

Consultation Detailed Guidance

Introduction

The private rented sector provides an estimated 30,508 homes in Oxford and the city council is determined to see that this growing sector provides decent and safe homes for those who live there.

The city council has been operating an additional licensing scheme which covers all the HMOs (other than those already covered by mandatory licensing) in the city since 2011. An HMO is a property occupied by 3 or more persons forming 2 or more households. The current scheme will end in January 2021 and the council are now consulting on a proposal to renew this scheme for a further five years. The council is also proposing to introduce a five-year scheme to license all other (i.e. non- HMO) properties in the city which are privately rented. At this stage the preferred proposal is to introduce a city wide scheme however one ward (Holywell) does not share all the characteristics found in the private rented sector in the other wards, therefore the option to not include this ward will form part of this consultation.

The private rented sector has grown considerably in the last 10 years and it is now estimated that 49% of the housing stock is in the private rented sector.

The current HMO licensing scheme has allowed the council to proactively deal with poor property conditions and inadequate property management in HMOs throughout the city. Although the HMO stock has improved whilst the scheme has been operating, there continues to be a number of HMOs which are ineffectively managed and not compliant with the additional licensing scheme (53%).

Recent evidence has shown that although the council take robust enforcement action when issues in non-HMO properties are reported to them, there is a high level of homes which are predicted to contain home hazards. The council believe that the introduction of selective licensing is the most effective method of regulating and improving the conditions and management of properties in the private rented sector in the city.

The council must obtain approval from the government for any selective licensing scheme that covers more than 20% of the geographical area, this does not apply to the HMO licensing scheme.

Aim of the consultation

Oxford City Council is carrying out a public consultation over its proposals to renew the additional HMO licensing scheme and introduce a new selective licensing scheme. The aim of the consultation is to consider the various options available and whether the proposed licensing schemes are the most appropriate way of dealing with the problems identified in the review reports available on our council meetings pages for the 9th September cabinet meeting (Item 13 Selective licensing Appendix 1 and Item 14 Additional licensing Appendix 1). The consultation will also consider the proposed licence conditions and fees.

It is proposed that the additional HMO licensing scheme will cover the whole of the city. In relation to selective licensing the council is proposing two main options, one full city wide scheme and option 2 covering 23 of the 24 wards (i.e. excluding Holywell) If the additional HMO licensing scheme is approved by the council it is expected to start in May 2021, the

selective licensing scheme will need Government approval and if this is granted it is anticipated that it could start in late 2021 or early 2022.

Reasons for considering renewing/introducing licensing schemes

The private rented sector is an important part of the city's housing stock providing accommodation which is flexible and vital for the economy of the city. The Council's strategic approach to housing can be seen in the corporate plan 2016-20 and the Council Strategy 2020-24. The corporate plan outlined the council's aim to improve Oxford's resident's access to affordable and high quality homes irrespective of tenure. A headline action of the strategy is **to implement selective licensing to improve standards in the private rented sector**. Property licensing compliments other council priorities including ensuring that residents are living in safe and secure homes, reducing anti-social behaviour and helping to building a flourishing community. Property licensing can also help towards building a strong local economy as seen with the additional licensing with added investment in the sector through landlords improving their rented homes. Such schemes also bring benefits to landlords and the private rented sector in general: the reputation and image of landlords and the private rented sector (PRS) will improve as standards rise and poor performers leave the market. The council have in the past used a wide variety of the available powers to address the issues of concern within the private rented sector. However the evidence suggests that there continues to be a problem with the conditions within the private rented sector across the whole city and that there is a clear need to address these problems.

Additional HMO licensing

Key findings from Licensing Review

A review of the current licensing scheme was undertaken by the council, it was found that over the length of the scheme

- 12,236 licences have been issued relating to 3850 HMOs (relating to both mandatory and additional licensable HMOs,
- 5612 licences issued to 2910 HMOs requiring a licence under the additional HMO licensing scheme
- Over 1000 visits made per year to monitor compliance with the scheme. 53% of those requiring an additional licence did not comply with the scheme.
- 1921 complaints have been received in relation to HMOs requiring an additional licence (small HMOs).
- 2460 cases relating to HMOs operating without a licence have been investigated which has resulted in 54 financial penalties being served, 36 of those related to smaller HMOs

It is clear from the review of the HMO licensing scheme that whilst improvements have been made there continues to be non- compliance and evidence of ineffective management and poor conditions in HMOs across the city. The review of the current scheme provided evidence to support this in that 53% of HMOs which required an additional licence were found to be non-compliant with the licensing scheme when inspected. The council continue to receive complaints from occupiers and neighbours across the city concerning the condition and management of HMOs.

The renewal of the Additional HMO licensing scheme would ensure that such HMOs were inspected and action taken to ensure Licence Holders comply with the scheme.

Selective Licensing

Key findings from Review of conditions within Private rented sector

An independent review was undertaken to review the housing stock in the private rented sector (PRS), this identified

- Oxford's private rented sector (PRS) has grown rapidly over the last two decades, from 20.8% (2001) to 49.3% (2020)
- Between 2015 and 2019, the council have received 3360 complaints relating to 2990 rented properties and investigated 4,508 cases of Anti- social behaviour linked to PRS properties.
- Between 2015 and 2019, the council has recorded 2,723 serious housing hazards (Category 1 and 2, HHSRS) during property inspections and it is predicted that 6,242 private rented properties(20.4%) in Oxford have a serious home hazard (Category 1, HHSRS)

Poor property conditions

There is a clear link between poor housing conditions and poor health and whilst the city council has undertaken significant action in the past, poor housing conditions continue to be a reality for many of those living in the private rented sector. The majority of the current work undertaken in the non-HMO private rented stock is dependent on occupiers approaching the council with concerns. When issues are raised robust action is taken to improve conditions, however this is largely on a reactive basis and often means that occupiers who do not complain are left living in homes with poor management and poor conditions

Poor housing conditions are assessed using the Housing, Health and Safety Rating System (HHSRS) which is an evidence based system. The rating system allows for home hazards to be rated, with category 1 hazards being the highest level. Category 1 hazards have a physiological or psychological impact on the occupant which may result in medical treatment.

In 2019, 14% of private rented dwellings in England were estimated to have at least one Category 1 hazard. There are **6,242** private rental properties in Oxford that are likely to have a Category 1 hazard (serious home hazard) this represents **20.4%** of the PRS stock, significantly higher than the national average. The council received **3,360** complaints related to 2,990 unique private rented properties over a 5-year period (2015-2019) (Figure 21). This equates to approximately 1 in 10 of all rented properties in Oxford. The complaints related to various issues including damp and cold homes, disrepair, broken facilities and a lack of hot water.

Property licensing and the Law

Licensing of private rented properties is covered by the Housing Act 2004 part 2 and 3. There are currently 3 different licensing schemes which can be applied.

Mandatory HMO licensing – this is designated nationally and applies to all properties occupied by 5 or more unrelated persons who share a basic amenity (i.e. a bath, shower, kitchen or W.C.) This licensing scheme is not part of the consultation.

Additional HMO licensing – Councils can choose to introduce additional licensing by designating an area or a type of HMO to be licensed. In Oxford the proposal is for this to apply to all HMOs occupied by less than 5 persons and includes self- contained flats which

are in buildings converted without proper Building regulation approval. This licensing scheme is part of the consultation.

Selective Licensing – Councils can choose to introduce selective licensing for privately rented property occupied by 1 family/ household or up to 2 persons sharing. In Oxford the proposal is for this to apply to the whole city or to exclude Holywell Ward from the scheme. In either cases the proposal will need to be approved by central government. This licensing scheme is part of the consultation.

Where schemes are designated locally the council can decide upon the area where licensing can apply and in relation to HMO licensing the type of HMO to be licensed, however the council must follow certain steps when proposing such schemes. These include demonstrating the evidence for their concerns, considering alternative approaches and consulting widely on the proposals before reviewing and making a decision

The Housing Act sets out the criteria in order for an additional HMO licensing scheme to be designated by the council; for a designation to be introduced it must consider that a significant proportion of HMOs are being ineffectively managed so as to give rise to one or more particular problems either for the occupiers of the HMO or for members of the public.

The Housing Act and The Selective Licensing of Houses (Additional Conditions) (England) Order 2015 sets out the criteria for a selective licensing scheme to be designated. The council is proposing to apply to designate an area for Selective Licensing due to poor property conditions. This condition is met if, following a review of housing conditions under section 3(1) of the Housing Act 2004, the authority considers a significant number of properties in the private rented sector need to be inspected in order to determine whether any of those properties contain Category 1 or 2 hazards.

The Selective Licensing Scheme must be part of a wider strategy to tackle housing conditions, so that enforcement action under Part 1 of the Act can be prioritised, whilst ensuring through licence conditions under Part 3, that the properties are properly managed to prevent further deterioration. In this context “significant” means more than a small number, although it does not have to be a majority of the private rented stock. The review into the private rented sector compares the conditions in Oxford with the national figures.

As part of the proposal for selective licensing a substantial review of the relevant evidence has been undertaken in accordance with the Housing Act and with government guidance to review housing conditions in its area, the council has generated an evidence base that enables it to predict, on a ward by ward basis, the number of privately rented properties in an area and the likelihood of serious home hazards within those homes. The council believes that the evidence shows that the criteria for making a large-scale selective licensing designation is met and that it would be proportionate and justifiable to make a designation in most, if not all of the city, to enable the problems being experienced to be addressed

A selective scheme which covers more than 20% of the geographical area must be approved by the Secretary of State for Housing, Communities and Local Government (MHCLG). The approval for an additional HMO licensing scheme can be made by the council. For both schemes if the approval is given the council must advertise the designation for a 12 week period before implementation.

Options for the schemes

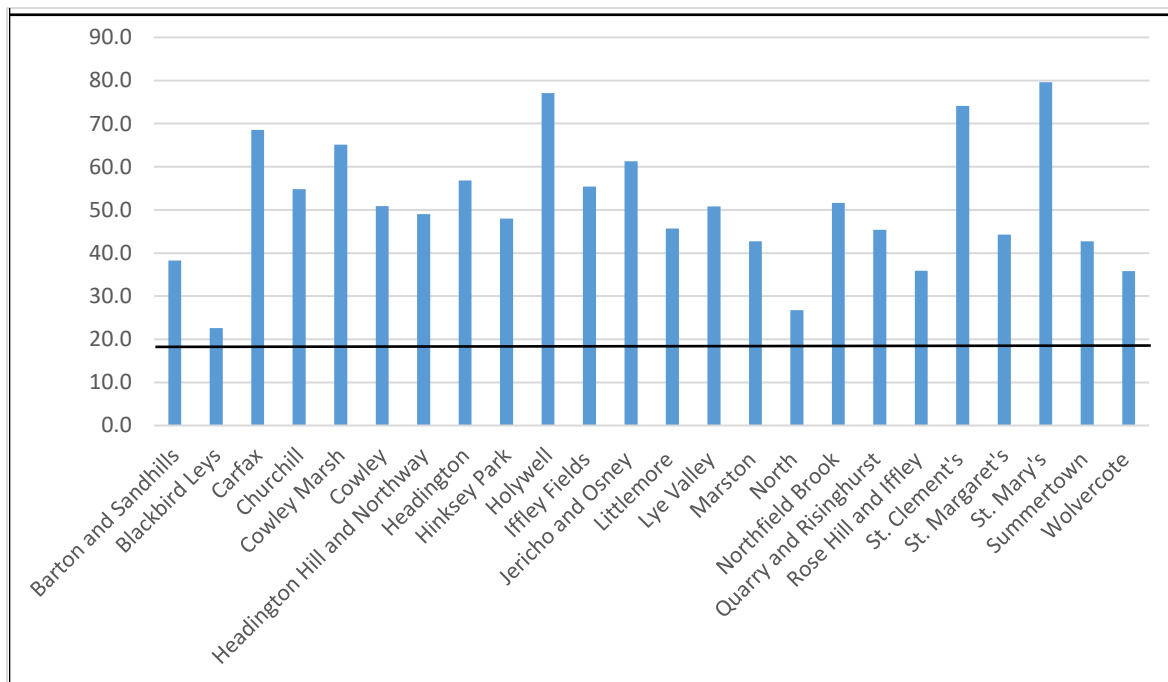
The Council is proposing to renew the additional HMO licensing scheme across the whole of the city and is currently considering two main options for selective licensing, as follows:

Additional HMO licensing

The scheme proposed is a city wide scheme covering all HMOs. There is no evidence from the review that suggests that the conditions and management of HMOs is markedly different in any part of the city. A city wide scheme would also align with the mandatory HMO licensing controls which apply to all HMOs occupied by 5 or more persons sharing facilities (the consultation does not cover Mandatory Licensing) The council is proposing to include HMOs which are properties converted into self-contained flats that do not comply to the appropriate Building Regulations as well as those HMOs where facilities are shared; this is in line with the current Additional HMO licensing scheme.

Selective licensing Option 1 –city wide

The preferred option at this stage is for a city- wide selective licensing scheme; as this would provide a clear framework for all private landlords and tenants across the city. A city wide scheme would mean that the council could proactively inspect privately rented homes without the need for complaints being made by occupiers. The evidence shows that the level of privately rented homes is above the national average across the city with an overall 49.3% of homes in the private rented sector. It also shows that the predicted number of hazards in privately rented homes is widespread across the city.



Percentage of PRS dwellings by each ward (Source Ti 2020). Black line represents national average in 2019 (19%).

The national average in 2019 for the percentage of private rented sector dwellings was 19% In Oxford there are 24 wards with the following percentage of private rented sector stock

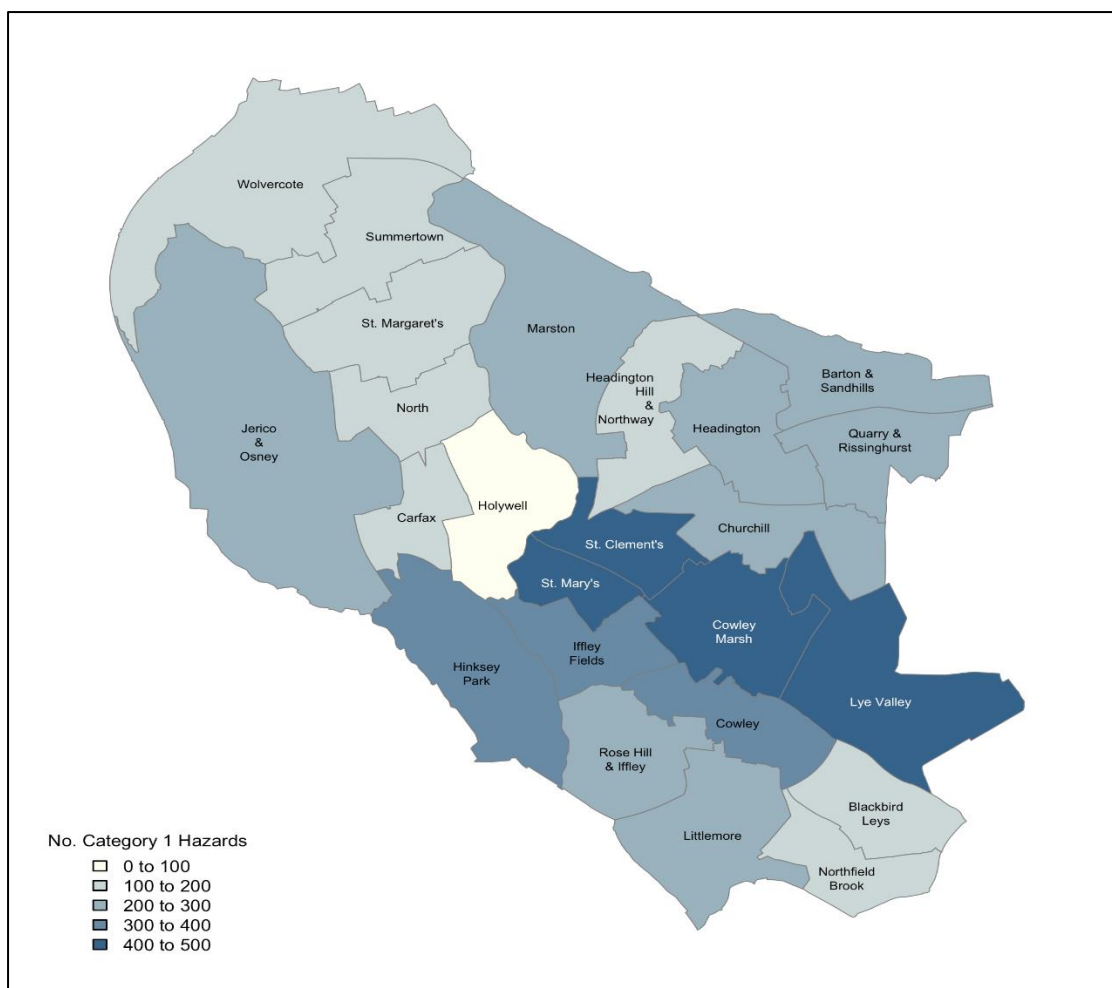
- Barton and Sandhills - 38.3%
- Blackbird Leys - 22.6 %

- Carfax -68.6%
- Churchill – 54.8%
- Cowley Marsh – 65.1%
- Cowley – 50.9%
- Headington Hill and Northway – 49%
- Headington – 56.9%
- Hinksey Park – 48%
- Holywell – 77.1%
- Iffley Fields – 55.4%
- Jericho and Osney – 61.2%
- Littlemore – 45.7%
- Lye Valley – 50.8%
- Marston – 42.7%
- North – 26.7%
- Northfield Brook – 51.6%
- Quarry and Risinghurst – 45.4%
- Rose Hill and Iffley - 35.9%
- St. Clement's - 74.1%
- St. Margaret's - 44.2%
- St. Mary's - 79.6%
- Summertown - 42.7%

Selective licensing Option 2 –exclusion of Holywell Ward

From the evidence provided, one ward, Holywell, does not share all the characteristics found in the PRS in the other wards. The ward has a high level of privately rented properties and therefore meets the 20% threshold, however the total housing stock in the ward is small, there are low numbers of properties containing serious home hazards and correspondingly very few complaints about housing conditions.

The majority of the privately rented properties in the ward are university or college owned and managed and as such they are exempt from any licensing requirement under the Housing Act; it is therefore less clear that licensing interventions would be required to make improvements to poor conditions in this ward.



Distribution of PRS properties with category 1 hazards (Source: Ti 2020, map by MS).

The distribution of private rented sector properties with category 1 hazards across Oxford by ward is as follows:

- St Clements, St Mary's, Cowley Marsh and Lye Valley wards have between 400 and 500 category 1 hazards per ward area
- Hinksey Park, Iffley Fields and Cowley wards have between 300 and 400 category 1 hazards per ward area
- Barton and Sandhills, Churchill, Headington, Jericho and Osney, Littlemore, Marston, Quarry and Rissinghurst, Rose Hill and Iffley wards have between 200 and 300 category 1 hazards per ward area
- Blackbird Leys, Carfax, Headington Hill and Northway, North, Northfield Brook, St. Margaret's, Summertown, Wolvercote wards have between 100 and 200 category 1 hazards per ward area
- Holywell ward has between 0 and 100 category 1 hazards

Other options considered

Additional HMO licensing

Before making a designation for a licensing scheme, the council must consider whether there are any other courses of action which may be available to address the problems that have been identified.

In the past 10 years the additional HMO licensing scheme has been successful in improving standards and management practices in the HMO sector of the city, however it is acknowledged that there is still non-compliance. Currently the additional HMO licensing scheme ensures that the council carries out proactive inspections of HMOs without the need for occupiers to contact the council. Even so, there are only 47% of HMOs requiring an additional licence which are compliant with the scheme. This is an improvement on the figure reported at the end of the previous scheme however it is clear that there are still poor conditions in the sector. Without the additional HMO licensing scheme, these improvements would not have been achieved.

No scheme renewal

If the scheme was not renewed the council estimates it would need resources to be able to respond to and deal with up to 400 additional service requests per year regarding HMOs not within the mandatory scheme. Without a scheme in place there would be a difference in standards between mandatory licensed HMOs and those smaller HMOs, however the council are still seeing non-compliance in the smaller HMOs in the city and receiving service requests relating to this type of HMO. This option could lead to a loss of accommodation as landlords reduce numbers to avoid licensing as well as leading to an uneven enforcement regime. The regulation of the management of HMOs is not covered by the service of notices and therefore this could lead to more financial penalties and prosecutions which in themselves do not bring about improvements in property conditions. This option has been rejected

Partial Scheme renewal – the council could introduce an additional HMO licensing scheme to part of the city or for a specific type of HMO. However the current spread of HMOs is not concentrated in one particular area and the issues regarding this type of accommodation are widespread. Partial licensing of HMOs (i.e. not licensing all HMOs across the whole city) would likely result in an increase of HMOs in areas which were not subject to licensing and leave the Council with limited options for regulating these. HMO Licensing ensures that the Council has a comprehensive toolkit to deal with poor conditions and issues around anti-social behaviour in all HMOs thereby improving the living conditions for those residents in occupation and those who are affected by HMOs in the neighbourhood. This option has been rejected.

Selective licensing

Continuation of current service - The council has taken a robust approach to dealing with poor conditions in the non HMO stock in the city, however this has in the main been as a result of occupiers complaining to the council about conditions. Proactive programmes dealing with properties with poor energy ratings and unlawful developments often called “Beds in Sheds” have also been undertaken. This has resulted in 2723 serious housing hazards being found during property inspections and serving 2,451 housing and public health notices over the same 5-year period. The strength of using formal notices is that they can be served to require improvements and if landlords do not comply, works in default can be carried out. Landlords can also face prosecution or a financial penalty for non-compliance. The weaknesses are that the service of formal notices can be slow and most can be appealed which can delay the time for compliance; Landlords are not obliged to be

proactive in carrying out improvements and works in default can be expensive as well as time consuming and there is often a risk of not recovering all the costs

Even with this work being undertaken it is clear from the evidence of the review that there remains a problem with the conditions found within the sector. If this reactive approach is continued it is clear that the poor conditions will remain. Therefore the introduction of selective licensing will improve the housing conditions through a completely proactive approach to address these issues.

Voluntary Accreditation -The council operates an Accreditation Scheme which currently has 141 accredited landlords and agents and although this scheme is open to all landlords, 86% of landlords who are accredited are HMO licence holders, this number grew when landlords were able to obtain a longer licence when accredited, before that there was little take up in the scheme.

Accreditation is a valuable tool, and for those who choose to become accredited, they can improve their ability to effectively manage property. It is unlikely that rogue or criminal landlords attend or engage in accreditation. In Oxford there are currently only 141 accredited landlords in the Council operated scheme. Therefore this voluntary scheme, whilst worthwhile in a small number of cases cannot, in isolation, be used to raise standards across the private rented stock.

Proposed Licensing Fees

Additional HMO licensing

The current fee structure clearly rewards compliant landlords and it is proposed to make only minor changes to the fee structure. These changes are in response to the time taken and cost of undertaking work in relation to the scheme that was not previously recognised.

Outline of fee changes

There will be an increase in all categories to reflect ongoing scheme costs and increased costs associated with general licensing activity and training. This is due to an increase in such tasks as variations, to licences as landlords seek to maximise occupancy within the C4 use category. Time spent on “withdrawn” applications is significant as is the increased volume of change of use applications submitted to planning which are commented on by the HMO enforcement team

Category A1 - this is the fee for a new licence, where a landlord has failed to make a new application in 12 weeks, the licence length is 1 year – the proposed total fee is £2200, which is made up of stage 1 payment of £930 and stage 2 of £1270, this is an increase of £202 from the year 20/21. The reason for the proposed change is that it reflects the enforcement costs generally associated with finding unlicensed HMOs and ensuring they are licensed.

Category A2 - this is a new fee proposed for a new licence where a landlord has failed to make a new application within 6 weeks of expiry of a previous licence, the licence length is 1 year – the proposed total fee is £750, which is made up of stage 1 payment of £450 and stage 2 of £300. The reason for the proposed new fee is for those landlords that fail to renew their HMO licence promptly. This is to recover the additional time spent dealing with these renewals

Category B - this is the fee for a new licence, the standard new application fee, the licence length is 1 year – the proposed total fee is £625, which is made up of stage 1 payment of £315 and stage 2 of £310. This is an increase of £85 from the year 20/21, the increase is to

reflect the ongoing scheme costs and increased costs associated with general licensing activity and training

Category C - this is the fee for the renewal of a licence, the licence length is 1 year – the proposed total fee is £333, which is made up of stage 1 payment of £123 and stage 2 of £210, this is an increase of £75 from the year 20/21. The stage 1 fee is less than the 20/21 stage 1 payment to reflect the proportion of work associated with this stage in the process. However there is an increase overall for this category to reflect the need to re-inspect HMOs over the next five years.

Category D - this is the fee for the renewal of a licence where the property is not compliant, the licence length is 1 year – the proposed total fee is £541, which is made up of stage 1 payment of £166 and stage 2 of £375, this is an increase of £50 from the year 20/21. The stage 1 fee is less than the 20/21 stage 1 payment to reflect the proportion of work associated with this stage in the process. However there is an increase overall for this category to reflect that properties in this category are classed as “non-compliant” and therefore take up additional resources.

Category E - this is the fee for the renewal of a licence for 2 years where the property is compliant and the criteria for a 2 year licence is met. The proposed total fee is £371, which is made up of stage 1 payment of £123 and stage 2 of £248, this is an increase of £87 from the year 20/21. The stage 1 fee is less than the 20/21 stage 1 payment to reflect the proportion of work associated with this stage in the process. However there is an increase overall for this category to reflect the need to re-inspect HMOs over the next five years.

Category F - this is the fee for the renewal of a licence for 5 years where the property is compliant and the criteria for a 5 year licence is met. The proposed total fee is £413, which is made up of stage 1 payment of £123 and stage 2 of £290, this is an increase of £6 from the year 20/21. The stage 1 fee is less than the 20/21 stage 1 payment to reflect the proportion of work associated with this stage in the process. However there is an increase overall for this category to reflect the need to re-inspect HMOs over the next five years.

Selective Licensing

The fee proposal is based on a review of the current costs of operating the HMO licence. The processing of selective licence applications is similar to the HMO applications already processed by the Council. However there would be no inspection of a selective licence property prior to the issue of a licence and not all properties will need to be inspected.

Selective licences will be issued for five years unless there is a history of poor management. At the start of the scheme, various discounts will be offered. It is anticipated the vast majority of licences will be for five years however some will be issued for one year and then require a renewal application. As with the current HMO licensing scheme the fees have been designed to ensure compliant landlords are not financially penalised compared to non-compliant landlords.

Proposed fees for new applications

Category SB1 – this is the standard fee for a new application made within 6 months of the start of the scheme, or where the property is newly acquired or the licence is transferred and the application is made within 3 months of the acquisition/ transfer date. The length of the licence is 5 years. The proposed total fee is £480, which is made up of stage 1 payment of £170 and stage 2 of £310.

Category SA1 – this is the higher rate fee for a new application made after 6 months of the start of the scheme, or where the property is newly acquired or the licence is transferred and the application is made after 3 months of the acquisition/ transfer date. The length of the licence can be 1 or 5 years, depending on the application and management of the property. The proposed total fee is £1100, which is made up of stage 1 payment of £495 and stage 2 of £605.

Proposed Selective Licensing Discounts

It is proposed that discounts will be offered to incentivise landlords to make applications promptly, to recognise compliant landlords / agents and to support landlords who work with the Council to provide accommodation for vulnerable persons. In addition, discounts would be available for specific building types in recognition of lower administration costs. For any discount to apply a full application must be submitted without the need for the council to request any further information from the applicant.

Compliant landlords should benefit from paying lower fees. Only one discount will be applied to the fee which will be applied to the stage 2 fee.

Early Bird Discount – this will be applicable where a complete application is made within 6 months of the scheme commencement date. Maximising the number of applications received early will reduce the amount of work needed to find unlicensed properties. Receiving documentation with the application reduces the amount of time needed to request and check documentation and also demonstrates landlord compliance. The proposed discounted total fee is £400, which is made up of stage 1 payment of £170 and stage 2 of £230

Early Bird and Accreditation Discount - The most compliant landlords / agents are members of recognised accreditation schemes demonstrating professional competence. These landlords / agents are expected to make their application early and so will benefit from “early bird” discount. In addition, it is judged that properties managed by an accredited person will not need to be inspected and so this will reduce the time required by the council to administer the scheme and so these landlords should benefit from an additional discount. The proposed discounted total fee is £300, which is made up of stage 1 payment of £170 and stage 2 of £130

Accreditation Discount - This will be applied where a landlord who is accredited with a recognised accreditation scheme acquires a new property and applies for a licence within 3 months of the purchase date or where there is a change in the licence holder to an accredited landlord. The discount is applied to reflect the reduced inspection time. The proposed discounted total fee is £380, which is made up of stage 1 payment of £170 and stage 2 of £210.

Charity Discount - This will be applied where registered charities, who are working with the Council and providing accommodation as part of the homeless pathway. The discount would apply to full applications made within 12 months from the start of the scheme, this will assist where charities are operating a number of properties. Such charities have different cost operating models and to charge a fee could heavily affect their ability to run their services. The proposed discounted total fee is £300, which is made up of stage 1 payment of £170 and stage 2 of £130.

New Build Discount- Any new build property whose first occupant is a private tenant (providing application is made within three months of occupation date).this is to reflect that the property will meet the current building standards and an inspection would not be

necessary. The proposed discounted total fee is £260, which is made up of stage 1 payment of £170 and stage 2 of £90

Block Discount – this will be applied where landlords own the freehold of a building and rent out flats within the building. The building will have been converted with building regulation approval. To qualify for a discount the first flat is charged at the full fee and then for each additional flat, a small fee is charged to cover extra checks made for each flat. The proposed discounted total fee for the additional flats is £236 per unit, which is made up of stage 1 payment of £170 and stage 2 of £66.

Home Choice Discount – This discount would apply to properties used by the City Council as part of the work to prevent homelessness; to incentivise landlords to provide private rented properties this would apply only for applications where the standard fee applies, i.e. where there is a change of Licence Holder who makes the property available to the Home Choice scheme or where a newly acquired property is made available to be used as part of the scheme and the application made within 3 months of purchase. The details and amount of discount available is to be determined

Proposed Licensing Conditions

Additional HMO Licensing

The Council can apply standard discretionary conditions to all HMO licences, in addition to these it is proposed that additional standard discretionary conditions will be added to all licences issued under the new scheme.

A benchmarking exercise has been undertaken with other Local Authorities which operate Additional HMO licensing schemes, to ensure that the standard discretionary conditions applied to the additional HMO licences are similar to those applied elsewhere and would help to improve management practices

Current standard Discretionary Conditions applied to all HMO Licences

- **Notify authority of changes including licence holder address, house changes and persons involved in management** – the reason for this condition is that under section 68(6) of the Housing Act 2004, a licence may not be transferred to another person and so the existing licence must be revoked to ensure satisfactory management arrangements remain in place. In addition, all persons involved in the management must be fit and proper
- **Provide certificate / declaration annually that fire alarm system has been tested to British Standards** - The reason for this is to clearly state what is required to keep the fire alarm system (smoke detectors) in proper working order and maintained in a safe condition.
- **Display managers details** – The reason for this is to ensure that the occupants, visitors and emergency personnel are aware of whom to contact in an emergency
- **Explicitly state number of occupants / households** - Section 64(3)(a) and section 67(1)(a) of the Housing Act 2004. Section 64(3) states the authority must be satisfied that that the house is reasonably suitable for occupation by not more than the maximum number of households or persons. This condition confirms the maximum number of persons
- **Display fire procedure notice** - This is so the occupants and visitors to the house know what to do in case of fire.
- **Provide an Energy Performance Certificate (EPC)** - The reason for this is to

ensure the condition of the house meets required legal standards.

- **Keep means of escape clear** - This is so in the event of a fire, the occupants and any visitors are able to easily exit the property quickly
- **Provide an Inventory to occupiers** - The reason for this is to ensure the property is well managed and the condition and contents are maintained

Proposed standard Discretionary Conditions to be applied to all HMO Licences

Specific terms relating to ASB in written terms of occupation – this relates to management of the house and a condition to ask landlords to include specific items in the tenancy agreement, such as being neighbourly and outlining good behaviour to tenants will help reduce issues with noise nuisance

Maintain the property, undertake regular inspections and to treat pests- Including this as a condition will further improve management of HMOs. While many landlords and agents are proactive and inspect properties, one of the weaknesses identified by officers is that landlords “expect” the council to tell them what is wrong rather than landlords undertaking a proactive approach. This condition will further improve management and professionalism of landlords

Emergency arrangements in place - This will ensure that tenants know who to contact in an emergency. When granting an HMO licence, there must also be “satisfactory management arrangements in place” and this covers emergency arrangements and covering periods of licence holder absence. Where this is for significant periods of time, for example longer than a month. In these situations, the licence holder must have adequate arrangements in place and the condition will make this clear. It is not expected that landlords will need to employ an agent – given the internet and mobile communication, it should be possible to manage the house from overseas however it is expected that in these cases that landlords have a list of contractors readily available

Obtaining references- This condition is a mandatory condition for selective licensing. If the council implements selective licensing, similar conditions will be needed for both schemes. It is proposed to include this as a condition. It will also help prevent issues with anti-social behaviour from tenants by ensuring tenants are proven to be responsible

Providing information to tenants - It is noted that it is a requirement of other legislation to provide information to tenants, eg Gas Safety Certificates, however this condition will make it clear what information must be provided eg details about waste disposal and emergency arrangements - It is proposed to include this condition to help improve management of HMOs

Recording of rent payment - A condition that rent payments in cash or cheque must be recorded and that electronic bacs payment provides a record. It is important that landlords keep a record of the rent received as this can be important when determining management responsibilities for a HMO.

Selective Licensing

There are a number of conditions which must be applied to all licences when granted, these are known as mandatory conditions and are prescribed by schedule 4 of the Housing Act 2004. The Council can also apply other standard discretionary conditions to the licence which are general and are not specific to the individual property, it is proposed that these will also be applied to all licences. This ensures fairness and consistency in the obligations placed on

all licence holders. This is common practice amongst local authorities operating such schemes where inspections are not carried out routinely before licences are issued.

Conditions attached to selective licences have been limited by a Court of Appeal ruling that limits conditions to operational matters in relation to the management of the property. This differs to conditions attached to HMO licences and in practice, means that the improvement or upgrading of the property and installation of new equipment or facilities cannot be required as a condition of the licence. The Council will therefore need to take action under Part 1 of the Housing Act, using the Housing, Health and Safety Rating system (HHSRS) to assess any hazards in the property.

Proposed Discretionary standard conditions

- **Specific terms relating to Anti- social behaviour (ASB) in written terms of occupation** - Relates to management of the house and S90 (2) (b) specifically states conditions can be added in relation to ASB
- **Management of waste** - Relates to management of the house and S90 (2) (b) specifically states conditions can be added in relation to ASB. It is a mandatory condition for HMO licences to include waste disposal requirements and this will make comparable.
- **Notification of changes to Licence Holders address** - Relates to management of the house
- **Notification of changes to licensed property**- Relates to management of the house
- **Notification of change in personal circumstances** - Relates to management of the house
- **Keep in property maintained and in good repair, when notified then fix within reasonable timescale** - Relates to management of the house
- **Licence Holder/ Manager to inspect property once every 6 months** - Relates to management of the house
- **Tenancy management related conditions** -Relates to management of the house
- **Emergency arrangements including contact details / Licence holder absence** - Relates to management of the house
- **Energy Performance Certificate (EPC) of E or above or Exemption** - Relates to management of the house. It is a legal requirement to have an EPC at Band E or an exemption. Oxford City Council has a corporate priority on sustainability
- **Number of households** - Relates to management of the house – selective licensing is for non-HMO houses. This will make it clear. This is also required as one selective licence can be issued to cover a residential block with individual dwellings. A “household” number indicates the number of individual dwellings covered by the licence.
- **Provision of receipts for rent payments** - Relates to management of the house
- **To take action to eradicate pests, when reported** - Relates to management of the house – although this will be included within property maintenance

Enforcement

The Council currently has a robust enforcement policy and a strong enforcement approach to the private rented sector that will be maintained. This includes a Rogue Landlord section on the Council’s website providing details of the enforcement action taken. This will enable the council to continue to take action against criminal landlords to ensure a level playing field is maintained and that compliant landlords will not be disadvantaged by either licensing scheme. This will include:

- Proactive identification of unlicensed properties using available data sets and algorithms that have been developed to identify properties that are potentially in the private rented sector
- Liaison with other stakeholder agencies and sharing of data to detect and prevent crime
- Visits and inspections of suspected unlicensed properties by enforcement officers
- Engaging with landlords, landlord groups and tenant groups and individual tenants to encourage reporting of unlicensed properties
- Issuing Financial Penalties where appropriate and using all the income from fines to fund resources for enforcement activity
- Publicising enforcement successes to deter avoidance of licensing