

Cabinet – 15 December 2021

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

Portfolio: Councillor Andrew, Portfolio Holder for Regeneration

Service: Customer Engagement

Wards: Willenhall South, Birchills Leamore, Blakenall, Bentley and Darlaston North and Darlaston South

Key decision: No

Forward plan: Yes

Aim

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

Summary

- 2.1 As noted by Cabinet in December 2020 private renting in Walsall has grown significantly over the last 13 years and as a proportion of all housing stock in the borough.

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

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

- 2.2 A key form of private rented property in Walsall is Houses in Multiple Occupation (HMOs). HMOs are properties that are occupied by a least 3 unrelated tenants, forming more than 1 household whereby the tenants share facilities such as cooking or sanitary facilities. The definition of a HMO includes bedsits, shared houses, flats, lettings with their own facilities but which are not self-contained, and some types of poorly converted 'self-contained' flats.
- 2.3 HMOs in general are both a popular and valuable type of accommodation for many young residents and for residents on lower incomes who are looking for an affordable home. It is a more accessible form of tenure for many vulnerable residents than other forms. The Council is committed to ensuring that this type of accommodation, as with other forms, is of a good quality. Quality in this type of accommodation is represented by homes that are kept in good repair condition, they are safe and offer a reasonable

standard of basic amenities such as toilets, bathrooms and kitchens and which are not overcrowded. In essence this means that they are well managed.

- 2.4 It is recognised however, that there are landlords and agents who are managing their HMOs sufficiently ineffectively as to give rise, or to be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public.
- 2.5 The council has implemented a range of powers and approaches to seek to address many issues but the ongoing pressures are such that a new approach is considered necessary for HMOs in a number of specific parts of the borough where evidence shows the problem of poor management to occur the most.
- 2.6 In October 2021 Cabinet approved the Declaration of its first HMO Additional Licensing area covering the wards of Paddock, Palfrey, Pleck and St Matthew's.
- 2.7 This report sets out the evidence base for the introduction of a further Additional Licensing scheme for 5 wards of the borough (Willenhall South, Birchills Leamore, Blakenall, Bentley and Darlaston North and Darlaston South) and seeks cabinet permission to undertake statutory public consultation for its introduction, the proposed licensing conditions and associated fee levels.
- 2.8 Should cabinet agree to these proposals, a further report will be presented to cabinet following completion of the consultation. This further report will provide the outcome of the consultation and request potential approval on the implementation of additional licensing for these 5 wards.

Recommendations

- 3.1 That Cabinet approves a public consultation exercise in line with the prescribed process for the Additional Licensing of HMOs in the Wards of Willenhall South, Birchills Leamore, Blakenall, Bentley and Darlaston North and Darlaston South areas shown on Map 1: Appendix 1. This consultation to include proposed licensing conditions (Appendix 2) and associated fee levels (Appendix 3).
- 3.2 That Cabinet receives a further report following the above consultation.

Report detail - know

Context

- 4.1 In accordance with its powers under section 56 of the Housing Act 2004, the Council may designate the entire area of the borough or an area within the borough as subject to additional licensing of HMOs. The power is intended to address the impact of poor quality HMOs that fall outside of the mandatory licensing HMO definition and address management issues and poor property conditions. Additional licensing can also contribute to:
 - protecting the health, safety and well-being of tenants and communities;
 - neighbourhood improvement and the prevention and control of anti-social behaviour;
 - easier identification of rogue landlords and enabling action to be taken to respond to their behaviour;

- addressing problems linked to landlords who can easily take their HMOs outside of current scheme definitions – e.g. some landlords illegally evicting tenants to bring the occupation of their rented properties to below the current mandatory HMO occupancy level of 5 people.

4.1.1 The implementation of an Additional Licensing scheme will allow for these properties and their operation to be subject to proactive licensing requirements that would not otherwise be available. A fee is charged by the Council to the landlord for the duration of the licence which has clearly defined conditions which the landlord must satisfy.

Methodology and Evidence Base

4.1.2 When considering an Additional Licensing scheme, the council must ensure that the methodology and evidence base used is as robust as is realistically possible and it must be consistent with the local authority's housing strategy and should be coordinated with the authority's approach on homelessness, empty properties and antisocial behaviour.

4.1.3 With this in mind, the methodology used is a 2 stage process;

- Initial assessment – above Ward level
- Detailed assessment

Initial Assessment

4.1.4 The Council commissioned the Building Research Establishment (BRE) to undertake a detailed stock condition survey of the borough (including on matters relating to HMOs) and the resultant September 2019 report remains the most up to date and reliable information source regarding housing conditions in Walsall. This provided details relating to the 'initial assessment', which in summary highlighted HMO conditions (based on the 2019 Stock Condition Survey) as follows:

- 2,030 HMOs (11.3% of all private rented stock);
- 356 HMOs (17.5% of all HMOs) have a Category 1 hazard
- 290 HMOs (14.3% of all HMOs) are considered to be in disrepair

4.1.5 These levels of category 1 Hazards and disrepair in HMOs are considered high.

4.1.6 As HMOs are often the property of choice for those on lower income due to their affordability (relatively low rental charges), it is noteworthy that the prevalence of low Energy Performance Certificates (EPCs) are also higher in HMOs than broader private rented stock and even higher in the HMOs occupied by low income households:

Table 2	All dwellings	EPCs F and G	%
Private rented	17,970	681	3.8
Low income private rented	5,201	250	4.8
All HMOs	2,030	98	4.8
HMO low income households	587	43	7.3

4.1.7 It is unlawful to provide tenancies for properties with EPCs of F and G, except where specific exemptions have been registered, and the Housing Standards Team have been actively tackling this issue for 18+months. This work is highlighting a high level of landlords who:

- continue to seek to rent with an F or G rated EPC

- have never secured EPCs (since the legislation came in over 10 years ago) or
- have let their EPC lapse.

4.1.8 The Council has undertaken significant proactive work over many years to promote changes in housing legislation to landlords. Evidence from the applications for mandatory HMO licences over the last 12 months has shown that landlords have frequently not been meeting many of the statutory requirements and it has only been through the process of them being required to licence that other housing and related legislation starts to be complied with.

4.1.9 An assessment has shown that in the last 12 months issues remain of HMO applications being submitted lacking key information / certificates. Table 3 below summarises this

Table 3	Comment
A valid gas safety certificate where gas appliances are in place	Frequently lacking
An Energy Performance Certificates (EPCs)	Frequently lacking
A Portable Appliance Testing (PAT) certification	Nearly always
An up to date Electrical Certificate	Nearly always
An up to date fire alarm test certificate	Nearly always
A statement that the furniture meets the relevant fire safety requirements	Always lacking

4.1.10 It has been recognised for many years that HMOs can as a result of their layout and/or occupation present a fire safety risk that is 6 times higher than with single household properties. Fire safety is thus a key issue with HMOs and a review as, with in 2020, of the recent applications in 2021 received has highlighted that at the point of application and inspection there remain serious issues with a significant number of HMOs which can be summarised as follows:

- lacking or had inadequate fire detection and warning systems
- lacked fire doors with appropriate fire seals / strips;
- lacked automatic door closers or appropriate fire doors

4.1.11 Since January 2021 the Council had to issue 6 statutory notices against landlords of HMOs and in one case a letting agent who managed multiple private rented dwellings including HMOs has been entered onto the National Register of Rogue Landlords and Agents for their continued failure to address housing safety concerns.

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

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

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

Detailed Assessment

4.1.14 As indicated at 2.6 Cabinet has already agreed Additional Licensing for 4 Wards (summarised in Table 4a). Further detailed assessment highlights 5 Wards detailed in Appendix 4 and summarised in Table 4b overleaf where it is considered appropriate to introduce an Additional Licensing scheme based on a combination of factors:

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

Table 4a Approved areas for Additional Licensing

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

Table 4b Proposed further areas for Additional Licensing

Ward	Number of HMOs	% of private dwellings that are HMOs	% of HMOs with	
			Category 1 hazards	Disrepair
Bentley and Darlaston North	117	12.9%	17.1%	10.3%
Birchills Leamore	131	10.2%	12.2%	10.7%
Blakenall	129	14.2%	15.5%	12.4%
Darlaston South	117	11.8%	15.4%	8.5%
Willenhall South	205	13.4%	15.6%	11.2%
Total of above	699	12.4%	15.2%	10.7%

4.1.15 Appendix 4 contains a range of background information and statistics about the 5 Wards and compares them with other Wards that have high levels (15.5% or more) private rented dwellings. The 5 wards contain an estimated total of 699 HMOs. If an assumed occupation of HMOs by 4 people is used this means circa 2,796 residents are occupying HMOs in the 5 Wards. This number of HMOs accounts for a total 34.4% of the boroughs total HMOs.

4.1.16 An analysis of population change based on 2011 Census and 2020 ONS Mid-year projections (Table 5a) shows that population growth is 13% for the target wards combined compared to a lower rate for the borough of 6%. In particular, growth in the Blakenall and Darlaston South wards is significantly higher than the borough rate at 21% and 18% respectively.

Ward	Census 2011	Mid-2020 Population Estimates	Population Growth
Bentley and Darlaston North	13,479	14,350	6%
Birchills Leamore	14,775	16,095	9%
Blakenall	13,773	16,699	21%
Darlaston South	14,342	16,940	18%
Willenhall South	15,783	17,342	10%
Total of above	74,153	83,446	13%
Borough	269,323	286,716	6%

All the target Wards in total have higher population densities than the borough rate with Darlaston South and Blakenall being significantly higher as shown in the Table 5b below

Table 5b Population Density for Proposed new Additional Licensing Areas.

Ward	Area (ha)	Mid-2020 Population Estimates	Population density (people per hectare)
Bentley and Darlaston North	439	14,350	33
Birchills Leamore	413	16,095	39
Blakenall	353	16,699	47
Darlaston South	334	16,940	51
Willenhall South	481	17,342	36
Total of above	2020	83,446	41
Borough	10396	286,716	28

4.1.17 Further research shown in Appendix 4, Table E reveals that there are 42 Lower Super Output Areas (LSOAs) within these 5 wards and details in summary are shown in Table 5c relating to the English Indices of Deprivation 2019.

	Of most deprived LSOAs in England			Total Number of LSOAs
	Top 5%	Top 10%	Top 20%	
LSOA	8*	19	38	42
% of LSOAs	19%	43%	88%	100%
Dwellings	6,249	13,966	27,492	30,353
% of dwellings	21%	46%	91%	100%

Source: IMD including dwelling count Note *One LSOA is just outside the top 1%

4.1.18 The wards for the proposed Additional Licensing have significant levels of fuel poverty as indicated in Table 6a below. The rates are higher than the borough, west midlands and English levels.

Ward	Fuel Poverty Rate
Bentley and Darlaston North	23.3%
Birchills Leamore	24.8%
Blakenall	31.3%
Darlaston South	26.5%

Willenhall South	21.4%
Total of above	25.2%
Borough	19.4%
West Midlands	17.5%
England	13.4%
Source:* https://www.gov.uk/government/statistics/sub-regional-fuel-poverty-2021	

4.1.19 Many of the LSOAs are noted for having very high rates of fuel poverty as shown in Table 6b below. A total of 36 (86%) of the 42 LSOAs have a fuel poverty rate higher than that of the borough. For example, 5 of the LSOAs are in the top 1% for fuel poverty in the whole of England with a further 15 in the top 5% for fuel poverty.

Table 6b Fuel poverty rates for LSOAs in the new Additional licensing areas in the highest 5% of English Fuel Poor areas			
LSOA Name	Ward	Fuel Poverty Rate	Comment
E01010283	Blakenall	36.5	In highest 1% of English fuel poor LSOAs
E01010316	Darlaston South	34.9	
E01010374	Blakenall	34.8	
E01032888	Blakenall	33.9	
E01032889	Blakenall	33.5	
E01010271	Birchills Leamore	32.1	In highest 5% of English fuel poor LSOAs
E01010261	Bentley and Darlaston North	31.3	
E01010313	Darlaston South	30.9	
E01010277	Blakenall	30.7	
E01010312	Darlaston South	30.4	
E01010268	Birchills Leamore	29.7	
E01010263	Bentley and Darlaston North	29.1	
E01010375	Birchills Leamore	29.0	
E01010282	Blakenall	28.0	
E01010408	Willenhall South	27.5	
E01010309	Darlaston South	27.3	
E01010272	Birchills Leamore	27.1	
E01010310	Darlaston South	26.2	
E01010274	Birchills Leamore	26.0	
E01010265	Bentley and Darlaston North	25.8	
Source:* https://www.gov.uk/government/statistics/sub-regional-fuel-poverty-2021			

4.1.20 It is therefore proposed to consult on the introduction of Additional Licensing for the 5 wards of Willenhall South, Birchills Leamore, Blakenall, Bentley and Darlaston North and Darlaston South.

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.

4.2.3 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.

Risk management

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

- Legal challenge and
- Resourcing.

Legal Challenge

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

- failed to follow the requirements of the consultation process as per the Housing Act 2004;
- had insufficient rationale for their proposed Additional licensing scheme including where councils have previously sought to without justification, 'Additionally License' the whole of their borough area.
- Not set out and charged licence fees in accordance with underlying legislation, Government guidance and case law.

4.3.3 The above risks are considered mitigated by:

- Proposing a consultation scheme in full accordance with the legislation, Government guidance and case law relating to Additional Licensing
- Having a sufficiently robust evidence base to support the proposal of consultation on the Additional Licensing for the 5 Wards identified in this report.
- Ensuring that fees are set and charged as required by underlying legislation, Government guidance and case law.

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

4.3.5 Additional staff (and or retention of fixed term staff) would therefore be required, the cost for which would need to be met via the licence fee paid for by landlords and other income. It is estimated that the total cost of operating the schemes will be in the region

of £688,341. This is based on the number of licences that are estimated to be issued and the level of resources required to deliver the scheme. Another source of income relevant to the scheme is financial penalties paid by landlords served with Civil Penalty and related notices.

- 4.3.6 Table 7 below summarises the proposed staffing and Appendix 5 details the staffing and costing projections associated with the proposal. This calculation is also based on the detailed feedback from the previous statutory consultation for Additional Licensing which backed a higher staffing level to tackle the issues relating to HMOs.

Table 7 Proposed roles to deliver Additional Licensing

Proposed Post	Grade	Year of operation				
		1	2	3	4	5
Housing Standards Officers	G9	1.5	1.5	1.5	1.5	1.5
Technical officer	G7	1	1	1	1	1
Total Staffing Number		2.5	2.5	2.5	2.5	2.5

- 4.3.7 An assessment of fees has been undertaken. It is proposed to replicate the fee structure that is due to come in for the already agreed Additional Licensing Scheme for Paddock, Palfrey, Pleck and St Matthew's. Whilst there are estimated to be circa 18% less HMOs in this current proposed scheme than the one already approved it is expected that any balance not met by fee income, can be met by civil penalty notice / fine payments across the borough during the licence scheme period (5 years).

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

a) Are proportionate

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

b) Encourage best practice

A range of discounts are proposed:

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

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

Financial implications

Consultation stage

- 4.5.1 The direct financial implications for the Council that arise from this report at this time is estimated to be under £10,000 for staffing and ancillary costs associated with consultation in line with the statutory requirements and can be met from existing resources.

Delivery Stage

- 4.5.2 The Council can charge fees for Additional Licensing provided they reflect the cost of running the scheme. The fee is allowed to reflect all of the costs including the operation of the scheme itself, education about the scheme, and the necessary inspections and enforcement activity to make the scheme effective.
- 4.5.3 The costs of administering Additional Licensing (primarily additional staffing costs) would need to be recouped through an administration fee levied to landlords. Fee income charged would need to be at a sufficient level to pay for additional staffing costs of administering such a scheme and would of course vary depending on the scale of any proposal. As highlighted the current proposal is to set a fee that will fully recover the costs of the scheme delivery.
- 4.5.4 It is estimated that the cost of running such a scheme shall be in the region of £688,341 and that average fee income shall be around £885 per property. A range of discounts are proposed and it is noted that those who are accredited and apply earlier will pay £730 and extra charges where landlords fail to apply on time. The proposed Fees and Discounts are contained in Appendix 3.
- 4.5.5 The financial modelling of the scheme estimates income and expenditure cash flows and is modelled to break even over its 5-year life. The fee charging structure proposed for the consultation is based on 'rates for' 2021/22. The consultation documents will highlight that fees will normally increase by circa 2% each financial year, to keep pace with cost increases and inflation. The council will review the income and expenditure on a regular basis to ensure that the scheme is 'self-funding'. The table below summarises the proposed fees and as detailed provides a discount for early bird applicants and for those who are accredited. In line with current policy there will be no fee charges for HMO licence variations.

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

- 4.5.6 The fee structure has an estimated average fee of £855 which is considered reasonable and not prohibitive. It is considered that professional landlords will be able to successfully manage private rental properties in the designated areas and yield values should remain high enough to attract both investment and finance. It is also acceptable and expected that any short-term negative points will disappear as longer-term regeneration occurs.
- 4.5.7 The Council will 'split fees' in line with legislation with the first part payable on application. Officers have reviewed legislation and the case of Administrative Court in Gaskin, R (On the Application Of) v Richmond Upon Thames London Borough Council & Anor [2018] EWHC 1996) and 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.

- 4.5.8 Our understanding of the local property market, market rent levels, and typical buy-to-let mortgage rates, suggests that the majority of landlords will be able to absorb this cost without increasing rent levels. Ultimately the decision to increase rents or not is an individual landlord's business decision. Whilst it is expected that landlords will be able to 'offset' the cost of licence fees in the same way as property insurance some landlords may however subsequently increase rents to recover the costs of the licence. Other areas that have introduced similar licensing have not seen an increase in rent due to licensing.
- 4.5.9 Improved tenancy management should reduce costs arising from void periods and tenancy turnover. These should for landlords lead to an increase in total rent received (lower costs associated with marketing and bringing the property back to rental standard following vacation) and these lower costs should 'balance' any impact of fee for licensing. Bringing empty properties back into use will restore confidence in the area in addition to generating income for the individual owners.

Legal implications

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

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

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

Examples of what is not an HMO are:

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

- 4.6.2 The Housing Act 2004 already requires local housing authorities to mandatorily licence HMOs if they accommodate more than 4 people who form two or more households. The Act also gives authorities the power to introduce an additional licensing scheme for other smaller HMOs. This power can be considered if any of the following the following criteria is met;

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

- (a) A significant proportion of the HMOs of that description in the area are being managed sufficiently ineffectively as to give rise, or to be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public;
- (b) The authority has regard to any information regarding the extent to which any codes of practice for management standards approved under section 233 have been complied with by persons managing HMOs in the area in question. (This means

that any organisation which manages HMOs is able to put in a code of practice which prescribes management standards. The code of practice has to be advertised appropriately and/or adopted by their organisation to be recognised under s233).

- (c) The Local Authority has considered whether there are any other courses of action available to them (of whatever nature) that might provide an effective method of dealing with the problem or problems in question,
- (d) Making the designation will significantly assist them to deal with the problem or problems (whether or not they take any other course of action as well).

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

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

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

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

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

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

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

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

- 4.6.7 A landlord of an unlicensed HMO is unable to serve a section 21 notice* under the Housing Act 1988 in relation to a short hold tenancy of the whole or part of any property which is an 'unlicensed house'. Additionally a tenant of an unlicensed HMO is able to secure a Rent Repayment Order (RRO) requiring the landlord to repay their rent for the period of up to 12 months. Where the Council has provided either housing benefit or the Housing element of Universal Credit for an unlicensed HMO it too can consider securing rent repayment order against the landlord.
- * It is noted that the government has proposed the repealing Section 21 notices for all private rented properties via the Renters Reform Bill.
- 4.6.8 A licence will have mandatory conditions attached which relate to circumstances covering conditions such as providing gas and electrical certificates and maintaining health and safety standards.
- 4.6.9 The Council can also include discretionary conditions and these relate to the management of the property. The proposed licence conditions (mandatory and discretionary) are attached to this document as Appendix 2. It is proposed that this mirror those already consulted on and approved for the Additional Licensing Scheme due to be declared in 2022.
- 4.6.10 A licence holder (or person bound by the licence conditions) will commit a criminal offence if they fail to comply with any condition of a licence. This offence is punishable by an unlimited fine via prosecution or via civil penalty fine which is currently set by the council at £5,000 per breach.
- 4.6.11 This proposal does not prevent the council from undertaking further consultation on additional schemes in the future. An assessment of HMO data does not however currently support a broader or a borough wide designation.
- 4.6.12 The proposal is in line with:
- a) The existing Housing Strategy (2020-2025) which highlights that the Council is committed to improving the condition and availability of private rented homes in the borough.
 - b) The Homelessness Strategy (2018-2022) which supports the appropriate use of the private rented to help with accommodation for homeless households.
 - c) Home Energy Conservation Act (HECA) Action Plan which seeks to address fuel poverty especially in the private rented sector within Walsall.

Procurement Implications/Social Value

- 4.7.1 There are no procurement implications

Property implications

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

Health and wellbeing implications

- 4.9.1 There are complex interconnections between living conditions, deprivation and health problems. The Council has a statutory duty to tackle what are known as Category 1 Hazards under the Housing Health and Safety Rating System (HHSRS). The HHSRS

has 29 hazards that are caused by defects in housing that have a direct impact on health. These include but are not limited to:

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

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

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

4.9.3 Additional licensing is in accordance with the:

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

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

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

Staffing implications

4.10.1 The Council does not have the capacity currently to take forward the proposal with its existing staffing resources. Additional staff would be required to administer and manage the scheme itself, which is proposed to be funded via the License fee and enforcement income should the proposal be taken forward.

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

Reducing Inequalities

4.11.1 The implications for reducing inequalities have been taken into account and assessed as set out in a detailed Equality Impact Assessment (EQIA) and this will be re-evaluated after the statutory consultation on Additional Licensing.

4.11.2 Additional Licensing is designed to improve standards and relationships and therefore likely promote community cohesion and relations between people from different backgrounds. This scheme is also expected to have positive equal opportunities implications in that it seeks to address key issues relating to substandard HMO accommodation, and as such seeks to target resources towards improving the lives of financially disadvantaged or vulnerable households living in non-decent homes. As indicated earlier in this report the target areas include a range of LSOs with some of the highest multiple deprivation in England.

4.11.3 The scheme will apply to all HMO occupants in these areas irrespective of their background or demographics. The increase in information / education around suitable behaviour of both landlords and tenants about their rights and responsibilities will form part of the public consultation. This will most likely result in increased contact with the

council by tenants and disadvantaged groups who currently reside in poor quality accommodation.

4.11.4 The scheme will contribute towards reducing fuel poverty in the target Wards which have some of the highest rates within the borough (and whole of England).

Consultation

4.12.1 There is a statutory requirement to consult for a minimum period of 10 weeks on any proposals to designate an area subject to Additional Licensing. This report sets out the basis for recommendations to conduct a consultation and for the results of the consultation to be considered as part of the development of the proposed structure of the Additional Licensing scheme. It is proposed to start consultation in early 2022 and it is proposed to run for 10+ weeks.

4.12.2 The consultation will demonstrate that it has satisfied the legal requirement to take reasonable steps to consult with those people who may be affected by the designation. This includes neighbouring areas outside of the borough boundary.

4.12.3 As part of any Additional Licensing Scheme, council's must also consult on:

- a) Boundary for the area(s);
- b) Fee structure for licenses;
- c) Issues the council is seeking to address and how these will be measured
- d) Proposed license conditions.

4.12.4 A Consultation Plan (Appendix 6) has been produced setting out how the Council will meet these requirements.

4.12.5 Initial consultation (in addition to the statutory consultation) has already taken place with key partners who have expressed their support for the initiative:

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

Decide

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

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

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

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.

Review

- 7.1 Upon the completion of the statutory consultation a report detailing the results will be referred back to Cabinet for consideration at a future meeting.
- 7.2 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).
- 7.3 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.

Background papers

Housing Act 2004

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

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

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

Walsall Home Energy Conservation Act Action Plan – July 2021

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Signed
Sally Rowe
Executive Director
Childrens Services and Customer
3rd December 2021

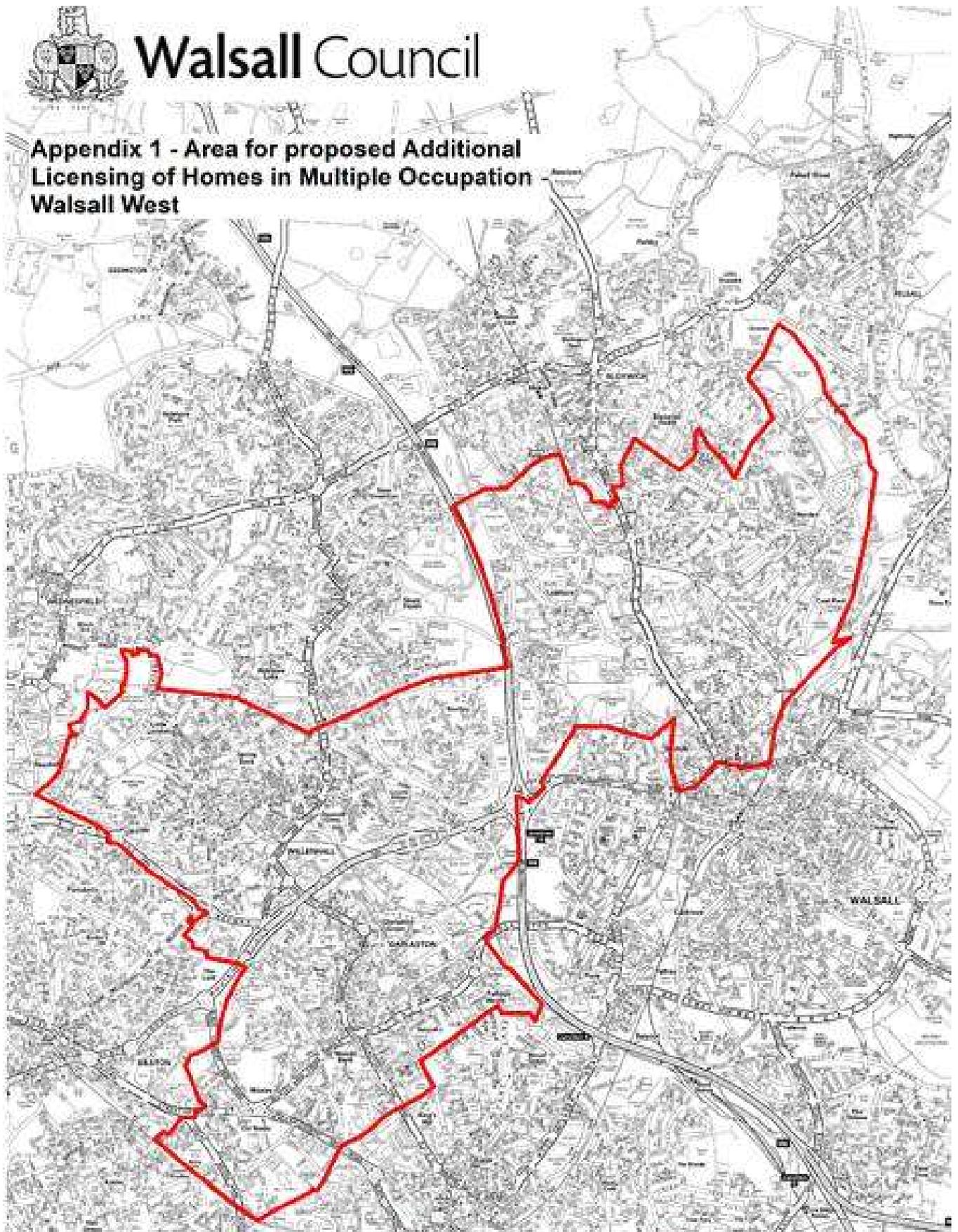


Signed
Councillor A Andrew
Portfolio Holder Regeneration
3rd December 2021



Walsall Council

Appendix 1 - Area for proposed Additional Licensing of Homes in Multiple Occupation Walsall West



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Appendix 2

Proposed Licensing Conditions for statutory consultation for Additional Licensing

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:

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 border="0"> <thead> <tr> <th>Number of People</th> <th>Age in Years</th> <th>Minimum Bedroom Floor Area</th> </tr> </thead> <tbody> <tr> <td>One person</td> <td>over 10</td> <td>6.51m²</td> </tr> <tr> <td>Two persons</td> <td>over 10</td> <td>10.22m²</td> </tr> </tbody> </table> <p>Any area of the room in which the ceiling height is less than 1.5m cannot be counted towards the minimum room size.</p>	Number of People	Age in Years	Minimum Bedroom Floor Area	One person	over 10	6.51m ²	Two persons	over 10	10.22m ²
Number of People	Age in Years	Minimum Bedroom Floor Area								
One person	over 10	6.51m ²								
Two persons	over 10	10.22m ²								
<u>8</u> <u>Waste Disposal</u>	The licence holder must ensure that suitable and adequate provision is made for the storage and disposal of domestic refuse from the house and that the council's arrangements for storage and waste disposal are adhered to.									
<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.									

<p>13 <u>Automatic Fire Detection & Warning System Standard</u></p>	<p>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.</p>
<p>14 <u>Fire Safety Certification</u></p>	<p>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.</p>
<p>15 <u>Fire Fighting Equipment</u></p>	<p>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.</p>
<p>16 <u>Condition of Furniture</u></p>	<p>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.</p>
<p>17 <u>Information that must be Displayed</u></p>	<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>
<p>18 <u>Property Inspections</u></p>	<p>The licence holder shall ensure that inspections of the property are carried out at least every 6 months to identify any problems relating to the condition and management of the property. The records of such inspections shall be kept for the duration of this licence. As a minimum requirement the records must contain a log of who carried out the inspection, the date and the time of inspection and any issues found and action(s) taken. Copies of these must be provided within 7 days of the Council's demand.</p>
<p>19 <u>Fit and Proper Persons</u></p>	<p>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.</p>
<p>20 <u>Tackling Anti-Social Behaviour</u></p>	<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"> A) Ensure that written notes are kept of any meetings or telephone conversations or investigations regarding anti-social behaviour. B) If a complaint is received, or anti-social behaviour is discovered, within 7 days the tenant must be informed of the allegations of anti-social behaviour in writing and of the consequence of its continuation. C) Take all necessary steps to establish if it is continuing.

<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>

<p><u>24</u> <u>Maintenance of External Areas</u></p>	<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>												
<p><u>25</u> <u>Bin Provision for Waste Collection and Disposal</u></p>	<p>The licence holder shall ensure that suitable and adequate provision is made for refuse storage and collection which comprises of closable bins of suitable capacity; including for recycling as specified by Walsall council. The Council currently operates the following 3 kerbside collection services:</p> <table border="1" data-bbox="311 504 1439 712"> <thead> <tr> <th>Type of Waste</th> <th>Collection Frequency</th> <th>Minimum Capacity of Wheeled Bins</th> </tr> </thead> <tbody> <tr> <td>Domestic household general waste</td> <td>Fortnightly</td> <td>140 litres</td> </tr> <tr> <td>Domestic household dry recyclable materials (commingled)</td> <td>Fortnightly</td> <td>240 litres</td> </tr> <tr> <td>Household garden waste</td> <td>3 weekly</td> <td>240 litres</td> </tr> </tbody> </table> <p>Bin collection days for properties in Walsall can be found at: https://www.walsall.gov.uk/waste/bincollections</p> <ul style="list-style-type: none"> The licence holder shall ensure so far as is reasonably possible that the occupiers make arrangements for the collection of waste in accordance with these provisions and, when the property is unoccupied, adhere to these provisions themselves. The licence holder is also responsible for ensuring that any kind of refuse which the Council will not ordinarily collect (e.g. large items of furniture, hazardous waste etc.) are disposed of responsibly and appropriately. 	Type of Waste	Collection Frequency	Minimum Capacity of Wheeled Bins	Domestic household general waste	Fortnightly	140 litres	Domestic household dry recyclable materials (commingled)	Fortnightly	240 litres	Household garden waste	3 weekly	240 litres
Type of Waste	Collection Frequency	Minimum Capacity of Wheeled Bins											
Domestic household general waste	Fortnightly	140 litres											
Domestic household dry recyclable materials (commingled)	Fortnightly	240 litres											
Household garden waste	3 weekly	240 litres											
<p><u>26</u> <u>Information Provision for Waste Collection and Disposal</u></p>	<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; 												
<p><u>27</u> <u>Provision of Amenities for Cooking, Food Storage and Space Heating</u></p>	<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>												
<p><u>28</u> <u>Rent and other charges</u></p>	<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>												
<p><u>29</u> <u>Tenancy Deposits</u></p>	<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>	The HMO has a valid (in date not expired) Energy Performance Certificate (EPC) throughout the duration of the licence and that this is in full accordance with the Minimum Energy Efficiency Standards (MEES) throughout the duration of the licence.
<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>

EPC:

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:

- Meeting the minimum EPC level i.e. D by 2025 or
- Have a valid exemption registered prior to 2025 on the national exemption register.

Where the landlord 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.

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 3

Additional Licensing Proposed Fees and Licence Periods

Overall

These fees (and fee structure) cover the cost of managing the Additional licensing scheme, including preparing for the scheme, publicising the scheme, training staff, landlords and other stakeholders (where applicable) 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 administration fee payment will need to accompany the licence application.

The second stage enforcement 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 additional HMO property for same landlord / manager

This only applies if the applications are made at the same time. A £50 reduction will be applied for each subsequent property. This will be applied to the 2nd and not the 1st stage fee and applies irrespective of whether the landlord/manager is accredited or not.

Fee Refunds

There will be 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:

- Your application follows an investigation made by the Council
- Where correct planning permission has not been obtained, and is required
- Your application follows a written request made by the Council for you to apply
- Where a property should in the opinion of the Council have been licensed previously

Appendix 4

Further details about the 5 wards where Additional Licensing is proposed including selection process.

Tables highlight those where Additional Licensing has been approved and where it is proposed.

Assessment Process undertaken:

Stage	Commentary
1	An assessment of data indicating which Wards have the highest number of HMOs. (Table A attached).
2	An assessment of data indicating which Wards have the highest rate of HMOs as percentage of all private rented stock. (Table B attached).
3	An assessment of data indicating the rate of Category 1 Hazards within HMOs. (Table C attached).
4	An assessment of data indicating the rate of disrepair within HMOs. (Table D attached).
5	Table E has additional data related to the 5 selected Wards based on Lower Super Output areas (LSOAs).

Table A. Wards ranked by number of HMOs		
Ward Name	Number of HMOs	Additional Licensing
St Matthew's	308	Approved to commence March 2022
Pleck	247	Approved to commence March 2022
Willenhall South	205	Proposed
Palfrey	196	Approved to commence March 2022
Birchills Leamore	131	Proposed
Blakenall	129	Proposed
Bentley and Darlaston North	117	Proposed
Darlaston South	117	Proposed
Paddock	103	Approved to commence March 2022
Bloxwich East	70	
Brownhills	56	
Pheasey Park Farm	50	
Bloxwich West	49	
Rushall-Shelfield	44	
Aldridge Central and South	43	
Short Heath	39	
Aldridge North and Walsall Wood	39	
Pelsall	34	
Streetly	31	
Willenhall North	22	
Borough Total	2,030	

Table B. Wards ranked by highest percentage of private rented that are HMOs		
Ward Name	% of private rented that are HMOs	Additional Licensing
Palfrey	17.7	Approved to commence March 2022
Pleck	17.0	Approved to commence March 2022
Blakenall	14.2	Proposed
St Matthew's	13.6	Approved to commence March 2022
Willenhall South	13.4	Proposed
Bentley and Darlaston North	12.9	Proposed
Paddock	12.5	Approved to commence March 2022
Darlaston South	11.8	Proposed
Birchills Leamore	10.2	Proposed
Brownhills	9.5	
Pheasey Park Farm	9.3	
Bloxwich East	9.3	
Short Heath	7.0	
Rushall-Shelfield	6.8	
Pelsall	6.5	
Aldridge North and Walsall Wood	6.5	
Streetly	6.4	
Aldridge Central and South	6.4	
Bloxwich West	6.1	
Willenhall North	4.1	
Total	11.3	

Table C. Wards ranked by highest percentage of Category 1 Hazards in HMOs		
Ward Name	% HMOs with Category 1 Hazards	Additional Licensing
Aldridge Central and South	25.6	
St Matthew's	23.4	Approved to commence March 2022
Pelsall	20.6	
Bloxwich West	20.4	
Pleck	19.0	Approved to commence March 2022
Palfrey	18.9	Approved to commence March 2022
Paddock	18.4	Approved to commence March 2022
Rushall-Shelfield	18.2	
Willenhall North	18.2	
Bloxwich East	17.1	
Bentley and Darlaston North	17.1	Proposed
Willenhall South	15.6	Proposed
Blakenall	15.5	Proposed
Darlaston South	15.4	Proposed
Pheasey Park Farm	14.0	
Aldridge North and Walsall Wood	12.8	
Birchills Leamore	12.2	Proposed
Brownhills	10.7	
Short Heath	10.3	
Streetly	3.2	
Borough Total	17.5	

Table D. Wards ranked by highest percentage of Hmos with disrepair.		
Ward Name	% of HMOs with disrepair	Additional Licensing
Pleck	22.3	Approved to commence March 2022
Palfrey	21.9	Approved to commence March 2022
St Matthew's	21.1	Approved to commence March 2022
Bloxwich East	14.3	
Paddock	13.6	Approved to commence March 2022
Blakenall	12.4	Proposed
Aldridge Central and South	11.6	
Willenhall South	11.2	Proposed
Birchills Leamore	10.7	Proposed
Bentley and Darlaston North	10.3	Proposed
Pheasey Park Farm	10.0	
Willenhall North	9.1	
Pelsall	8.8	
Darlaston South	8.5	Proposed
Aldridge North and Walsall Wood	7.7	
Brownhills	7.1	
Bloxwich West	6.1	
Streetly	3.2	
Short Heath	2.6	
Rushall-Shelfield	2.3	
Borough Total	14.3	

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

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

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

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

Table showing LSOA in the 5 proposed Target wards with Index of Multiple Deprivation (IMD) 2019 in the top 20% in England. Source 2019

LSOA code (2011)	Ward Name	Dwellings	Index of Multiple Deprivation (IMD) Rank (where 1 is most deprived) 2019	Index of Multiple Deprivation (IMD) Decile (where 1 is most deprived 10% of LSOAs) 2019
E01032889	Blakenall	758	352	1
E01010368	Birchills Leamore	1085	820	1
E01032888	Blakenall	1084	954	1
E01010282	Blakenall	549	1,244	1
E01010316	Darlaston South	680	1,304	1
E01010274	Birchills Leamore	650	1,392	1
E01010272	Birchills Leamore	771	1,546	1
E01010273	Birchills Leamore	672	1,565	1
E01010283	Blakenall	737	1,949	1
E01010271	Birchills Leamore	731	2,002	1
E01010275	Birchills Leamore	686	2,263	1
E01010374	Blakenall	676	2,390	1
E01010311	Darlaston South	759	2,410	1
E01010375	Birchills Leamore	789	2,663	1
E01010408	Willenhall South	694	2,816	1
E01010277	Blakenall	662	2,939	1
E01010401	Willenhall South	664	3,054	1
E01010266	Bentley and Darlaston North	547	3,178	1
E01010404	Willenhall South	772	3,237	1

Table showing LSOA in the 5 proposed Target wards with Index of Multiple Deprivation (IMD) 2019 in the top 20% in England. Source 2019

LSOA code (2011)	Ward Name	Dwellings	Index of Multiple Deprivation (IMD) Rank (where 1 is most deprived) 2019	Index of Multiple Deprivation (IMD) Decile (where 1 is most deprived 10% of LSOAs) 2019
E01010264	Bentley and Darlaston North	682	3,594	2
E01010261	Bentley and Darlaston North	703	3,630	2
E01010279	Blakenall	753	3,675	2
E01010268	Birchills Leamore	623	3,740	2
E01010310	Darlaston South	652	3,916	2
E01010406	Willenhall South	1153	4,067	2
E01010314	Darlaston South	686	4,136	2
E01010265	Bentley and Darlaston North	685	4,142	2
E01010260	Bentley and Darlaston North	719	4,261	2
E01010263	Bentley and Darlaston North	543	4,291	2
E01010258	Bentley and Darlaston North	772	4,559	2
E01010309	Darlaston South	783	4,652	2
E01010312	Darlaston South	753	4,680	2
E01010403	Willenhall South	728	4,974	2
E01010405	Willenhall South	747	5,318	2
E01010313	Darlaston South	583	5,634	2
E01010315	Darlaston South	611	5,920	2
E01010407	Willenhall South	673	5,972	2
E01010409	Willenhall South	677	6,084	2
Total dwellings		27,492		

Appendix 5 Draft Budget projections for Additional Licensing

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

Costs	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Housing Standards Officer (Grade G9)	£48,342	£48,342	£48,342	£48,342	£48,342	£241,710
Housing Standards Officer (Grade G9) 0.5	£24,171	£24,171	£24,171	£24,171	£24,171	£120,855
Technical officer (Grade G7)	£38,965	£38,965	£38,965	£38,965	£38,965	£194,825
Overheads (including upgraded software) and legal costs	£26,191	£26,191	£26,191	£26,191	£26,191	£130,955
Overall Total	£ 137,699	£ 688,345				

Projected Income	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Early Bird applicants including accredited landlords	£445,400	£-	£-	£-	£-	£445,400
Accredited landlord (non-early bird)	£0	£9,185	£9,185	£9,185	£9,185	£36,740
Standard Fee	£15,239	£30,414	£30,414	£30,414	£30,414	£136,895
Fines / enhanced fees	£13,862	£13,862	£13,862	£13,862	£13,862	£69,310
Income Total	£474,501	£53,461	£53,461	£53,461	£53,461	£688,341

Appendix 6 Consultation Plan – Additional Licensing

Background

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

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

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

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

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

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

Title

During the 2021 statutory consultation on the first area for Additional Licensing it was noted that some respondents thought the proposal was intended to increase the number of HMOs within the area. Further information will be provided during the proposed consultation to ensure greater clarity on this matter.

Key methods of Consultation will include the following:

One key tool to be used will be on-line questionnaires as per those used very successfully in 2021 to obtain views on this proposal.

Council Website:

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

- Original Cabinet report
- Proposed licensing conditions (as separate appendices for ease of access)
- Answers to frequently asked questions
- Maps showing the proposed boundary to the Additional Licensing Area

- A link to the online survey for landlords and agents
- Contact details

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

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

Direct e-mail sent to landlords and agents:

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

Walsall Landlord Forum

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

Public information and consultation sessions

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

Other

Consultation with internal council services will involve:

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

Posters will be displayed

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

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

Landlord Associations

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

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

Key social sector landlords

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

Neighbouring Councils

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