

Public Document Pack

Overview and Scrutiny Management Committee

Thursday, 15th August, 2019
at 5.30 pm

PLEASE NOTE TIME OF MEETING

Council Chamber - Civic Centre

This meeting is open to the public

Members

Councillor Fitzhenry
Councillor S Galton (Chair)
Councillor Harwood
Councillor Whitbread
Councillor Bell
Councillor Bunday
Councillor Cooper
Councillor Windle
Councillor Fuller (Vice-Chair)

Appointed Members

Rob Sanders, Church of England
Catherine Hobbs, Roman Catholic Church
Vacancies

- Primary Parent Governor Representative;
and
- Secondary Parent Governor Representative

Contacts

Judy Cordell
Senior Democratic Support Officer
Tel. 023 8083 2766
Email: judy.cordell@southampton.gov.uk

Mark Pirnie
Scrutiny Manager
Tel: 023 8083 3886
Email: mark.pirnie@southampton.gov.uk

PUBLIC INFORMATION

Overview and Scrutiny Management Committee

The Overview and Scrutiny Management Committee holds the Executive to account, exercises the call-in process, and sets and monitors standards for scrutiny. It formulates a programme of scrutiny inquiries and appoints Scrutiny Panels to undertake them. Members of the Executive cannot serve on this Committee.

Role of Overview and Scrutiny

Overview and Scrutiny includes the following three functions:

- Holding the Executive to account by questioning and evaluating the Executive's actions, both before and after decisions taken.
- Developing and reviewing Council policies, including the Policy Framework and Budget Strategy.
- Making reports and recommendations on any aspect of Council business and other matters that affect the City and its citizens.

Overview and Scrutiny can ask the Executive to reconsider a decision, but they do not have the power to change the decision themselves.

Use of Social Media:- The Council supports the video or audio recording of meetings open to the public, for either live or subsequent broadcast. However, if, in the Chair's opinion, a person filming or recording a meeting or taking photographs is interrupting proceedings or causing a disturbance, under the Council's Standing Orders the person can be ordered to stop their activity, or to leave the meeting. By entering the meeting room you are consenting to being recorded and to the use of those images and recordings for broadcasting and or/training purposes. The meeting may be recorded by the press or members of the public.

Any person or organisation filming, recording or broadcasting any meeting of the Council is responsible for any claims or other liability resulting from them doing so.

Details of the Council's Guidance on the recording of meetings is available on the Council's website.

The Southampton City Council Strategy (2016-2020) is a key document and sets out the four key outcomes that make up our vision.

- Southampton has strong and sustainable economic growth
- Children and young people get a good start in life
- People in Southampton live safe, healthy, independent lives
- Southampton is an attractive modern City, where people are proud to live and work

Procedure / Public Representations

At the discretion of the Chair, members of the public may address the meeting on any report included on the agenda in which they have a relevant interest. Any member of the public wishing to address the meeting should advise the Democratic Support Officer (DSO) whose contact details are on the front sheet of the agenda.

Smoking Policy:- The Council operates a no-smoking policy in all civic buildings.

Mobile Telephones:- Please switch your mobile telephones to silent whilst in the meeting

Fire Procedure:-

In the event of a fire or other emergency a continuous alarm will sound and you will be advised by Council officers what action to take.

Access is available for disabled people. Please contact the Democratic Support Officer who will help to make any necessary arrangements.

Dates of Meetings: Municipal Year 2019/20

2019	2020
13 June	16 January
11 July	13 February
15 August	12 March
12 September	16 April
10 October	
14 November	
12 December	

CONDUCT OF MEETING

TERMS OF REFERENCE

The general role and terms of reference for the Overview and Scrutiny Management Committee, together with those for all Scrutiny Panels, are set out in Part 2 (Article 6) of the Council's Constitution, and their particular roles are set out in Part 4 (Overview and Scrutiny Procedure Rules – paragraph 5) of the Constitution.

RULES OF PROCEDURE

The meeting is governed by the Council Procedure Rules and the Overview and Scrutiny Procedure Rules as set out in Part 4 of the Constitution.

BUSINESS TO BE DISCUSSED

Only those items listed on the attached agenda may be considered at this meeting.

QUORUM

The minimum number of appointed Members required to be in attendance to hold the meeting is 4.

DISCLOSURE OF INTERESTS

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "Disclosable Pecuniary Interest" or "Other Interest" they may have in relation to matters for consideration on this Agenda.

DISCLOSABLE PECUNIARY INTERESTS

A Member must regard himself or herself as having a Disclosable Pecuniary Interest in any matter that they or their spouse, partner, a person they are living with as husband or wife, or a person with whom they are living as if they were a civil partner in relation to:

- (i) Any employment, office, trade, profession or vocation carried on for profit or gain.
- (ii) Sponsorship:

Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

- (iii) Any contract which is made between you / your spouse etc (or a body in which the you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.

- (iv) Any beneficial interest in land which is within the area of Southampton.

- (v) Any license (held alone or jointly with others) to occupy land in the area of Southampton for a month or longer.

- (vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council and the tenant is a body in which you / your spouse etc has a beneficial interests.

- (vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:

- a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or
- b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

Other Interests

A Member must regard himself or herself as having an, 'Other Interest' in any membership of, or occupation of a position of general control or management in:

Any body to which they have been appointed or nominated by Southampton City Council

Any public authority or body exercising functions of a public nature

Any body directed to charitable purposes

Any body whose principal purpose includes the influence of public opinion or policy

Principles of Decision Making

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

AGENDA

1 APOLOGIES AND CHANGES IN PANEL MEMBERSHIP (IF ANY)

To note any changes in membership of the Panel made in accordance with Council Procedure Rule 4.3.

2 DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary interests in any matter included on the agenda for this meeting.

3 DECLARATIONS OF SCRUTINY INTEREST

Members are invited to declare any prior participation in any decision taken by a Committee, Sub-Committee, or Panel of the Council on the agenda and being scrutinised at this meeting.

4 DECLARATION OF PARTY POLITICAL WHIP

Members are invited to declare the application of any party political whip on any matter on the agenda and being scrutinised at this meeting.

5 STATEMENT FROM THE CHAIR

6 MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)

(Pages 1 - 2)

To approve and sign as a correct record the Minutes of the meetings held on 11th July, 2019 and to deal with any matters arising, attached.

7 FORWARD PLAN (Pages 3 - 90)

Report of the Director, Legal and Governance enabling the Overview and Scrutiny Management Committee to examine the content of the Forward Plan and to discuss issues of interest or concern with the Executive.

8 REDUCING CHILDHOOD OBESITY IN SOUTHAMPTON - SCRUTINY INQUIRY TERMS OF REFERENCE (Pages 91 - 96)

Report of the Director, Legal and Governance seeking approval of the draft terms of reference for the Reducing Childhood Obesity in Southampton Scrutiny Inquiry.

9 MONITORING SCRUTINY RECOMMENDATIONS TO THE EXECUTIVE

(Pages 97 - 102)

Report of the Director, Legal and Governance enabling the Overview and Scrutiny Management Committee to monitor and track progress on recommendations made to the Executive at previous meetings.

Wednesday, 7 August 2019

Director of Legal and Governance

SOUTHAMPTON CITY COUNCIL
OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE
MINUTES OF THE MEETING HELD ON 11 JULY 2019

Present: Councillors Fitzhenry, S Galton (Chair), Harwood, Whitbread, Bell, Bunday, Cooper, Windle and Fuller (Vice-Chair)

Apologies: Appointed Member Rob Sanders and Catherine Hobbs

Also in attendance: Councillor Hammond, Leader of the Council

7. **APOLOGIES AND CHANGES IN PANEL MEMBERSHIP (IF ANY)**

The Committee noted the apologies of Appointed Members Catherine Hobbs and Rob Sanders.

8. **MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)**

RESOLVED that the minutes of the 13th June, 2019 Overview and Scrutiny Management Committee be approved and signed as a correct record.

9. **FORWARD PLAN - THE FUTURE OF RESIDENTIAL CARE HOMES PROVIDED BY THE COUNCIL AT GLEN LEE AND HOLCROFT HOUSE**

The Committee considered the report of the Cabinet Member for Adult Care detailing the future of residential care homes provided by the Council at Glen Lee and Holcroft House.

The Leader of the Council, Councillor Hammond, was present and with the consent of the Chair addressed the meeting.

RESOLVED:

- i) That the Committee were provided with a briefing paper outlining the additional services that were planned to be provided from Holcroft House and, if applicable, the associated costs of the additional services.
- ii) That the Committee were provided with a breakdown of the proposed £1,927,543 budget for Holcroft House and what the additional £348,205 expenditure would be funding.
- iii) That the Committee were provided with an overview of how central overheads were apportioned to service areas by the Council.
- iv) That, if Cabinet approves the recommendations on 16 July, the Committee scrutinises performance and progress at Holcroft House in January 2020.

10. **MONITORING SCRUTINY RECOMMENDATIONS TO THE EXECUTIVE**

The Committee received and noted the report of the Director of Legal and Governance detailing the actions of the Executive and monitoring progress of the recommendations of the Committee.

Agenda Item 7

DECISION-MAKER:	OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE		
SUBJECT:	FORWARD PLAN		
DATE OF DECISION:	15 AUGUST 2019		
REPORT OF:	DIRECTOR - LEGAL AND GOVERNANCE		
<u>CONTACT DETAILS</u>			
AUTHOR:	Name:	Mark Pirnie	Tel: 023 8083 3886
	E-mail:	Mark.pirnie@southampton.gov.uk	
Director	Name:	Richard Ivory	Tel: 023 8083 2794
	E-mail:	Richard.ivory@southampton.gov.uk	
STATEMENT OF CONFIDENTIALITY			
BRIEF SUMMARY			
This item enables the Overview and Scrutiny Management Committee (OSMC) to examine the content of the Forward Plan and to discuss issues of interest or concern with the Executive to ensure that forthcoming decisions made by the Executive benefit local residents.			
RECOMMENDATIONS:			
	(i)	That the Committee discuss the items listed in paragraph 3 of the report to highlight any matters which Members feel should be taken into account by the Executive when reaching a decision.	
REASONS FOR REPORT RECOMMENDATIONS			
1.	To enable Members to identify any matters which they feel Cabinet should take into account when reaching a decision.		
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED			
2.	None.		
DETAIL (Including consultation carried out)			
3.	The Council's Forward Plan for Executive Decisions from 20 August 2019 has been published. The following issues were identified for discussion with the Decision Maker:		
	Portfolio	Decision	Requested By
	Homes and Culture	HMO Licencing Policy	Cllr Galton / Cllr Fuller
	Homes and Culture	Private Rented Sector Policy	Cllr Galton / Cllr Fuller

4.	Briefing papers responding to the items identified by members of the Committee are appended to this report. Members are invited to use the papers to explore the issues with the decision maker.
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
5.	The details for the items identified in paragraph 3 are set out in the Executive decision making report issued prior to the decision being taken.
<u>Property/Other</u>	
6.	The details for the items identified in paragraph 3 are set out in the Executive decision making report issued prior to the decision being taken.
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
7.	The details for the items identified in paragraph 3 are set out in the Executive decision making report issued prior to the decision being taken.
8.	The duty to undertake overview and scrutiny is set out in Part 1A Section 9 of the Local Government Act 2000.
<u>Other Legal Implications:</u>	
9.	None
RISK MANAGEMENT IMPLICATIONS	
10.	The details for the items identified in paragraph 3 are set out in the Executive decision making report issued prior to the decision being taken.
POLICY FRAMEWORK IMPLICATIONS	
11.	The details for the items identified in paragraph 3 are set out in the Executive decision making report issued prior to the decision being taken.
KEY DECISION	No
WARDS/COMMUNITIES AFFECTED:	None directly as a result of this report
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	Briefing Paper – HMO Licencing Policy
2.	Briefing Paper - Private Rented Sector Policy
Documents In Members' Rooms	
1.	None
Equality Impact Assessment	
Do the implications/subject of the report require an Equality and Safety Impact Assessments (ESIA) to be carried out?	Identified in Executive report
Data Protection Impact Assessment	

Data Protection Impact Assessment Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out?		Identified in Executive report
Other Background Documents - Equality Impact Assessment and Other Background documents available for inspection at:		
Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)	
1.	None	

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Agenda Item 7

Appendix 1

DECISION-MAKER:		OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE	
SUBJECT:		HOUSES IN MULTIPLE OCCUPATION LICENSING POLICY	
DATE OF DECISION:		15 th August 2019	
REPORT OF:		CABINET MEMBER FOR HOMES AND CULTURE	
<u>CONTACT DETAILS</u>			
AUTHOR:	Name:	Steven Hayes-Arter	Tel: 023 8091 7533
	E-mail:	Steven.hayes-arter@southampton.gov.uk	
Director	Name:	Mitch Sanders	Tel: 023 8083 3613
	E-mail:	Mitch.sanders@southampton.gov.uk	
STATEMENT OF CONFIDENTIALITY			
Not applicable			
BRIEF SUMMARY			
Approval is being sought by Cabinet on 20 th August 2019, to implement a policy to support HMO licensing in the city. The council currently runs the HMO mandatory scheme and has 2 areas designated as additional licensing schemes. The new policy will cover these schemes and any future schemes and takes account of new legislation and case law, in particular dealing with banning orders, civil penalties and HMO licence fees.			
RECOMMENDATIONS:			
	(i)	That Overview and Scrutiny Management Committee (OSMC) to examine and review draft policy, in order to highlight any matters which Members feel should be taken into account by the Executive when reaching a decision to approve the policy.	
REASONS FOR REPORT RECOMMENDATIONS			
1.	The HMO Licensing Policy sets out how the council will administer HMO licensing in Southampton in accordance with the provisions of the Housing Act 2004. The Policy publishes specific information regarding refunds, fit and proper persons assessments & length of licences which fall outside the scope of the statutory framework within which HMO licensing is currently administered.		
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED			
2.	Not having a policy on HMO licensing would limit the discretion of the council and would not make the council position clear and transparent on HMO licensing.		
DETAIL (Including consultation carried out)			
3.	Southampton City Council currently administers two additional HMO licensing schemes and the Mandatory HMO licensing regime under the provisions of the Housing Act 2004 part 2.		

4.	The additional licensing schemes and the mandatory regime are administered in accordance with the statutory framework of the Housing Act 2004.
5	This policy sets out the council's administration of the schemes and is now published so that it is clearer to all applicants, officers and members of the public.
6	Whilst it is not necessary to publish a policy on HMO licencing due to it being administered in accordance with a statutory framework, a published policy allows the council to provide guidance & advice to applicants & members of the public and to make specific local rules in regards to the administration including the setting of license fees and licence fee refund policy.
7	The Policy includes a detailed section on fit and proper person assessments necessary to ensure that licence holders are fit & proper. The Policy allows the council to strengthen the statutory requirements and provide the framework for decision making and appeals with regard the process.
8	The published policy provides guidance on all aspects of the licensing regime and will ensure that the council operates in a consistent manner in relation to the administration of HMO licensing.
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
9	The administering of HMO licensing schemes is funded through HMO licensing, which is ring fenced to each individual scheme. Fees are set on a cost recovery basis in accordance with relevant legislation.
<u>Property/Other</u>	
10	None
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
11	HMO Licensing is undertaken in accordance with the Housing Act 2004 (as amended)
<u>Other Legal Implications:</u>	
12	The council must have due regard to the Public Sector Equality Duty under the Equality Act 2010 when carrying out any functions including developing any policies that may have any effect on any protected persons, in particular the duty to eliminate discrimination, harassment and victimisation and advance equality of opportunity and fostering good relations. Local Authorities also have a duty under the Human Rights Act 1998, when carrying out any function, not to act incompatibly with rights under the European Convention for the Protection of Fundamental Rights and Freedoms.
RISK MANAGEMENT IMPLICATIONS	
13	If the council does not publish a policy there is a risk that it could be challenged on the administration of the schemes, in particular with regards refunding of HMO licence fees and refusing licence applications following fit and proper person assessments.

POLICY FRAMEWORK IMPLICATIONS

14	The HMO licensing Policy supports the Southampton City Council Housing Strategy 2016-2025 priorities and outcomes; <ul style="list-style-type: none"> • People in Southampton live safe, healthy, independent lives
15	The HMO licensing Policy is supported by the Private Sector Enforcement Policy 2019

KEY DECISION? Yes

WARDS/COMMUNITIES AFFECTED: All

SUPPORTING DOCUMENTATION

Appendices

1.	HMO Licensing Policy
2.	ESIA
3.	DPIA

Documents In Members' Rooms

1.	None
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Equality Impact Assessment

Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out. Yes

Data Protection Impact Assessment

Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out. Yes

Other Background Documents

Other Background documents available for inspection at:

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
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1.	None
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Southampton City Council

Houses in Multiple Occupation (HMO) Licensing

Southampton City Council Houses in Multiple Occupation (HMO) Licensing

Contents

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Houses in Multiple Occupation (HMO) Licensing			
Version	1.01.0	Approved by	Cabinet
Date last amended	Click here to enter a date.	Approval date	Click here to enter a date.
Lead officer	Rosie Zambra	Review date	Click here to enter a date.
Contact	Rosie.Zambra@southampton.gov.uk Rosie.Zambra@southampton.gov.uk	Effective date	Click here to

			enter a date.
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DRAFT

1. Introduction

- 1.1 The Southampton City Council HMO Licensing Policy is intended to provide guidance for officers, business and members of the public on the HMO licensing process. This policy should be read in conjunction with the Southampton City Council Private Rented Sector Enforcement Policy.
- 1.2 This policy relates to all Houses in Multiple Occupation (HMO's) that are required to be licensed under the Housing Act 2004. This includes HMO's that are covered by the mandatory Licensing regime and any additional and selective licensing schemes. In 2019 the Council has 2 additional licensing schemes. A scheme covering the ward of Bevois, Bargate, Portswood and Swaythling that was approved in 2018 and a scheme covering the wards of Freemantle, Shirley, Milbrook and Bassett approved in 2015.
- 1.3 Southampton has a very large private rented sector, estimated at 24,000 properties. HMOs make up over a quarter of this stock and the Council wish to ensure that these types of properties are well managed, in a safe condition and that the housing needs of a wide range of private tenants are met.
- 1.4 The Council's objectives with HMO licensing are:
 - Improve living conditions by ensuring that appropriate facilities are provided
 - Keep occupants safe by ensuring the effective management of all HMOs
 - Improve housing standards and maintenance within HMOs, with a particular emphasis on security, fire safety and thermal comfort
 - Ensure that landlords exercise appropriate management and supervision of their properties to help reduce any adverse impact of HMOs on the neighbourhood and local communities
 - Build on and expand existing partnerships with landlords, managing agents, tenants, universities, community groups and others
 - Encourage and support owners and managing agents of HMOs to work proactively with the council to achieve clearly defined standards and effective management
 - Facilitate stable and integrated communities through policy and the proactive targeting of risk-based and proportionate interventions
 - Reduce the number of complaints about HMOs received by the council and its partners, such as universities and the fire service
 - Have no adverse effect on homelessness in the city and ensure there is not an increase in the number of empty properties

2 Definition of an HMO

- 2.1 The full legal definition of an HMO is contained in sections 254 to 259 of the Housing Act 2004, which can be viewed online at www.opsi.gov.uk/acts/acts2004/40034--s.htm#254 . However, a basic explanation of what constitutes an HMO is given below.

- 2.2 The Housing Act 2004 changed the definition of HMOs, which are now defined as properties that are lived in by 3 or more people who are not from the same family. The people living there have to pay rent (or there has to be some other consideration), occupy the property as their main home and shares (or lacks) a kitchen, bathroom or toilet. A member of the same family means people who are married or living together, or related to one another.
- 2.3 An HMO may comprise bedsits, some shared houses, hostels and houses converted into flats. A single household is made up of persons who are members of the same family, whatever their family relationship.

Note – an HMO can be formed if an owner occupier has more than two lodgers

- 2.4 There is a slightly different definition of HMOs under planning law, in that there are two types of HMO specified. However, the general definition is aligned to that in the Housing Act 2004.
- 2.5 Planning permission will be required if you wish to change the use of a property from single to multiple occupation.

3 Legislative Context and Other Related Documents

- 3.1 The Housing Act 2004 part 2 provides the legal framework for HMO licensing. This policy is linked to a number of a different pieces of legislation and guidance. The council will adhere to all relevant legislation and guidance including:

Housing Act 2004

Housing and Planning Act 2016

Equality Act 2010

Human Rights Act 1998

Crime and Disorder Act 1998

Housing (Interim Management Orders) (prescribed circumstances) (England) order 2006

The Housing (Management Orders and Empty Dwelling Orders) (Supplemental provisions) (England) Regulations 2006

The Licensing of House in Multiple Occupation (Prescribed Descriptions) England Order 2018

Management of Houses in Multiple Occupation (England) (Regulations) 2006

Houses in Multiple Occupation (Specified Educational Establishments) (England) Regulations 2006

The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018

SCC Corporate Enforcement Policy 2017

SCC Housing strategy 2016-2025

Private Sector Housing enforcement policy 2019

4 The Mandatory and Additional Licensing of HMOs

- 4.1 Mandatory and additional HMO licensing schemes apply in Southampton.
- 4.2 From 1 October 2018, the legislation regarding the mandatory licensing of houses in multiple occupation (HMOs) was amended. The storey-height criteria was removed. This means any HMO that is occupied by five or more persons who form two or more separate households, and who share basic amenities such as a kitchen, bathroom or toilet, will require a licence. The government has also introduced minimum room sizes for bedrooms and a new mandatory condition which require licence holders to have appropriate arrangements in place for the storage and disposal of household waste.
- 4.3 At the time of publishing this policy, the Council has 2 designated areas for additional HMO licensing and all HMO's in the area unless covered by Mandatory licensing or are HMO's that are exempted must be licensed with the council.
- 4.4 On 20th October 2015 the Council introduced an additional HMO licensing scheme in the wards of Bassett, Freemantle, Millbrook and Shirley. This scheme requires all HMOs not covered by mandatory HMO licensing and statutory exemptions to be licensed. This scheme will expire on 19th October 2020.
- 4.5 On 1st October 2018 the Council introduced an additional HMO licensing scheme in the wards of Bevois, Bargate, Portswood and Swaythling. This scheme will run until 30th September 2023 and requires all HMOs not covered by mandatory HMO licensing and statutory exemptions to be licensed.
- 4.6 A licensed HMO must comply with the statutory conditions and also comply with the councils HMO standards. Details can be found on our webpage:
<https://www.southampton.gov.uk/housing/landlords/houses-multiple-occupation/safety-standards.aspx>
- 4.7 All qualifying HMO's must have a Licence to operate and license conditions can include; the condition of the property, management conditions, amenities, room sizes, occupation restrictions, and require works to be completed. The Licence holder and any agent must be deemed a 'fit and proper person'.
- 4.8 The responsibility for licensing rests with the person having control of, or the person managing the property. This is usually the owner, or the person who lets the property and receives the rental income. It is the decision of the local authority as to who the most appropriate person is to hold the licence and who should be responsible for making an application.
- 4.9 The Council will use various methods to identify properties which could be subject to licensing, including council tax and housing benefit records, in accordance with section 237 of the Housing Act 2004 – available at www.opsi.gov.uk/acts/acts2004/40034--s.htm#237

5 Licence Fees

- 5.1 There is a 2 stage fee process when making an application for a HMO Licence. The first stage is a fee for verification and processing of the licence. Stage 2 is a fee once the licence has been approved and this is for the monitoring and enforcement e.g. of general and specific Licence conditions.
- 5.2 Unless specified all Mandatory HMO licenses will be valid for a period of five years. Licenses issued under the additional scheme will be valid for the duration of the scheme which is a maximum of five years.
- 5.3 When applying for an HMO licence, landlords have a choice of an officer from Southampton City Council or an independent HMO surveyor to carry out the inspection of their property.
- 5.4 An HMO licence should be applied for within three months of the property becoming licensable and we encourage all landlords to make timely HMO applications by offering a lower rate for those received within three calendar months of:
- The implementation of The Licensing of Houses in Multiple Occupation (Prescribed Description)(England) Order 2018, on 1 October 2018
 - The commencement of a designated Additional Licensing Scheme
 - The property first being let as a licensable HMO
 - Becoming the person in control of the licensable HMO
 - The HMO Licence renewal date

- 5.5 If your application reaches the council within three months of the HMO becoming licensable by the applicant, and you and your HMO meet all other conditions in full, there are two options available:

The Southampton City Council HMO all-inclusive rate (compliant and timely)

On completion of your application the Council will contact the applicant to arrange an inspection of the property. If any improvements are required to reach current standards, these will be included as a licence condition. The licence holder will be given full details and a reasonable timescale to complete them.

The landlord independent HMO surveyor rate

To access this rate, the property needs to be fully compliant with all HMO standards. Before making the application, the applicant must separately instruct an independent HMO surveyor, who is a member of the Royal Institute of Chartered Surveyors (RICS) or the Chartered Institute of Environmental Health (CIEH), and who holds their own insurance to carry out an inspection of the property. Please see guidance on [how to choose an independent HMO surveyor](#) for more information.

The independent HMO surveyor will complete a [Certificate of Compliance form](#) to prove that your property meets current HMO standards.

The application fee does not include the inspection fee charged by the independent HMO surveyor. The council reserves the right to place any conditions on the licence which it deems necessary.

- 5.6 If your full and valid application does not reach us within three months of the property becoming licensable (see above), then the all-inclusive rate will be applied.

All-inclusive rate (more than three months after becoming licensable)

On completion of your application the council will contact the applicant to arrange an inspection of the property.

If any improvements are required to reach current standards, these will be included as a licence condition. The applicant will be given full details and a reasonable timescale to complete them

5.7 The fees applicable from 1st April 2019 are set out below. These were agreed by the council to reflect the actual cost of verification and processing of the application (stage 1) and the monitoring and enforcement e.g. of conditions (stage 2). These fees can be varied by the council by its approved decision making process.

	Stage 1	Stage 2	Total
Independent HMO Surveyor route	£80	£210	£290
-			
SCC Timely & Compliant route	£80	£570	£650
SCC All-inclusive rate	£80	£1020	£1100

The Council offers a 50% reduction on the fees for ANUK accredited large student blocks.

The Licensing fees are published on the Council's webpage at

<http://www.southampton.gov.uk/housing/landlords/houses-multiple-occupation/licence-fees.aspx>

6 Refund of Licences

6.1 A full refund of a Stage 1 fee will be given if:

- You have made a duplicate application
- You made an application for an exempted property by mistake
- You made an application for a property which is not licensable under Southampton's HMO licensing schemes
- The authority fail to issue a licence before any licensing scheme expires

6.2 A refund will not generally be given if:

- You withdraw your application at any stage
- We refuse your application, other than in the circumstances set out in paragraph 6.1
- We revoke (take away) your licence
- You are subsequently refused planning permission for your HMO
- Your property ceases to be let as an HMO during the term of the licence
- You sell or dispose of the property

- 6.3 The Council will consider all requests for a refund on a case by case basis taking into account any individual exceptional circumstances
- 6.4 The stage 2 fee will be payable on issuing of the licence & is non-refundable. The Council however reserve the right to refund all or part of the stage 2 fee in exceptional circumstances.

7 The Licensing Process

- 7.1 The council have a dedicated webpage which has guidance on the procedure to apply for a property application including an on line application form.
<https://www.southampton.gov.uk/housing/landlords/houses-multiple-occupation/>
- 7.2 We are continually trying to identify properties in the city that meet the criteria for licensing, but remain unlicensed.
- 7.3 The public register of all Houses in Multiple Occupation that have been licensed is available on the council website. Properties are only included on the register once the final licence certificates have been issued.

You can view the public register at [HMO Public Register](#)

8. Assessing Suitability for Occupation

- 8.1 In approving a licence the council must determine whether the property is suitable for occupation by the number of persons requested in the application form. If the property is not suitable for the specified persons then the licence may be approved for a lesser number or conditions imposed to require specific remedial works to be carried out.
- 8.2 When assessing suitability the standards to consider include those for bathrooms, showers, toilets, wash hand basins, cooking facilities, room sizes and living space. Properties are also assessed for fire hazards using the Housing Health & Safety Rating System (HHSRS) and in accordance with the LACORS National Fire Safety Guidance. Please see the [SCC Guidance on standards for Houses in Multiple Occupation](#) for full details. Please note some upgrades to existing fire precautions may be required through specific conditions of the licence.
- 8.3 In relation to fire safety precautions the landlord can identify suitable provisions by undertaking a fire risk assessment. The Council however, reserve the right to require a higher level of fire protection as a result of their assessment.
- 8.4 In the case of the property being inspected by an independent HMO surveyor, a certificate of compliance must be submitted with the HMO application. This is a declaration by the independent surveyor that the property meets the standards for HMO licensing and is suitable for occupation by the required no of occupants.
- 8.5 The council reserve the right to carry out verification checks on properties inspected by independent surveyors. Should any deviation between the situation at the property and the information on the certificate of compliance be found in terms of SCC space and amenity

standards, the LACORs fire safety guidance, or the Housing Health and Safety Rating System (HHSRS), then investigations will be made. If errors are identified Southampton City Council may refuse to accept the certificate of compliance. The landlord would then be required to pay the full fee and have an officer from Southampton City Council visit and inspect.

- 8.6 Following an inspection of the property, a licence may be issued with specific conditions relating to the standards. Where specific conditions are attached to the licence, remedial work may be specified and timescales for compliance provided. Where a licence is issued with specific conditions these will be monitored to ensure conditions are complied with. Failure to comply with any specific condition may result in enforcement action by the council. The Council reserves the right to carry out checks on all licensed HMOs to ensure compliance with the standards.

9. Fit and Proper Person Assessment

- 9.1 The City Council must undertake checks to ensure that the proposed licence holder (and the manager, if different) is a fit and proper person. In deciding whether a person is fit and proper they must take into account:
- Any previous convictions involving fraud or other dishonesty, violence, drugs or specified sexual offences;
 - Contraventions of housing or landlord and tenant law;
 - Whether the person has practised unlawful discrimination; and
 - Whether the person has acted otherwise than in accordance with any applicable code of practice approved under section 233.
- 9.2 The Council will also consider whether the proposed licence holder has
- Been previously refused an HMO licence.
 - Been previously issued a reduced term HMO licence.
- 9.3 Where the above applies the Council must refuse to grant a HMO licence, unless it can be satisfied that any action can be taken within a reasonable period of time that means the person is no longer regarded as not a fit and proper person.
- 9.4 The local authority must also consider whether any person associated with, or formerly associated with the proposed licence holder/manager, on a personal, work or other basis, has committed any of the above offences. Having obtained this information, the Council must then determine whether that evidence is relevant to the fit & proper person's status of the proposed licence holder/manager.
- 9.5 The licensing regulations specify the information that the licence applicant and manager must declare on the licence application form with respect to their personal circumstances in relation to the matters listed above. The application form requests this information in the form of questions which the applicant must complete, and declare that it is correct to the best of their knowledge. To provide false or misleading information is an offence under section 238 of the Housing Act 2004. The licence applicant will also sign the form on behalf of all

joint licence holders and the manager, and must ensure that those persons do not have any offences that must be declared.

- 9.6 Where an applicant indicates that one or more issues applies to them, or where other information comes to light, then further information must be disclosed in order for the Council to assess whether this is of relevance to that person's ability to be regarded as being fit and proper. If it appears that the matter is not of relevance to their status as a fit and proper person, then the application may proceed for approval. If it is established that the matter is of relevance to their status as a fit and proper person, then the licence must be refused or the licence applicant may nominate another, more suitable, person. Wherever possible, applicants who are assessed as not being fit and proper will be encouraged to propose an alternative person or company, who has no personal connection with the refused person, to act as the licence holder on their behalf. The HMO Licensing Team will actively work with the initial proposed licence holder to assist in this process wherever possible. The final decision as to whether a person is to be regarded as not being fit and proper will be made by the Service Manager HMO licensing, after consultation with legal services and after considering any representations from the applicant.
- 9.7 When considering whether a person is fit and proper, we will make a decision on the basis of;
- The severity of any breach of law
 - The number of breaches
 - The time elapsed since the last breach and their conduct since it occurred
 - The relevance of the breach to the management of the HMO and their occupation
 - The evidence that the applicant has accepted the need to conduct his or her business in accordance with appropriate standards.
 - Satisfactory arrangements have been made for the repayment of debts associated with statutory responsibilities.

If the council decides that you are not a 'fit and proper' person, or the property does not meet the conditions, and there is no reasonable prospect of appointing an alternative licence holder, or bringing the property up to standard within an acceptable time period, we can refuse to issue you a licence for a house in multiple occupation (HMO).

In this situation, the council has a duty to issue an Interim Management Order (IMO). This allows the council to step in and manage the property, including collecting the rent. This order can last for a year or until suitable permanent arrangements can be made. If the IMO expires and there is no likelihood of a positive change in the circumstances, then the council can issue a Final Management Order (FMO). This removes the property from the control of the owner for a period of five years, which can be renewed.

- 9.7 Where the person is determined not to be a fit and proper person, the council will consider the impact of this decision on any other HMO licenses they may hold. Revocation of these licenses is a potential course of action.
- 9.8 Where accommodation is to be occupied by vulnerable persons, the applicant will be required to support their declaration by obtaining an enhanced disclosure certificate from the Disclosure and Barring Service (DBS) or Disclosure Scotland. Existing certificates to this or a higher level will be acceptable, provided they are no more than twelve months' old. This applies to supported accommodation housing persons with a background of dependency issues, mental illness, on probation, those under the age of 18, and any other persons considered to be vulnerable.
- The proprietors of Supporting People schemes which fall within the mandatory licensing requirements will need to produce a disclosure certificate in connection with their Supporting

People contract. Disclosure certificates are obtainable through the Disclosure and Barring Service or Disclosure Scotland. In certain cases, particularly larger hostel-type premises accommodating persons with drug/alcohol dependency, or persons who are still under supervision by the Probation Service, there may be other agencies who would wish to have their views or concerns taken in to account as part of the licensing process, such as the Police, WMFS, Probation Service, Community Safety Team, or the Drug Intervention Team. Such concerns may indicate that the proposed licence holder is failing to take reasonable steps to control the behaviour and activities of the occupiers, and this may have an impact upon the local community. As such, the competency of the proposed licence holder or manager may be questioned, even though they may not have declared any outstanding issues and may have a clear DBS Disclosure. The Licensing Team will actively work with all such agencies, and will consider their views as part of the decision-making process in considering the licence application, and whether any specific licence conditions should be identified.

10. Assessment of Management Arrangements

10.1 We expect the licence holder to have satisfactory arrangements and funding in place for the management of the HMO. This includes:

- A reliable contact for tenants to report defects, including in emergencies, who will arrange for repairs to be carried out within a reasonable period
- Where the manager of the HMO is not the owner, the manager must have the authority to fund urgent repairs, when the owner's approval cannot be obtained
- Arrangements in place for periodic inspections to identify where repair or maintenance is needed and to identify any overcrowding by tenants
- A protocol for dealing with anti-social behaviour occurring within the HMO by tenants or their visitors

While documentary proof of any such arrangements does not have to be provided with the licence application, the legislation specifies that such arrangements must be in place. The Council may request proof of such arrangements where considered appropriate.

10.2 The licence holder must comply with the requirements of The Management of Houses in Multiple Occupation (England) Regulations 2006, which set out minimum management standards for all HMOs. The regulations are available online at <http://www.legislation.gov.uk/ukxi/2006/372/contents/made> . However, they have since been amended by The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007. These regulations are available at <http://www.legislation.gov.uk/ukxi/2007/1903/contents/made> .

10.3 We expect the licence holder to have arrangements in place for ensuring that employees, contractors and others that visit the HMO in connection with its management or maintenance are fit and proper persons for the functions they carry out.

10.4 We carry out sample verification checking of declarations. This will have regard to outstanding debts for work in default and charges for statutory notices, County Court Judgments, and outstanding debts for Council Tax, Housing Benefit and other services. If necessary, Credit Reference checks will be made and landlords may be asked to provide additional information in some cases.

11. Granting a licence

11.1 The council will grant a licence if we are satisfied that the:

- HMO is reasonably suitable for occupation by the number of people specified in the licence application, or some other number, as determined by the Council
- Proposed licence holder is a fit and proper person
- Proposed licence holder is the most appropriate person to hold the licence
- Proposed manager, if there is one, is a fit and proper person
- Proposed management arrangements are satisfactory, including that the person involved in the management of the HMO is competent and the funding for management is suitable

11.2 The licence can be approved and signed on behalf of the Council by the Service Manager for HMO Licensing.

12. Licence Conditions

12.1 All HMO licenses will be granted with a set of general conditions (see appendix 1 – general conditions) where additional measures are required to achieve either a suitable level of accommodation, amenities or fire precautions, specific licence conditions may be imposed. In general we apply licence conditions requiring:

- The attainment and maintenance of proper standards of management and maintenance of facilities and equipment. In particular, the licence will require compliance with The Management of Houses in Multiple Occupation (England) Regulations 2006 – available at <http://www.legislation.gov.uk/ukxi/2006/372/contents/made> , as amended by The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007 – available at <http://www.legislation.gov.uk/ukxi/2007/1903/contents/made>
- Compliance with amenity standards contained in Schedule 3 of The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 – available at <http://www.legislation.gov.uk/ukxi/2006/373/contents/made> , as amended by the Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007 – available at <http://www.legislation.gov.uk/ukxi/2007/1903/contents/made> , within the time given on the licence. We will normally ask for wash hand basins to be provided in all letting rooms, unless the owner is able to provide evidence that it is not reasonably practicable to do so, or it is not in keeping with the age and character of the building, or there is sufficient other provision within the property.
- Room sizes. The SCC HMO general conditions & standards include minimum room sizes for bedrooms, kitchens and living areas. Statutory minimum room sizes are set out in The licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences)(England) Regulations 2018 available at <https://www.legislation.gov.uk/ukdsi/2018/9780111167359/regulation/2>
- Means of escape and fire precaution works to be carried out in order to upgrade the current provision in line with the LACORS guidance and a risk assessment.
- That specified documents be sent to the Council and made available to tenants for viewing on request

- That the licence document, licensee or manager's name, address and telephone number be displayed in a common area of the property
- Other conditions will be laid down as appropriate

12.2 We may specify conditions restricting occupation of parts of the HMO on the grounds of lack of amenities or useable space as appropriate.

12.3 We will actively monitor properties with specific licence conditions and investigate all allegations of a breach of licence conditions and consider enforcement action as appropriate to each individual case.

13. Temporary Exemption from Licensing

13.1 Under Section 62, Housing Act 2004 the Council may grant an applicant a temporary exemption notice (TEN) where;

- The Owner of a licensable HMO notifies the Council of their intention to take particular steps with a view to securing that the house is no longer required to be licensed.
- The Council is satisfied that the steps will be taken within three months of receiving the written notice.

13.2 In determining whether to grant a TEN, the Council will have regard to the proposals for the property, any planning considerations and arrangements for meeting the needs of the occupiers, including those to be displaced. Applications for TENs are likely to result in an inspection of the property by an SCC officer.

13.3 The Council may grant a second TEN that would take effect from the end of the three month period if it considers that there are exceptional circumstances.

13.4 If the Council refuses an application for a TEN they must notify the applicant of their decision in writing. Where an application is refused the applicant has a right of appeal to the appropriate housing tribunal within 28 days of the date the decision was made.

14. Enforcement

14.1 The councils approach is to encourage landlords to provide accommodation that is of a good standard and safe for tenants and we will work with them informally to do so where possible.

14.2 Enforcement action will be in accordance with the Councils corporate enforcement policy.& Private Rented Sector Enforcement Policy.

14.3 We will continually search for unlicensed HMOs and where necessary and proportionate take enforcement action to secure compliance.

- 14.4 We will monitor the condition of licensed HMOs and ensure that licence conditions are complied with and maintained. We will take steps to ensure compliance and will where necessary and proportionate take enforcement action.

15. HMO Declarations

- 15.1 We will declare bed and breakfast establishments as HMOs if they are housing people who use the hotel as their main residence for more than 30 days and the accommodation occupied by them comprises a significant proportion of the property. We believe that where this accommodation is used as a main residence, the same standards as in other HMOs should apply, especially as bed and breakfast hotels are often used to house vulnerable people.

16. Rent Repayment for unlicensed properties

- 16.1 A right of appeal exists to apply to the First-tier tribunal for a rent repayment order where a landlord operates an unlicensed HMO. The Council will advise tenants of their rights and provide evidence to support an appeal. If the rent is paid as housing benefit the council will usually make the application for the rent repayment order.

17. Refusal to Grant a Licence and Rights of Appeal

- 17.1 An applicant may appeal to the First-tier Tribunal if the council:

- Decides to refuse a licence
- Grants a licence with additional specific conditions
- Revokes a licence
- Varies a licence, or
- Refuses to vary a licence.

The appeal to the [First-tier Tribunal](#), must be made within 28 days of receiving the notification from the council.

18. Requesting Information

- 18.1 The Council may exercise its power to request documentation in relation to the property for any purpose connected with the exercise of the authorities function under the following legislation;

Section 235 of the Housing Act 2004

Section 16 of the Local Government (Miscellaneous Provisions) Act 1976

- 18.2 The council may give notice to the person(s) to provide documentation in his custody or under his control and to produce them at a time and place as specified. Failure to do so is an offence.

19. Varying a Licence

- 19.1 The council may vary a HMO licence if there has been a change in circumstances since the time when the licence was granted. This may be with the agreement of the licence holder, or if we discover new information through inspection/visits or other legitimate sources. There is a right of appeal against any decision to vary a licence.
- 19.2 New information requiring a licence variation includes;
- The number of households or persons appropriate as the maximum number authorised to occupy the HMO to which the licence relates, or
 - the standards applicable to occupation by a particular number of households or persons.
- 19.3 A change in licence holder is not a variation.

20. Revoking a licence

- 20.1 The council may revoke a licence in the following circumstances:
- The licensed HMO ceases to be an HMO to which mandatory or additional licensing applies.
 - With the agreement of the licence holder.
 - Where there is a serious breach of a licence condition, or repeated breaches of licence conditions
 - Where the licence holder and/or manager is no longer considered to be a fit and proper person.
 - The property is sold or disposed of by the current licence holder
- 20.2 In cases where we revoke a licence and the property remains a licensable HMO, an Interim Management Order may be served unless suitable alternative responsible persons can be found or other arrangements made. There is a right of appeal against any decision to revoke a licence.

21. Civil Penalties (CP)

- 21.1 Civil Penalties were introduced under the Housing and Planning Act 2016 from 6th April 2017 as an alternative to prosecution for the following offences under the Housing Act 2004:
- Section 30 (failure to comply with an Improvement Notice)
 - Section 72 (offences in relation to licensing of HMOs)
 - Section 95 (offences in relation to licensing of houses under Part 3 of the Act)
 - Section 139 (7) (failure to comply with an overcrowding notice)Section 234 (breach of Management Regulations in respect of a HMO)

- 21.2 For the Council's Policy on Civil Penalties please refer to the Private Sector Housing Enforcement Policy 2019 but in summary the level of CP takes into account the following:
- Seriousness of the Offence
 - Culpability and track record of the offender
 - Harm caused to the tenant
 - Punishment of the offender for the offence
 - Deterrent value to prevent the offender from repeating the offence and to prevent others from committing the offence
 - Removing of any financial benefit obtained from committing the offence

22. Governance, monitoring & review

- 22.1 Officers are only authorised to enforce regulations in accordance with the council's Scheme of Delegation.
- 22.2 Officers must be competent by appropriate training, qualification and/or experience & will be authorised to take enforcement action relevant to that training, qualification and/or experience. Officers will also have sufficient training and understanding of this enforcement policy to ensure a consistent approach to their duties.
- 22.3 Appeals in relation to enforcement action should be via the statutory process outlined in the relevant legislation.
- 22.4 Complaints about the conduct of officers should be made via the council's corporate complaints procedure.
- 22.5 The impact of the policy on the number, management and condition of HMOs in Southampton will be monitored. The Policy will be reviewed when there is any significant change in legislation or other circumstances that affect its effectiveness and validity.
- 22.6 Any minor amendments to this policy due to regulatory or legislative changes will be approved by Director of Transactions & Universal Services in consultation with the portfolio holder for Homes & Culture.

Equality and Safety Impact Assessment

The **Public Sector Equality Duty** (Section 149 of the Equality Act) requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between different people carrying out their activities.

The Equality Duty supports good decision making – it encourages public bodies to be more efficient and effective by understanding how different people will be affected by their activities, so that their policies and services are appropriate and accessible to all and meet different people’s needs. The Council’s Equality and Safety Impact Assessment (ESIA) includes an assessment of the community safety impact assessment to comply with Section 17 of the Crime and Disorder Act and will enable the Council to better understand the potential impact of proposals and consider mitigating action.

Name or Brief Description of Proposal	Houses in Multiple Occupation (HMO) Licensing Policy
Brief Service Profile (including number of customers)	
<p>The draft Southampton City Council Houses in Multiple Occupation (HMO) Licensing Policy aims to support the HMO licensing in the City. The council currently runs the HMO mandatory scheme and has two areas designated as additional licensing scheme.</p> <p>The new policy will cover these schemes and any future schemes as well as takes into account new legislation, case law and in particular dealing with banning orders, civil penalties and HMO licence fees.</p> <p>The HMO Licensing team administers the licensing of Houses in Multiple Occupation in Southampton. Properties are licensed in accordance with standards on Fire Safety, amenities and health and safety. This currently includes the Mandatory licensing of approximately 2000 HMOs, and additional licensing of approximately 2500 smaller HMOs. The team consists of 7.5 FTE staff.</p>	
Summary of Impact and Issues	
<p>The HMO licensing Policy sets out how the council will administer HMO licensing in Southampton in accordance with the provisions of the Housing Act 2004. The Policy publishes specific information regarding refunds, fit and proper persons assessments and length of licences which fall outside the scope of the statutory framework within which HMO licensing is currently administered.</p> <p>The Policy includes a detailed section on fit and proper person assessments which</p>	

are necessary to ensure that licence holders are fit & proper. The Policy allows the council to strengthen the statutory requirements and provide the framework for decision making and appeals with regards to the process.

The Policy sets out the councils refund policy. The refund policy has been published on the HMO web pages since 2013 but not published in any policy. This is now published so that it is clear to all applicants, officers and members of the public.

The published policy provides guidance on all aspects of the licensing regime and will ensure that the council operates in a consistent manner in relation to the administration of HMO licensing.

If the Council does not publish a policy there is a risk that it could be challenged on the administration, in particular with regards refunding of HMO licence fees and refusing licence applications following fit and proper person assessments.

Potential Positive Impacts

Whilst it is not a statutory requirement to publish a policy on HMO licencing, a published policy allows the council to provide a guidance and advice to applicants and members of the public and to make specific local rules in regards to the administration.

Having a policy on HMO licensing means that the councils position is clear and transparent on HMO licensing as without the policy the council would limit the discretion it has.

The HMO licensing Policy supports the Southampton City Council Housing Strategy 2016-2025 priorities and outcomes;

- People in Southampton live safe, healthy, independent lives

The HMO licensing Policy is supported by the Private Sector Enforcement Policy 2019.

The standards and most importantly the safety of the HMOs in Southampton will be improved, reducing the likelihood of issues for the occupiers and those living nearby. The management of the HMOs will be improved reducing the impact of the HMOs on the local environment. The provision of the HMO wardens as part of the existing scheme will ensure complaints and issues arising from HMOs will be dealt with promptly and effectively.

Responsible Service Manager	Steven Hayes-Arter, Service Manager for HMO licensing & Adaptations
Date	
Approved by Senior Manager	Rosie Zambra – Service Lead - Environment, Street Scene & Health
Date	

Potential Impact

Impact Assessment	Details of Impact	Possible Solutions & Mitigating Actions
Age	The majority of HMO tenants are aged between 18-34 of which this age group makes up about 50% of the population in these wards <i>(Source: Hampshire County Environment Department's 2017 based Small Area Population Forecasts)</i>	The policy will have a positive impact as HMO Licensing will ensure properties are safe to live in for all age groups. By having the policy it encourages best practice by ensuring transparency and a consistent approach in all circumstances, as tenants will know what to expect in terms of property conditions, safety and how to report issues.
Disability	From 2011 census data the four wards currently covered by the proposed policy, Bevois, Bargate, Portswood and Swaythling in Southampton had around 11-14% of the population living with some form of disability.	The policy places no restrictions on tenancy types that would impact persons with disabilities. The positive impact is that it will improve the safety of HMOs thus tenants with disabilities would benefit from safer properties.
Gender Reassignment	N/A	N/A
Marriage and Civil Partnership	N/A	N/A
Pregnancy and Maternity		The policy places no restrictions on tenancy types that would impact pregnant women or those with young babies. The positive impact of the policy will mean that safety is improved in HMOs.
Race	Census data from 2011 indicates that the majority of residents in the four wards currently covered by the proposed policy, Bevois, Bargate,	The policy places no restrictions on tenancy types that would impact on persons from certain ethnic

Impact Assessment	Details of Impact	Possible Solutions & Mitigating Actions
	<p>Portswood and Swaythling in Southampton are White British, with Portswood & Swaythling over 70% White British. The number is lower in Bevois at 44.6% with a large number of Asian British at 28%.</p>	<p>groups.</p>
Religion or Belief	N/A	N/A
Sex	N/A	N/A
Sexual Orientation	N/A	N/A
Community Safety	<p>If properties are not let out they risk becoming empty. Long term empty properties can have negative impact on local community e.g. eyesore risk, squatters and generally unsafe.</p>	<p>The council has legal powers to deal with empty properties and will work proactively to reduce the number and impact of empty homes. The Private Rented Sector Enforcement Policy details the council's powers.</p> <p>The HMO Licensing policy will have a positive impact as the powers given in the policy allow for action to be taken against HMO landlords with anti-social tenants and make HMOs safer.</p>
Poverty	<p>Introduction and enforcement of the policy, especially license fees may lead to less HMOs being available, which could lead to rent increases which could impact those on low income.</p>	
Health & Wellbeing		
Other Significant Impacts		

Data Protection Impact Assessment

What is a Data Protection Impact Assessment?

A Data Protection Impact Assessment (“DPIA”) is a process that assists organisations in identifying and minimising the privacy risks of new projects or policies. Projects of all sizes could impact on personal data.

The DPIA will help to ensure that potential problems are identified at an early stage, when addressing them will often be simpler and less costly.

Conducting a DPIA should benefit the Council by producing better policies and systems, and improving the relationship with individuals.

Why should I carry out a DPIA?

Carrying out an effective DPIA should benefit the people affected by a project and also the organisation carrying out the project.

Not only is it a legal requirement in some cases, it is often the most effective way to demonstrate to the Information Commissioner’s Officer how personal data processing complies with data protection legislation.

A project which has been subject to a DPIA should be less privacy intrusive and therefore less likely to affect individuals in a negative way.

A DPIA should improve transparency and make it easier for individuals to understand how and why their information is being used.

When should I carry out a DPIA?

The core principles of DPIA can be applied to any project that involves the use of personal data, or to any other activity that could have an impact on the privacy of individuals.

Answering the screening questions in Step 1 of this document should help you identify the need for a DPIA at an early stage of your project, which can then be built into your project management or other business process.

Who should carry out a DPIA?

Responsibility for conducting a DPIA should be placed at senior manager level. A DPIA has strategic significance and direct responsibility for the DPIA must, therefore, be assumed by a senior manager.

The senior manager should ensure effective management of the privacy impacts arising from the project, and avoid expensive re-work and retro-fitting of features by discovering issues early.

A senior manager can delegate responsibilities for conducting a DPIA to three alternatives:

- a) An appointment within the overall project team;
- b) Someone who is outside the project; or
- c) An external consultant.

Each of these alternatives has its own advantages and disadvantages, and careful consideration should be given on each project as to who would be best-placed for carrying out the DPIA.

How do I carry out a DPIA?

Working through each section of this document will guide you through the DPIA process.

The requirement for a DPIA will be identified by answering the questions in Step 1. If a requirement has been identified, you should complete all the remaining sections in order.

After Step 5, the Information Lawyer (Data Protection Officer) will review the DPIA within 14 days of receipt, and complete the rest of the assessment within 28 days. The DPO will identify any privacy risks, and proposed measures to address them.

These measures must then be agreed by the project lead, Information Asset Owner or Administrator, and, in some cases, the Senior Information Risk Owner.

Advice can be found at the beginning of each section, but if further information or assistance is required, please contact the Information Lawyer (Data Protection Officer) on 023 8083 2676 or at information@southampton.gov.uk.

Data Protection Impact Assessment Template			
Version	3.1	Approved by	Data Protection Officer
Date last amended	2 nd November 2018	Approval date	2 nd November 2018
Lead officer	Chris Thornton, Information Lawyer (Data Protection Officer)	Review date	2 nd November 2019
Contact	information@southampton.gov.uk	Effective date	2 nd November 2019

Project Details

Name of Project
Licensing of Houses in Multiple Occupation Policy
Brief Summary of Project
Asking cabinet to approve a published policy on HMO licensing
Estimated Completion Date
August 2019
Name of Project Lead
Steven Hayes-Arter

Details of Person Conducting DPIA

Name
As above
Position
Service Manager HMO Licensing & Adaptations
Contact Email Address
Steven.hayes-arter@southampton.gov.uk

Step 1: Identify the need for a DPIA

Does your project involve... (tick all that apply)

- The collection of new information about individuals
- Compelling individuals to provide information about themselves
- The disclosure of information about individuals to organisations or people who have not previously had routine access to the information
- The use of existing information about individuals for a purpose it is not currently used for, or in a way it is not currently used
- Contacting individuals in ways which they may find intrusive
- Making changes to the way personal information is obtained, recorded, transmitted, deleted, or held
- The use of profiling, automated decision-making, or special category data¹ to make significant decisions about people (e.g. their access to a service, opportunity, or benefit).
- The processing of special category data¹ or criminal offence data on a large scale.
- Systematically monitoring a publicly accessible place on a large scale.
- The use of new technologies.
- Carrying out profiling on a large scale.
- Processing biometric or genetic data.
- Combining, comparing, or matching data from multiple sources.
- Processing personal data without providing a privacy notice directly to the individual.
- Processing personal data in a way which involves tracking individuals' online or offline location or behaviour.
- Processing children's personal data for profiling or automated decision-making or for marketing purposes, or offer online services directly to them.
- Processing personal data which could result in a risk of physical harm in the event of a security breach.

¹ personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation

If you answered “yes” to any of these, please proceed to Step 2.

If none of these apply, please tick the below box, and return the form to the Information Lawyer (Data Protection Officer) at information@southampton.gov.uk

None of the screening statements in Step 1 of this document apply to the project, and I have determined that it is not necessary to conduct a Data Protection Impact Assessment

Step 2: Describe the processing

The nature of the processing

How will you collect data?

How will you use the data?

How will you store the data?

How will you delete the data?

What is the source of the data?

Will you be sharing data with anyone?

INFO: If yes, please provide details

Describe the scope of the processing

What is the nature of the data?

INFO: Detail the type of personal data being processed. List any fields that will be processed (e.g. name, address, data of birth, NHS number, video images)

Does it include special category or criminal offence data? Please provide details.

INFO: "Special category" data includes personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation.

How much data will you be collecting and using?
How often will the data be collected and used?
How long will you keep it?
How many individuals are affected?
What geographical area does it cover?

Describe the context of the processing
What is the nature of your relationship with the individuals?
INFO: Detail who the data subjects will be (e.g. residents, carers, pupils, staff, professionals)
How much control will they have over their data?
Would they reasonably expect the Council to use their data in this way?
INFO: Please provide details to support your answer
Do they include children or other vulnerable groups?
INFO: If yes, please provide details
Are you aware of any prior concerns over this type of processing or security flaws?
INFO: If yes, please provide details

Is the processing novel in any way?
INFO: If yes, please provide details
What is the current state of technology in this area?
Are there any current issues of public concern that should be considered?
INFO: If yes, please provide details

Describe the purposes of the processing
What do you want to achieve?
What is the intended effect on individuals?
What are the benefits of the processing – for the Council, and more broadly?

Step 3: Consultation process

Consider how to consult with relevant stakeholders
Describe when and how you will seek individuals' views – or justify why it's not appropriate to do so
Who else do you need to involve, or have you already involved within the Council?
INFO: e.g. IT services, records management
Do you need to ask your processors to assist?
INFO: Processors are third parties who will process the personal data on our behalf

Do you plan to consult information security experts, or any other experts?

INFO: Please provide details to support your answer

Step 4: Assess necessity and proportionality

Describe compliance and proportionality measures

What is your lawful basis for processing? Please choose one of the following...

INFO: There should generally only be one legal basis for processing.

- The data subject has given consent
- The processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract
- The processing is necessary for compliance with a legal obligation to which the Council is subject
- The processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Council
- The processing is necessary for the purposes of the legitimate interests pursued by the Council or by a third party

Does the processing actually achieve your purpose?

INFO: Please provide details to support your answer

Is there another way to achieve the same outcome?

INFO: Please details to support your answer

How will you prevent function creep?

INFO: Function creep is where data collected for one purpose is used for another purpose over time.

How will you ensure data quality and data minimisation?

INFO: We should only use the minimum amount of personal data possible to achieve the purpose of the processing.

What information will you give individuals about the processing?
How will you help to support their rights?
INFO: Data subject's rights include the right to access, rectify, erase, port, and restrict their data.
What measures do you take to ensure processors comply with the GDPR, and assist the Council in supporting individuals in exercising their rights?
INFO: E.g. will there be a contract in place with the processor that contains data protection obligations?
How do you safeguard any international transfers of personal data?
INFO: If there are no international transfers involved, please state this

Step 5: Send DPIA Form to the Data Protection Officer

After completing this part of the form, please send the document to the Information Lawyer (Data Protection Officer) at information@southampton.gov.uk

The DPO will review the information provided, and identify and assess the privacy risks.

Step 6: Identify and assess risks (DPO to complete)

Describe source of risk and nature of potential impact on individuals. Include associated compliance and corporate risks as necessary.	Likelihood of harm	Severity of harm	Overall risk
1.	Remote Possible Probable	Minimal Significant Severe	Low Medium High
2.	Remote Possible Probable	Minimal Significant Severe	Low Medium High
3.	Remote Possible Probable	Minimal Significant Severe	Low Medium High
4.	Remote Possible Probable	Minimal Significant Severe	Low Medium High
5.	Remote Possible Probable	Minimal Significant Severe	Low Medium High
6.	Remote Possible Probable	Minimal Significant Severe	Low Medium High

Step 7: Identify measures to reduce risk (DPO to complete)

Identify additional measures you could take to reduce or eliminate risks identified as medium or high risk in step 5

Risk	Options to reduce or eliminate risk	Effect on risk	Residual risk
1.		Eliminated Reduced Accepted	Low Medium High
2.		Eliminated Reduced Accepted	Low Medium High
3.		Eliminated Reduced Accepted	Low Medium High
4.		Eliminated Reduced Accepted	Low Medium High
5.		Eliminated Reduced Accepted	Low Medium High
6.		Eliminated Reduced Accepted	Low Medium High
Comments from the Data Protection Officer			
Comments from the Senior Records Officer			

Step 8: Sign off

Item	Date	Notes
DPO reviewed DPIA and provided advice on:		DPO should advise on compliance, step 7 measures and whether processing can proceed
Senior Records Officer reviewed DPIA on:		SRO should advise on records management matters
Measures approved by Project Manager on:		Integrate actions back into project plan, with date and responsibility for completion
Comments from Project Manager:		
Residual risks approved by Information Asset Owner / Administrator on:		
Comments from IAO / IAA:		
Residual high risks approved by the Senior Information Risk Owner on:		If accepting any residual high risk, consult the ICO before going ahead
Comments from SIRO:		

Step 9: Review

Item	Date	Comments
DPO reviewed DPIA on:		
Date of next review:		

Agenda Item 7

Appendix 2

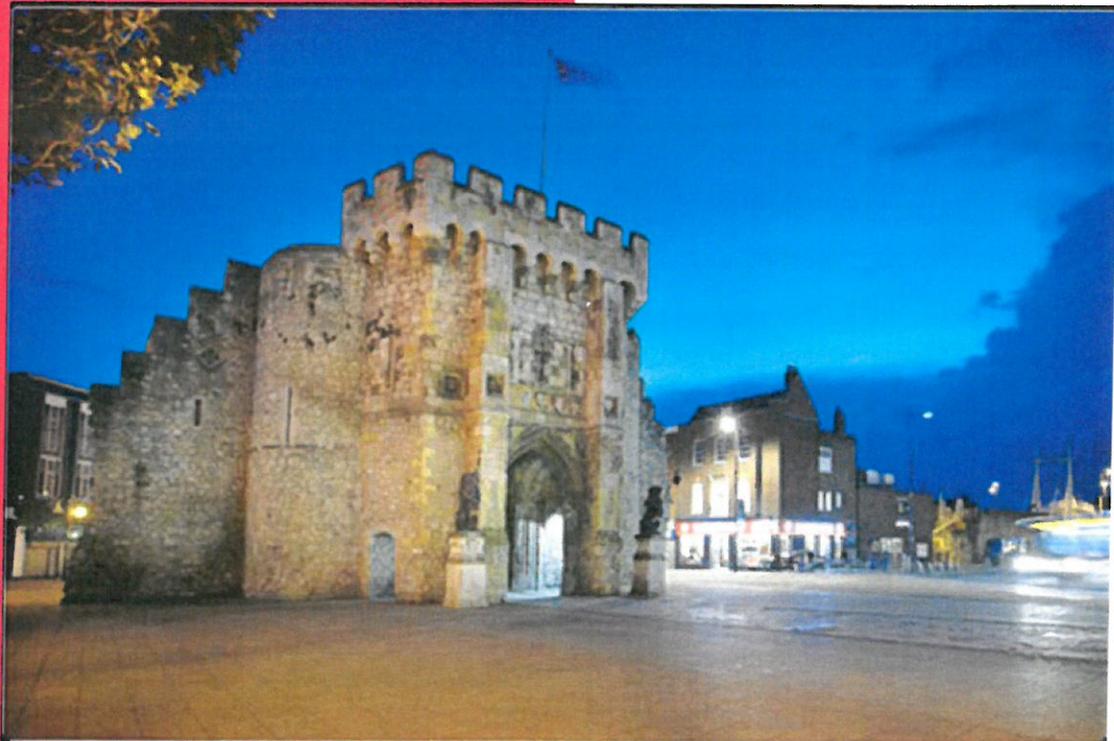
DECISION-MAKER:		OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE	
SUBJECT:		PRIVATE RENTED ENFORCEMENT POLICY	
DATE OF DECISION:		15th August 2019	
REPORT OF:		CABINET MEMBER FOR HOMES AND CULTURE	
<u>CONTACT DETAILS</u>			
AUTHOR:	Name:	Steven Hayes-Arter	Tel: 023 8091 7533
	E-mail:	Steven.hayes-arter@southampton.gov.uk	
Director	Name:	Mitch Sanders	Tel: 023 8083 3613
	E-mail:	Mitch.sanders@southampton.gov.uk	
STATEMENT OF CONFIDENTIALITY			
Not applicable			
BRIEF SUMMARY			
<p>Approval is being sought by Cabinet on 20th August 2019, to implement a policy to support private sector housing enforcement in the city. Enforcement of the private sector is taken in accordance with statutory requirements and with reference to the Corporate Enforcement Policy. Establishing a new policy on private sector enforcement allows Southampton City Council to provide updated guidance to officers, businesses and the public following legislative updates and ensures that council policy reflects the following national legislative updates;</p> <ul style="list-style-type: none"> - The issuing of Civil Penalties which are new legal powers for local authorities to use in certain housing act offences including HMO licencing. - The use of Banning Orders, in the case of the most serious offenders and rogue landlords the council can apply to the first-tier tribunal to impose a banning order on a person to prevent them from acting as a landlord. 			
RECOMMENDATIONS:			
	(i)	That Overview and Scrutiny Management Committee (OSMC) to examine and review draft policy, in order to highlight any matters which Members feel should be taken into account by the Executive when reaching a decision to approve the policy.	
REASONS FOR REPORT RECOMMENDATIONS			
1.	The Enforcement of a Private Sector Housing Policy will provide clearer guidance to officers, business and the public on the council's administration of private sector housing enforcement in the city.		
2.	Following the introduction of the Housing and Planning Act 2016, the council has new statutory powers in relation to civil penalty notices and banning orders. The council is expected to implement its own policy on the use of these powers and as such these are contained within this policy.		
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED			
3.	Not having an updated enforcement policy would mean that the council would be open to challenge on our use of the updated and new powers contained		

	<p>within the Housing and Planning Act 2016 and Housing Act 2004 (where amended).</p> <p>The statutory guidance on the use of Civil Penalties states that Local Authorities are expected to develop and document their own policy on when to prosecute and when to issue civil penalties and what the appropriate penalties are.</p> <p>Also separate non-statutory guidance on the use of Banning Orders states that Local Authorities are expected to develop their own policy on when to pursue banning orders.</p>
DETAIL (Including consultation carried out)	
4.	Southampton has a large private rented sector of around 25,000 properties, accounting for approximately a quarter of the housing stock in the city.
5.	The council has statutory responsibilities under the Housing Act 2004 and Housing and Planning Act 2016 to undertake duties in relation to the enforcement of the private rented sector in Southampton.
6.	The Housing and Planning Act 2016 introduced new powers for local authorities and updated the Housing Act 2004 in relation to certain functions
7.	The Housing and Planning Act 2016 introduced Civil Penalty Notices as an alternative to prosecution for certain Housing Act 2004 offences. Financial penalty notices to the maximum value of £30,000 can be issued. Before making use of these powers Southampton City Council should determine its own level of fees and publish these within a policy. Southampton City Council's private rented enforcement policy includes detail on the scheme and the matrix used to determine the level of fines. In summary there are twelve categories of fines ranging from £25 to £30,000. The level of fine will be determined by assessing the culpability of the landlord and the harm caused by the offence to the tenant.
8.	In 2018 the secretary of state established a national database of rogue landlords and property agents. The council is authorised to add any qualifying rogue landlords to the database and the policy details how this will be administered.
9.	Under new powers contained in the Housing and Planning Act 2016 the council can apply to a First-tier tribunal for a banning order to prevent a landlord from operating. The policy establishes the council's policy on banning orders.
10.	The policy contains guidance on the use of management orders and empty dwelling management orders following updates to the legislation relating to the use of banning orders.
11.	The published policy provides guidance on all aspects of the enforcement regime and will ensure that the council operates in a consistent manner in relation to the enforcement of the private housing sector.

RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
12.	Private sector housing enforcement is a statutory function. Enforcement work is a General Fund cost contained within the Private Sector Housing budget and recoverable through penalty, work in default recovery or enforced sale.
13.	Any income generated by the use of civil penalty notices can only be used by the council to support Private Sector Housing enforcement. This is a provision under the Housing and Planning Act 2016. Work in Default or the use of the Enforced Sale procedure may recover reasonable costs incurred by the council. Due to the long term nature of property sales, recovery may take several years.
<u>Property/Other</u>	
14.	None
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
15.	Private sector housing enforcement is undertaken in accordance with the Housing Act 2004, The Housing and Planning Act 2016 and other legislation as listed in the policy.
<u>Other Legal Implications:</u>	
16.	The council must have due regard to the Public Sector Equality Duty under the Equality Act 2010 when carrying out any functions including developing any policies that may have any effect on any protected persons, in particular the duty to eliminate discrimination, harassment and victimisation and advance equality of opportunity and fostering good relations. Local Authorities also have a duty under the Human Rights Act 1998, when carrying out any function, not to act incompatibly with rights under the European Convention for the Protection of Fundamental Rights and Freedoms.
RISK MANAGEMENT IMPLICATIONS	
17.	If the council does not publish a policy there is a risk that it any enforcement action could be successfully challenged, in particular on its use of banning orders, civil penalties and management orders.
18.	
POLICY FRAMEWORK IMPLICATIONS	
19.	The Private Sector Enforcement Policy supports the Southampton City Council Housing Strategy 2016-2025 priorities and outcomes; <ul style="list-style-type: none"> • People in Southampton live safe, healthy, independent lives
20.	The Private Sector Enforcement Policy 2019 is supported by the HMO licensing Policy 2019.

KEY DECISION?	Yes	
WARDS/COMMUNITIES AFFECTED:	All	
<u>SUPPORTING DOCUMENTATION</u>		
Appendices		
1.	Private Sector Enforcement Policy	
2.	ESIA	
3.	DPIA	
Documents In Members' Rooms		
1.	None	
Equality Impact Assessment		
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.		Yes
Data Protection Impact Assessment		
Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.		Yes
Other Background Documents		
Other Background documents available for inspection at:		
Title of Background Paper(s)		Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	None	

Southampton City Council Enforcement Private Rented Sector



Southampton City Council Enforcement Private Rented Sector



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Enforcement Private Rented Sector			
Version	1.0	Approved by	Cabinet
Date last amended	Click here to enter a date.	Approval date	Click here to enter a date.
Lead officer	Rosie Zambra	Review date	Click here to enter a date.
Contact	Rosie.Zambra@southampton.gov.uk	Effective date	Click here to enter a date.

DRAFT

1. Scope and Definitions

- 1.1 The Southampton City Council Enforcement Private Rented Sector Policy is intended to provide guidance for officers, businesses and members of the public on the principle and processes which will apply when enforcement action is considered or taken. The Southampton City Council Enforcement Private Rented Sector Policy should be read in conjunction with The Southampton City Council Enforcement Policy.
- 1.2 The Southampton City Council Enforcement Policy is a general policy which outlines the principles of enforcement that the council will follow and apply.
- 1.3 This policy indicates the different enforcement options that the council may follow and apply in the private rented sector, and how decisions are made on enforcement; it also explains the role and authorisation of officers who have enforcement responsibilities.
- 1.4 This policy sets out high level principles of enforcement procedures in private rented sector and, where applicable, is supported by The Southampton City Council Enforcement Policy.
- 1.5 Southampton City Council is committed to carrying out its duties in a fair and consistent manner and ensuring that enforcement action is proportional to the seriousness of failure to comply with statutory requirements.

2. Legislative Context and Other Related Documents

- 2.1 This policy is linked to a number of a different pieces of legislation and guidance. The council will adhere to all relevant legislation and guidance including:
 - Human Rights Act 1998
 - Data Protection Act 1998
 - Legislative and Regulatory Reform Act 2006
 - Equality Act 2010
 - Code for Crown Prosecutors 2013
 - The Anti-social Behavior, Crime and Policing Act 2014
 - Regulators' Code 2014
 - Housing Act 2004
 - Building Act 1984
 - Caravan Sites and Control of Development Act 1960
 - Caravan Sites Act 1968
 - Energy Act 2013
 - Enterprise and Regulatory Reform Act 2013
 - Environmental Protection Act 1990
 - Housing Act 1985,

1996 and 2004

- Housing and Planning Act 2016
- Local Government (Miscellaneous Provisions) Act 1982
- Leicestershire Act 1985
- Mobile Homes Act 1983 and 2013
- Prevention of Damage by Pests Act 1949
- Public Health Acts 1875 – 1932, 1936, 1961, 1984

3. Our Objectives

- To strive to ensure that tenants of a private landlord or a Registered Social Landlord (RSL) live in homes free of significant risks to their health and safety.
- To strive to ensure that all Houses in Multiple Occupation (HMO's) and Selective Licensed properties are safe, licensed where required and all licensing conditions are met.
- To work with owners of Empty Homes to ensure they are not left empty where there is blight and a need for housing.
- To work with owners and occupiers of privately owned property and land so that it does not present a statutory nuisance to other land owners, or does not directly or indirectly present an unacceptable risk to public health, safety or the environment.
- We meet our statutory duties as a local housing authority.

4. Decision Making

4.1 Enforcement action will be based on risk and we must also have full regard to any statutory duty.

4.2 Assessment of risk will be based on current legislation and specific guidance.

4.3 Enforcement Officers are required to make judgments and will decide on appropriate action after considering the criteria within this Policy and relevant written procedures.

4.4 A Senior Officer will give prior approval to all formal action falling outside the scope of this policy.

4.5 Where the investigating enforcement officer believes that legal action maybe required, evidence will be collected and the case will be reviewed by the service manager before it proceeds.

5. Enforcement Principles

5.1 The council's enforcement policies will have regard to the Regulators' Code (2014).

Enforcement activity undertaken by Southampton City Council should be:

- **Proportionate** – our enforcement activities should reflect the level of risk to the public and enforcement action taken should correspond to the seriousness of the offence.
- **Accountable** – our activities should be open to public scrutiny, with clear and accessible policies, and fair and efficient complaints procedures.
- **Consistent** – our advice to those we regulate should be reliable and we will respect advice provided by other regulators. The council should seek to ensure fair and level enforcement, however the council recognises that consistency is not the same as uniformity. Officers should exercise their professional judgment and discretion according to the circumstances of each individual case.
- **Transparent** – those we regulate should be able to understand what is expected of them and what they can anticipate in return; regulations and enforcement procedures should be as clear and simple as possible.

6. Enforcement Procedure

6.1 The decision to pursue enforcement action will depend on the severity of the non-compliance. Factors that will be taken into consideration include:

- The risk that the non-compliance poses to the safety, health or economic welfare of the public at large or to individuals;
- Evidence that suggests that there was pre-meditation in the commission of an offence;
- The alleged offence involves a failure to comply in full or in part with the requirements of a statutory notice, order or policy;
- There is a recorded history of previous warnings or the commission of similar offences; and
- Aggravated circumstances such as obstruction of an officer or aggressive/violent behaviour.

7. Housing, Health and Safety Rating System (HHSRS)

7.1 The HHSRS is set out in Part 1 of the Housing Act 2004. It is a method of assessing how likely it is that the condition of a property will cause an unacceptable hazard to the health of the occupant(s).

7.2 There are two categories of possible hazards:

- **Category 1 Hazards** represent a serious danger to health and the council has a duty to take appropriate action to deal with these.

- **Category 2 Hazards** represent a lesser danger and, although it has no duty to take action, the council will exercise its power to reduce category 2 hazards through appropriate action.

7.3 A range of enforcement powers is available under the Act to remove or reduce any hazards identified to an acceptable level.

8. Powers of Entry

8.1 Where appropriate and proportionate authorised officers can use the powers of entry set out in part 1 of the Housing Act 2004 and other relevant legislation for example where they have reasonable belief an offence has been committed and they need to gather evidence.

8.2 In general the powers will allow an officer at any reasonable time to;

- Enter a property to carry out an inspection and gather evidence
- Take someone with them
- Take equipment or materials with them
- Take measurements, photographs or make recordings
- Leave recording equipment for later collection
- Take samples of articles or substances; and in some cases to carry out works.

8.3 In most cases prior notice must be given to owners and to the occupiers. The notice given depends on the legislation being enforced and can range from 24 hours to 7 days.

8.4 Notice that that powers of entry need to be carried out will normally be in writing but can in some circumstances be given verbally, depending on the relevant statutory provision.

8.5 The powers of entry can be enforced with a warrant. The Police may if necessary accompany officers where that is appropriate.

8.6 It is an offence to obstruct an officer in the course of their duty if they are attempting to gain entry whilst executing a warrant.

8.7 Officers exercising their power of entry will carry identification and details of their authorisation to carry out their action.

9. Enforcement Options

9.1 The council seek to comply with regulatory legislation through the use of the following courses of action:

- Use of informal action, written guidance, advice and notices
- By refusal, revocation or the attachment of conditions to a licence
- By issuing fixed penalty notices
- By using civil legislation where appropriate
- By the use of various management orders

- By the use of statutory notices and orders
- By issuing simple cautions
- By carrying out work in default
- By prosecution
- By the use of civil penalties
- By using anti-social behaviour powers
- By compulsory purchase or enforced sale

9.2 The council in deciding upon enforcement options will also have due regard to statutory guidance, approved codes of practice and relevant industry or good practice guides.

10. Enforcement Decision Table

10.1 The following table contains some examples of situations where different types of action may be taken. Decisions are made on a case by case basis.

Action	GENERAL CIRCUMSTANCES
No Action	<p>Where formal action may not be appropriate.</p> <p>Where the individual/organisation is likely to comply</p> <p>In such cases, customers may be directed to other sources of advice and support.</p>
Informal Action and Advice includes verbal advice and advisory letters	<p>Where it may be appropriate to deal with the issues through informal action and advice and the individual/organisation is likely to comply</p> <p>In such cases, the Council will work collaboratively with responsible landlords to address and resolve any problems.</p>
Service of Notice requiring repairs or specific legal requirements	<ul style="list-style-type: none"> • Where a person refuses or fails to carry out works through the pre-formal HHSRS process; • Where there is a lack of confidence or there is a positive intelligence that the responsible individual or company will not respond to a pre-formal approach; • Where there is a risk to the health, safety and wellbeing of a household or a member of the public (dangerous gas or electrical services; no heating in the winter; no hot water for personal hygiene or to wash and prepare food safely; etc.);

	<ul style="list-style-type: none"> • Where standards are extremely poor and the responsible individual or company shows little or no awareness of the management regulations or statutory requirements; • Where the person has a history of non-compliance with the Council and/or other relevant regulators; • Where the person has a record of criminal convictions for failure to comply with the housing requirements (which may include housing management); • Where it is necessary to safeguard and protect the occupiers' future health and safety; and/or • Where it is necessary to bring an empty property back into use and informal requests either fail or are not appropriate.
Powers to require information and/or documents	<p>Where it is necessary for documents and information to be provided to enable officers to carry out their powers and duties.</p> <p>We there is reasonable belief that an offence has been committed and it is believed that the documents are required in order to gather evidence of the offence.</p>
Emergency Remedial Action / Emergency Prohibition Order	Where there is an imminent risk of serious harm to the health and safety of any occupiers of the premises or any other residential premises.
Revocation of HMO Licenses and Approvals	<p>Where the Manager is not a "fit and proper person"; and/or</p> <p>Where there are serious breaches of the licensing conditions and/or serious management offences.</p>
Simple Caution	<p>Where an offence is less serious and the person who has committed the offence has admitted their guilt & agreed to accept a caution.</p> <p>In such cases, a Simple Caution may be offered in line with home office guidance.</p>
Prosecution	Where the authority consider the offence is not suitable to be dealt with by with by way

	of a Civil Penalty or a Civil Penalty is not available for the type of offence.
--	---

11. Informal Action

11.1 Informal action includes:

- Offering advice
- Giving verbal and written warnings
- Negotiating agreements between complaints and other residents or businesses
- The negotiation of specific conditions with licences, and
- The use of informal notices

11.2 It is generally considered appropriate to take informal action in one or more of the following circumstances:

- The act omission is not serious enough to warrant formal action.
- From the business'/member of public's past history it can be reasonably expected that informal action will achieve compliance with the law.
- The consequence of non-compliance will not pose a significant risk.

12. Civil Penalty Notices

12.1 Under the Housing and Planning Act 2016 a local authority has the power to impose a civil penalty of up to £30,000 as an alternative to prosecution for certain offences under the Housing Act 2004.

12.2 The following offences under the Housing Act 2004 can be considered for a civil penalty;

- Failure to comply with an Improvement Notice (Section 30).
- Offences relating to Licensing of HMOs (Section 72).
 - Section 72 (1) being in control or managing an HMO which is required to be licensed but is not so licensed.
 - Section 72 (2) being in control or managing an HMO which is licensed but knowingly permitting occupation over and above the number authorised by the licence.
 - Section 72 (3) being a licence holder who fails to comply with any condition of a licence.
- Offences in relation to licensing under Part 3 of the Housing Act 2004 (Section 95).
 - Section 95 (1) being in control or managing a house which is required to be licensed but is not so licensed.
 - Section 95 (2) being a licence holder who fails to comply with any condition of a licence.

- Offence of contravention of an overcrowding notice (Section 139).
 - Failure to comply with management regulations in respect of an HMO (Section 234).
- 12.3 Each local Authority must implement its own civil penalties scheme and determine its own level of civil penalties. Please see appendix 1 for the Civil penalties charges.
- 12.4 The same criminal standard of proof is required for a civil penalty as for prosecution. This means that before taking formal action, a local housing authority should satisfy itself that if the case were to be prosecuted in the magistrates' court, there would be a realistic prospect of conviction.
- 12.4 The Council will, where it deems necessary and proportionate make use of the powers to issue civil penalty notices for applicable offences .
- 12.5 The procedure for issuing civil penalties is prescribed by schedule 13A of the Housing Act 2004 and schedule 1 of the Housing and Planning Act 2016.
- 12.6 The decision to issue a civil penalty notice will be made by the service manager for HMO licensing after consultation with legal services on a case by case basis..
- 12.7 A local housing authority is required to issue a 'notice of intent' to issue a financial penalty. Under this notice a landlord has 28 days with which to make representations to the local housing authority.
At the end of this period, should the local housing authority still propose to issue the financial penalty, they must serve a 'final notice' imposing the penalty.
On receipt of a final notice imposing a financial penalty a landlord can appeal to the First-tier Tribunal against the decision to impose a penalty and/or the amount of the penalty. The appeal must be made within 28 days of the date the final notice was issued. The final notice is suspended until the appeal is determined or withdrawn.

13. Civil Legislation

- 13.1 Where appropriate, the Southampton City Council will use civil legislation in the fulfilment of its duties. For example, an injunction may be sought to prevent a business from continuing to breach the law and it is felt the criminal sanctions will not prevent further breaches.

14. Management Orders

- 14.1 The Council will consider applying for an Interim Management Order /Special Interim Management Order and final Management Order on a case by case basis and in compliance with part 4 of the Housing Act 2004.

15. Statutory Notices

- 15.1 Statutory notices/orders legally require the execution of works, the removal of statutory nuisances or the protection of public health and/or safety.
- 15.2 Notices and Orders will normally be served where:

- Informal action has not achieved the desired effect,
- There is a lack of confidence that the individual/company will respond to an informal approach,
- There is a history of non-compliance with informal action,
- Standards are generally poor with little management awareness of statutory requirements,
- The consequences of non-compliance could be potentially serious to the health and safety of the public.
- Where the breach of legislation is so serious, deterrence and punishment may be required to prevent future occurrences.

- 15.3 Time limits will be attached to notices and wherever possible these will be agreed in advance with the person or business on which they are served.
- 15.4 In some circumstances, requests for extension of time can be made. These should be in writing, prior to the expiry date, explaining the reason for the request.
- 15.5 Statutory notices may also be served in conjunction with prosecutions.
- 15.6 Having regard to statutory powers, and where the law allows, a charge will apply to statutory notices and orders.
- 15.7 Where a notice is not complied with by the expiry date, a prosecution or further enforcement action may be considered appropriate.
- 15.8 Statutory notices and orders are important legal documents. Once served, failure to take follow-up enforcement action has serious implications having regard to the contents of this Policy. Failure to comply with a statutory notice or order will normally result in seeking authority to either issue a civil penalty or to prosecute, and/or the carrying out of works in default

16. Simple Cautions

- 16.1 Where there is evidence of a criminal offence but the public interest does not require a prosecution, a simple caution can be used.
- 16.2 Simple cautions are mainly used for cases involving first time, low-level offences where a simple caution can meet the public interest.
- 16.3 Decisions to issue simple cautions will be made in accordance with the Director of Public Prosecutions' Guidance on Charging issued by the Director of Public Prosecutions under section 37A of the Police and Criminal Evidence Act 1984 and following "The simple cautions for Adult Offenders Guidance" issued on 13th April 2015.
- 16.3 Before a simple caution can be given, it is important to try to establish:
- The views of the victim about the offence,

- The nature and extent of any harm or loss, and its significance, relative to the victim's circumstances,
- Whether the offender has made any form of reparation or paid compensation.

16.4 A simple caution must be accepted in writing by the offender (or officer of a limited company which is the alleged offender), who is then served a copy of the caution. A second copy will be held by the council as the official record.

16.5 Failure to accept a simple caution leaves the authority with an option to instigate legal proceedings instead.

16.6 Simple caution can be cited in court if the same person or organisation, commits further housing act offences within three years of the original offence.

16.7 Simple Cautions will not be used as a substitute for prosecutions which would otherwise be defective.

17. Work In Default

17.1 Failure to comply with a notice may result in the council arranging for the necessary works to comply with the notice to be carried out, this is known as work in default.

17.2 The costs to the owner will usually be more than if the owner carries out the works themselves as they will be charged for the council's time, carrying out schedules of work and any other reasonable costs incurred by the council.

17.3 The council will actively pursue debts incurred.

17.4 Enforced sale of empty properties will be considered where appropriate in line with The Law of Property Act 1925 where a debt has been incurred for example following works undertaken to an empty home in the owners default and in compliance with the Council's Enforced Sale Procedure.

17.5 Until cleared all debts will be registered with the local Land Charges Registry as a financial charge.

17.6 Once registered the charge will accrue compound interest.

17.7 It should be noted that, in the case of action under section 76 of the Building Act 1984, and emergency remedial action under Section 40 of the Housing Act 2004, there is no power of prosecution, and the Council is only able to arrange for the required works to be carried out.

18. Prosecutions

18.1 Prosecution will normally occur where one or more of the following circumstances apply:

- It is warranted by virtue of the gravity of an alleged offence, taken together with the seriousness of any actual or potential harm, or the general record and approach of the offender
- There have been repeated breaches of legal requirements and it appears that business proprietors or members of the public are neither willing nor able to deal adequately with the causes of the offence.
- There has been a reckless disregard for the safety and health of people, or where a particular contravention has caused serious public alarm.
- There has been failure to comply with a legal notice or repetition of a breach that was subject to a formal caution, or failure to pay a fixed penalty notice with the permitted payment period;
- There is a blatant disregard for the law;
- False information has been supplied wilfully, or there has been an intent to deceive, in relation to a matter which gives rise to significant risk;
- Officers have been intentionally obstructed in the lawful course of their duties.
- Where council staff are assaulted we will seek prosecution of the offenders.

18.2 In all cases, alleged offenders will be invited to send written comments or explanations for consideration.

19. Rent Repayment Orders

19.1 This is an order made by the First-tier Tribunal requiring a landlord to repay a specified amount of rent.

19.2 The Housing Act 2004 allows for rent repayment orders to be issued where landlord of a property had failed to obtain a licence for a property that was required to be licensed.

19.3 The Housing and Planning Act 2016 extended rent repayment orders to cover the below:

- Failure to comply with an Improvement Notice (section 30 of the Housing Act 2004)
- Failure to comply with a Prohibition Order (section 32 of the Housing Act 2004)
- Breach of a banning order made under section 21 of the Housing and Planning Act 2016
- Using violence to secure entry to a property (section 6 of the Criminal Law Act 1977)
- Illegal eviction or harassment of the occupiers of a property (section 1 of the Protection from Eviction Act 1977)

19.4 Rent repayment orders can be granted to either the tenant or the council.

19.5 If the tenant paid the rent themselves, then the rent must be repaid to the tenant. If the rent was paid through Housing Benefit or through the housing element of Universal Credit, then the rent must be repaid to the local housing authority.

- 19.6 If the rent was paid partially by the tenant with the remainder paid through Housing Benefit/Universal Credit, then the rent should be repaid on an equivalent basis.
- 19.7 A rent repayment order can be made against a landlord who has received a civil penalty in respect of an offence, but only at a time when there is no prospect of the landlord appealing against that penalty.
- 19.8 The council must consider a rent repayment order after a person is the subject of a successful civil penalty and in most cases the council will subsequently make an application for a rent repayment order to recover monies paid through Housing Benefit or through the housing element of Universal Credit.
- 19.9 The council will also offer advice, guidance and support to assist tenants to apply for a rent repayment order if the tenant has paid the rent themselves taking into account and DPA/GDPR implications

20. Licensing of Properties

- 20.1 Please see the SCC Policy The licensing of Houses in Multiple Occupation (HMOs).

21. Enforced Sales

- 21.1 The council approved the Enforced Sale Procedure (ESP) in August 2005. The Council will use the ESP where appropriate and proportionate, primarily to deal with problematic empty properties, where despite the Council's reasonable efforts to engage with the owner of the property the hazards and poor state and condition of the property remain.
- 21.2 The council will consider invoking the ESP on a case by case basis. Generally the ESP would not be used unless there is a relevant debt of over £1,000

Upon disposal of the property the council will recover all of its debts, fees and costs from the sale proceeds. Any balance from the proceeds of sale will be paid to the owner (where there whereabouts are known).

22. Empty Dwelling Management Orders

- 22.1 In respect of a wholly unoccupied property and in accordance with the Housing Act 2004, the council may make an interim empty dwelling management order (IEDMO).
- 22.2 The council must make the application for the IEDMO to the First-tier property tribunal.

- 22.3 Once an IEDMO is in force the council must take such steps as they consider appropriate for the purpose of securing that the dwelling becomes and continues to be occupied.
- 22.4 If after serving an interim empty dwelling management order the council considers that there are no steps it can appropriately take under the order to ensure that the property becomes occupied, it will either make a final empty property management order, or revoke the order without taking any further action.
- 22.5 In making the decision to issue a final EDMO the council must take into account the interests of the community and the effects on the proprietor and any other interested parties. The council may also pay compensation to any affected third party.
- 22.6 Once the EDMO is in force the council will take appropriate steps for securing that the dwelling is occupied and that the property is managed in accordance with the scheme contained within the order.
- 22.7 The council will revoke the EDMO if it determines that there are no steps it can take or it determines that keeping the order in force is unnecessary.

23. Banning Orders

- 23.1 In the case of the most serious offenders or rogue landlords, the council can in accordance with the powers contained within the Housing and Planning Act 2016 apply to the first-tier tribunal for a banning order.
- 23.2 A banning order can be issued by the first-tier tribunal that prevents a landlord from the following;
- Letting housing in England
 - Engaging in English letting agency work
 - Engaging in English property management work or
 - Holding a HMO licence
- 23.3 The offences for which a banning order can be applied are listed in the Housing and Planning Act 2016 (Banning Order Offences) Regulations (2017) see-
<http://www.legislation.gov.uk/ukdsi/2017/978011162224/contents>
- 23.4 The council will consider applying for a banning order for the most serious offenders and in doing so will consider the following;
- The seriousness of the offence
 - Any previous convictions or listing on the national rogue landlord database
 - The harm to the tenant caused by the offence
 - The punishment is proportionate to the offence
 - That it provides a sufficient deterrent to prevent a repeat of the offence and
 - Deters others from committing similar offences.
- 23.5 The length of any banning order will be determined by the first-tier tribunal with a minimum of 12 months being imposed. There is no statutory maximum limit. The

Council can provide recommendations for the length of the banning order on application but must detail their reasons for the recommendation.

23.6 The procedure for issuing a banning order is prescribed within the Housing and Planning Act 2016. See –

<http://www.legislation.gov.uk/ukpga/2016/22/part/2/chapter/2/enacted>

23.7 It is a criminal offence to breach a banning order and the council will take appropriate action to secure any convictions for breaches of any orders imposed.

24. The Rogue Landlords Database

24.1 The Secretary of State has established a national database of rogue landlords and property agents.

24.2 The council has authority to maintain and update the content.

24.3 The council will make an entry on the database in respect of a person in the following circumstances;

- A banning order has been made against them
- They have received two or more financial penalties in respect of banning order offences within the last twelve months.

24.4 The council will issue the person with a decision notice before any entry is made.

24.5 The person has a right of appeal to the First-tier tribunal.

24.6 The following information in respect of the person will be recorded on the database;

- The name and address of the person
- The period for which the entry is to be maintained
- The details of their property ownership and property management
- Details of any convictions for banning order offences
- Any Banning Orders still in force
- Any financial penalties received

24.7 The entry on the database will be removed in the case of any conviction being overturned.

24.8 The person has a right to request their removal from the database. This must be in writing to the Council. The council will consider such requests on a case by case basis.

24.9 Where the council refuses the request to remove the person from the database the person has a right of appeal to the First-tier tribunal.

25. Publicity and Sharing of Evidence

25.1 The council will endeavour to secure media representation at hearings in the Courts when we are seeking prosecution of offenders with the aim of drawing their attention to the court case.

- 25.2 The council will publicise any conviction, which could serve to draw attention to the need to comply with the law or, deter anyone tempted to act in a similar manner.
- 25.3 Details of such cases will also be published on our website.
- 25.4 The council will share intelligence and evidence, secured in the ordinary course of our business, with other statutory enforcement bodies and relevant partners in accordance with our duties under Crime and Disorder Act 1988, section 17.

26. Governance

26.1 Authorisation of Officers

- 26.1.1 Officers are only authorised to enforce regulations in accordance with the council's Scheme of Delegation.
- 26.1.2 Officers must be competent by appropriate training, qualification and/or experience will be authorised to take enforcement action relevant to that training, qualification and/or experience. Officers will also have sufficient training and understanding of this enforcement policy to ensure a consistent approach to their duties.

26.2 Appeals and Complaints

- 26.2.1 Appeals in relation to enforcement action should be via the statutory process outlined in the relevant legislation.
- 26.2.2 Complaints about the conduct of officers should be made via the council's corporate complaints procedure.

26.3 Policy Review Process

- 26.3.1 This policy will be reviewed when there is any significant change in legislation or other circumstances that affect its effectiveness and validity.

Appendix 1 - Civil penalties – determining fee levels

A civil penalty is a financial penalty imposed by a local authority on an individual or organisation. The power to impose a civil penalty of up to £30,000 as an alternative to prosecution for certain Housing Act 2004 and Banning Order offences has been introduced by the Housing and Planning Act 2016.

The maximum penalty is £30,000, however each local authority must implement its own policy and fee level in accordance with the guidance issued by the Ministry of Housing, Communities & Local Government, see -

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/697644/Civil_penalty_guidance.pdf

In accordance with this guidance the Council has devised its own fee levels and incorporated the use of civil penalties within the Private Sector Enforcement Policy 2019.

In setting fee levels the Council has considered the following;

- 1. The Severity of the offence.**
- 2. The Culpability and track record of the offender.**
- 3. The harm caused to the tenant.**
- 4. The appropriate punishment of the offender.**
- 5. To deter the offender from repeating the offence & deter others from committing similar offences.**
- 6. To remove any financial benefit the offender may have obtained as a result of committing the offence.**

The Council will use its existing powers to, as far as possible, make an assessment of a landlord's assets and any income they receive (not just rental income) when determining an appropriate penalty.

Determining the civil penalty fees

The Council has developed a matrix to calculate the level of fine imposed. The fees are based on;

1. The culpability of the offender &
2. The potential level of harm posed by the offence

The Council has set 12 penalty bands which cover fine levels from a minimum of £25 to a maximum of £30,000.

Step 1

This step assesses the landlord's culpability as well as the potential harm the offence could have caused to tenants or visitors to the property. There are four levels of culpability to consider and each one has an associated set of characteristics which can be used to determine the most appropriate level. Table 1 below sets out the criteria for assessing the culpability of the landlord:

Table 1 – Level of culpability

Very high (deliberate)	<ul style="list-style-type: none"> • Flagrant disregard for the law or deliberate breach • Has large rented property portfolio and knew their actions were unlawful <p><i>Example offences: Failure to comply with emergency remedial notice or prohibition order</i></p>
High (reckless)	<ul style="list-style-type: none"> • Offender failed to put in place measures that are recognised legal requirements. • Offender ignored warnings from the Council or tenants. • Offender failed to improve conditions even after being alerted to the risks. • Offender allowed the breaches to continue over a long period of time. • Serious and/or systemic failure to address risks. <p><i>Example offence: Failure to comply with HMO Management Regulations.</i></p>
Medium (negligent)	<ul style="list-style-type: none"> • Systems put in place to manage risk but not sufficiently adhered to or implemented <p><i>Example offence: Partial compliance with an Improvement Notice</i></p>
Low (little or no fault)	<ul style="list-style-type: none"> • Failings were minor & non-compliance was an isolated incident • Significant attempts taken to comply but not sufficient on this occasion • There was no warning/circumstance indicating a risk <p><i>Example offence: Overcrowding or breach resulting from behaviour of occupants</i></p>

The seriousness of the harm the offence had caused, or could foreseeably cause, by the offence(s) must be assessed. When deciding the level of harm whether, actual or potential, resulting from the commission of the offence the Council will have regard to Table 2 below.

Table 2 – Level of Harm

Level 1 – High risk	<ul style="list-style-type: none"> • Serious adverse effect(s) on individual(s) and/or having a widespread impact • High risk of an adverse effect on individual(s) – including where persons are vulnerable
Level 2 – Medium risk	<ul style="list-style-type: none"> • Adverse effect on individual(s) (not amounting to Level 1) • Medium risk of an adverse effect on individual(s) or low risk of serious adverse effect • The Council and/or legitimate landlords or agents substantially undermined by offender’s activities • The Council’s work as a regulator to address risks to health is inhibited • Consumer/tenant misled
Level 3 – Low risk	<ul style="list-style-type: none"> • Low risk of an adverse effect on individual(s) • Public misled but little or no risk of actual adverse effect on individual(s)

Step 2 – Determining the starting point and category range

Once the levels of culpability and harm have been assessed the matrix set out in Table 3 will be used to assess the correct penalty level followed by Table 4 to provide the banding for the penalty category. In order to determine an appropriate level of civil penalty within the category range a starting point is listed. Further adjustment within the category range will then be considered for aggravating and/or mitigating factors.

Table 3—Penalty levels

		Culpability			
		V High	High	Medium	Low
Harm	Level 1	12	9	6	3
	Level 2	11	8	5	2
	Level 3	10	7	4	1

Table 4 – Penalty bands

Category	Civil Penalty Range (£)	Starting point (£)
1	25 - 175	50
2	50 - 350	125
3	125 - 750	300
4	175 - 750	350
5	350 - 2000	1000
6	750 - 4500	2500
7	500 - 2250	1000
8	1000 - 5500	3000
9	2500 - 12500	6250
10	1250 - 4500	2500
11	2500 - 12500	6250
12	6250 - 30000	15000

Example – High level of culpability but low level of harm would score 7 with a penalty range of £500-£2250 and a starting point of £1000. Mitigating and aggravating factors will then be considered to determine if the amount should be lower or higher than £1000.

Step 3

The Council will consider mitigating and aggravating factors when determining the fine within the penalty range. Table 5 below lists examples.

Table 5 – Aggravating and mitigating factors

Mitigating Factors
<ul style="list-style-type: none"> • No history of previous offences • Steps taken to voluntarily remedy problem e.g. submits a licence application • High level of co-operation with the investigation e.g. turns up for the PACE interview • Good record of maintaining property • Acceptance of responsibility e.g. accepts guilt for the offence(s) at an early stage in the investigation

<ul style="list-style-type: none"> • Health reasons preventing reasonable compliance i.e. mental health, unforeseen health issues, emergency health concerns & serious medical conditions requiring urgent, intensive or long term treatment • Sole or primary carer for dependant relative that prevented reasonable compliance • Willingness to undertake training and monitoring • Willingness to join recognised landlord accreditation scheme • Vulnerable individual(s) where their vulnerability is linked to the commission of the offence • Good character and/or exemplary conduct
<p>Aggravating Factors</p>
<ul style="list-style-type: none"> • Previous relevant convictions, having regard to the nature of the offence and relevance to the current offence and the time that has elapsed since the conviction • Motivated by financial gain i.e. cost cutting at the expense of safety • Deliberate concealment of illegal nature of activity • Poor history of compliance • Falsification of documentation or licenses • Deliberate failure to obtain or comply with relevant licensing requirements to avoid scrutiny by enforcing authorities • Targeting vulnerable victims • Obstruction of the investigation • Number of items of non-compliance i.e. the greater the number the greater the potential aggravating factor • Systemic management failure e.g. Lack of tenancy agreement/rent paid in cash • Record of letting substandard accommodation • Record of poor management/inadequate management provision

Step 5 – Recording the decision

The decision to issue a civil penalty will be made by the Service Manager for HMO Licensing. The decision will be recorded giving reasons for determining the amount of financial penalty that will be imposed.

Equality and Safety Impact Assessment

The **Public Sector Equality Duty** (Section 149 of the Equality Act) requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between different people carrying out their activities.

The Equality Duty supports good decision making – it encourages public bodies to be more efficient and effective by understanding how different people will be affected by their activities, so that their policies and services are appropriate and accessible to all and meet different people’s needs. The Council’s Equality and Safety Impact Assessment (ESIA) includes an assessment of the community safety impact assessment to comply with Section 17 of the Crime and Disorder Act and will enable the Council to better understand the potential impact of proposals and consider mitigating action.

Name or Brief Description of Proposal	Enforcement Private Rented Sector Policy
Brief Service Profile (including number of customers)	
<p>Southampton has a large private rented sector of around 25,000 properties accounting for approximately a quarter of the housing stock in the city.</p> <p>The council has statutory responsibilities under the Housing Act 2004 and Housing and Planning Act 2016 to undertake duties in relation to the enforcement of the private rented sector in Southampton.</p> <p>The Housing and Planning Act 2016 introduced new powers for local authorities and updated the Housing Act 2004 in relation to certain functions.</p> <p>The Housing and Planning Act 2016 introduced civil penalty notices as an alternative to prosecution for certain Housing Act 2004 offences. Financial penalty notices to the maximum value of £30,000 can be issued. Before making use of these powers a local authority should determine its own level of fees and publish these within a policy. The private rented enforcement policy includes detail on the scheme and the matrix used to determine the level of fines. In summary there are twelve categories of fines ranging from £25-£30,000. The level of fine will be determined by assessing the culpability of the landlord and the harm of the offence to the tenant.</p> <p>In 2018 the secretary of state established a national database of rogue landlords and property agents. The council is authorised to add any qualifying rogue landlords to the database and the policy details how this will be administered.</p> <p>Under new powers contained in the Housing and Planning Act 2016 the council can apply to the First-tier tribunal for a banning order to prevent a landlord from operating</p>	

as such. The policy establishes the council's policy on banning orders.

Summary of Impact and Issues

The draft Enforcement Private Rented Sector Policy provides guidance for officers, businesses and members of the public on the principle and processes which will apply when enforcement action is considered or taken. This policy should be read in conjunction with the council's Enforcement Policy, which outlines the principles the council will follow and apply.

Southampton City Council recognises that the vast majority of Private Rented Sector Landlords in Southampton abide by the law. The appropriate use of enforcement powers is important, both to secure compliance with legislation and to ensure that those who have duties in law may be held to account for failures to safeguard health, safety and welfare or breach of legislation enforced by the council.

This policy should not adversely affect any specific groups as one of the principles it outlines is consistency of enforcement. Consistent enforcement means that there should not be discrimination on the grounds of any protected characteristic outlined in the Equality Act 2010.

The policy contains guidance on the use of management orders and empty dwelling management orders following updates to the legislation following the implementation of the Housing and Planning Act 2016.

The published policy provides guidance on all aspects of the enforcement regime and will ensure that the council operates in a consistent manner in relation to the enforcement of the private housing sector.

The appropriate use of enforcement powers is important, both to secure compliance with legislation and to ensure that those who have duties in law may be held to account for failures to safeguard health, safety and welfare, or breach of legislation enforced by the council.

Potential Positive Impacts

This policy should have a positive impact on community safety because it enables the council to effectively enforce against activities that threaten community safety.

Further the policy ensures that enforcement activity undertaken by Southampton City Council is proportionate, consistent and transparent, and that the council is accountable for its activity.

Responsible Service Manager	Steven Hayes-Arter, Service Manager for HMO licensing & Adaptations
Date	
Approved by Senior Manager	Rosie Zambra – Service Lead - Environment, Street Scene &

	Health
Date	

Potential Impact

Impact Assessment	Details of Impact	Possible Solutions & Mitigating Actions
Age	No identified negative impacts	N/A
Disability	No identified negative impacts	N/A
Gender Reassignment	No identified negative impacts	N/A
Marriage and Civil Partnership	No identified negative impacts	N/A
Pregnancy and Maternity	No identified negative impacts	N/A
Race	No identified negative impacts	N/A
Religion or Belief	No identified negative impacts	N/A
Sex	No identified negative impacts	N/A
Sexual Orientation	No identified negative impacts	N/A
Community Safety	There is a significant number of Assured shorthold tenancies granted in the private sector mostly on a fixed term for 6 months. Evidence suggests that if tenants complain about housing standards some landlords choose to evict them using the no fault route. There is a possible negative effect on community stability as well as health and wellbeing as tenants may have to change schools and friendships etc.	We will continue to work with the HMO landlord forum and other stakeholders to encourage compliance. We will provide advice and information to tenants in compliance with our duties under Housing and Homelessness legislation. The government has announced their plan to end the no fault eviction process. The policy will be implemented in compliance with all relevant legislation and having due regard to PSED.
Poverty	There is a significant number of Assured shorthold tenancies	We will continue to work with the HMO landlord

Impact Assessment	Details of Impact	Possible Solutions & Mitigating Actions
	<p>granted in the private sector mostly on a fixed term for 6 months. Evidence suggests that if tenants complain about housing standards some landlords choose to evict them using the no fault route. There is a possible negative effect on tenants who are living in poverty who will be less able to move to new accommodation e.g. funding an upfront deposit.</p>	<p>forum and other stakeholders to encourage compliance. We will provide advice and information to tenants in compliance with our duties under Housing and Homelessness legislation. The government has announced their plan to end the no fault eviction process. The policy will be implemented in compliance with all relevant legislation and having due regard to PSED.</p>
<p>Health & Wellbeing</p>	<p>There is a significant number of Assured shorthold tenancies granted in the private sector mostly on a fixed term for 6 months. Evidence suggests that if tenants complain about housing standards some landlords choose to evict them using the no fault route. There is a possible negative effect on health and wellbeing as tenants may be forced to live in poor housing conditions as they fear reporting it may put their tenancy at risk.</p>	<p>We will continue to work with the HMO landlord forum and other stakeholders to encourage compliance. We will provide advice and information to tenants in compliance with our duties under Housing and Homelessness legislation. The government has announced their plan to end the no fault eviction process. The policy will be implemented in compliance with all relevant legislation and having due regard to PSED.</p>
<p>Other Significant Impacts</p>	<p>No identified negative impacts</p>	<p>N/A</p>

Data Protection Impact Assessment

What is a Data Protection Impact Assessment?

A Data Protection Impact Assessment (“DPIA”) is a process that assists organisations in identifying and minimising the privacy risks of new projects or policies. Projects of all sizes could impact on personal data.

The DPIA will help to ensure that potential problems are identified at an early stage, when addressing them will often be simpler and less costly.

Conducting a DPIA should benefit the Council by producing better policies and systems, and improving the relationship with individuals.

Why should I carry out a DPIA?

Carrying out an effective DPIA should benefit the people affected by a project and also the organisation carrying out the project.

Not only is it a legal requirement in some cases, it is often the most effective way to demonstrate to the Information Commissioner’s Officer how personal data processing complies with data protection legislation.

A project which has been subject to a DPIA should be less privacy intrusive and therefore less likely to affect individuals in a negative way.

A DPIA should improve transparency and make it easier for individuals to understand how and why their information is being used.

When should I carry out a DPIA?

The core principles of DPIA can be applied to any project that involves the use of personal data, or to any other activity that could have an impact on the privacy of individuals.

Answering the screening questions in Step 1 of this document should help you identify the need for a DPIA at an early stage of your project, which can then be built into your project management or other business process.

Who should carry out a DPIA?

Responsibility for conducting a DPIA should be placed at senior manager level. A DPIA has strategic significance and direct responsibility for the DPIA must, therefore, be assumed by a senior manager.

The senior manager should ensure effective management of the privacy impacts arising from the project, and avoid expensive re-work and retro-fitting of features by discovering issues early.

A senior manager can delegate responsibilities for conducting a DPIA to three alternatives:

- a) An appointment within the overall project team;
- b) Someone who is outside the project; or
- c) An external consultant.

Each of these alternatives has its own advantages and disadvantages, and careful consideration should be given on each project as to who would be best-placed for carrying out the DPIA.

How do I carry out a DPIA?

Working through each section of this document will guide you through the DPIA process.

The requirement for a DPIA will be identified by answering the questions in Step 1. If a requirement has been identified, you should complete all the remaining sections in order.

After Step 5, the Information Lawyer (Data Protection Officer) will review the DPIA within 14 days of receipt, and complete the rest of the assessment within 28 days. The DPO will identify any privacy risks, and proposed measures to address them.

These measures must then be agreed by the project lead, Information Asset Owner or Administrator, and, in some cases, the Senior Information Risk Owner.

Advice can be found at the beginning of each section, but if further information or assistance is required, please contact the Information Lawyer (Data Protection Officer) on 023 8083 2676 or at information@southampton.gov.uk.

Data Protection Impact Assessment Template			
Version	3.1	Approved by	Data Protection Officer
Date last amended	2 nd November 2018	Approval date	2 nd November 2018
Lead officer	Chris Thornton, Information Lawyer (Data Protection Officer)	Review date	2 nd November 2019
Contact	information@southampton.gov.uk	Effective date	2 nd November 2019

Project Details

Name of Project
Private sector housing enforcement Policy
Brief Summary of Project
Asking cabinet to approve a published policy on private sector housing enforcement
Estimated Completion Date
August 2019
Name of Project Lead
Steven Hayes-Arter

Details of Person Conducting DPIA

Name
As above
Position
Service Manager HMO Licensing & Adaptations
Contact Email Address
Steven.hayes-arter@southampton.gov.uk

Step 1: Identify the need for a DPIA

Does your project involve... (tick all that apply)

- The collection of new information about individuals
- Compelling individuals to provide information about themselves
- The disclosure of information about individuals to organisations or people who have not previously had routine access to the information
- The use of existing information about individuals for a purpose it is not currently used for, or in a way it is not currently used
- Contacting individuals in ways which they may find intrusive
- Making changes to the way personal information is obtained, recorded, transmitted, deleted, or held
- The use of profiling, automated decision-making, or special category data¹ to make significant decisions about people (e.g. their access to a service, opportunity, or benefit).
- The processing of special category data¹ or criminal offence data on a large scale.
- Systematically monitoring a publicly accessible place on a large scale.
- The use of new technologies.
- Carrying out profiling on a large scale.
- Processing biometric or genetic data.
- Combining, comparing, or matching data from multiple sources.
- Processing personal data without providing a privacy notice directly to the individual.
- Processing personal data in a way which involves tracking individuals' online or offline location or behaviour.
- Processing children's personal data for profiling or automated decision-making or for marketing purposes, or offer online services directly to them.
- Processing personal data which could result in a risk of physical harm in the event of a security breach.

¹ personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation

If you answered “yes” to any of these, please proceed to Step 2.

If none of these apply, please tick the below box, and return the form to the Information Lawyer (Data Protection Officer) at information@southampton.gov.uk

None of the screening statements in Step 1 of this document apply to the project, and I have determined that it is not necessary to conduct a Data Protection Impact Assessment

Step 2: Describe the processing

The nature of the processing

How will you collect data?

How will you use the data?

The data will be added to the national database

How will you store the data?

This will be stored on the national database, controlled by the Ministry of Housing

How will you delete the data?

The data will be controlled by the database owners, we can input requests to have details removed.

What is the source of the data?

The Rogue Landlords database

Will you be sharing data with anyone?

INFO: If yes, please provide details

Every LA in England has at least two authorised officers who are able to access the database to share data.

Describe the scope of the processing

What is the nature of the data?

INFO: Detail the type of personal data being processed. List any fields that will be processed (e.g. name, address, data of birth, NHS number, video images)

Names and addresses of landlords and property agents. Details of their property ownership and management. Any previous convictions and financial penalties received.

Does it include special category or criminal offence data? Please provide details.
INFO: "Special category" data includes personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation.
Yes it includes details of any convictions relating to banning order offences and details of any financial penalties issued for similar offences
How much data will you be collecting and using?
We will only collect data on those landlords that meet the criteria to be included on the national database.
How often will the data be collected and used?
As necessary
How long will you keep it?
It will be stored on the national database for as long as the data is required in accordance with the length of the order issued. E.g a lifetime ban would result in the details being kept on the national database for the lifetime of the landlord.
How many individuals are affected?
Currently zero
What geographical area does it cover?
We will only collect data for landlords operating in Southampton

Describe the context of the processing
What is the nature of your relationship with the individuals?
INFO: Detail who the data subjects will be (e.g. residents, carers, pupils, staff, professionals)
Landlords and property agents/managers
How much control will they have over their data?
If they are placed on the rogue landlord database their details will be recorded in line with the legislative requirements. They do not have control over the data once it is on the national database.

Would they reasonably expect the Council to use their data in this way?
INFO: Please provide details to support your answer
The council is legally obligated to supply this information to the national rogue landlords database under the Housing & Planning Act 2016 & Housing Act 2004.
Do they include children or other vulnerable groups?
INFO: If yes, please provide details
No
Are you aware of any prior concerns over this type of processing or security flaws?
INFO: If yes, please provide details
No
Is the processing novel in any way?
INFO: If yes, please provide details
No
What is the current state of technology in this area?
Unknown as we don't control the database
Are there any current issues of public concern that should be considered?
INFO: If yes, please provide details
No

Describe the purposes of the processing
What do you want to achieve?
To ensure landlords who have been deemed rogue are listed on the national database to ensure that this information is available to other local authorities so that these landlords are prevented from operating anywhere across England.
What is the intended effect on individuals?
To prevent them from operating as a landlord or property agent anywhere in the UK whilst they are deemed as a rogue landlord. In order to protect tenants from the activities of rogue landlords.
What are the benefits of the processing – for the Council, and more broadly?
As above

Step 3: Consultation process

Consider how to consult with relevant stakeholders
Describe when and how you will seek individuals' views – or justify why it's not appropriate to do so
N/A
Who else do you need to involve, or have you already involved within the Council?
INFO: e.g. IT services, records management
N/A
Do you need to ask your processors to assist?
INFO: Processors are third parties who will process the personal data on our behalf
The national database is managed by the Ministry of Housing but the council will input the data.
Do you plan to consult information security experts, or any other experts?
INFO: Please provide details to support your answer
No

Step 4: Assess necessity and proportionality

Describe compliance and proportionality measures
What is your lawful basis for processing? Please choose <u>one</u> of the following...
INFO: There should generally only be <u>one</u> legal basis for processing.
<input type="checkbox"/> The data subject has given consent <input type="checkbox"/> The processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract <input checked="" type="checkbox"/> The processing is necessary for compliance with a legal obligation to which the Council is subject <input type="checkbox"/> The processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Council <input type="checkbox"/> The processing is necessary for the purposes of the legitimate interests pursued by the Council or by a third party

Does the processing actually achieve your purpose?
INFO: Please provide details to support your answer
Hopefully, but it is a legal requirement
Is there another way to achieve the same outcome?
INFO: Please details to support your answer
Maybe, but it is a legal requirement
How will you prevent function creep?
INFO: Function creep is where data collected for one purpose is used for another purpose over time.
The data is only held on this database and its use is governed by legislation
How will you ensure data quality and data minimisation?
INFO: We should only use the minimum amount of personal data possible to achieve the purpose of the processing.
We will only collect what is required to be inputted on the database in accordance with legal requirements.
What information will you give individuals about the processing?
They will be issued with a notice advising what information is to be held on the national database
How will you help to support their rights?
INFO: Data subject's rights include the right to access, rectify, erase, port, and restrict their data.
They will be advised of their rights of appeal in the notice in accordance with legal requirements.
What measures do you take to ensure processors comply with the GDPR, and assist the Council in supporting individuals in exercising their rights?
INFO: E.g. will there be a contract in place with the processor that contains data protection obligations?
We have signed an authorzation with the database owners
How do you safeguard any international transfers of personal data?
INFO: If there are no international transfers involved, please state this
There are no international transfers involved

Step 5: Send DPIA Form to the Data Protection Officer

After completing this part of the form, please send the document to the Information Lawyer (Data Protection Officer) at information@southampton.gov.uk

The DPO will review the information provided, and identify and assess the privacy risks.

Step 6: Identify and assess risks (DPO to complete)

Describe source of risk and nature of potential impact on individuals. Include associated compliance and corporate risks as necessary.	Likelihood of harm	Severity of harm	Overall risk
1.	Remote Possible Probable	Minimal Significant Severe	Low Medium High
2.	Remote Possible Probable	Minimal Significant Severe	Low Medium High
3.	Remote Possible Probable	Minimal Significant Severe	Low Medium High
4.	Remote Possible Probable	Minimal Significant Severe	Low Medium High
5.	Remote Possible Probable	Minimal Significant Severe	Low Medium High
6.	Remote Possible Probable	Minimal Significant Severe	Low Medium High

Step 7: Identify measures to reduce risk (DPO to complete)

Identify additional measures you could take to reduce or eliminate risks identified as medium or high risk in step 5

Risk	Options to reduce or eliminate risk	Effect on risk	Residual risk
1.		Eliminated Reduced Accepted	Low Medium High
2.		Eliminated Reduced Accepted	Low Medium High
3.		Eliminated Reduced Accepted	Low Medium High
4.		Eliminated Reduced Accepted	Low Medium High
5.		Eliminated Reduced Accepted	Low Medium High
6.		Eliminated Reduced Accepted	Low Medium High
Comments from the Data Protection Officer			
Comments from the Senior Records Officer			

Step 8: Sign off

Item	Date	Notes
DPO reviewed DPIA and provided advice on:		DPO should advise on compliance, step 7 measures and whether processing can proceed
Senior Records Officer reviewed DPIA on:		SRO should advise on records management matters
Measures approved by Project Manager on:		Integrate actions back into project plan, with date and responsibility for completion
Comments from Project Manager:		
Residual risks approved by Information Asset Owner / Administrator on:		
Comments from IAO / IAA:		
Residual high risks approved by the Senior Information Risk Owner on:		If accepting any residual high risk, consult the ICO before going ahead
Comments from SIRO:		

Step 9: Review

Item	Date	Comments
DPO reviewed DPIA on:		
Date of next review:		

Agenda Item 8

DECISION-MAKER:	OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE		
SUBJECT:	REDUCING CHILDHOOD OBESITY IN SOUTHAMPTON - SCRUTINY INQUIRY TERMS OF REFERENCE		
DATE OF DECISION:	15 AUGUST 2019		
REPORT OF:	DIRECTOR - LEGAL AND GOVERNANCE		
<u>CONTACT DETAILS</u>			
AUTHOR:	Name:	Mark Pirnie	Tel: 023 8083 3886
	E-mail:	Mark.pirnie@southampton.gov.uk	
Director	Name:	Richard Ivory	Tel: 023 8083 2794
	E-mail:	Richard.ivory@southampton.gov.uk	
STATEMENT OF CONFIDENTIALITY			
None			
BRIEF SUMMARY			
It is the role of the Overview and Scrutiny Management Committee (OSMC) to determine the scrutiny inquiry programme. This report requests that the OSMC agrees the terms of reference for a scrutiny inquiry on reducing childhood obesity in Southampton.			
RECOMMENDATIONS:			
	(i)	That the Committee consider and approve the draft terms of reference for the scrutiny inquiry attached as Appendix 1.	
	(ii)	That authority is delegated to the Director - Legal and Governance, in consultation with the Chair of the Scrutiny Inquiry Panel, to finalise the inquiry plan.	
REASONS FOR REPORT RECOMMENDATIONS			
1.	To enable the Scrutiny Inquiry Panel to commence the scrutiny inquiry.		
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED			
2.	None.		
DETAIL (Including consultation carried out)			
3.	The 2018 Government report, 'Childhood obesity: a plan for action', identified that childhood obesity is one of the biggest health problems this country faces. Nearly a quarter of children in England are obese or overweight by the time they start primary school aged five (22.4%), and this rises to one third by the time they leave aged 11 (34.3%). Our childhood obesity rates mean that the UK is now ranked among the worst in Western Europe.		
4.	The burden of childhood obesity is being felt the hardest in more deprived areas with children growing up in low income households more than twice as likely to be obese than those in higher income households.		

5.	Overweight or obese children are more likely to experience bullying, stigmatisation and low self-esteem. They are more likely to develop Type 2 diabetes in childhood, a condition that was once very rarely seen outside adulthood. They are also far more likely to go on to become obese adults, with a higher risk of developing life threatening conditions such as some forms of cancer, Type 2 diabetes, heart disease and liver disease.
6.	Childhood obesity also places significant financial costs on the nation. It is estimated that obesity-related conditions are currently costing the NHS £6.1 billion per year. The total costs to society of these conditions have been estimated at around £27 billion per year, with some estimates placing this figure much higher.
7.	In Southampton rates of childhood obesity exceed the national average. The most recent published figures show that 23.3% of 4-5 year olds in Southampton are either obese or overweight and this rises to 37.4% for 10-11 year olds.
8.	Reflecting the above issues the Government has set a challenging target of reducing childhood obesity by 50% by 2030.
9.	Across England, there are excellent examples of local approaches to tackling childhood obesity, recognising the vital role local authorities can play in utilising their range of powers and opportunities to create healthier environments.
10.	Given the importance of the issue and the emergence of best practice for local authorities, the Chair of the OSMC recommended a review focussing on reducing childhood obesity in Southampton as an appropriate subject for a scrutiny inquiry.
11.	Attached as Appendix 1 are the draft terms of reference for the inquiry, developed in consultation with the Chair and officers. Members are invited to comment on the document and suggest amendments.
12.	The outline inquiry plan is still in development and will be subject to the availability of consultees and needs to be flexible to enable the inquiry to respond to developments. It is therefore recommended that authority is delegated to the Director – Legal and Governance, in consultation with the Chair of the Scrutiny Inquiry Panel, to finalise the inquiry plan.
13.	The final report and recommendations of the Scrutiny Inquiry Panel will be considered by the OSMC prior to Cabinet to ensure that the review has met the agreed outline terms of reference set by this Committee.
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
14.	There are no additional financial implications arising from the approval of the recommendations.
<u>Property/Other</u>	
15.	None.
LEGAL IMPLICATIONS	

<u>Statutory power to undertake proposals in the report:</u>	
16.	The duty to undertake overview and scrutiny is set out in Part 1A Section 9 of the Local Government Act 2000.
<u>Other Legal Implications:</u>	
17.	None
RISK MANAGEMENT IMPLICATIONS	
18.	None.
POLICY FRAMEWORK IMPLICATIONS	
19.	Key outcomes in the Council Strategy 2016-2020 include: <ul style="list-style-type: none"> • Children and young people in Southampton get a good start in life • People in Southampton live safe, healthy, independent lives Reducing childhood obesity in Southampton will help to contribute to these objectives.
KEY DECISION	No
WARDS/COMMUNITIES AFFECTED:	None directly as a result of this report
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	Reducing Childhood Obesity in Southampton – Scrutiny Inquiry Draft Terms of Reference
Documents In Members' Rooms	
1.	None
Equality Impact Assessment	
Do the implications/subject of the report require an Equality and Safety Impact Assessments (ESIA) to be carried out?	No
Data Protection Impact Assessment	
Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out?	No
Other Background Documents	
Equality Impact Assessment and Other Background documents available for inspection at:	
Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	None

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Reducing Childhood Obesity in Southampton Draft Terms of Reference and Inquiry Plan

1. Scrutiny Panel membership:

- a. Councillor
- b. Councillor
- c. Councillor
- d. Councillor
- e. Councillor
- f. Councillor
- g. Councillor

2. Purpose:

To identify opportunities to reduce childhood obesity in Southampton.

3. Background:

- The 2018 Government report, 'Childhood obesity: a plan for action', identified that childhood obesity is one of the biggest health problems this country faces. Nearly a quarter of children in England are obese or overweight by the time they start primary school aged five (22.4%), and this rises to one third by the time they leave aged 11 (34.3%).
- The burden of childhood obesity is being felt the hardest in more deprived areas with children growing up in low income households more than twice as likely to be obese than those in higher income households.
- Overweight or obese children are more likely to experience bullying, stigmatisation and low self-esteem. They are more likely to develop Type 2 diabetes in childhood, a condition that was once very rarely seen outside adulthood. They are also far more likely to go on to become obese adults, with a higher risk of developing life threatening conditions such as some forms of cancer, Type 2 diabetes, heart disease and liver disease.
- Childhood obesity also places significant financial costs on the nation. It is estimated that obesity-related conditions are currently costing the NHS £6.1 billion per year. The total costs to society of these conditions have been estimated at around £27 billion per year, with some estimates placing this figure much higher.
- Reflecting the above issues the Government has set a challenging target of reducing childhood obesity by 50% by 2030.
- In Southampton rates of childhood obesity exceed the national average. The most recent published figures show that 23.3% of 4-5 year olds in Southampton are either obese or overweight and this rises to 37.4% for 10-11 year olds.
- Across England, there are excellent examples of local approaches to tackling childhood obesity, recognising the vital role local authorities can play in utilising their range of powers and opportunities to create healthier environments.

4. Objectives:

- a) To develop understanding of childhood obesity levels in Southampton and the factors that influence childhood obesity.
- b) To review local plans and progress being made in Southampton to reduce levels of childhood obesity.

- c) To consider national guidance and examples of good practice that are being delivered elsewhere to reduce childhood obesity.
- d) To identify what approaches and initiatives could be introduced in Southampton to reduce levels of childhood obesity.

5. Methodology:

- a) Undertake desktop research
- b) Seek stakeholder views
- c) Benchmark progress against national frameworks/guidance
- d) Identify best practice
- e) Seek views of experts

6. Proposed Timetable:

To be added.

7. Draft Inquiry Plan

This needs to be developed. Initial thoughts are that the inquiry will be conducted over 6 or 7 meetings starting in September 2019. The exact number of meetings required, the themes for each meeting and the potential consultees is in development. An update will be provide to the OSMC at the 15 August meeting.

Agenda Item 9

DECISION-MAKER:	OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE		
SUBJECT:	MONITORING SCRUTINY RECOMMENDATIONS TO THE EXECUTIVE		
DATE OF DECISION:	15 AUGUST 2019		
REPORT OF:	DIRECTOR - LEGAL AND GOVERNANCE		
<u>CONTACT DETAILS</u>			
AUTHOR:	Name:	Mark Pirnie	Tel: 023 8083 3886
	E-mail:	Mark.pirnie@southampton.gov.uk	
Director	Name:	Richard Ivory	Tel: 023 8083 2794
	E-mail:	Richard.ivory@southampton.gov.uk	
STATEMENT OF CONFIDENTIALITY			
None			
BRIEF SUMMARY			
This item enables the Overview and Scrutiny Management Committee to monitor and track progress on recommendations made to the Executive at previous meetings.			
RECOMMENDATIONS:			
	(i)	That the Committee considers the responses from Cabinet Members to recommendations from previous meetings and provides feedback.	
REASONS FOR REPORT RECOMMENDATIONS			
1.	To assist the Committee in assessing the impact and consequence of recommendations made at previous meetings.		
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED			
2.	None.		
DETAIL (Including consultation carried out)			
3.	Appendix 1 of the report sets out the recommendations made to Cabinet Members at previous meetings of the Overview and Scrutiny Management Committee. It also contains summaries of any action taken by Cabinet Members in response to the recommendations.		
4.	The progress status for each recommendation is indicated and if the Overview and Scrutiny Management Committee confirms acceptance of the items marked as completed they will be removed from the list. In cases where action on the recommendation is outstanding or the Committee does not accept the matter has been adequately completed, it will be kept on the list and reported back to the next meeting. It will remain on the list until such time as the Committee accepts the recommendation as completed. Rejected recommendations will only be removed from the list after being reported to the Overview and Scrutiny Management Committee.		
RESOURCE IMPLICATIONS			

<u>Capital/Revenue</u>	
5.	None.
<u>Property/Other</u>	
6.	None.
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
7.	The duty to undertake overview and scrutiny is set out in Part 1A Section 9 of the Local Government Act 2000.
<u>Other Legal Implications:</u>	
8.	None
RISK MANAGEMENT IMPLICATIONS	
9.	None.
POLICY FRAMEWORK IMPLICATIONS	
10.	None
KEY DECISION	No
WARDS/COMMUNITIES AFFECTED:	None directly as a result of this report
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	Monitoring Scrutiny Recommendations – 15 August 2019
Documents In Members' Rooms	
1.	None
Equality Impact Assessment	
Do the implications/subject of the report require an Equality and Safety Impact Assessments (ESIA) to be carried out?	No
Data Protection Impact Assessment	
Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out?	No
Other Background Documents	
Equality Impact Assessment and Other Background documents available for inspection at:	
Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	None

Overview and Scrutiny Management Committee: Holding the Executive to Account

Scrutiny Monitoring – 15 August 2019

Date	Portfolio	Title	Action proposed	Action Taken	Progress Status							
11/07/19	Adult Care	The future of residential care homes provided by the Council at Glen Lee and Holcroft House	1) That the Committee are provided with a briefing paper outlining the additional services that are planned to be provided from Holcroft House and, if applicable, the associated costs of the additional services.	A briefing paper has been circulated to the Committee.	Completed.							
			2) That the Committee are provided with a breakdown of the proposed £1,927,543 budget for Holcroft House and what the additional £348,205 expenditure will be funding.	<table border="1"> <thead> <tr> <th></th> <th>£</th> </tr> </thead> <tbody> <tr> <td>Holcroft House staffing</td> <td>1,647,784</td> </tr> <tr> <td>Holcroft House non-staffing</td> <td>179,600</td> </tr> <tr> <td>Staffing contingency</td> <td>100,159</td> </tr> <tr> <td></td> <td>1,927,543</td> </tr> </tbody> </table> <p>The additional £348,205 will be funding a staff structure that will support the delivery of high-quality residential care and additional services that will be provided as part of a dementia hub. There is a contingency to allow for additional agency staff to be used while steps are taken to bring sickness absence within the agreed target.</p>		£	Holcroft House staffing	1,647,784	Holcroft House non-staffing	179,600	Staffing contingency	100,159
	£											
Holcroft House staffing	1,647,784											
Holcroft House non-staffing	179,600											
Staffing contingency	100,159											
	1,927,543											

Date	Portfolio	Title	Action proposed	Action Taken	Progress Status
Page 100			3) That the OSMC are provided with an overview of how central overheads are apportioned to service areas by the Council.	<p>The current system of implementing a corporate overhead charge commenced in 2017-18 and was a Council Management Team paper submitted the year before. This recognised a new way of allocating support services (CASS) moving away from individual allocations based on usage to a council generic recharge rate for all services. This was calculated as 10% and has been applied to the budgets in the period 2017-18 to 2020-21. This covers the costs of CASS areas such as Business Support, Customer Services, Debtors, Creditors IT, HR etc, a total of 20 services.</p> <p>On top of this there is also a recharge to cover non-CASS services such as Legal Services, Property Services, management, Capita pensions etc. which are charged to the relevant service based on usage.</p> <p>Finally depreciation and interest if applicable are recharged on a specific value / calculation depending upon the service.</p> <p>The addition of all of these elements would therefore lead to the overhead recharge and</p>	Completed.

Date	Portfolio	Title	Action proposed	Action Taken	Progress Status
				that will be different across all services depending upon the mix of the above three elements.	
			4) That, if Cabinet approves the recommendations on 16 July, the Committee scrutinises performance and progress at Holcroft House in January 2020.	Cabinet approved the recommendations on 16 July 2019 and so this will be added to the Committee's work programme for 2019/20.	Completed.

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