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**Cabinet  
Council**

7<sup>th</sup> January 2020  
14<sup>th</sup> January 2020

**Name of Cabinet Member:**

Cabinet Member for Housing and Communities – Councillor T Khan  
Cabinet Member for Policing and Equalities – Councillor A S Khan

**Director Approving Submission of the report:**

Deputy Chief Executive (Place)

**Ward(s) affected:**

All

**Title:** Additional Licensing in Coventry – Consultation Results

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**Is this a key decision?**

Yes – the proposals within the report will have a city-wide impact and financial implications are in excess of £1m per annum.

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**Executive Summary:**

The Housing Act 2004, Part 2, provides a discretionary power, subject to carrying out consultation, for Local Housing Authorities to licence all private landlords in a designated area with the intention of ensuring that Houses in Multiple Occupation (HMOs) meet a minimum standard of management.

On the 8 January 2019 Cabinet considered the Additional Licensing Feasibility Report (Appendix 1) and authorised Officer's to proceed with a citywide 10-week consultation beginning on the 9 January 2019 and ending on the 20 March 2019.

City Wide consultation was undertaken in the form of on-line questionnaires, ward drop in sessions, focus groups and Member meetings. There were a mix of responses but with the highest number being from landlords and residents. The responses highlighted a number of issues that both residents of HMOs experience and residents living alongside HMOs. There was strong support for the introduction of an Additional Licensing scheme, the fee structure was considered reasonable and proportionate by the majority, likewise there was support to manage the licence period depending upon the compliancy of the particular landlord. There were some concerns around the legality of the fee structure and how the length of licence would be determined in practice which have been considered and addressed with some recommended amendments. The consultation results are provided in full at Appendix 2.

This report provides a summary and analysis of the consultation results and a recommendation.

In addition, a petition bearing 14 signatures has been received objecting to Additional Licensing, as detailed in paragraph 3.25.

## **Recommendations:**

Cabinet is recommended to: -

1. Note the matters raised by the petitioners.
2. Consider the consultation results attached at Appendix 2 and request that Council approve the following: -
  - i. Designate the whole of Coventry City as subject to Additional Licensing under Section 56(1)(a) of the Housing Act 2004 for all Houses in Multiple Occupation (HMOs), irrespective of the number of storeys, that contain three or four occupiers;
  - ii. Designate the whole of Coventry City as subject to Additional Licensing under Section 56(1)(a) of the Housing Act 2004 for all HMOs as defined under Section 257 of that Act where those HMOs are mainly or wholly tenanted, including those with resident landlords;
  - iii. That the designations in paragraphs i and ii above come into force on the 4<sup>th</sup> May 2020 for a period of 5 years;
  - iv. Designate the Deputy Chief Executive (Place) to sign the Coventry City Council Designation of an Area for Additional Licensing of Houses in Multiple Occupation 2020 as attached at Appendix 7 in accordance with the provisions set out in 2M 3 of the Scheme of Delegations in the Council's Constitution.
  - v. Resolve to adopt the proposed fees and charges structure as attached at Appendix 4 and review those fees annually to ensure they remain reasonable and proportionate and address any issues relating to surpluses or deficits in accordance with case law and the EU Services Directive; and
  - vi. Resolve to adopt the HMO Licensing Policy 2020 as attached at Appendix 3.

## **Council is requested to approve the following: -**

1. Consider the consultation results attached at Appendix 2 and approve the following: -
  - i. Designate the whole of Coventry City as subject to Additional Licensing under Section 56(1)(a) of the Housing Act 2004 for all Houses in Multiple Occupation (HMOs), irrespective of the number of storeys, that contain three or four occupiers;
  - ii. Designate the whole of Coventry City as subject to Additional Licensing under Section 56(1)(a) of the Housing Act 2004 for all HMOs as defined under Section 257 of that Act where those HMOs are mainly or wholly tenanted, including those with resident landlords;
  - iii. That the designations in paragraphs 2 and 3 above come into force on the 4<sup>th</sup> May 2020 for a period of 5 years;
  - iv. Designate the Deputy Chief Executive (Place) to sign the Coventry City Council Designation of an Area for Additional Licensing of Houses in Multiple Occupation 2020 as attached at Appendix 7 in accordance with the provisions set out in 2M 3 of the Scheme of Delegations in the Council's Constitution.
  - v. Resolve to adopt the proposed fees and charges structure as attached at Appendix 4 and review those fees annually to ensure they remain reasonable and proportionate and address any issues relating to surpluses or deficits in accordance with case law and the EU Services Directive; and
  - vi. Resolve to adopt the HMO Licensing Policy 2020 as attached at Appendix 3.

**List of Appendices included:**

- Appendix 1 – Additional Licensing Feasibility Report
- Appendix 2 – Additional Licensing Consultation Results
- Appendix 3 – HMO Licensing Policy 2020
- Appendix 4 – HMO Licensing Fees
- Appendix 5 – Private Rented Sector Code of Practice
- Appendix 6 – Equalities Impact Assessment
- Appendix 7 – Coventry City Council Designation of an Area for Additional Licensing of Houses in Multiple Occupation 2020

**Background papers:**

None

**Other useful documents:**

1. Cabinet Meeting Minutes 8 January 2019  
<https://edemocracy.coventry.gov.uk/ieListDocuments.aspx?CId=124&MId=11776&Ver=4>
2. Housing Act 2004.  
<http://www.legislation.gov.uk/ukpga/2004/34/contents>
3. Additional and Selective Licensing in the Private Rented Sector - A Guide for Local Authorities published by the MHCLG in March 2015.  
<https://www.gov.uk/government/publications/selective-licensing-in-the-private-rented-sector-a-guide-for-local-authorities>
4. English Housing Survey Private Rented Sector Report 2014-15  
<https://www.gov.uk/government/statistics/english-housing-survey-2014-to-2015-private-rented-sector-report>
5. General Approval April 2015  
<https://www.gov.uk/government/publications/selective-licensing-in-the-private-rented-sector-a-guide-for-local-authorities>
6. House of Commons publication, Housing, Communities and Local Government Committee. Private Rented Sector 17<sup>th</sup> April 2018.  
<https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/440/440.pdf>
7. Scrutiny Coordination Committee, 6 February 2019  
<https://edemocracy.coventry.gov.uk/documents/g11747/Printed%20minutes%2006th-Feb-2019%2010.30%20Scrutiny%20Co-ordination%20Committee.pdf?T=1>

**Has it been or will it be considered by Scrutiny?**

No

**Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?**

No

**Will this report go to Council?**

Yes: 14<sup>th</sup> January 2020

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## **Report title: Additional Licensing in Coventry**

### **1. Context (or background)**

- 1.1. During the 2014/15 municipal year, a task and finish group was established by the Business, Economy and Enterprise Scrutiny Board (3) to consider the practicalities and implications of introducing a licensing scheme for the Private Rented Sector (PRS).
- 1.2. On 27 January 2016, Business, Economy and Enterprise Scrutiny Board (3) considered the recommendations of the task and finish group and recommended that the Cabinet Member for Business, Enterprise and Employment:-
  - a) Initiate the statutory process to implement a selective licensing scheme in St. Michael's Ward (minus the city centre) of the city;
  - b) Pending the consultation in recommendation 1), consider at the same time, the financial feasibility of implementing a selective licensing scheme in the St. Michael's Ward of the city; and
  - c) Actively encourage landlords to join a landlord's accreditation scheme. Appropriate discounts on licences will be granted to those landlords who have houses in the proposed licensing area.
- 1.3. On 29 March 2016 Cabinet Member for Business, Enterprise and Employment instructed officers to carry out a public consultation for selective licensing in the St Michael's Ward (minus the city centre).
- 1.4. That period of public engagement began on 22 August 2016 and ran until 6 November 2016 and the consultation responses raised several queries mainly around fee structure and the fairness of a scheme that proposed to treat all landlords the same whether compliant or non-compliant. Members therefore asked for further work to be carried out to not only look at the fee structure but also to look at the evidence base to widen a scheme for the Private Rented Sector (PRS).
- 1.5. In order to effectively respond to the request and widen the Council's scope to tackle poor housing conditions and protect vulnerable renters, officers investigated further alternative approaches to address the issues in the PRS, particularly Houses in Multiple Occupation (a huge component of the PRS) and the legislative powers under the Housing Act.
- 1.6. Section 56 of the Housing Act 2004 places requirements on Local Authorities when considering a designation for Additional Licensing of HMOs in that the Council must:
  - Consider that a significant proportion of the HMOs of that description in the area are being managed sufficiently ineffectively as to give rise, or likely to give rise, to one or more problems whether for those occupying the HMOs or for members of the public;
  - Take reasonable steps to consult with persons who are likely to be affected and consider any representations made in accordance with the consultation; and
  - Have regard to any information regarding the extent to which any codes of practice approved under Section 233 have been complied with by persons managing HMOs in the area (these codes relate to University managed accommodation).
- 1.7. Section 57 provides further considerations for the Council, in that they should ensure that:
  - Exercising the designation is consistent with the authority's overall housing strategy;

- Seek to adopt a coordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour (ASB) affecting the Private Rented Sector (PRS) as regards combining licensing with other action taken by them or others;
  - Consider whether there are any other courses of action available to them (of whatever nature) that might provide an effective method of dealing with the problems or problems in question; and
  - That making a scheme will significantly assist them to deal with the problem or problems (whether they take any other course of action as well).
- 1.8. Government guidance provides examples of properties being managed “sufficiently ineffectively” including:
- Those whose external condition and curtilage (including yards and gardens) adversely impact upon the general character and amenity of the area in which they are located;
  - Those whose internal condition, such as poor amenities, overcrowding etc. adversely impact upon the health, safety and welfare of the occupiers and the landlords of these properties are failing to take appropriate steps to address the issues;
  - Those where there is a significant and persistent problem of anti-social behaviour affecting other residents and/or the local community and the landlords of the HMOs are not taking reasonable and lawful steps to eliminate or reduce the problems; and
  - Those where the lack of management or poor management skills or practices are otherwise adversely impacting upon the welfare, health and safety of resident and/or impacting upon the wider community.
- 1.9. On 8 January 2019 Cabinet considered a feasibility report (Appendix 1) on the potential for an Additional Licensing scheme covering the whole of the city and instructed officers to carry out a public consultation on the proposal.
- 1.10. This report provides a summary of the consultation approach and findings of the citywide consultation which commenced on 9 January 2019 and ended on 20 March 2019, alongside other evidence by the Council in deciding whether to implement Additional Licensing of HMOs in the city.

## **2. Options considered and recommended proposal**

- 2.1. The options considered included eight possible interventions for tackling substandard and ‘problematic’ smaller HMOs in the City as set out below:

### Do nothing

- 2.2. This option would involve the Council doing nothing to intervene in the small HMO sector this would leave the local housing market to be the driver for landlords carrying out improvements to their properties.

### Do the minimum (reactive inspection programme only)

- 2.3. This option would mean that the Council intervention in the small HMO sector being limited to a basic complaint response service with action by other departments and agencies on a largely ad hoc basis. The option is reactive and relies on the housing market as a driver for landlord-initiated housing improvement across the board. All council services would continue to use their existing enforcement powers. A reactive service is essentially generated by the tenant making a complaint about the condition of the property, all too often tenants are concerned that making complaints will result in eviction

and therefore normally only the very worst of the issues are remedied. Furthermore, this option would mainly focus on condition of property and not necessarily the management which is often the cause of concern.

#### Informal area action (Proactive inspection programme)

- 2.4. This would be delivered through a non-statutory Action Area, considering parts of the city where there was concentration of poorly managed or maintained properties. The driver for the housing improvement would come from a combination of council activity from different services focussing work in the area and landlord activity (including peer pressure). This would be delivered using the existing team and therefore would be limited due to workloads and level of resources.

#### Voluntary Accreditation

- 2.5. Accreditation schemes have a set of standards (or code) relating to the management or physical condition of different HMOs and recognise properties/landlords who achieve/exceed the requirements. This is a voluntary scheme which relies upon the co-operation of landlords and agents and as such it is unlikely to attract a large part of the sector.

#### Targeted use of Interim Management Orders (IMOs) and Final Management Orders (FMOs).

- 2.6. The Housing Act 2004 gives local authorities powers to use Management Orders for talking comprehensive and serious management failures. These are powers are currently available for HMOs that are required to be licensed under the Mandatory HMO licensing scheme but not those HMOs that fall outside this national scheme.

#### Article 4 Direction only

- 2.7. This option would rely on the use of this power to control the numbers of new HMOs and the market to drive property improvements. It would only succeed in reducing numbers if appropriate planning policy was adopted to restrict numbers, it is not retrospective and would not resolve the quality of the PRS stock, living conditions for tenants or neighbouring properties.

#### City Wide Additional Licensing scheme

- 2.8. Licensing would be extended to all HMOs in the city (in all 18 wards) and would include all smaller multiply occupied properties not currently subjected to Mandatory HMO Licensing. This would serve to address all HMOs whatever the size and ensure a level playing field for the quality and management of them. It would work best alongside options 2.5 and 2.6 above.

#### Area-based Additional licensing scheme

- 2.9. Licensing would be introduced in selected wards in the city where there is the highest concentration of HMOs and the evidence demonstrates that there is the greatest need. A smaller area-based scheme will not give the Council detailed and accurate information concerning the HMO stock and will not afford all tenants occupying HMOs the same level of protection. This is essential in order to undertake meaningful prioritisation and work planning and to improve standards in HMOs. Furthermore, the majority of the city is populated by HMOs with only a few areas having small numbers. An area-based scheme

will effectively create exclusion zones where landlords may migrate to avoid the licensing requirements.

- 2.10. It is recommended of Officers that Option 2.8 is progressed alongside the use of those powers detailed under option 2.5 and 2.6.

### **3. Results of consultation undertaken**

- 3.1. The Housing Act 2004 requires the Council to take reasonable steps to consult persons who are likely to be affected by the designation; and consider any representations made in accordance with the consultation. The Department of Communities and Local Government Guidance recommends that any consultation on a scheme is for a minimum 10 weeks. The consultation was carried out for a period of 10 weeks between the 9 January 2019 and the 20 March 2019. The consultation focused on two schemes – one for Additional Licensing and one on Selective Licensing. There is a separate report detailing the results relating to Selective Licensing.
- 3.2. Throughout the period of engagement, officers have worked jointly with the Communications team to ensure that a comprehensive communications strategy has been delivered. This has been carried out in full accordance with the Council's Statement of Community Involvement and included an Equalities and Consultation Analysis. A consultation plan was developed which incorporated a range of methods for conducting the consultation, including;
- Online questionnaires;
  - Drop in sessions;
  - Focus Groups;
  - Forums; and
  - Flyers.
- 3.3. The following provides a precis of the results which are provided in full at Appendix 2.
- 3.4. A total of 137 responses were received to the online questionnaire with the majority (46%) indicating that they lived in Coventry. 28% of respondents indicated that they were a private landlord in Coventry or a letting or management agent in Coventry. Further questions asked established the kind of issues that tenants of HMOs regularly experience these included, amongst other things, difficulty getting repairs carried out, problems with gas certificates, rent increases and deposit issues, emergency contacts or no contact, intimidation and notice to quit for no apparent reason. Likewise, residents with HMOs in their immediate areas highlighted problems of poor management of refuse, overgrown gardens, poor maintenance of property appearance, empty and unattended properties, anti-social behaviour and nuisance. Respondents considered that over the last 5 years the maintenance and management of HMOs has worsened, anti-social behaviour has increased, living conditions had not improved, the number available has increased and the geographical location of the HMOs has widened.
- 3.5. A total of 62% of respondents agreed in some way with the proposals - 50% strongly agreeing and 12% tending to agree, whilst a total of 31% disagreed in some way – 23% strongly disagreeing and 8% tending to disagree.
- 3.6. When asked whether the proposed fees and charges were reasonable and proportionate 50% agreed and 36% disagreed. The general principle of having reduced fees subject to criteria was agreed by 57% of respondents with a higher number (77%) also agreeing that higher fees should be paid by non-compliant landlords.

- 3.7. 69% of respondents agreed that longer licences should be provided to compliant landlords whilst 71% agreed that shorter licences should be provided to non-compliant landlords. Generally, respondents also agreed to the proposed licence conditions.
- 3.8. There were 79 general comments made by respondents that were generally supportive of the proposals. Those that were against were framed around the financial implications of introducing such a scheme.
- 3.9. An analysis of comparative licence fees was carried out which found that Coventry's proposed fees and charges were highly competitive when compared against other Local Authorities that have introduced Additional Licensing.
- 3.10. A number of events/meetings were held that gave a variety of stakeholders the opportunity to discuss and question officers on both the schemes: Additional Licensing and Selective Licensing. Across the board there was certainly far less concern around Additional Licensing than Selective Licensing.
- 3.11. 18 drop-in sessions were carried out in various locations across the city covering every ward. These were attended by 119 people made up of landlords and residents. The focus of these sessions was to provide attendees with further information and advice. During the sessions there was general support for licensing of HMOs.
- 3.12. Several focus groups were held with a variety of stakeholders, including landlords, agents, universities, tenants and residents, and voluntary organisations.
- 3.13. 9 landlords attended their focus group, despite 30 being invited raised no major concern with Additional Licensing.
- 3.14. 20 agents attended their focus group and there was general agreement with the proposals with most accepting that this was "key to making a difference" and "needed for a while".
- 3.15. The tenants and residents group meeting was attended by 17 people who had varied experiences of landlords in the PRS, with some reporting an "excellent experience" to others having experienced problems with unfair evictions, poor property maintenance and threatening behaviour. Generally, there was support for the proposals but there were several reservations around the potential impact this could have on the cost of accommodation. It was clear that tenants felt there was a need to retain cheap accommodation even if it meant that it was slightly below standard as this was the only option for some.
- 3.16. Both Universities were in support of the proposals commenting that the scheme would hold landlords more accountable and would improve the quality of private rented housing in the city.
- 3.17. Voluntary organisations, such as the Frontline Network and Citizens Advice were in support of the aim of Additional Licensing.
- 3.18. A total of 4 landlord forums were held with 245 attendees from the property sector. Licence fees were discussed extensively with many raising concerns that the cost would be passed onto tenants through rent increases.

- 3.19. Meetings were held with all Ward Councillors and there appeared to be overwhelming support for the proposals in principle with very few concerns.
- 3.20. The following recommendations were made by the Scrutiny Coordination Committee as part of the consultation:
- The scheme should include a plain English definition of what is an HMO, including examples;
  - The number of prosecutions and enforcement actions is reported back to Members on a regular basis;
  - Ensure that the complaints process for tenants is not onerous;
  - That a poster or sign displaying the tenants' rights and responsibilities be part of the license requirements;
  - Consider including DBS checks as part of the licensing process, as with taxi licensing; and
  - Officers to continue working with ward members if the scheme is implemented.
- 3.21. Several formal submissions were also received from large portfolio and professional organisations i.e. the Residential Landlords Association and the National Landlords Association. Most applauded the Council's intentions, but re-iterated comments made by others - that it is unfair in its application to compliant landlords.
- 3.22. The Residential Landlords Association (RLA) raised concerns about the methodology and granting licences and the charging provisions for them. The response from the RLA had two aspects: the first being that the proposal indicates that the Council will decide if a landlord is compliant or non-compliant before consideration of the application before them; and secondly that the accreditation proposal is bias towards those that are local and those that engage with the Council's accreditation scheme meaning that any landlords that either cannot attend the necessary training in person or those that decide to obtain accreditation through a different scheme will not receive the same benefits.
- 3.23. The two limbs of the RLA's complaint are related. They go to the lawfulness of the Council's endeavour to provide certainty by setting out in advance how it will treat different categories of applicant differently.
- 3.24. Advice was obtained on these matters and is provided later in Section 6.2.
- 3.25. A petition was received on the 7<sup>th</sup> August 2019 setting out the following:

We the undersigned wish to register our opposition to the imposition of selective licensing and additional licensing schemes.

Coventry Council want to initiate selective licensing and additional licensing schemes that will affect 9000 homes. The Council claim that these schemes will improve the condition of housing, tackle anti-social behaviour of tenants and address environmental issues.

The truth is, anti-social behaviour and fly-tipping caused by some tenants are out of the control of landlords. The tenants should be fined, not landlords in the name of licensing fees. The rental market is very competitive now due to the purpose built properties in city centre areas. Landlords are updating their properties to attract tenants. The new laws are ever stricter. The proposed licencing schemes will not add value to relevant stakeholders, other than getting more income for the Council. Intervention by the Council is unnecessary and we should let the market play its role here.

We request the Council to release the consultation results related to the licensing schemes and make the information public.

We also request to stop the proposed licensing schemes.

#### **4. Response to consultation**

- 4.1. As can be seen from the consultation there was generally support to introduce Additional Licensing, however the concerns raised about the lawfulness of treating categories of applicant differently have been considered further.
- 4.2. The Scheme will require all owners of HMOs that are occupied by three or four tenants and all converted self-contained flats that are wholly tenanted to apply to the Council for an HMO licence. Once an application is received and valid the Council will determine which type of licence is appropriate using the criteria laid down in the HMO Licensing Policy 2020 attached at Appendix 3. This will include, amongst other things, an assessment of the landlord and manager's ability to comply with the licensing requirements and management practices. Licences will be issued for a period of 1, 2 or 5 years based upon the eligibility of the landlord.
- 4.3. The Council has considered the learning outcomes from other Local Authorities that have introduced similar schemes and has structured the scheme in such a way that benefits those landlords and agents that are compliant and provides incentives to improve compliance, whilst managing the opportunities for the non-compliant landlords through higher fees and shorter licences. This is reflected in the fees and charges structure and the eligibility for licences.
- 4.4. Accreditation will be given to those landlords and agents who are experienced, knowledgeable in their profession and are committed to following the good practice principles set out in the Royal Institution of Chartered Surveyors (RICS) Private Rented Sector Code of Practice, which was endorsed by the Minister of State for Housing and Planning in July 2015 and is attached as Appendix 5.
- 4.5. Reactive and proactive services will be carried out to address complaints about property conditions, poor management practices and identifying unlicensed properties.
- 4.6. Any differentiation applied to landlords and agents based on the eligibility criteria, including the length of licence for which they may be considered, is justified in furtherance of the overriding public interest of improving the standard of HMOs and their management.
- 4.7. The proposed fees and charges discussed further in Section 6 and attached at Appendix 4 have been developed to provide incentives for compliant landlords whilst providing sufficient resources to ensure that the scheme can be effectively delivered, and every property can be inspected before a licence is issued.
- 4.8. In cases of a registered 'not for profit' charity i.e. Cyrenians or an individual housing provider, such as a private landlord or organisation who is assisting the Council by offering permanent accommodation to meet our homelessness duties applications will be accepted, for the particular property being provided without a fee being payable. An assessment of the organisation will then be carried out and if appropriate the Council will determine the application and issue a licence without requiring any fee. Each case will be considered on its merits based on the type of individual or organisation submitting the

application and the removal of the fee requirement will only be applied to the licence for the house being provided for homelessness purposes.

- 4.9. This is to reflect that many registered charities provide a valuable service to people who are homeless, or are living in insecure accommodation, and that charities should be supported in those aims it is proposed that registered charities contributing to the Council's housing priorities (as identified in the housing and Homelessness draft Strategy) be exempt from Additional Licensing fees.
- 4.10. Licences will include all the mandatory conditions required under the legislation, for example, providing gas and electrical certificates and maintaining health and safety standards, as well as additional (discretionary) licence conditions to address issues such as ASB and environmental / management issues.

## **5. Conclusions**

- 5.1. The consultation has resulted in overwhelming support for the proposed citywide Additional Licensing scheme, with 62% in agreement. It has also identified that there are a significant number of HMOs that cause problems for both occupiers and residents.
- 5.2. The Council's aim includes the need to improve living conditions in the private rented sector and it is confident that this can be achieved with the introduction of an Additional Licensing scheme targeting the most problematic parts of the sector, HMOs.
- 5.3. The fees and charges structure and criteria attached to licences will ensure that the most deserving and responsible will receive longer licences at a lower fee whilst enabling the Council to focus on the minority that fail to comply and enforce the required standards appropriately.

## **6. Timetable for implementing this decision**

- 6.1. Should the recommendations be approved the Council has general approval to designate the scheme under the Housing Act 2004: Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2015 to implement an Additional Licensing scheme.
- 6.2. The timescale for implementing this decision is for the designation to commence on the 4th May 2020. This requirement is to provide the Council with sufficient time to conclude the reporting process and to comply with Section 58 of the Housing Act 2004 which states that a designation cannot come into force until three months after the date when the designation was made.

## **7. Comments from Director of Finance and Corporate Services**

### **7.1. Financial implications**

Section 63 of the Housing Act 2004 permits the Council to require any application for a licence under Part 2 to be accompanied by a licence fee and that this fee may properly cover all costs incurred by the Council in carrying out its functions.

When setting the fees and charges structure for the licensing scheme to go out for consultation the Council has considered the staff costs, training, administration and

publicity and that it is not allowed to use licensing fees to raise revenue for other projects or areas of work.

The proposed fees and charges structure set out in Appendix 4 is cost neutral and has been consulted on as part of these proposals and will be ratified in this report prior to the introduction of the scheme.

The financial modelling of the scheme estimates income and expenditure cash flows as below. This shows that the scheme is modelled to break even over its 5-year life.

	Year 1	Year 2	Year 3	Year 4	Year 5	Total
	£ million	£ million	£ million	£ million	£ million	£ million
Expenditure	1.2	1.2	1.2	1.3	1.3	6.2
Income	(0.4)	(1.3)	(1.4)	(1.5)	(1.5)	(6.2)
<b>Net Total</b>	<b>0.7</b>	<b>(0.1)</b>	<b>(0.2)</b>	<b>(0.2)</b>	<b>(0.2)</b>	<b>0</b>

The modelled activity suggests that an additional 24 full time equivalent staff would be required to administer the scheme. There is therefore a financial risk that the number and type of licences issued in real life differ from the model and the amount of income received does not cover the costs of operating the scheme. In order to mitigate this risk:

- The financial position of the scheme will have to be carefully monitored and action taken to control costs if necessary.
- The fees and charges structure will be reviewed on an annual basis and if there is a need to increase fees to cover any potential shortfall then this will be recommended and reported through the budget setting process.

There could also be a financial risk to be managed at the end of the 5-year scheme as if the scheme is not continued or the size of the scheme reduces, there will be costs associated with scaling down the team. Again, this will have to be closely monitored throughout the initial 5 years.

### **Implications of Hemming v Westminster Case**

The European Union Services Directive 2006 changed the basis upon which fees for certain licences and permissions could be charged by the issuing authorities. Licensing authorities may not set fees that are dissuasive, and any fees must be reasonable and proportionate to the cost of the licensing process and the issuing of the licence. These provisions have been taken into account in the proposed fees for consultation.

In addition, a recent judgement, in the Supreme Court (Hemming v Westminster case UKSC 2013/0146), has provided further clarification of the type of costs which may be taken into account when setting fees, and when fees may be payable. The Council will follow this decision and therefore the proposal is that fees will be payable in two parts to meet with the European Directive requirements.

## **7.2. Legal implications**

In order for the Council to designate an Additional Licensing scheme it must proceed through the statutory process as laid out in Section 56 and 57 and the guidance issued under the Housing Act 2004: Licensing of Houses in Multiple Occupation and Selective

Licensing of Other Residential Accommodation (England) General Approval 2010, which is provided in paragraphs 1.1 to 1.4 above.

Under section 60(2) of the Act the time must be no later than five years after the date on which the designation comes into force.

The proposal includes a range of fees and charges and criteria by which licence applications will be assessed.

There is justification for different 'granting' fees. If an applicant gets a full-length licence because he or she has established through accreditation or something similar that the licence is unlikely to create compliance costs, then it would be proper for the fee to be less than that for a licence which is anticipated to create compliance costs. So, where the Council has such concerns that it imposes conditions it is rational to charge more for the compliance component.

However, legal advice suggests that the decision about the amount of that fee should not be made before the decision about the actual terms of the licence. As such changes to the fee structure have been made.

The Stage 1 (consideration) fee is to be the same for all applications, which removes any perception that the Council is pre-judging the length of a licence before a valid application is made. The fee forms part of the application process and is a key component in making the application valid.

At the point that the Stage 1 (consideration) fee is paid and the application is valid, the Council will determine which length of licence is appropriate.

The Council has set out an approach by which it would decide on the length of the licence having decided whether to grant it, that in doing so it will take into account all the information which it has on the applicant, and that evidence of competence such as accreditation or a known history of compliance with the Council, would weigh in favour of a longer licence.

This approach is entirely consistent with the powers provided and the requirements placed upon the Council by the recent Hemming case.

Any differentiation applied to landlords and agents based on the eligibility criteria, including the length of licence for which they may be considered, is justified in furtherance of the overriding public interest of improving the standard of HMOs and their management.

In order to address the final issue pertaining to the restriction on training for the accreditation scheme the Council will be introducing free webinars and online training so that participants can access this from any location and receive the training and accreditation electronically.

## **8. Other implications**

### **8.1. How will this contribute to achievement of the Council's Plan?**

The Council Plan takes forward the main themes agreed by the Council in recent years. It reaffirms the Council's ambition – developed with the Strategic Partnership and partners to make Coventry: A Top Ten City.

This ambition is driven through three corporate priorities which directly address the needs of the city and include, in particular:

- Promoting the growth of a sustainable Coventry economy by:
  - Increasing the supply, choice and quality of housing.
- Improving the quality of life for Coventry people by;
  - Improving the health and wellbeing of residents
  - Protecting our most vulnerable people
  - Reducing health inequalities

The Health and Wellbeing Strategy 2016-19 recognises that creating health, wealth and happiness requires more than simply managing people's health problems.

The health and wealth being of people can be improved if people have jobs, good housing, and are connected to families and communities.

The Council's Housing Strategy 2013-2018 affirms the Council's view that housing plays a crucial role in the economic growth of the City. The ambition for Coventry is "*to ensure decent homes, housing choice and support for Coventry citizens*" through various themes including:

- Increase the supply, choice and quality of new housing;
- Prevent and tackle homelessness;
- Strive for a healthier and more sustainable City by improving the quality and use of stock; and
- Encourage balanced, stable and sustainable communities.

The Housing Strategy 2013-18 has now been combined with the Homelessness strategy into one document known as the Housing and Homeless Strategy 2019-24, which was formally adopted on the 19<sup>th</sup> March 2019. The new strategy sets out four themes which are relevant to this proposal and the objectives of the scheme, namely;

- Preventing Homelessness
- New Housing Development
- Improving the use of Existing Homes
- Support for People and Communities.

The Housing Strategy links into the Council Plan and the Health and Wellbeing Strategy by contributing to the delivery of the key corporate priorities but also in supporting the local economy through ensuring communities have stable and safe places to live.

### **Globally connected - Promoting the growth of a sustainable Coventry City Council economy**

The proposals set out in this report will also contribute toward the increase of supply, choice & quality of housing within the designated area and reduce the impact of poverty through supporting residents experiencing fuel poverty.

It will help tackle environmental and ASB crime supporting a vibrant business environment and will help raise the profile of Coventry by the improvement of the environment and housing within the area, thereby making it attractive to retaining skilled graduates in the area.

## **Locally committed - improving the quality of life for Coventry people**

Additional Licensing will, together with other agencies, make communities safer and reduce crime and ASB.

It will improve health and wellbeing by providing safer and healthier rented accommodation that is well managed with reduced overcrowding and will reduce health inequalities and protect the most vulnerable by improving the standard of poorly managed homes without the need to report problems. It will help prevent homelessness due to poorly managed or rogue landlord actions.

### **8.2. How is risk being managed?**

The proposals have been developed in line with advice sought from Counsel. The consultation was designed to ensure compliance with legislation and the statutory guidance, thereby minimising the risk of legal challenge and the structure of the fees and charges have been ratified through this legal advice. The recommendations have the potential to be challenged but the risk of these being overturned is minimal.

### **8.3. What is the impact on the organisation?**

The approval of the recommendations has human resource and ICT implications. A recruitment exercise has been factored into the timeline for implementation to ensure that adequate resources exist if the scheme is implemented.

### **8.4. Equalities / EIA**

The report makes links to the Council's Equality and Diversity Policies and a specific Equalities Assessment has been completed for this report and is attached at Appendix 6.

### **8.5. Implications for (or impact on) climate change and the environment?**

The option of 'do nothing' is likely to result in significant environmental impacts, particularly when the Council will otherwise have a very limited ability to maintain and improve HMO conditions, for example: energy efficiency and thermal performance, waste management and household waste recycling.

### **8.6. Implications for partner organisations?**

None.

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