

Housing Act 2004

1. Purpose of this Report

- 1.1 To advise the Executive of the changes made by the new Housing Act 2004 and to request that the necessary powers to enforce these new regulations be delegated to the relevant Council Officers. Also to enable the Council to carry out its statutory responsibilities in respect of mandatory licensing of Houses In Multiple Occupation and to set a fee structure.

2. Recommendations

- 2.1 **It is recommended that relevant authority as detailed in Appendices 1 & 2 be delegated.**
- 2.2 **It is recommended that the license application fee for Houses In Multiple Occupation as detailed in Appendix 3 be agreed.**

3. Links to Corporate and Business Area Objectives

- 3.1 Housing is a Corporate Priority.

4. Background Information

- 4.1 The Housing Act 2004 received Royal Assent on 18th November 2004. This is the first major enactment concerning the Private Housing Sector in 20 years. It was only possible to bring this report to Executive now as we were waiting for Government to enact the powers to enforce the new regulations of the Act.
- 4.2 The main thrust of the act is to create a fairer and better housing market for all those who own, rent or let residential property while protecting those most vulnerable. The main provisions of the Act are stated below. (For a more in depth description of the new powers please see appendix 3). Further Information is available in terms of individual fact sheets on the ODPM website. www.odpm.gov.uk or upon request from the authors of this report.

Housing Health & Safety Rating System

- 4.3 This Act replaces the existing Housing Fitness Standard with the Housing Health and Safety Rating System. The Housing Fitness Standard is based on criteria first introduced 80 years ago and its replacement by the new Housing Health & Safety Rating system represents a important shift in thinking from a system that primarily deals with with physical condition of the property to one which is concerned with the risk posed to the occupants by the condition of the property.

Licensing of House in Multiple Occupation

- 4.4 This introduces controls on Houses In Multiple Occupation (HMO), to raise the standards of some of the highest risk properties occupied by some of the most vulnerable people, whilst maintaining an adequate supply of rented accommodation. Those properties subject to mandatory licensing will be 3 or more storeys high, house 5 or more unrelated people in more than one household and share amenities. The aims of licensing are to primarily ensure that:

- HMOs are operated only by 'fit and proper persons'
- Each HMO is suitable for occupation by the number of people allowed for under the license
- The standard of management of the HMO is adequate
- Vulnerable tenants are protected.

4.5 This type of property is considered to present a greater risk to the safety of the occupants. HMOs occupied solely as self-contained flats (with a few exceptions) or those managed by housing associations educational establishments' etc. are exempt from licensing requirements.

4.6 Landlords will have until 3rd July 2006 to apply for a licence. An owner or manager operating a HMO covered by the scheme without a licence after this date will be committing an offence which will carry a maximum fine of £20,000. A HMO licence will normally run for 5 years.

4.7 The government has said that they will not impose a national fee structure. They have issued guidance that the level of fees charged should be no more than is necessary to recoup the costs of administering the scheme, in order that landlords are not placed under unnecessary burden. The licence fee proposed is based on the set up and running costs of the HMO Licence scheme. It is envisaged that the scheme will be self-funding. The fee will be reviewed annually by the Environmental Health Team Leader.

Selective Licensing of Private Landlords

4.8 This enables Local Authorities to tackle areas of low housing demand and the difficulties caused by anti-social behaviour through new powers.

Interim and Final Management Orders

4.9 These orders enable the Local Authority to take over the management of licensable Houses in Multiple Occupation). An Interim management order lasts for a maximum of 12 months while a Final order is valid up to five years.

Interim & Final Empty Dwelling Management Order

4.10 These orders enable the Local Authority to take over the management of empty properties as determined by Residential Property Tribunals. An interim order can only be used with the consent of the owner, while a final order can be made without the consent of the homeowner.

Overcrowding Notices

4.11 The act provides for notices to be issued for overcrowding in non licensable Houses in Multiple Occupation. Overcrowding in other Houses in Multiple occupation are covered by Licence Conditions.

Home Information Packs

4.12 There is a new requirement for sellers or estate agents to produce a home information pack before marketing any residential property for sale along with provision for an ombudsman scheme for estate agents.

Right To Buy Scheme

- 4.13 There have been a number of changes to the Right to Buy Scheme in order to lessen the impact of Right to Buy sales on the availability of affordable housing. In order to achieve this the Act:
- (a) Extends the initial qualification period from two to five years (for new tenants after January 2005).
 - (b) Extends the period after sale during which landlords may require owners to repay some or all of their discount from three to five years.
- 4.14 The Council has no housing stock and therefore this section relates to Registered Social landlords.

Strengthening the Rights of Park Homeowners

- 4.15 This extends the rights of households especially in the area of the Protection from Harassment to include mobile homes and gypsy residences. Currently the Housing Team Leader has delegated authority to authorise prosecutions under the Protection from Eviction 1977, after consultation with Legal Services Team Leader. However it is now felt that it is more appropriate for this authority to be exercised by the Environmental Health Team Leader as this is an enforcement rather than a housing needs issue.
- 4.16 Extends the power of the Housing Corporation to give Social Housing Grant to non- registered social landlords

Tenancy Deposit Schemes

- 4.17 The act introduces a new safeguard for deposits paid in connection with assured short-hold tenancies. (This will be dealt with under the independent Housing Ombudsman).

Eligibility For Disabled Facilities Grants

- 4.18 The eligibility for Disabled Facilities grants has been extended to include all those occupying caravans as their only main residence. (This has already been incorporated into the Councils Disabled Adaptations Grant Regime).

Assessing the Accommodation Needs of Gypsies and Travellers

- 4.19 A requirement for Local Housing Authorities to assess the accommodation needs of Gypsies and travellers in their area, and produce a strategy on how these needs can be met. The Council in partnership with the other Wiltshire Authorities has begun the process of tendering for a specialist consultant to carry out the relevant needs assessment.

5. Current Situation

- 5.1 It is important to note that although the Primary Legislation of the Act was enacted in November 2004 that the secondary legislation (ie the detail and guidance from Government only came into force as of 6th April 2006. In the meantime training on the relevant aspects of the act has commenced for Council Officers.

6. Financial Implications

- 6.1 It is difficult to determine the full financial implications at this early stage and will only be possible once the new regulations are put into force. To date staff has received training on the new regulations through a national training scheme. Additional training in 2006/07 will be catered for under the Community & Environment training budget. The full impact of the Act regarding staffing levels is not known, this will be reviewed over the next 12 months.
- 6.2 The Council's Housing Renewal Grants regime will also need to be revised.

7. Community and Environmental Implications

- 7.1 The Act represents a positive step towards improving the quality of housing across all tenures in the District, and extends the protection to the most vulnerable households in society.

8 Human Resource Implications

- 8.1 Pilot Authorities involved in setting up the new Housing Health & Safety Rating system have advised that a minimum of 40hrs training will be required per officer. It may therefore be necessary to take on extra staff. Some of this training has already been carried out.
- 8.2 This situation will be reviewed prior to the budget bidding process as detailed under Financial Implications.

9. Legal Implications

- 9.1 The Act provides the Local Authority with a number of new Mandatory powers to improve housing conditions in the District.

10. Equality & Diversity Implications

- 10.1 The Housing Act addresses Housing standards and will therefore help to target resources to the most vulnerable households in North Wiltshire.

Papers Used to Prepare this Report

Housing Act 2004

REPORT OF THE COMMUNITY AND ENVIRONMENT STRATEGIC MANAGER TO THE EXECUTIVE – 20TH APRIL 2006

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