,]and
 - (b) is neither—
 - (i) a non-profit registered provider of social housing, nor
 - (ii) registered as a social landlord under Part 1 of the Housing Act 1996.
- (4) In this paragraph—
- “the 2014 Act” means the Co-operative and Community Benefit Societies Act 2014;
- “assured tenancy” has the same meaning as in Part 1 of the Housing Act 1988;
- “protected tenancy” has the same meaning as in the Rent Act 1977; “secure tenancy” has the same meaning as in Part 4 of the Housing Act 1985.

Buildings regulated otherwise than under this Act

- 3 Any building whose occupation is regulated otherwise than by or under this Act and which is of a description specified for the purposes of this paragraph in regulations made by the appropriate national authority.

Buildings occupied by students

- 4 (1) Any building—
- (a) which is occupied solely or principally by persons who occupy it for the purpose of undertaking a full-time course of further or higher education at a specified educational establishment or at an educational establishment of a specified description, and
 - (b) where the person managing or having control of it is the educational establishment in question or a specified person or a person of a specified description.
- (2) In sub-paragraph (1) “specified” means specified for the purposes of this paragraph in regulations made by the appropriate national authority.
- (3) Sub-paragraph (4) applies in connection with any decision by the appropriate national authority as to whether to make, or revoke, any regulations specifying—
- (a) a particular educational establishment, or
 - (b) a particular description of educational establishments.
- (4) The appropriate national authority may have regard to the extent to which, in its opinion—
- (a) the management by or on behalf of the establishment in question of any building or buildings occupied for connected educational purposes is in conformity with any code of practice for the time being approved under section 233 which appears to the authority to be relevant, or
 - (b) the management of such buildings by or on behalf of establishments of the description in question is in general in conformity with any such code of practice, as the case may be.

- (5) In sub-paragraph (4) “ occupied for connected educational purposes ”, in relation to a building managed by or on behalf of an educational establishment, means occupied solely or principally by persons who occupy it for the purpose of undertaking a full- time course of further or higher education at the establishment.

Buildings occupied by religious communities

- 5 (1) Any building which is occupied principally for the purposes of a religious community whose principal occupation is prayer, contemplation, education or the relief of suffering.
- (2) This paragraph does not apply in the case of a converted block of flats to which section 257 applies.

Buildings occupied by owners

- 6 (1) Any building which is occupied only by persons within the following paragraphs—
- (a) one or more persons who have, whether in the whole or any part of it, either the freehold estate or a leasehold interest granted for a term of more than 21 years;
 - (b) any member of the household of such a person or persons;
 - (c) no more than such number of other persons as is specified for the purposes of this paragraph in regulations made by the appropriate national authority.
- (2) This paragraph does not apply in the case of a converted block of flats to which section 257 applies, except for the purpose of determining the status of any flat in the block.

Buildings occupied by two persons

- 7 Any building which is occupied only by two persons who form two households.

--- End of Appendix B ---

Appendix 3

Conditions for Walsall Additional Licensing

Explanatory 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. These conditions are shown below in Section A and they are numbered 1 to 12 inclusive

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

- a) Those that are locally agreed by a council – these conditions are numbered 9 to 36 inclusive;
- b) Those that the council applies to a specific HMO licence under the Additional Licensing scheme. These 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 (i.e. 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.

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 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><tr><td>Number of People</td><td>Age in Years</td><td>Minimum Bedroom Floor Area</td></tr><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></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.									
<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 written confirmation obtained upon completion of such works.									
<u>11</u> <u>Electrical Installation 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 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 Detection & Warning System 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 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 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 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 must be 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 Inspections</u>	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.
<u>19</u> <u>Fit and Proper 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> <u>Tackling Anti-Social Behaviour</u>	<p>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 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> <ol style="list-style-type: none"> Ensure that written notes are kept of any meetings or telephone conversations or investigations regarding anti-social behaviour. 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. Take all necessary steps to establish if it is continuing.

<p><u>20</u> <u>Tackling Anti-Social Behaviour continued</u></p>	<p>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.</p> <p>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.</p> <p>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).</p> <p>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</p> <p>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> <p>i) 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</u> <u>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> <u>Preventing and Tackling Overcrowding</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 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</u> <u>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. <p>Smoking is not permitted in any common area.</p>

<u>24</u> <u>Maintenance</u> <u>of External</u> <u>Areas</u>	<p>The licence holder must ensure that: 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. Fencing and other external elements where present, are properly maintained, kept in a clean, clear and/or sound condition.</p>		
<u>25</u> <u>Bin</u> <u>Provision</u> <u>for Waste</u> <u>Collection</u> <u>and</u> <u>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>		
	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
<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.			
<u>26</u> <u>Information</u> <u>Provision</u> <u>for</u> <u>Waste</u> <u>Collection</u> <u>and</u> <u>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;		
<u>27</u> <u>Provision</u> <u>of</u> <u>Amenities</u> <u>for</u> <u>Cooking,</u> <u>Food</u> <u>Storage</u> <u>and Space</u> <u>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>		
<u>28</u> <u>Rent and</u> <u>other</u> <u>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. 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>		
<u>29</u> <u>Tenancy</u> <u>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. In addition to giving the prescribed information to the tenants, you, or your manager, must keep a record of having given this information, such that you have clear evidence</p>		

	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.
<u>30</u> <u>Termination</u> <u>of</u> <u>Tenancies</u>	The Licence Holder must use lawful means to seek repossession of the property from any tenant/s or licencees.
<u>31</u> <u>Lock</u> <u>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.
<u>32</u> <u>Occupancy</u> <u>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.
<u>33</u> <u>Right to</u> <u>Rent</u> <u>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 .
<u>34</u> <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.
<u>35</u> <u>Minimum</u> <u>Energy</u> <u>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>
<u>36</u> <u>Remedial</u> <u>Works</u> <u>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.

Right to Rent

Landlords are advised to ensure that they follow all relevant legislation relating to Right to Rent: <https://www.gov.uk/check-tenant-right-to-rent-documents>

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.

B. Legislation also permits:

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 4

Additional Licensing 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. The Council does not use the money to pay for legal enforcement work against non-compliant landlords.

The Fee 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 and property managers.

Where an agent or a property manager 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', ideally 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 made following the issuance of the notice of intention to issue the licence but before the final licence is issued. This 2nd stage payment will be refunded if the final licence is not granted.

The Council will usually 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	£785	£260	£625	£210
	Total £1,045		Total £835	
Early Bird Fees A 15% reduction in relevant fee for those who apply within first 3 months of the Additional Licensing scheme going live.	£665	£225	£545	£185
	Total £890		Total £730	

*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	
	Stage 1	Stage 2	Stage 1	Stage 2
Renewal Fee (No early bird discounts apply)	£510	£220	£410	£175
	£730		£585	

*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: There is no fee charged for a licence variation, for example, to notify the council of a change of manager. The licence condition still requires written

notification to be given to the council about material changes within 21 days of the change. Failure to make such written notification is a breach of the Licence conditions. Refer to licence conditions for further details.

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).

Fee 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 undertaken.

There will be no refund for applications that 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 5

Statutory Consultation on Walsall Additional Licensing (2021)

Report of the Results

Summary

This report provides:

- An overview on what the statutory consultation 'looked like' and how it was undertaken (Appendix 5.1)
- Details of the feedback to the on-line questionnaire (Appendix 5.2)
- Feedback received additional to the on-line questionnaire (Appendix 5.3)
- Council responses to feedback received (Appendix 5.4)

Overview - Statutory consultation

The requirements for statutory consultation for Additional Licensing are that a minimum consultation period of 10 weeks needs to be available for interested parties to make their observations. Walsall Council has provided 15 weeks (22 February 2021 to 6 June 2021).

Key findings / Executive Summary

The proposal overall was supported as indicated in Table 1.1 below

A total of 265 responses were received to the proposal.

42 respondents used e-mail to respond to the consultation.

The key method for respondents to have their say was via an online questionnaire. A total of 223 individuals / organisations used this method to have their say on the proposals.

Overall of those responding to the on-line questionnaire:

- 73% fully support Additional Licensing being introduced in the proposed area with an additional 10% partially supporting the proposal;
- 59% have experienced problems with an HMO in their area in the last 5 years.
- 40% considered the proposed fees to be reasonable with 54% consider that they are not enough
- 70% considered the proposed conditions to be reasonable and would improve the standard of private rented properties.

The tables below shows some additional summary results for this. The full results of the questionnaire are in Appendix 5.2.

1.1 Overall

The table below summarises the responses to the proposal

Table 1.1	Total	Fully Support	Partially Support	Object	No Comment
On-line Questionnaire	223	163	22	32	7
	Total	Support		Object	No Comment
Email / letters	42	17		23	2

As highlighted above 163 (73%) of questionnaire respondents fully support the proposal with a further 22 (10%) partially supporting the proposal additionally 17 of those responding in email / letter also supported the proposal.

It is also noted that of those who indicated that they did not support the proposal (32 for online questionnaire 23 for written response) a high proportion made a comment that indicated that they didn't support it for reasons related to topics such as:

- their opposition to HMOs
- they considered the scheme would actually encourage HMOs or the council was encouraging HMOs specifically for this area and they didn't want this
- that they considered that the fees were too low and as a result the scheme would be funded by council tax payers
- that the scheme should include other streets or be borough wide

For email respondents (42) 28 of these were from residents of which 20 objected. It is notable that 18 of these again objected for reasons similar to those indicated above ie such as they object to HMOs per se or that they thought the scheme would lead to more HMOs in the borough or the proposal area.

Support for the scheme as indicated by the online questionnaire is highest from residents (80%) and especially for those living within the proposed additional licensing scheme area (85%).

Results of on-line questionnaire: To what extent do you agree or disagree that Additional Licensing should be introduced in the proposed area?					
Table 1.2	Overall	Private sector residential landlord / agent	Residents Overall	Residents living within the proposed additional licensing scheme area	Business / other organisation
Fully support	73%	50%	75%	74%	64%
Partially support	10%	0%	5%	11%	18%
Total (support)	83%	50%	80%	85%	82%

1.2 Proposed Conditions

There was significant support for the proposed conditions from respondents to the on-line questionnaire as shown below in Table 1.3.

Overall, do you think the proposed Additional Licence conditions are reasonable and will improve the standard of private rented properties?					
Table 1.3	Overall	Private sector residential landlord / agent	Residents Overall	Residents living within the proposed additional licensing scheme area	Business / other organisation
Yes	70%	50%	71%	73%	73%
No	19%	50%	18%	17%	9%
Do not know	11%	0%	11%	10%	18%
Total	100%	100%	100%	100%	100%

1.3 Fees:

The key response to the fees questions on the on-line questionnaire were that the fees we proposed were insufficient as shown in Table 1.4. Only 12 (5%) of respondents considered that the fees proposed were too much.

Do you think that a one off average fee of £675 for a 5 year licence, per HMO property is.....?					
Table 1.4	Overall	Private sector residential landlord / agent	Residents Overall	Residents living within the proposed additional licensing scheme area	Business / other organisation
Not enough	54%	17%	58%	50%	27%
Reasonable	40%	33%	40%	48%	55%
Too much	5%	50%	2%	2%	18%
Total	100%	100%	100%	100%	100%

Appendix 5.1

Statutory Consultation on Walsall Additional Licensing (2021)

An overview on what the statutory consultation ‘looked like’ and how it was undertaken

Background to the consultation

To support the statutory 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 was made to ensure that a range of supporting information was readily available including;

- a) Copy of the December 2020 Cabinet report in its entirety (including all Appendices)
- b) Map of proposed Additional Licensing Area
- c) Conditions proposed to be used for HMOs in addition to the existing mandatory conditions
- d) Fees and charges for the licences and related matters
- e) Time period for licences
- f) Answers to frequently asked questions about Additional Licensing
- g) Street list for those streets within the proposed Additional Licensing Area.

Quality Information

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

All material was 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 nominated a dedicated consultation officer to specifically lead on the statutory consultation. This officer acted as the council’s main point of contact for those wanting further information or advice for how to respond.

Key methods of Consultation

The Council used some key methods to promote the opportunity for people to comment on the proposal:

- | | |
|---|---------------------|
| a. Council website | b. Social media |
| c. Direct ‘traditional’ letter delivery | d. Targeted e-mails |

a. Council Website:

A news item was placed on the front page of the Council website (22 February 2021) detailing the consultation and linking to bespoke housing web pages where further information could be found was produced. The bespoke webpages also had;

- 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 for any questions

b. Social media

The council used the following social media to promote the consultation:

- Council Facebook pages include business page
- Council Twitter

The table below shows when relevant posts / tweets were undertaken.

Date	Type	Potential Reach
26/02/21	Twitter (Walsall Business)	2429 account followers
22/02/21	Twitter (Walsall Council)	4078 account follower
22/02/21	Facebook (Our Walsall)	16824 account followers
19/03/21	LinkedIn (Walsall Council Employment Growth Team)	209 account followers
22/02/21 09/03/21	Facebook (Walsall for All)	2908 account followers
25/02/21 25/03/21	Facebook (Walsall South Locality)	567 account followers

Other partners also promoted the consultation through their own social media:

Facebook

Nashdom (monthly posts – February, March April, May)

E- Newsletter

NRLA – 4 March 2021

Delves Infant and Nursery School – 22 March 2021

Parkhall Junior School – 24 March 2021

West Locality 26 March 2021

East Locality 27 March 2021

WM Now - 7 April 2021

E-Newsletter Education Update 19 March 2021

c. Direct 'traditional' mailing

To residents and to businesses / organisations: 32,000 addresses

Direct mailing delivered to all addresses within and surrounding the proposed area for Additional licensing. This had clear information on how people to comment on the proposals. This included:

- residents who were private tenants;
- businesses including but not limited to landlords and residential letting and managing agents.

Chief Executives of the following neighbouring local authorities

- Birmingham City Council
- City of Wolverhampton Council
- Cannock Chase District Council
- Sandwell MBC
- Dudley MBC and
- Lichfield District Council

Additionally other housing standards (or equivalent) officers within the councils were also contacted about the consultation.

Members of Parliament

- MP Valerie Vaz
- MP Eddie Hughes
- MP Wendy Morton

Targeted e-mails

Bespoke e-mails were produced and sent to a significant and wide range of organisations / individuals. As well as the email being sent at the start of the consultation period a 'repeat' email was sent during the period too.

The emails whilst bespoke each explained the consultation and provided direct links to the detailed information on the website and the online questionnaire for; which itself includes direct links to supplementary information to aid understanding and completion.

Direct e-mail sent to 110 separate private sector residential landlords

Emails were sent to landlords who have attended previous Walsall landlord forums.

Direct e-mail sent to 127 residential letting / managing agents

Similar to the email to landlords a bespoke email went to those letting agents known to operate / market properties within the borough.

Direct Email to: All Ward Councillors as at March 2021 and again to the Ward Councillors post local election in May 2021

Key social sector landlords

Social sector landlords with stock in the borough.

Walsall Housing Group (WHG)
Accord
WATMOS
Platform Housing
Clarion Housing
Hanover
Sanctuary Housing
Longhurst
Bromford
Midland Heart
Nehemiah

Key Partners:

- Walsall Neighbourhood Policing unit
- West Midlands Immigration Compliance and Enforcement Team
- West Midlands Fire Service – Head of Protection

Walsall Private Sector Landlord Steering Group

The Steering group discussed this extensively with council officers giving a presentation and answering questions from forum members (10 09 2019) during its meeting held prior to the cabinet report in December 2020. Council officers subsequently held a further meeting on the same topic with the former Vice Chair of the Steering Group and a further written update was provided to the group meeting on 28 11 2019.

A council officer shared the information on the statutory consultation with the landlord steering group members when all private landlords known to the council were contacted by email and also presented to a Teams session of the group on 20 April 2021. Attendees were also asked to forward to the council any additional contact details of individuals / organisations who they thought may not have already received information about Additional Licensing.

Head Teachers of Local Schools

A bespoke email was sent out to:

Alumwell Infant	Park Hall Infants Academy
Alumwell Junior	Reedwood E-ACT Primary Academy
Blue Coat CE (A) Junior	St Mary's the Mount Catholic Primary
Blue Coat CE (A) Infant	Whitehall Junior Community School
Butts Primary	Whitehall Nursery & Infant
Caldmore Primary Academy	Joseph Leckie Academy
Chuckery Primary	Blue Coat Church of England Academy
Delves Infant & Nursery	Queen Mary's Grammar
Delves Junior	Queen Mary's High
Hillary Primary	Walsall Studio School
Park Hall Junior Academy	West Walsall E-ACT Academy
Palfrey Infant	Palfrey Junior

In addition on 19 March 2021 an article on Additional Licensing was included within the Education e-Newsletter sent by email to all schools in the borough.

Broad range of voluntary and community organisations

Ablewell Advice	Love Walsall
Afghan Community & Welfare Centre	Church Hill Group
Supporting Homeless	Children's Area Partnership - Blue Coat / Chuckery (Chair)
The Glebe Centre	Watmos Delves TMO
Care 2 U	Sustrans
Have a Hart, help the Homeless	Scarborough Road Street Association
Afghan Community & Welfare Centre	Coffee Morning- Pleck Methodist Church
Supporting Homeless	Coffee With Friends- AAINA Community Hub
The Glebe Centre	Innovate Walsall
Care 2 U	Friends of Chuckery Village Green
Have a Hart, help the Homeless	Friends of Palfrey Park
Nashdom	Small Street Centre
walsall community litter watch	Palfrey Sure Start Children' Centre
One Walsall	Palfrey SureStart Children's Centre
Walsall for all	Palfrey & Caldmore Residents Group
Our Walsall	Palfrey Community Association
First Base Walsal	Victim Support
Walsall Local Compact	Caldmore Traders Association

Faith and cultural groups / organisations

Aaina Centre	Jalalia Sunni Jami Masjid & Islamic Education Centre
UKIM Youth	Shah Jalal Jame Masjid & Madrasssa
Ambur FM Radio	Masjid Abu Bakr
Bespoke Community Solutions	Central Mosque
Black Sisters Collective	Masjid Hamza Community Centre
Bilal Academy	Minhaj Education Centre
Caldmore Community Garden	Pleck Hindu Temple
Chuckery Festival Group	Bath Street Centre
Walsall Kobar Friendship Association	Brunch Club- St Gabriels Parish Church
Sikh Recreation & Learning Centre	Caldmore Methodist Church
Kingsley Fellowship Club	Chatterbox- Caldmore Evangelical Church
Mercian Housing	St. Paul's The Crossing
Paddock / Chuckery Sure Start Children's Centre	St. Mary's The Mount
Street Teams	St. Matthew's Church
Masjid-Al-Farouq	St Matthews Asian Congregation
Aisha Mosque	Delves Place of Refuge
Shah Jalal Jami Masjid	Pleck Church
Masjid-e-Usman	RCCG Caldmore
St Jude's	

Other Consultation / notification

Consultation with internal council services was undertaken for example with planning, environmental health, public health, clean and green services.

Communication and promotion via externally generated social media and traditional media:

The following is a record of on-line press releases on the proposals created by other organisations:

Organisation	
Prior to Launch of statutory consultation	Date
Express & Star	10/12/2020
Landlord Zone	14/12/2020
Easthams & Co	14/12/2020
Birmingham Mail	11/12/2020
Letting Agent Today	14/12/2020
Walsall Property Blog	12/02/2021
From Launch of statutory consultation (22/2/21)	
Twitter Walsall Council	22/02/2021
Walsall Newsroom	22/02/2021
Facebook	22/02/2021
Inside Walsall	22/01/2021
Our Walsall	02/03/2021

Nashdom Facebook (monthly)	02/03/2021
Walsall Business Bulletin	26/02/2021
Twitter Walsall Business	26/02/2021
LinkedIn Walsall Council Employment Growth Team	26/02/2021
Walsall for all Twitter	09/03/2021
Walsall for all Facebook	09/03/2021
NRLA	04/03/2021
Delves Infant and Nursery School	22/03/2021
Park Hall Junior School	24/03/2021

Posters were displayed

Posters were displayed in the following venues throughout the area. The posters gave information about the Additional Licensing proposal, how people can get involved and include the web address:

- Schools
- Doctors surgeries / Health centres
- Libraries
- Local shops and Supermarkets
- Restaurants and take-aways
- Social clubs

Landlord Associations

The following major national private landlord organisations were 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
- MLAS

Appendix 5.2

Details of the feedback to the on-line Questionnaire

Marked up Questionnaire

(Please note percentages may not sum to 100% due to rounding)

Consultation on the proposal to introduce Additional Licensing of Houses in Multiple Occupation (HMO) in parts of Walsall

We want your views on our proposal to introduce a new Houses in Multiple Occupation (HMO) licensing scheme to improve the local environment and the housing conditions of renters in the private sector. Local residents, landlords and tenants, and any other person likely to be affected by the additional licensing designation, must be consulted prior to the introduction of a licensing scheme.

Someone's home is a house in multiple occupation (HMO) if both of the following apply:

- at least 3 tenants live there, forming more than 1 household
- you share toilet, bathroom or kitchen facilities with other tenants

This survey takes around 5-10 minutes to complete. You can complete this questionnaire whether you live in the borough of Walsall or not, are a business / organisation, landlord, letting agent or other interested party.

The closing date for responses is midnight on 6 June 2021.

The results and final recommendations will be reported back to Cabinet later in 2021. If you have any queries about Additional Licensing please see our website www.walsall.gov.uk/housing/additional-licensing or email HMOs@walsall.gov.uk

If you require the information in any other alternative format or need support to complete it, please email HMOs@walsall.gov.uk or call 01922 652171.

This confidential survey is being run by Walsall Council in accordance with the Market Research Society Code of Conduct. The information gathered will be used to inform Cabinet's decision on Additional Licensing. Your participation is voluntary. None of your answers will be used, analysed or reported in a way that may identify you. All survey responses remain confidential and at no time will individual responses identify an individual nor appear in any data or summary reports. The survey asks a few personal/sensitive questions about you. Whilst answering these questions is voluntary, you are encouraged to answer these questions as they help us better understand the views of different groups of people. All electronic data will be stored securely and retained by the council for as long as required. All processing will be compliant with the Data Protection Act 2018 visit: www.walsall.gov.uk/privacy_statement for more information.

Section 1: Your connection to the proposed Additional Licensing scheme area

Are you responding as...

Tick one only.

- 90% A resident
- 5% Private sector residential landlord / agent
- 5% Business / other organisation

After looking at the map and / or checking the street address list do...

Tick one only.

- 79% Live within the proposed additional licensing scheme area
- 15% Live in the borough of Walsall but outside the proposed additional licensing scheme area
- 6% Do not live in the borough of Walsall

After looking at the map and / or checking the street address as a landlord / agent do you have residential property...

Tick all that apply.

- 92% Within the proposed additional licensing scheme area
- 0% In the borough of Walsall but outside the proposed additional licensing scheme area
- 8% Do not have any residential properties in the borough of Walsall

How many Houses of Multiple Occupancy (HMOs) do you have / manage within the proposed additional licensing scheme area?

If none please type 0.

100% 0

After looking at the map and / or checking the street address as a business / organisation are you located...

Tick one only.

- 73% Within the proposed additional licensing scheme area
- 0% In the borough of Walsall outside the proposed additional licensing scheme area
- 27% Not located in the borough of Walsall

Do you...? *Tick one only.*

- 81% Own your own home outright or with a mortgage
- 7% Rent your home from a private landlord
- 10% Rent your home from a Housing Association e.g. Whg, Accord
- 1% Live with family / friends
- 0% Other

Do you live in a House of Multiple Occupancy (HMO)? *Tick one only.*

Your home is a house in multiple occupation (HMO) if both of the following apply:

- **at least 3 tenants live there, forming more than 1 household**
- **you share toilet, bathroom or kitchen facilities with other tenants**

0% Yes, I live in a HMO

100% I do not live in a HMO

Section 2: Problems in the proposed scheme area

Thinking about the proposed additional licensing scheme area, how much of a problem, if at all, are each of the following? *Tick one only on each row.*

	<i>Very big problem</i>	<i>Fairly big problem</i>	<i>Not a very big problem</i>	<i>Not a problem at all</i>	<i>Don't know</i>
Noisy neighbours or loud parties	26%	32%	23%	10%	9%
Rubbish or litter lying around	63%	25%	6%	3%	3%
Overflowing wheeled bins	47%	24%	20%	6%	3%
Fly tipping	51%	26%	13%	5%	5%
Poor quality housing	39%	27%	16%	8%	10%
Empty properties	13%	16%	38%	17%	17%
Overcrowded houses and flats	36%	24%	16%	6%	17%
Untidy gardens	39%	31%	18%	6%	5%
Pests and vermin e.g. rats, mice etc	35%	26%	19%	8%	13%
Vandalism, graffiti and other deliberate damage to property or vehicles	30%	26%	27%	8%	10%
Burglary	22%	28%	24%	4%	22%
People using or dealing drugs	48%	27%	13%	3%	9%
People being drunk or rowdy in public places	31%	28%	24%	5%	12%

Are there any other local issues that cause a problem for you or your household / business organisation? Please tell us.

139 submitted responses

Overall, how satisfied or dissatisfied are you with the local area as a place to...?

Tick one only on each row.

	Very satisfied	Fairly satisfied	Neither satisfied nor dissatisfied	Fairly dissatisfied	Very dissatisfied	Does not apply
Live	8%	37%	12%	21%	21%	1%
Rent / manage a property	18%	36%	18%	18%	0%	9%
Operate a business / organisation	0%	38%	13%	50%	0%	0%

In the last 5 years have you experienced any problems with a Household of Multiple Occupancy (HMO) in the area where you live, rent or manage property or operate your business / organisation (either with the tenants or the buildings themselves)?

Tick one only.

59% Yes

41% No

Please explain what the problem was, and what if anything you did to sort it out.

104 responses

Section 3: Your views on HMO landlords and letting agents

In terms of letting, managing and maintaining their properties, do you think that landlords / agents letting out Houses of Multiple Occupancy (HMOs) in the proposed scheme area act...? *Tick one only.*

37% Not at all responsibly

36% Not very responsibly

12% Fairly responsibly

4% Very responsibly

11% Don't know

Do you think Walsall Council should have more control over the way that Houses of Multiple Occupancy (HMO) landlords / agents manage their properties in the proposed scheme area? *Tick one only.*

94% Yes 4% No 2% Don't know

Additional Licensing puts certain conditions on HMO landlords/agents that they must meet in order to let a property out. The Council believes that the Additional Licensing conditions will lead to better managed properties, a reduction in anti-social behaviour (specifically untidy front gardens and dumping of rubbish) and an improvement in living conditions for tenants.

The Government sets 8 Mandatory Conditions covering topics ranging from minimum bedroom size to gas safety. The Government also permits councils to set other conditions that they consider appropriate and Walsall Council proposes some which can be viewed here. The Council's proposed conditions cover additional items such as emergency lighting in HMOs and the need for the Licence Holder to be a Fit and Proper Person, fire fighting equipment.

Overall, do you think the proposed Additional Licence conditions are reasonable and will improve the standard of private rented properties...?

70% Yes 19% No 11% Don't know

Do you think that private landlords should be required to do the following when letting their House of Multiple Occupancy (HMO) out? *Tick one only.*

	Yes	No	Don't know
Get references for tenants before they move in	92%	5%	3%
Make sure tenants are given a written statement (tenancy agreement) of the terms on which they occupy the property	99%	1%	0%
Ensure tenants manage their waste properly	98%	2%	0%
Take action against their tenants who cause a nuisance or anti-social behaviour	97%	2%	1%
Keep properties in a good and safe condition inside and out	99%	1%	0%
Make sure houses and flats are not overcrowded	99%	0%	0%
Inspect their HMOs regularly to ensure that the required standards continue to be met	99%	0%	1%

Are there any other conditions you think HMO landlords / agents should have to meet?

123 responses

Section 4: Licence Fees

Under the proposed Additional Licensing Scheme, landlords would have to pay a licensing fee for each HMO property they rent out in the specified area. The licensing fee covers the cost of the scheme and allows the council to employ staff to check the condition of private rented HMOs in the area and make sure that the correct management arrangements are in place.

The Government permits fees to be charged to cover running costs. In line with this and Council policy the proposal will be self-funding (ie the proposed fees will cover costs). Research shows that in the Scheme Area there are an estimated 854 HMOs, the proposed fees are based on this and the costs of delivering the Additional Licensing Scheme. The Additional Licensing proposed fees can be viewed [here](#).

The proposal includes for discounts for Accredited Landlords, for those applying early and for fees for landlords applying for more than one HMO licence.

Do you think that a one off average fee of £675 for a 5 year licence, per HMO property is...? *Tick one only.*

54% Not enough
40% Reasonable
5% Too much

How much do you think a 5 year licence for one HMO property be? Please state the amount or leave blank if you don't know.

92 responses

To support landlords and agents who plan ahead and respond appropriately, the Council proposes to offer an 'early bird' discount of 15% off the licence fee. Such early bird discounts are seen as best practice.

Do you think a 15% early bird discount should be given to encourage early sign up to the Additional Licensing scheme? *Tick one only.*

57% Yes 30% No 12% Don't know

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.

Do you think that landlords who are accredited by professional bodies should pay a lower licence fee? *Tick one only.*

48% Yes 35% No 16% Don't know

Section 4: Additional Licensing Overall

Do you agree or disagree that Additional Licensing will achieve the following in the Scheme Area? *Tick one only on each row.*

	<i>Strongly Agree</i>	<i>Agree</i>	<i>Disagree</i>	<i>Strongly Disagree</i>	<i>Don't know</i>
Improve management standards and property conditions	39%	42%	4%	6%	8%
Develop better relationships with landlords and tenants to help address anti-social behaviour linked to rented properties	33%	38%	10%	6%	13%
Improve confidence in the private rented sector both for landlords and tenants	36%	40%	7%	6%	11%
Allow better targeting of enforcement action against 'rogue landlords / agents'	51%	32%	6%	4%	7%
Promote consistent housing standards and a better understanding of what is expected from tenants and landlords	43%	39%	9%	4%	5%
Reduce overcrowding especially in HMOs	39%	33%	10%	6%	12%

Overall, to what extent do you agree or disagree that Additional Licensing should be introduced in the proposed area? *Tick one only.*

73% Fully support
 10% Partially support
 14% Do not support
 3% Do not know

Do you have any other comments regarding the proposal, including the proposed area or even other areas of the borough that should be considered for Additional Licensing?

111 respondents made comments

Are there any other things or approaches you think the council could take to improve standards in Houses in Multiple Occupation?

105 respondents made comments

Section 5: Keeping you informed

Would you like to be kept informed by e-mail about Additional Licensing in Walsall and the findings from this consultation? Tick one only.

55% Yes, please add me to your email list

45% No thanks

Section 6: About you

Finally, we'd like to ask some questions about you. This is to ensure that we speak to a range of people which helps us to gain a better understanding of the views of different people and how they could be impacted by any changes. All the information you give will be kept completely confidential and will not be used or processed in a way that may identify you.

Are you...? Tick one only.

52% Female

41% Male

7% Prefer not to say

What is your age group? Tick one only.

5% 16 to 24

28% 25 to 44

47% 45 to 64

16% 65 and over

5% Prefer not to say

Do you have any physical or mental health conditions or illnesses lasting

or expected to last 12 months or more? Tick one only.

14% Yes 77% No 9% Prefer Not to say

Does your condition or illness / do any of your conditions or illnesses reduce your ability to carry out day-to-day activities? Tick one only.

11% Yes, a lot

21% Yes, a little

60% Not at all

8% Prefer not to say

What is your ethnic group? Choose one option that best describes your ethnic group or background.

64% White

3% Mixed / multiple ethnic groups

14% Asian or Asian British

2% Black / African / Caribbean / Black British

1% Other ethnic group

15% Prefer not to say

**For those indicating White (64%) –
Please select one of the following...**

- 92% Welsh / English / Scottish / Northern Irish / British
- 2% Irish
- 0% Gypsy or Irish Traveller
- 1% Prefer not to say
- 4% Any other White background

**For those indicating Mixed / Multiple ethnic groups (3%)
Please select one of the following...**

- 29% White and Black Caribbean
- 14% White and Black African
- 43% White and Asian
- 14% Prefer not to say
- 0% Any other Mixed / Multiple ethnic background, please describe below

**For those indicating Asian or Asian British (14%)
Please select one of the following...**

- 38% Indian
- 31% Pakistani
- 22% Bangladeshi
- 0% Chinese
- 6% Prefer not to say
- 3% Any other Asian background

**For those indicating Black / African / Caribbean / Black British
(2%) Please tick one of the following...**

- 0% African
- 80% Caribbean
- 0% Prefer not to say
- 20% Any other Black / African / Caribbean / Black British background

For those indicating Other Ethnic Group (1%) Please tick one of the following...

- 0% Arab
- 100% Prefer not to say
- 0% Any other ethnic group, please describe below

Are there any other equality aspects you feel should be taken into account when considering the introduction of Additional Licensing in the proposed area of Walsall? *Protected equality characteristics include; age, gender, disability, ethnicity, religion, sexuality, gender reassignment and maternity*

49 respondents commented.

End of Questionnaire

Appendix 5.3

Feedback Received Additional to Online questionnaire

Respondents were able to provide feedback in other formats (written including e-mail, and telephone). This section covers the written responses that have been received.

Overall

A total of 42 emails / letters were received relating to the proposal these can be categorised as follows:

Respondent	No comment	Support	Object
Faith group / organisation	1	1	0
Housing Association	0	3	0
Private landlord	0	1	1
Private letting agent	0	1	0
West Midland Fire Service	0	1	0
West Midlands Police	0	1	0
Clean and Green	0	1	0
Walsall Landlord Steering Group	0	0	1
National Residential Landlord Association	0	0	1
Midland Landlord Accreditation Scheme	1	0	0
Residents	0	8	20*

*It is notable that of the 20 resident opponents to the proposal 18 appear to object because they either object to HMOs per se or consider the proposal will increase the number of HMOs in the borough or area. for example,

“I think that they will increase these undesirable developments”

“Multiple occupation lowers an area, it does NOT improve it.”

The objections received from the Walsall Landlord Steering Group and National Residential Landlord Association are covered in Appendix 5.4

Appendix 5.4

Councils Responses to Feedback Received.

Overview

The Council proposes Additional Licensing, as submitted to December 2020 Cabinet and upon which Statutory Consultation has been undertaken. This included proposed:

- Boundary for the area
- Conditions
- Fees and Licence Periods

This Appendix does not therefore; in the main provide responses to feedback that are in support of the above.

This Appendix contains responses to the feedback received that is either partially or entirely opposed to the proposal where observations by respondents have been made.

A. Boundary for Additional Licensing

As highlighted above the Council consulted on the geographic boundary for the Additional Licensing. A map of the area was available for respondents to view on-line and a list of those stress within the area was also included.

A.1 Responses that opposed this boundary

31 respondents suggested that the area proposed was too small and or other areas of the borough should be included (including the whole of the borough).

A.2 Council Response to this feedback

The area for this specific Additional Licensing proposal follows a detailed analysis (included in Cabinet Report December 2020) of available data including but not limited to the Walsall Housing Stock Condition Report 2020.

By defining this current boundary it does not preclude the council from undertaking statutory consultation upon another part of the borough for Additional Licensing.

Current data does not support the proposal for a borough wide Additional Licensing scheme (which would also require Secretary of State agreement).

A.3 Recommendation(s)

That the Council:

- continue to implement Additional Licensing based upon the proposed boundary;
- consider in the future the potential for a second area for Additional Licensing in part of the borough

B. Proposed Additional Licensing Conditions

This report will not cover any responses received on the Mandatory Conditions as the consultation documents clearly confirmed that the Council has no ability to change / not apply these in the case of Additional Licensing.

The Council proposed 27 Local Conditions listed (9 to 36) in the consultation documents.

B.1 Responses that opposed a Condition or all Proposed Conditions

19% of questionnaire respondents opposed all conditions.

In a review of the comments of these respondents their listed concerns were mainly related to either not wanting HMOs at all or the conditions not covering all topics they wanted or not being strict enough. Examples include:

“HMO properties should not be set up in a area where the landlord does not live. You find the owners live out of the area buy properties and then get agencies to put the tenants in. Tenants are not vetted. The tenants then add other people to come and live in the property and thus is when the trouble starts in the area.”

“24 hour response to issues that arise, 6 monthly inspections”

There were a very limited number who considered that the conditions were onerous and or a duplication of existing laws available for example;

“Most of these issues are covered under current legislation anyway, so these will be further unnecessary processes which will incur additional costs which will ultimately be passed to tenants.”

One respondent suggested that landlords had not been consulted on the proposed conditions prior to them being part of the statutory consultation.

B.2 Council Response to this feedback

70% of respondents to the questionnaire supported the conditions.

On the matter of whether the conditions are covered by existing separate legislation, it is noted that a range of the Additional Licensing Conditions are statutory requirements for additional licensing and therefore are not ‘duplication’ of other legislation.

Each additional condition that has been proposed by the council has been carefully formulated and each are individually and collectively considered to be:

1. Necessary;
2. Relevant to HMOs;
3. Enforceable;
4. Precise; and
5. Reasonable in all other respects.

On the matter of the duty to consult / notification on proposals (and in particular proposed conditions) prior to the commencement of statutory consultation the council has undertaken such work. For example; it raised the matter of Additional licensing with the Walsall Landlord Forum Steering Group in 2019 and 2020. Additionally prior to the cabinet decision in December 2020 to undertake statutory consultation the cabinet report was public and available for interested parties to both review and comment upon. comments were also able to be submitted between the cabinet ate and the commencement of the statutory consultation.

The proposed Additional Licencing conditions ‘mirror’ those that have been consulted upon for Mandatory Licensing.

On a technical basis relating specifically to what are known as s257 HMOs officers have reviewed feedback submitted on other Additional Licensing schemes outside Walsall. It is proposed to amend the HMO definition for those s257 premises requiring a licence to only apply where the freeholder is in control of the whole property (a building or part of a building converted into self-contained flats where the conversion was not made to the required Building Regulations).

Feedback to the council not received on Additional Licensing, but on current Mandatory HMOs conditions has highlighted the need to amend a specific condition related to electrical safety and to landlords accessing their HMOs these are covered under recommendation b) and c) below.

B.3 Recommendation(s)

That the Council continue to implement Additional Licensing Conditions as listed in Appendix 2 with the following agreed amendments:

- a) s257 premises requiring a licence is to only apply where the freeholder is in control of the whole property (a building or part of a building converted into self-contained flats where the conversion was not made to the required Building Regulations).
- b) Where under Electrical inspections C3 matters are identified HMO landlords will be advised to remedy the matters but will not be compelled to do so.
- c) the original proposed local condition about landlords needing to provide 'prior notice' to tenants before entering an HMO is to be removed as the statutory HMO regulations already cover this matter.

C. Proposed Fees and Licence Periods

The proposed fees and Licence Periods are detailed in Appendix 3.

Of questionnaire respondents they thought that the proposed average of £675 for a 5 year licence fee per HMO is

- Reasonable 40%
- Not enough 54 %
- Too much 5%

C.1 Responses that opposed / had concerns about the proposed fee levels and time periods

Too low

The majority (54%) who responded about fees stated that those proposed were not enough. 76% of the respondents who stated this suggested an average fee level. These ranged from £990 to £9,999. The average fee (arithmetic mean) was £2,862. The table below 'bands' these responses:

Fees should be	Percentage of those suggesting fee is too low and providing an alternative
Above £900 and below £1000	1%
£1,000	28%
£1,001 to £1,500 inclusive	17%
Over £1,500 to £2,500 inclusive	17%
£2,501 to £5,000 inclusive	31%
Over £5,000	6%

Observations made included:

"Scandalously low!"

"I don't think that the license is close to being high enough. If each property is receiving rent from multiple people, £675 over five years is nothing."

"The fees being proposed are ridiculously low. Fees need to cover additional staff to enforce actions swiftly/promptly and keep on top of

landlords to ensure good behaviour. I can't see how less than £700 could deliver this standard. Council tax funds should not be redirected in subsidising landlords / rental market."

"Landlords make a lot of money from HMOs. You asked how much I think they should pay for a 5 year licence. I multiplied my annual council tax by 5 years to get the £7500 that I think you should charge for the licence."

Too High

5% of all questionnaire respondents considered that the fees were too high.

There were no suggestions of what the fees should be instead of those proposed.

Comments when made voiced observations such as:

"How can it be fair to charge the decent landlords, who do the right thing and fee of £675, meaning that they pay because others are rogues!! "

"additional license only improves the council's wallet and drives up the cost of renting"

Don't support a 15% Early bird discount

30% of respondents don't support the proposal to offer an early bird discount for applicants. There were no specific comments provided on this topic by respondents opposed to it.

Don't support a discount for landlords / agents who are members of professional bodies

35% of respondents don't support a discount being offered to members of professional landlord bodies. There were no specific comments provided on this topic by respondents opposed to it.

C.2 Council Response to this feedback

a. Level of overall fee and charging fees for landlords per se and especially good landlords.

As highlighted within the December 2020 Cabinet report fees are set within the national guidance and the Council's policy for 100% recovery of costs. The consultation documentation was clear on this matter and that the fees are directly related to the work involved and not a 'money making exercise' for the Council.

The fees proposed were carefully considered and were deemed proportionate at the time of consultation. The discounts available promote early / prompt applications and additionally for accredited landlords / agents promotes best practice.

The council proposes a matrix for Licence Periods that reflects the quality of application / landlord and direct issues relating to the HMO. For example, if a landlord has to be 'compelled to apply' and or applies for a property with serious concerns in condition or management a shorter licence period (than 5 years) will be likely to be given.

The high number of respondents who consider the fees to not be sufficient is a key issue. It is notable that this is also linked in the main to the many respondents considering that the proposed staffing levels to administer the Additional Licensing scheme were too low and would not lead to the achievement of the benefits and improvements actually being sought.

This matter has been reviewed in detail and it is proposed that the staffing complement is increased to include an additional Housing Standards Officer to assist with property inspections and HMO related enforcement throughout the period of the scheme. It is considered reasonable and proportionate to alter the scheme in this way and as such to increase the proposed fees to cover this estimated annual cost of £48,342

b. Charging for variation in HMO licence

The NLRA highlighted in consultation that the proposal for a fee for variations in HMO licences was in their opinion potentially unlawful and open to legal challenge.

Officers have reviewed this matter in more detail (*Oxford City Council v Crompton*) and it is recommended to remove any fees for HMO licence variations (both for additional licensing and for mandatory licensing);

c. Charging for Second stage fee prior to issuing licence

The NLRA highlighted in consultation that the proposal that the council should only require payment of the second stage of the HMO licence fee once the License is issued.

Officers have reviewed this matter in more detail (Administrative Court in Gaskin, R (On the Application Of) v Richmond Upon Thames London Borough Council & Anor [2018] EWHC 1996) and it is recommended that the second stage fee will only be sought at the stage when the council is satisfied a Licence is to be issued. Where an applicant chooses to pay all fees 'upfront' a refund of the second stage will be made if their licence is not issued.

C.3 Recommendation(s)

That the Council continue to implement Additional Licensing Fees and Time Periods as listed in Appendix 3 with the amendments highlighted below:

- a) **Fees** – fees are to be amended to ensure that they fully fund an additional Housing Standards Officer role for the duration of the proposed licencing scheme;
- b) **Variation** – No fees are to be set for variation in HMO licences;
- c) **Second stage payment** - The second stage fee will only be sought at the stage when the council is satisfied a Licence is to be issued.

D. Proposal Overall

Whilst the vast majority of respondents using the questionnaire 73% fully supported the proposal and an additional 10% partially supported it 14% were opposed to the proposal of Additional Licensing.

During the first 2-3 weeks of the consultation some of the direct email feedback was from residents who were citing that they opposed the proposal because they thought that the scheme was a proposal to encourage more HMOs and or HMO applications. This can be seen in some of the 'partial support responses' and some of the actual recorded opposition to the proposal.

Additional clarity was added to the consultation web-page to highlight that Additional Licensing is not intended for this purpose nor is it likely to necessarily lead to an increase in HMO numbers.

Comments of support included:

"This is long overdue for those of us living next door to HMOs and I hope it has the desired effect of driving up standards"

“Excellent piece of work needs to be fully implemented, actively monitored and strongly managed ASAP. Thank you.”

“I have a right to live safely and securely in my home and let me be clear I do not live in an area that is recognised to be a problem in Walsall my post code is xxxxxxxx, a lovely quiet street but this rented house next to me has created all of the issues stated and is the worst let property on the estate? It is time landlords and letting agents took responsibility for the upset and chaos their irresponsible actions can cause in neighbourhoods and hopefully a scheme like this can do that.”

“This will improve the quality of housing for people who live in the property and improve the neighbourhood for everyone else. I’ve lived in Chuckery for many years and it’s sad to see how much it has declined in the last few years.”

“I believe this licensing will cause people to think seriously before purchasing a house to run as a HMO and may help open up the housing market for other types of buyers, increase the standard of living for those in HMO's and finally hold to account the many slum landlords taking advantage of the vulnerable in the area
The NRLA asked that the council consider a supported waste management services for tenants of private rented homes especially those who are nearing the end of their tenancy.”

Response to NRLA matter on waste: The council already has a range of services to support residents. We acknowledge that waste (especially fly tipping) is an ongoing issue and a big challenge in many areas and in particular to HMO properties due to the transient nature of their tenants. Walsall residents including landlords can already take their excess waste directly to any of the 2 household waste recycling centres. In addition there is also a facility for any Walsall resident to pay for the council to collect and dispose of up to 3 bulky items for a moderate charge of £10. These can include fridges, freezers, white goods and other large items such as furniture from homes.

Annual summary of outcomes

The NRLA suggest the council should it be minded to adopt Additional Licensing should consider producing an annual summary of outcomes so that all parties can see what progress has been made.

The suggestion by the NRLA is supported as it is considered best practice to ensure that outcomes of the scheme are publicised.

D.1 Responses that opposed the proposal in its entirety

14% of those who completed the questionnaire opposed the proposal. Of these respondents, 69% provided further comments on their reason for opposition. It is notable that 68% (10% of the full respondents) of those opposing it did so on basis that they consider that the proposal will increase the actual number of HMOs and they are against HMOs per se or think that the fees are too low to enable it to be appropriately enforced.

The remaining comments received were a combination of:

- either not being directly about the proposal or
- suggesting that the scheme would penalise the good landlords and or was simply a money making scheme.

D.2 Council Response to this feedback

As highlighted within the December 2020 Cabinet report the council considers that there is sufficient justification for the proposal.

Problems with HMOs

The majority of respondents (59%) indicate that they have had problems with HMOs in the last 5 years in the area that they live. This is slightly higher at 60% for those who live within the proposal area. The council's work on HMOs and the private rented sector supports this in that poorly managed HMOs result in significant issues for local communities.

Issues with management of HMOs in the proposal area

37% of all respondents considered that landlords or letting agents were not all responsible in the way they manage their HMOs in the proposal area. An additional 36% only consider that landlords and agents were not managing them very responsibly.

The council works with some individual letting agents and landlords who manage their HMOs well and some to a very high level. However officer experience continues to show that there are many landlords and some agents who manage HMOs poorly, regularly fail to meet required standards and cause significant issues for their tenants, neighbours and the broader community.

Overall

94% of questionnaire respondents consider that the Council should have more control over the way HMO landlords / agents manage their properties in the proposed scheme area. This opinion increases to 98% for those who live in the proposal area.

In terms of how the council should undertake this 'greater' control the questionnaire responses provide overwhelming support for the Additional Licensing proposal:

- 73 % of all feedback supports the proposal
- An additional 10% who partially support it.

Additionally 10% of those who indicated that they opposed the proposal oppose it because they consider that it will lead to an increase in HMOs which they object to or have concerns about HMOs per se.

Suggested lack of evidence to support proposal

A number of other objections including the NRLA and the Walsall Landlord Forum Steering Group object on the basis of; their concerns about lack of evidence to support the proposal.

On this matter the council as per the Cabinet report (Dec 2020) considers that there is sufficient up to date valid and relevant data to support the proposal for Additional Licensing within the specified geographic area. The data included use of findings from the Building Research Establishment Limited (BRE) stock condition survey of Walsall and nationally produced data sets relating to matters such as fuel poverty, deprivation. The BRE survey for example like most house modern stock condition surveys, uses stock modelling to determine predicted levels, as it is not possible due to the prohibitive cost to undertake a full (door to door) housing survey. The data they used in their

modelling was a mixture of Council held data and data held by external bodies, e.g. ONS data, tenancy deposit scheme and EPC data.

On this matter the Council also used data from the extended mandatory licensing that came into force in 2018, as another source of evidence to support the proposal.

Lack of use of alternative approaches

A number of other objections including the NRLA and the Walsall Landlord Forum Steering Group object on the basis of; their concerns about the council not using alternative approaches to tackle the issues being sought to be addressed via Additional Licensing. They suggest a number of voluntary schemes such as Accreditation as ways to solve the problems. The NRLA also suggests a range of alternative legal powers available to the council instead of Additional Licensing. A letting agent highlighted;

We manage approximately 250 private residential properties within Walsall Borough, 6 of which are in the proposed area, however we do not manage any HMOs anywhere and so I recognise that I do not represent HMO landlords. I also most strongly support any action that the council takes to enforce housing standard legislation. The problem is that it isn't enforced. The council already has sufficient powers to enforce everything that is needed to bring private housing stock up to standard.

On this matter the council as per the report to Cabinet (December 2020) considers that it has and continues to use all available methods to tackle issues related to poor management and conditions within HMOs. The council's position is that existing powers / legislation whilst appearing numerous are limited in their scope and that the proposal to introduce Additional Licensing is appropriate and proportionate to the serious issues in the area. The powers being suggested by the NRLA are all reactive in their approach and piecemeal in nature. The council already uses many of these powers.

Additional Licensing will provide the direct opportunity to undertake strategic proactive work funding HMO enforcement work. Voluntary schemes such as Accreditation have their place but will not by their nature result in the improvements being sought. The council has for many years supported via the Homestamp Consortium and other approaches supported; improvements in education and training of landlords and agents; reduced fees for landlords on schemes such as Mandatory licensing.

The NRLA mention the use of council tax data to identify landlords in charge of private rented properties. The council uses a variety of data sources (including those held by the authority) to continue to identify private rented dwellings including HMO properties. It has been noted through other enforcement work, such as recent work on ensuring private rented dwellings meet the Minimum Energy Efficiency Standards (MEES) that a range of landlords either fail (intentionally or accidentally) to update the council on council tax. For example, landlords suggesting a rented property is actually owner occupied or vacant when it is actually in private rented use.

Increase in homelessness

The Walsall Landlord Forum Steering Group object on the basis of they consider homelessness will increase as the proposal may lead to 'an exodus' of landlords from the smaller HMO market.

The council fully acknowledges that HMOs are a vital part of our housing mix and they

play an important role in housing tenants who are in many cases vulnerable. It is the Council's position that therefore the management and condition of these same HMO premises should be satisfactory and striving to be high quality. There may be cases where tenants need to be re-housed from their accommodation that is found to be either severely overcrowded or pose an immediate risk to their health and safety. In these cases, the Housing Standards Team will work closely with the Council's Housing & Welfare Support service to ensure that alternative accommodation is offered where appropriate. The decision to exit the HMO market is clearly a commercial and private one for each landlord. Loss of very poorly managed and dangerous HMOs will reduce the pressure on council services.

Consultation Timing

The Walsall Landlord Forum Steering Group make an observation about the timing of the consultation and are concerned that too little or too few methods have been used by the council especially at a time of national Covid-19 pandemics.

As evidenced within Appendix 5.1 the council has undertaken a comprehensive and wide-ranging consultation programme that is over and above the statutory requirements. response rates are considered high, responses have come from all sectors (resident, landlord, agent). Multiple avenues for publicity of the matter have been used from social media to traditional leaflets and posters. Direct consultation with landlords and managing agents has also been undertaken.

Framing of Questionnaire

The NRLA considers that the questionnaire and its framing is leading in its nature and should have provided information on all other available powers that the council has.

The council carefully considered the questions and framing of the questionnaire.

The council enabled respondents to both the questionnaire and other forms of response (letter / email) to have a 'free-say' on their views on all matters related to HMOs and the proposals. Material used in the consultation was developed in close partnership with the council's Corporate Consultation & Customer Feedback Officer. As a result all consultation materials was designed in line with the Council's Corporate Consultation Strategy, quality assured by The Consultation Institute. Furthermore, the work was conducted in adherence with the Market Research Society Code of Conduct.

All material was 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. The council provided direct links for prospective respondents to background / relevant documentation such as but not limited to:

- Cabinet Report (December 2020)
- Proposed licence conditions
- Proposed fees and duration of licences

Lack of detail on matters relating to statutory notices

The NRLA consider that the council should have provided greater detail on the statutory action relating to HMOs in the borough.

Whilst the council does not consider this to be specifically necessary, the details of statutory action related to HMOs is as follows:

- Service of Improvement Notices
- Failure to licence HMO

- Failure to comply with Improvement Notice
- Breaches of a range of HMO Management Regulations

Civil Penalty Notices have been issued by the council and upheld on the above and both an HMO landlord and separately letting agent have been registered on the National Register of Rogue Landlords and Property Agents.

In addition to the above in a range of HMO cases the number of occupants permitted has been reduced to secure compliance with the mandatory minimum room sizes.

As highlighted in the December 2020 Cabinet report many HMO licence applications have been submitted lacking fundamental certification that good landlords take for granted (for example, gas safety certification). This continues to occur and demonstrates a continuing lack of appreciation of the relevant legislation and the ramifications of failings in these areas.

D.3 Recommendation(s)

That the Council continue to implement Additional Licensing for the Proposed Area.