Public Consultation Document

**Additional Licensing of Houses in Multiple Occupation in the County Borough of Wrexham**

# May 2021

# Public Consultation Document

# Additional Licensing of Houses in Multiple Occupation in the County Borough of Wrexham

This consultation document seeks views on proposals to implement another Additional Licensing scheme to cover Houses in Multiple Occupation (HMOs) in the County Borough of Wrexham.

On 12th July 2016, the Council’s Executive Board approved the designation of all HMOs in the County Borough (other than mandatory HMOs) as being subject to the Additional Licensing requirements within the Housing Act 2004, with effect from 1 November 2016 for a period of 5 years. The existing designation will therefore expire on 31 October 2021.

On 9th March 2021, the Council’s Executive Board approved the public consultation requirement for implementation of a new additional licensing designation which, if approved, will last for a period of 5 years.

This document explains our proposed scheme (the designation), the reasons for the scheme, how it will continue to tackle specific problems and the continued benefits of maintaining a scheme.

The Council invites comments from all affected stakeholders including tenants, local residents, landlords, letting and managing agents.

Please complete the associated questionnaire on-line at <https://www.wrexham.gov.uk/service/houses-multiple-occupation-hmo-licensing-and-management>

Alternatively, you can request a paper copy from the Council’s Environmental health and Housing Standards team by Telephone 01978 292040 or via email: HealthandHousing@wrexham.gov.uk

## **Introduction**

Wrexham County Borough Council (hereafter ‘the Council’) works in partnership with landlords to improve both the safety and quality of housing within the private rented sector.

The Council recognises that most landlords want to co-operate with the Council and that many properties are well managed and in a satisfactory condition, however, some landlords are unaware of the standards required to manage their properties or intentionally flout the law.

The aim of licensing is to ensure that all HMOs in the private rented sector meet the legal standards and are properly managed. Where properties are failing to meet the required standards or where landlords fail in their management duties, the Council may prosecute landlords in the Magistrates Court.

## **What is a House in Multiple Occupation?**

The Housing Act 2004 definition for a HMO is detailed and ensures that the majority of shared accommodation (e.g. student and migrant worker accommodation etc.) falls within its scope.

In general terms, a HMO can be any of the following:-

1. A building where three or more persons share one or more amenities such as a bathroom, W.C. or cooking facilities and form two or more households;
2. A self-contained flat where three or more persons share one or more amenities such as a bathroom, W.C. or cooking facilities and form two or more households;
3. A building that has been converted into one or more self-contained flats where the conversion did not meet the Building Regulations 1991 standards and still does not comply with them.

A more detailed explanation of the definition and a list of exempt buildings can

be found in **Appendix 1**.

There were 296 additional licensed HMOs in Wrexham at 9/3/2021. However, there are likely to be more than this which have yet to be identified as HMOs that require licences but not yet applied for one.

## **What is HMO Licensing?**

The Housing Act 2004 introduced a new duty on local authorities to operate a Mandatory Licensing Scheme for larger HMOs which consist of three or more storeys with five or more occupants forming two or more households.

Due to the limited criteria for Mandatory Licensing only 35 HMOs have been licensed in the County Borough (at 9/3/21). Therefore only a small minority of HMOs are controlled and regulated by the Council through the mandatory licensing scheme.

However, the Act contains provisions enabling local authorities to extend licensing to other types and size of HMOs. There is also general approval in Wales for local authorities to make a designation without the need for confirmation by the National Assembly for Wales provided that certain criteria are met.

## **Proposed Designation for Additional Licensing**

It is the intention of the Council to introduce a new scheme which will essentially be a continuance of the current Additional Licensing designation. This will run for a period of five years. The proposed scheme will include all HMOs in the County Borough (subject to exemptions).

For example the following premises will be licensable with the introduction of Additional Licensing:-

1. Occupied by three or more persons who form two or more households, and share one or more amenity such as a bathroom, W.C. or cooking facilities.
2. Buildings converted into self-contained flats where the conversion did not meet the Building Regulations 1991 standards and still does not comply with them (also identified as section 257 HMOs) and less than two-thirds of the self-contained flats are owner-occupied.

## **Exemptions**

Premises subject to Mandatory Licensing requirements or listed under exemptions in **Appendix 1**

## **Why continue with Additional Licensing of HMOs?**

There are a number of reasons the Council is looking to continue Additional Licensing. Despite ongoing efforts by the Council, problems of poor internal conditions are still being found in a significant proportion of HMOs in the County Borough. Substandard unlicensed HMOs are still in operation and prosecutions are continuing. Good landlords are being rewarded via the increased level of consumer confidence in their properties and with enhanced and targeted marketing.

This view is based on the following:-

* The 2006 Wrexham Private Sector Stock Condition Survey reported that the private rented sector contains the highest incidence of serious health and safety hazards and those properties likely to be in greatest need of repair are HMOs.
* Since the introduction of the first Additional Licensing Scheme in 2011, the Council have successfully prosecuted approximately 16 cases and also served enforcement notices as shown in Table 1 below:

**Table 1**: Successful HMO Prosecutions and Enforcement Notices

| **Offence** | **11/12** | **12/13** | **13/14** | **14/15** | **15/16** | **16/17** | **17/18** | **18/19** | **19/20** |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Prosecutions | 0 | 3 | 2 | 5 | 5 | 0 | 0 | 0 | 1 |
| Enforcement Notices | 8 | 7 | 18 | 19 | 6 | 0 | 1 | 2 | 11 |

During the current additional licensing scheme, there were health and safety hazards found during inspections and visits to HMOs as shown in **Table 2** below. These were mostly remedied by informal action but formal action was also taken as shown in Table 3.

**Table 2** – HMO hazards found on inspections/visits, 1/4/2016 – 31/3/2020

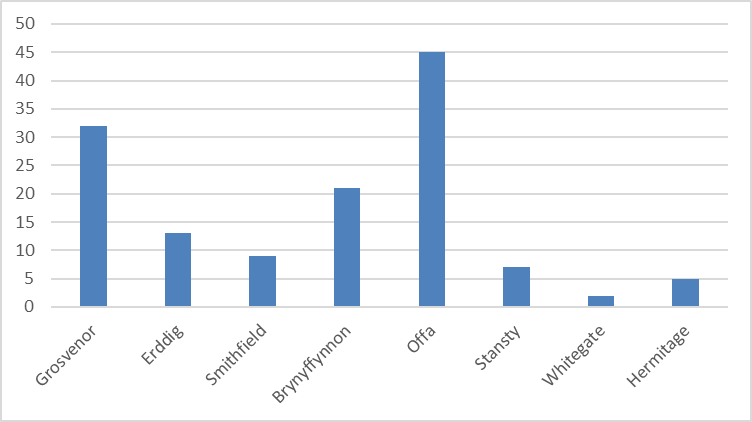
|  | 2016/17 | 2017/18 | 2018/19 | 2019/20 |
| --- | --- | --- | --- | --- |
| Visits/Inspections | 130 | 146 | 86 | 89 |
| Hazards | 4 | 145 | 79 | 6 |

**Table 3** – Enforcement Activity, 1/4/2016 – 31/3/2020

|  | 16/17 | 17/18 | 18/19 | 19/20 |
| --- | --- | --- | --- | --- |
| Prosecutions | 0 | 0 | 0 | 1 |
| Enforcement Notices | 0 | 1 | 2 | 11 |

There are higher numbers of complaints related to HMOs in those wards with higher numbers of HMOs as shown in the chart below.

**Figure 1** – Number HMO complaints by ward 1/4/2016 – 31/1/2021



About 81% of complaints from occupants of HMOs related to disrepair and management failings in the properties.

There have also been complaints received about refuse storage at HMOs as shown in Table 4 below, compared to complaints related to other households, and noise complaints (Table 5).

**Table 4** – Total number of complaints regarding refuse storage at HMO’s and other Households, 1st April 2016 to 31st January 2021

|  | **16/17** | **17/18** | **18/19** | **19/20** | **20/21\*** |
| --- | --- | --- | --- | --- | --- |
| All Households | 192 | 184 | 180 | 152 | 77 |
| HMOs | 12 (6.25%) | 11 (6%) | 9 (5%) | 7 (4.61%) | 12  (15.58%) |

\*Data to 31/1/2021

**Table 5** – Number of noise complaints related to HMOs, 1/4/2016 – 31/3/2020

|  | **16/17** | **17/18** | **18/19** | **19/20** | **20/21\*** |
| --- | --- | --- | --- | --- | --- |
| All households | 526 | 431 | 531 | 306 | 273 |
| HMO | 11  (2.09 %) | 13  (3.02 %) | 5  (0.94 %) | 8  (2.61 %) | 15  (6.59 %) |

\*Data to 31/1/2021

Consideration of the evidence does not indicate any particular description of HMO as posing a greater problem than another and therefore it is suggested that any designation made should be applied to all HMOs, as defined by the Housing Act 2004, except those already subject to Mandatory Licensing or otherwise exempted in Schedule 14 of the Act.

The evidence suggest continued problems with health and safety hazards within HMOs proportionately across the County Borough.

## **How will the designation tackle the problems?**

The problem of substandard accommodation will be tackled more effectively using licensing provisions.

With licensing provisions in place, landlords or their agents will have to apply for a licence and will at that stage be made fully aware of their obligations in order to obtain a licence. It will be an offence to operate a licensable HMO if it is not licensed.

* A license can only be granted if:-
  + The house is suitable for occupation (or that it can be made so with imposition of licence conditions) for a maximum number of persons; and
  + The proposed licence holder is a fit and proper person and the most appropriate person to be the licence holder; and
  + The proposed manager is a fit and proper person; and
  + The proposed management arrangements are satisfactory
  + The property is registered with Rent smart Wales and complies with the minimum energy efficiency standard
* In order to ensure that the HMO is suitable for occupation there are prescribed standards with regard to bathroom and kitchen facilities etc. in HMOs.

## **Benefits of Additional Licensing**

* **Improvement in property conditions** – The requirement to obtain a licence will place a duty on landlords to approach the Council. This will assist in making landlords more aware of their legal obligations with regard to property standards and will enable officers to inspect the HMO and ensure conditions are satisfactory much sooner than might otherwise be the case. There will be a clear onus on landlords to comply with minimum standards at all times and not just to correct deficiencies following an inspection.
* **Creating a level playing field** – Many landlords are frustrated by certain landlords who intentionally flout the law or ignore minimum property standards. Failing to upgrade their properties provides the rogue landlords with a financial advantage causing unfair competition with compliant landlords. Additional Licensing will ensure that all HMOs meet minimum property and management standards, thus contributing to creating a level playing field.
* **Improvement in management standards** – All prospective licence holders and managers must be fit and proper having regard to the definition in the Housing Act 2004. Any landlord who fails to meet the fit and property criteria will not be able to hold a license and may be required to appoint a suitable person to manage his or her properties.
* **Prevention of overcrowding** – Each licence would state the maximum number of occupants for the HMO which will assist landlords and occupants in preventing overcrowding.
* **Availability of information** – All licensed HMOs must be recorded on a public register. The introduction of an Additional Licensing scheme will provide internal departments and external organisations with easy reference for all licensable HMOs in the County Borough. The register may also be accessed by tenants looking for suitable rental properties.
* **Separating the Good from the Bad** – The public register will be promoted as the most appropriate place to find shared accommodation. This should assist tenants in avoiding substandard properties and rogue landlords and will ensure that tenants are directed towards licensed HMOs.
* **Consistent approach to Tenancy Management & Property Conditions -** Licensed properties will abide by a common set of conditions controlling property maintenance and tenancy management.
* **Targeted enforcement** – Many landlords express dismay when they licence their HMO and find that other landlords do not. The Council takes decisive action against any landlord found operating an unlicensed HMO in the County Borough. This will help maintain the integrity of the scheme and contribute to achieving its objectives. Some publicised heavy fines have been levied upon landlords who have committed licensing related offences. Average fines issued by magistrates have ranged between £200 and £17,000 for licensing offences, depending upon the severity of the offence.
* **Improving relations between Landlord and the Council –** The Council regularly assist landlords in meeting their obligations via advisory visits, free consultancy and notification of services to assist them in their business. There are also usually two well attended Landlord Forums each year for Landlords and managing Agents.

## **Licence Fees**

There are no proposals to increase the fees. The Council is eager to recognize good landlords who have been proactive with regard to improving their properties. Appropriate discounts for early applications for a new licence when an existing one expires will be considered as part of the consultation process.

However, the Additional Licensing scheme must continue to be self-financing and the fee covers the cost of the administration, issuing of licences, inspections, enforcement and monitoring of properties.

The current fees are shown in Appendix 2.

## **HMO Licensing Policy**

The Policy was reviewed in 2019. This may have to be reviewed depending on the outcome of the consultation.

## **HMO Licence conditions**

Information concerning current licence conditions can be found at the following link (under the heading *Licence conditions and management regulations*):

[www.wrexham.gov.uk/hmo](http://www.wrexham.gov.uk/hmo)

The conditions are based on the applicable prescribed standards which can also be viewed at the above website link (look under ‘*Required Standards for licensed HMOs*’):

However the consultation questionnaire is seeking views on amending or adding to these conditions.

## **What happens next?**

Once the consultation period has elapsed the representations made will be considered and final reports will be presented to the Council’s Executive Board and also considered by Council’s Scrutiny Committee.

If a designation is made, appropriate notification will take place to ensure that landlords, agents and relevant stakeholders are aware of the Additional Licensing scheme.

An appropriate lead in period will be available to enable all landlords and agents to ensure licence applications can be made. Anyone who owns or manages a HMO will need to apply for a Licence.

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 can be made suitable by the imposition of license conditions).
* The proposed licence holder is a “fit & proper” person
* The proposed licence holder is the most appropriate person(s) to hold the license.
* 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 property is registered with Rent smart Wales and meets the minimum energy efficiency standard

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

The vast majority of the HMOs known to the Housing Standards team will be suitable for occupation with or without licence conditions and therefore issuing a licence should be a straightforward process.

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

## **Summary**

Wrexham County Borough Council wants to:

* Identify landlords whose management arrangements are inadequate or unsatisfactory and improve general standards.
* Reduce the risk of fire and other hazards in all HMOs and poorly converted self-contained flats.
* Improve and maintain the standard of amenities within HMOs.
* Create a fairer and more equitable situation where landlords of all HMOs achieve minimum standards.
* Improve the quality of housing to benefit both tenants and the wider community.
* Use improved powers to tackle the small number of rogue landlords operating in the County Borough.

## **Appendix 1**

# Table 6 – Definitions of HMO

|  |  |
| --- | --- |
| **IS MY PROPERTY A HMO?**  **IT WILL BE AN HMO IF IT IS ONE OF THE FOLLOWING:** | **Housing Act 2004 (Section and schedule numbers)** |
| **A house or building** lived in by people who belong to more than one family\* and who share one or more facilities\*\* | S254(2) ‘the standard test |
| **A house in bedsits** lived in by people who belong to more than one family\* and who  share one or more facilities\*\* | S254 (4) ‘The converted building test’ |
| **An individual flat** lived in by people who belong to more than one family\* and who share one or more facilities\*\* | S254(3) ‘The self-contained flat test’ |
| **A building of self-contained flats** that do not meet 1991 Building Regulation standards and less than two-thirds of the  flats are owner-occupied | S 257 |
| *\* Family – husband, wife, co-habitee, child, stepchild, foster-child, grandchild, parent, stepparent, foster-parent, grandparent, brother, half- brother, sister, half-sister, aunt, uncle, niece, nephew, cousin.*  *\*\* Facilities – basic amenities: wc; wash hand basin,*  *shower, bath, cooking facilities* |  |
| **EXEMPTIONS** (detailed in schedule 4 of the Act) |  |
| * it is occupied by only two people. * If it is occupied by the owner (and their family if any) and one or two lodgers. * If it is occupied by a religious community * If the owner or manager is a public body * If the owner or manager is an educational institution * Buildings regulated otherwise than under Housing Act 2004   *[Further information can be found in*  *schedule 14 of the Act]* | Paragraph 7 Paragraph 6(c)  Paragraph 5  Paragraph 2  Paragraph 4  Paragraph 3 |

## **APPENDIX 2**

**Table 7** – Fees for Additional Licensing

| Licence Type | Standard licence fee | Duration |
| --- | --- | --- |
| 5 year licence | Total £816 comprising :  Part 1 fee with application - £448.80 (NON REFUNDABLE)(55% of total)  Part 2 fee payable following grant of license -£367.20 (45%) | 5 years |
| 1 year licence | £510  Part 1 fee with application - £280.50  NON REFUNDABLE (55% of Total))  Part 2 fee payable following grant of licence - £229.50  (NON REFUNDABLE) (45% of total) | 1 years |
| Variation of HMO Licence on application by Licence Holder/relevant person | No charge | N/A |

Purpose Built Student Accommodation - there are currently no additional HMO licensed properties in the Borough (fees for these types of HMOs are given in the WCBC HMO licensing Policy (2019).