Proposed HMO licensing scheme
for Central Weston-super-Mare
Contents

1. Summary
2. Introduction
3. Legislation
4. Proposals
5. Factors which support an Additional Licensing Scheme
6. Fitting in with council priorities and complementing existing action
7. How will additional licensing work in practice?
8. Benefits of additional licensing
9. Fees
10. Assessing the success of the scheme

Appendices

● Appendix 1 Map of the proposed additional licensing area
● Appendix 2 List of roads in the proposed additional licensing area
● Appendix 3 Proposed additional licensing conditions
● Appendix 4 West of England HMO Licensing standards
● Appendix 5 West of England Code of Good Management Practice
● Appendix 6 Undertaking of Good Practice
● Appendix 7 Evidence report
● Appendix 8 Fees Structure
1. **Summary**

This consultation document seeks views on proposals to designate an additional licensing scheme for Houses in Multiple Occupation (HMOs) in part of Central Ward in Weston-super-Mare.

A map of the area showing the roads included in the scheme is shown below.

Because of concerns about the condition of HMOs and their impact on the local community when they are poorly managed, a mapping exercise was carried out in 2011/12 to compare rates of housing complaints, noise complaints, anti-social behaviour and local housing allowance claims with known HMOs in Weston-super-Mare.

The exercise highlighted a high concentration of HMOs in Central Ward and a strong relationship between the number of HMOs and the other indicators. The conclusion from this study was that the Central area of Weston-super-Mare is suffering from the highest level of complaints coupled with the highest concentration of poor quality rented multi occupied housing.
A street survey was carried out from November 2012 to January 2013. Every building within the area was visited including commercial buildings and residential accommodation regardless of tenure. The purpose of the survey was to identify unknown HMOs and gain further evidence on the quality of the management arrangements and to seek the views of local residents and businesses in the area.

This evidence demonstrates we meet the legislative conditions to introduce an additional HMO licensing scheme in the area set out in appendix 1. We are now undertaking a 10 week public consultation as required by the Housing Act 2004 (Section 56).

Once this consultation process has been completed the North Somerset Council Executive will make a decision on whether to implement additional licensing.

This document explains the background evidence to support an additional licensing scheme in North Somerset and the proposed details of the scheme and how it could work in practice.

The Council invites comments in response to this consultation from all stakeholders in the area including tenants, local residents, landlords and agents and businesses.

Please complete the associated questionnaire on-line on the proposed licensing scheme or request a paper copy from:

Private Housing Services,
Town Hall, Walliscote Grove Road,
Weston-super-Mare, BS23 1UJ.

Tel: 01934 426 885
Fax: 01275 884 128
Email: privaterented.housing@n-somerset.gov.uk
2. Introduction

North Somerset Council works in partnership with landlords and property managers to improve the safety and quality of the housing stock within the district. In doing this the Council recognises that most landlords want to co-operate with the Council and that the majority of properties are well managed and in satisfactory condition. However, some landlords in North Somerset do not meet the property and management standards required.

HMO Licensing provides greater protection for the occupants of Houses in Multiple Occupation in terms of health, safety and welfare. It also helps improve the management of the property which is beneficial for occupants and for the wider community.

The overall aim of HMO Licensing is to ensure that Houses in Multiple Occupation in the private rented sector meet legal standards, are properly managed and in particular:

- ensure that those properties that potentially pose the highest risk to occupants are identified and improved;
- that safety and management standards comply with minimum requirements, and
- that problems likely to affect members of the public as a result of ineffective management are reduced.

In North Somerset more than 18% (16,290) of all residential dwellings are privately rented. An estimated 7150 can be defined under the Housing Act 2004 (the Act) as HMOs. (North Somerset Private Sector Housing Stock Condition Survey, 2012).
The Private Housing Service have records relating to around 2740 HMOs. The majority of HMOs known to the council are small self contained flatlets with living, sleeping and cooking all taking place within one room. The majority of HMOs are located within Weston super Mare with Central and West ward having the highest concentrations.

Due to the size of the housing stock in the proposed licensing area (many two storey terraced properties which have been sub divided to form small units of accommodation for single persons or couples) very few properties fall into the mandatory HMO licensing scheme (9 as at 25th February 2013).

When properties are neglected or poorly managed the impact on tenants and the local community can be considerable. An additional licensing scheme can enable the Council's Private Housing Service and partners to work with landlords to raise standards in the private rented sector and to significantly reduce the impact that a large concentration of private rented accommodation can have on the surrounding neighbourhood.

Under the Act, a Local Authority can designate areas for an additional licensing scheme subject to meeting certain criteria. Evidence must be gathered to prove the need for the scheme and the local community, businesses, landlords and stakeholders must be consulted on the proposals.

Before making a designation the authority must take reasonable steps to consult the local community and other persons who are likely to be affected by the designation and give them the opportunity to make their views known.

The consultation period will run from 11 March 2013 for 10 weeks until 21 May 2013.

Following the consultation North Somerset Council’s Executive will make a decision on whether to designate an Additional HMO Licensing scheme in the area set out.
3. Legislation

The Housing Act 2004 came into force in 2006 and changed the way in which HMOs are regulated. Additional licensing can be applied to some or all of the HMOs in the Local Authority area.

An HMO is a property occupied by three or more persons from two or more households; a household could be a single person or persons related to each other.

A family or single household can consist of husband, wife, co-habitee, child, stepchild, foster-child, grandchild, parent, step-parent, foster-parent, grandparent, brother, half-brother, sister, half-sister, aunt, uncle, niece, nephew, cousin.

In the Act, the definition of a HMO is technically complex. The following is a summary of the HMO definition which is set out in Section 254 of the Housing Act 2004. The summary below is taken from a Communities and Local Government (CLG) publication: A guide to the licensing and management provisions in Parts 2, 3 and 4 of the Housing Act 2004 (Draft).

Meaning of a HMO

In order for a building, or part of a building, to form an HMO it must fall within the meaning of one of the following descriptions:

- a building in which more than one household shares a basic amenity e.g. a bathroom, toilet or cooking facilities. This is called ‘the standard test’;
- a flat in which more than one household shares a basic amenity (all of which are in the flat) e.g. a bathroom, toilet or cooking facilities. This is called ‘the self-contained flat test’;
- a building that has been converted and does not entirely comprise of self-contained flats. This is called ‘the converted building test’;
a building which is comprised entirely of converted self-contained flats and the standard of the conversion does not meet, at a minimum, the standard required by the 1991 Building Regulations, and less than two thirds of the flats are owner occupied. This type of building is also known as a section 257 HMO.

**Buildings that are not HMOs**

The following is a summary from Schedule 14 of the Housing Act 2004 also taken from the CLG publication mentioned above.

Some buildings are not HMOs for the purpose of the Housing Act 2004 even if they meet the requirements of the HMO definition. These buildings are:

- those under the management or control of a local housing authority, a registered social landlord or certain other public bodies;
- those regulated under other enactments, such as care homes, children homes and bail hostels etc:
- those occupied solely or mainly by students studying a full time course of further and higher education at a specified education establishment which manages the building in question and the specified education establishment is subject to an approved code of practice and the building in question is subject to that code;
- those that are occupied for the purpose of a religious community whose main occupation is prayer, contemplation, education or the relief of suffering. This exemption does not apply to a converted block of flats within the meaning of section 257 of the 2004 Act occupied by such a community;
- those that are occupied by a freeholder or long leaseholder and any member of his household (if any) and any other persons not forming part of his household and not exceeding two in number (e.g. owner occupiers household and one or two lodgers). This does not apply to section 257 HMOs;
- those that are occupied by only two persons each of whom form a single household e.g. a flat share of no more than two persons.
Proposed HMO licensing scheme for Central Weston-super-Mare

**Mandatory Licensing**

The Act also introduced a new duty on local authorities to operate a Mandatory Licensing scheme for certain houses in multiple occupation which consist of three or more storeys with five or more occupants (not including properties converted entirely into self-contained flats). Mandatory licensing requires HMOs to be suitably equipped with amenities and facilities for the number of occupants and ensures they are effectively managed by “fit and proper persons”. The licence specifies the maximum number of people who may live in the HMO and includes specific conditions which apply to every licence.

**Discretionary and Additional Licensing**

The Act contains provisions enabling Local Authorities to extend licensing to other properties to address particular problems that may exist. These additional provisions include “Additional Licensing” of HMOs.
4. Proposals

North Somerset Council is consulting on proposals to introduce an additional licensing scheme within part of the central ward of Weston-super-Mare which will last for a period of 5 years. A map of the area proposed for Additional HMO Licensing which is shown at Appendix 1. A full list of roads is shown in Appendix 2.

HMOs to be included in the proposed scheme

The proposed scheme includes all HMOs in the designated area that are not already subject to mandatory licensing.

Licensing Conditions

The proposed scheme would tackle specific problems by applying conditions to all licences. There are statutory conditions that must be applied to all licences as stated in Schedule 4 of the Act. The local authority may apply other conditions to regulate the management, use or occupation of the property. Conditions proposed for this additional licensing scheme can be seen in Appendix 3.

HMOs licensed under an additional licensing scheme must also comply with standards contained in The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 and relate amongst other things to kitchen and washing facilities. These standards have been incorporated into the West of England Local Authorities Standards for Licensed HMOs. They are currently used in the mandatory HMO licensing scheme and it is proposed that HMOs subject to additional licensing will also have to comply with these standards (Appendix 4).

A condition requiring compliance with the West of England Code of Good Management Practice (Appendix 5) is applied in the mandatory HMO licensing scheme and North Somerset Council voluntary Accreditation scheme. Persistent non-compliance can lead to removal of a person’s fit and proper person status meaning they will no longer be able to be involved with a licensable property. This condition is proposed for any additional licensing scheme.
It is also proposed to introduce an ‘Undertaking of Good Practice’ which tenants and landlords will have to sign up to. This undertaking will assist landlords to improve management and ensure that everyone is aware of their responsibilities (Appendix 6).
5. Factors which support an Additional Licensing Scheme

The district of North Somerset has a large proportion of HMOs in the private rented sector providing essential housing for many people in the community including young professionals, students, low income households and migrant workers. Some of these individuals may be vulnerable and find it difficult to improve their own situations.

A considerable Council resource is spent responding to service requests and complaints directly related to HMOs. These include complaints of pests, noise, disrepair and other issues. Wards with high concentrations of HMOs are also linked to complaints about domestic waste being left out on the wrong day and requests for street sweeping. Statistics from Avon Fire and Rescue Service also indicate that HMOs are more than four times as likely to have a fire as a single household property.

The area proposed for additional licensing has been chosen because it contains the highest concentration of HMOs in North Somerset, estimated to be around 200 properties out of a total of 679 buildings. A survey of HMOs in the selected area has also found that the management of HMO properties in many cases was poor. Important information such as gas safety certificates are not always provided and in some properties fire precautions do not meet minimum safety requirements and waste and garden management is not satisfactory. The survey also found that 44.2% of tenants of HMOs in the area had concerns about the condition of their property including concerns about dampness and mould, fire safety, disrepair, security and a lack of heating.

Local residents in this part of Central Ward have also expressed their concerns to the council relating to HMOs and how they are having a detrimental effect on neighbourhoods. The main concerns from non-HMO residents relate to waste not properly contained in bins and being left outside for long periods of time, excessive noise, poor visual appearance affecting the amenity of the local area and the behaviour of residents, with perceptions of high drug and alcohol abuse. More details can be found in the evidence report (Appendix 7).
A voluntary accreditation scheme has been in operation for private landlords in North Somerset since 2008 and incentives have been offered to encourage landlords to bring their properties up to standard and promote good practice.

Through accreditation North Somerset Council have worked in partnership with private businesses, Avon Fire and Rescue Service and Avon and Somerset Police to provide a joined up and targeted approach aimed at improving the private rented market. There are currently 111 accredited units in North Somerset, however of these only 6 HMOs are accredited within the proposed area, despite incentives specifically aimed at HMOs within Central Ward including financial incentives in the form of grants to improve security measures. In order to recognise landlords who have worked with the council to improve property conditions independently, a discount will be offered for any properties which have been fully accredited in the area as at 1st February 2013.

The number of new accreditations and renewals are falling. The high demand and high rental income achieved from letting a property as a HMO, regardless of whether it has accredited status or not, may have reduced the market advantage of being accredited. Not being accredited can also bring cost savings for property owners who avoid meeting their legal requirements and put occupants at risk.

North Somerset Council Private Sector Housing Service has successfully operated a mandatory HMO licensing scheme since 2006 and there are currently around 60 HMOs with a mandatory licence of which 9 of these are in the proposed area.

Nearly all North Somerset HMOs in the mandatory scheme required works to bring them up to the licensing standards. A significant number were also identified with actionable health and safety hazards including fire safety, excess cold and falling on stairs and it can be anticipated that the HMOs in this area will be of a similar standard. The council’s Private Sector Housing Team has found mandatory licensing to be a successful tool that has helped in engaging and working with landlords.
6. Fitting in with council priorities and complementing existing action

There are a number of plans and strategies that have been considered when looking at an additional licensing scheme. These include the North Somerset Local Strategic Partnership’s Sustainable Community Strategy 2008–2026, the Council’s Corporate Plan and Housing Strategy amongst others. The Corporate Plan sets out the Council’s overall aims for housing, which are further developed in the annual Directorate Statement and explored in detail in the Housing Strategy. The overarching themes can be followed through these links, and can explain why there is a need for an additional HMO licensing scheme.

The Corporate Plan outlines the priority of ‘[making] our streets and communities safer’, whilst the Housing strategy states, ‘For Houses in Multiple Occupation, we regulate through our statutory licensing scheme and through multi-agency work to tackle anti-social behaviour and crime arising from multi-occupied properties. We will review the success of these approaches and review whether there is a need to extend our approach to regulation and self regulation’. As there are evidently issues surrounding anti-social behaviour and crime, a further licensing scheme for HMOs would be beneficial in achieving the aims of the strategy and Corporate Plan.

The Corporate Plan also sets out a priority of ‘work with communities to better meet local housing need’. The theme of HMOs is further developed in the Director’s statement, with the aim of ‘improving Houses in Multiple Occupation’. This is to be achieved through a strategic review of policy options. This aim is repeated in the North Somerset Partnership’s Sustainable Community Strategy, stating ‘we will continue to ensure North Somerset housing stock meets the Decent Homes Standard as required by the Government’.

The Housing Strategy puts forward one of its aims as ‘Better Homes, better places’. In order to achieve this aim, the Strategy focuses on four priorities, in particular ‘Improving housing quality across all sectors and makes a commitment to review the licensing and accreditation schemes for the private rented sector.
and to carry out research into the role of the private rented sector to identify interventions to improve quality and security within the sector.

The Private Sector Housing Strategy, approved in 2006, expired in 2010 and an action from the new Housing Strategy 2010–16 is to produce a delivery plan for the private sector service by 2012/13. The Housing Act 2004 requires a local housing authority to review housing conditions in its area, to identify if any specific actions are required; in particular to deal with poor housing, licensing and management of houses in multiple occupation, area action, provision of assistance, and demolition. A strategy review was published in 2011 which stated ‘... we have commenced a project to identify locations with concentrations of houses in multiple occupation, starting with key wards within Weston-super-Mare and what policy responses should be pursued, including the potential use discretionary licensing powers, to ensure the effective regulation of these properties. A draft Private Sector Delivery Plan is currently in the consultation stage, this Plan will replace the previous strategy and review.

The proposed licensing scheme would fit with the Homelessness Strategy 2011–2016. One of the key strategic aims of this strategy is to ensure the use of good quality accommodation for homeless households. Currently all properties used to place homeless households or those making use of the deposit bond scheme offered by the council are subject to a property inspection to ensure the accommodation is free from Category 1 hazards under the Housing Act 2004.

The North Somerset Safer Communities Strategy states that its aims are to reduce drugs misuse, to prevent alcohol misuse and violent crime, to reduce anti-social behaviour and to increase public reassurance and community participation. The development of the proposed additional licensing scheme could positively impact on these aims and generally improve the Anti-Social Behavioural issues associated with HMOs.

HMO licensing schemes could also contribute towards the aims of the Joint Waste Core Strategy, such as the Waste Prevention Policy, which has a target to ‘reduce overall waste arising within the West of England sub-region.’ In order to achieve this target, the JWCS identifies that ‘Developing and maintaining partnerships with local authorities, businesses and community groups enables each sector of the community to act together, raising levels of awareness and understanding of
waste issues. These initiatives can help inform consumer decisions and enable the link between economic and waste growth to be broken.’

If an additional HMO licensing scheme were able to address the issues of poor management, anti-social behaviour, external appearance issues and negative impact on the community, this would have positive consequences on the key objectives of the Corporate Plan, LSP Sustainable Communities Strategy, Director’s Statement, Housing Strategy and several other key strategies.

The Empty Property Delivery Plan 2011–2015 details the council’s commitment to reducing the number of empty properties within North Somerset. As at 25th February 2013 there are a total of 441 long term empty properties within North Somerset and 27 (6%) of these are located within the proposed licensing area. The Strategic Housing Service will monitor the impact of the licensing scheme on the number of empty properties in the area, and work together to reduce this number.

Additional licensing will also impact on the following areas:

- Following local housing allowance changes, there is an anticipated increase in the number of individuals requiring non self contained HMO accommodation to access housing that can be afforded through the benefits system and to avoid homelessness.
- Within the selected area HMOs will be improved across the board to ensure minimum standards are achieved.
- Occupancy will be managed in all licensed HMOs to reduce the risk of overcrowding.
- By promoting and informing managers and occupants about recycling and waste arrangements, additional licensing in partnership with Waste Services will help contribute towards the Waste Strategy.
- Additional licensing will improve energy efficiency and contribute towards the Council’s corporate vision of low carbon communities by ensuring, where needed, energy ratings are improved.
- Occupants and managers will be made aware of their responsibilities towards reducing anti-social behaviour through licensing conditions.
Proposed HMO licensing scheme for Central Weston-super-Mare

- Additional licensing will promote working with responsible landlords whilst enabling more effective regulation of irresponsible landlords.
- Additional licensing will complement the existing voluntary Accreditation scheme by building on the good practice developed through the scheme and bringing in a level playing field that does not just incorporate the ‘good landlords’ that volunteer to work with the council.
- Fire safety is an important issue and additional licensing will ensure minimum fire safety standards are achieved in consultation with Avon Fire and Rescue Service.
- The licensing scheme would also contribute to the proposed Planning Policy to restrict further sub division of houses in this area.
7. How will additional licensing work in practice?

Anyone who owns or manages a HMO that falls within the additional licensing scheme* will need to apply to North Somerset Council for a Licence.

*In brief, the scheme proposals include all HMOs in part of Central Ward in Weston-super-Mare.

The Council must give a licence if it is satisfied that:

- The HMO is reasonably suitable for occupation by the number of people allowed under the proposed licence or capable of being made suitable though licensing conditions,
- The proposed licence holder is a “fit and proper” person,
- The proposed licence holder is the most appropriate person(s) to hold the licence,
- The proposed manager, if not the licence holder, is a “fit and proper” person,
- The proposed management arrangements are satisfactory,
- The person involved in the management of the HMO is competent,
- The appropriate licensing fee is paid.

The Council can refuse to issue a licence if the above requirements are not met.

Landlords can appeal to the Residential Property Tribunal Service against decisions by the Council to refuse a licence, to attach conditions to a licence, to revoke a licence or to vary a licence.

Landlords and property managers who operate a licensable HMO without a licence can be prosecuted by the Council and face a fine of up to £20,000. They also risk being prevented from managing a licensable HMO in the future.
There are currently around 56 properties in the mandatory licensing scheme. It is estimated that if additional licensing is introduced as proposed, there will be up to 200 HMOs in the additional licensing scheme. Appendix 3 details the proposed licensing conditions.
8. Benefits of additional licensing

**Improvements to accommodation** – will be secured through licensing conditions to ensure adequate facilities, improved energy efficiency, suitable room sizes and better waste management.

**Improvements to Health and Safety** – will be secured by ensuring gas and electrical installations are safe and suitable fire precautions are provided.

**Improvements to Management of HMOs** – will be secured by ensuring that landlords are clear about their responsibilities, on-going management standards are maintained, managers adhere to the Code of Good Management Practice, 24 hours contact details are provided to tenants and the Local Authority; and tenants are reminded of their responsibilities.

**Sustainable improvements to the designated area** – will be made through licensing conditions to improve neighbourhoods by requiring suitable waste and recycling facilities, occupants and managers are made aware of their responsibilities.

**Better value for money secured by a proactive area based approach** – by targeting resources on the area to enable an increased presence and regular visits to HMOs, it is likely that a more long term sustained improvement to overall property conditions and the neighbourhood environment will occur.

**Consistent approach to safety and property conditions** for tenants living within the area. Licensed properties will be subject to a common set of conditions controlling property maintenance, facilities and safety standards.

**Level playing field for Landlords** – those who are not considered “fit and proper” by the Local Authority because of a criminal record or history of poor housing management may not be permitted to hold a licence. All HMOs within the selected area will be inspected and checked to ensure minimum standards are met.
Assistance for landlords

Advice and assistance with landlord queries will be available from the Private Rented Housing Team calling 01934 426 885 or via the Council Gateway at the Town Hall in Weston-super-Mare. There is also a designated email address for landlords/agents and property owners to contact the team for advice and information: privaterented.housing@n-somerset.gov.uk

The West of England housing website has been developed as a resource where the local Landlord Manual can be downloaded and the landlord proficiency test can be accessed http://www.privatehousinginformation.co.uk/site/279.asp
9. Fees

Fees will be calculated to recover the costs of the proposed scheme. A fee structure has been drawn as set out in appendix 8.

The fee proposal forms part of the consultation and the proposal is to have a similar format to mandatory licensing. The current mandatory fees structure can be accessed via http://www.privatehousinginformation.co.uk/site/68.asp

HMO licensing is required to be self-financing. In order to recover costs a licensing fee starting at £395.40 for a 5 year licence for a 2 unit HMO is proposed.

The Council intends that the additional licensing scheme will initially last for 5 years.

This information can be made available in a range of languages, large print, Braille, on tape, electronic and accessible formats. Please contact Lisa Osborn on 01934 426 885 or email: privaterented.housing@n-somerset.gov.uk
10. Assessing the success of the scheme

The scheme will be reviewed during the five year designation, progress will be monitored through performance measures which could include those below and improvements in the key areas identified. At the end of the five year period the following outcomes should be delivered:

- Improved management practices in the area
  - Monitored by an increase in the numbers of gas safety certificates provided
  - Number of Energy Performance Certificates provided
  - Number of licences issued
  - Prosecutions against landlords

- Improving housing conditions for HMO tenants
  - Number of HMOs in the area which have been improved and are free from Category 1 hazards
  - Number of HMOs visited throughout the scheme where conditions are found to be maintained when revisited periodically

- Improving the environment of the area
  - Improvements in residents perceptions of the area
  - Reduction in waste collection costs in the area and an increase in recycling rates
  - Number of properties with an improved external appearance
  - Number of empty properties in the area
Council documents can be made available in large print, audio, easy read and other formats. Documents on our website can also be emailed to you as plain text files.

Help is also available for people who require council information in languages other than English.

For more information contact: 01934 426 847 or lisa.osborn@n-somerset.gov.uk