

**REPORT TO: HOUSING COMMITTEE 18 DECEMBER, 2000**

**REPORT ON: MANDATORY LICENSING OF HOUSES IN MULTIPLE OCCUPATION**

**REPORT BY: DIRECTOR OF HOUSING**

**REPORT NO: 764-2000**

## **1. PURPOSE**

To inform committee of the implications of the introduction of Mandatory Licensing of Houses in Multiple Occupation (HMOs)

## **2. RECOMMENDATIONS**

It is recommended that Committee:

- 2.1 Notes that applications will be dealt with by the Licensing Committee, whose responsibility will be the approval and enforcement of the conditions of licence.
- 2.2 Notes the Fee Scale previously agreed at the Licensing Committee on the 28 September 2000.
- 2.3 Agrees to the Housing Department as the Lead Department and that the Private Sector Grants Unit continues to assume responsibility for the development of Housing Department procedures for publicising, implementing and managing the Mandatory Licensing Scheme for HMOs.

## **3. FINANCIAL IMPLICATIONS**

- 3.1 Under the 1982 Act, Local Authorities are expected to ensure that fees received cover the cost of the Licensing Scheme. The Fee Scale agreed at the Licensing Committee on the 28th September 2000 is designed to ensure that there will be no financial implications for the Council. It will be necessary however to review the fee scale on an annual basis to ensure that this remains the case.

## **4. EQUAL OPPORTUNITIES IMPLICATIONS**

The introduction of this legislation will ensure minimum standards of safety, quality and management of accommodation for residents in this sector of the rented market.

## **5 LOCAL AGENDA 21 IMPLICATIONS**

5.1 This report will contribute to the following Local Agenda 21 aims:

- Access to good food, water, shelter and fuel at a reasonable cost.
- Health is protected by creating safe, clean, pleasant environments.

## **6 BACKGROUND**

6.1 The Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000 introduces a mandatory licensing scheme for Houses in Multiple Occupation (HMOs) and came into force on the 1st October 2000.

6.2 The effect of the above Order is that dwellings where there are five or more persons living together who are not all members of the same family or one or other of two families will require to be licensed as a House in Multiple Occupation (HMO). This occupancy threshold will reduce by one person on the 1<sup>st</sup> October each year until October 2003 when dwellings with more than two persons will require to be licensed.

6.3 Whilst the majority of applications will come from the private sector, it should be noted that any Council property which meets the above criteria will also require to be licensed. Within the Housing Department, The Lily Walker Centre is an example of Council operated accommodation requiring a licence.

6.4 Exempted premises include the following:

- Nursing homes under the Nursing Homes Registration (Scotland) Act 1938.
- Residential establishments under Section 62 of the Social Work (Scotland) Act 1968.
- Private hospitals under the Mental Health (Scotland) Act 1984.
- Boarding schools.
- Monasteries, convents and similar religious communities.

Houses in which each occupying person or at least one member of each occupying family has a heritable right are not regarded as HMOs.

## **7. MANAGING THE SCHEME**

7.1 The Housing Department was identified as the Lead Department and the Private Sector Grants Unit was tasked with establishing an administrative framework, collecting statistics and data, setting fees and publicising the scheme, building on existing systems already in place for the previous Discretionary Scheme operated by the Council.

- 7.2 A working group chaired by the Housing Department and comprising representatives of Support Services, Environmental & Consumer Protection, Planning & Transportation, Finance, Tayside Fire Brigade and Tayside Police was formed. This group has made significant progress as a result of which an administrative framework, Guidance Notes, Standards for Shared Accommodation and Fee Scales have been created allowing applications to be accepted and processed.
- 7.3 In setting up the scheme detailed discussions were held with both Universities and presentations have been made to a number of Private Landlords via the Landlords Forum.

## 8. FEE SCALE

- 8.1 The Council is required to ensure that fees collected cover the costs of operating the scheme. As a result a detailed financial exercise was carried out in consultation with the Director of Finance and those officers concerned with the administration of the scheme and the fee scale indicated overleaf was subsequently approved by The Licensing Committee on the 28<sup>th</sup> September 2000:

### FEE SCALE

BAND WIDTH	FEE	WEEKLY EQUIVALENT *	
		Lower	Upper
3 to 5	£650	£1.39	£0.83
Up to 10	£750	£0.80	£0.48
Up to 20	£950	£0.55	£0.30
Up to 30	£1150	£0.35	£0.25
Up to 40	£1350	£0.28	£0.22
Up to 50	£1550	£0.24	£0.20
Up to 75	£2050	£0.26	£0.18
Up to 100	£2550	£0.22	£0.16
Up to 200	£4550	£0.29	£0.15
Over 200	£6550	£0.21	£0.14

\* Based on a 3 year licence and 52 week year

For large institutional buildings such as university accommodation and hostels the fee would be based on the aggregate bed spaces on any one site. Individual licences would however be issued for each building (HMO) on the site.

**9. PERIOD OF LICENCE**

- 9.1 Licences will be granted for a period of up to three years at the discretion of the Licensing Committee and may be granted subject to fulfilment of conditions.

**10. INSPECTION OF PREMISES**

- 10.1 Agreement has been reached between the various services to carry out, as far as practical, joint inspections. Operators will be given notice of the specific date when these inspections will be carried out.
- 10.2 As the volume of applications increase, particularly as we move towards properties containing three occupants there is likely to be a staffing impact and a review of the fee scales being charged may be necessary. The provision of an Advice Service and Enforcement Action against non-complying premises will also have to be taken into account.

**11. IDENTIFICATION OF HMOs**

- 11.1 No database of HMOs existed and a significant amount of work will be required in this area. A database based on existing knowledge, including Council Tax and Housing Benefit records has been created. Over 260 letters have been sent in a mail-shot to all known Landlords, Property Managers, Solicitors, Architects and Surveyors and the Secretaries of both Universities have been contacted. Information is also being sent to local Community Councils. To date in excess of 175 premises and 3000 bed spaces have been identified, however this represents only a fraction of the totals anticipated.

**12. PUBLICITY**

- 12.1 Additional publicity is being considered as follows:
- Council Web Site
  - Council A – Z
  - Local Radio
  - Presentations
  - Posters
  - Scottish Executive Sponsored Road-show

**13. ENFORCEMENT ACTION**

- 13.1 Neighbours, Local Community Councils and Landlords intending to apply for a licence, see enforcement Action against unlicensed premises, as a critical part of the legislation.

13.2 Complaints against licensed premises will be co-ordinated through the Private Sector Grants Unit but individual departments as well as the Police and Fire Brigade will refer concerns directly to the Licensing Committee. An HMO operating without a licence will be referred to the Police and ultimately the Procurator Fiscal. The maximum fine for operating an HMO without a licence is £5000.

13.3 Where enforcement action leads to the closure of an HMO, particularly in an emergency situation a strategy will be required to re-house the affected tenants. Consultations have begun with the Homeless Unit to address this issue.

#### 14. **SUMMARY**

14.1 Despite the short lead-in time for the introduction of this legislation significant progress has been made by the HMO Working Group enabling applications to be accepted and processed.

14.2 Further work is required specifically in the areas of publicity and the creation of a database of HMOs as well as in the areas of enforcement and advice. The Council is however well placed to manage this new scheme and progress compares very favourably with other leading authorities.

#### 15. **CONSULTATIONS**

15.1 The Chief Executive, Director of Support Services, Director of Finance, Director of Environmental and Consumer Protection, Director of Planning and Transportation, The Firemaster and The Chief Constable have been consulted in the preparation of this report.

#### 16. **BACKGROUND PAPERS**

16.1 Civic Government (Scotland) Act 1982

16.2 Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000

16.3 Scottish Executive Guidance on the Mandatory Licensing of Houses in Multiple Occupation

**ELAINE ZWIRLEIN**  
**DIRECTOR OF HOUSING**

**SIGNATURE**

**DATE**

