

<b>Item No.</b> 16.	<b>Classification:</b> Open	<b>Date:</b> 21 July 2015	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Standards for Houses in Multiple Occupation	
<b>Ward(s) or groups affected:</b>		All wards	
<b>Cabinet Member:</b>		Councillor Richard Livingstone, Housing	

## **FOREWORD – COUNCILLOR RICHARD LIVINGSTONE, CABINET MEMBER FOR HOUSING**

The previous report on this agenda set out proposals for introducing new selective licensing powers for homes in the private rented sector and additional licensing arrangements for Houses in Multiple Occupancy that are currently beyond the council’s licensing duties. This report considers the steps the council should take to update its standards in relation to Houses in Multiple Occupation (HMOs) that it already regulates to make them fit for purpose. This is necessary because of the changes to the nature of HMOs in the borough since the Housing Act 2004.

The proposed changes in standards will enable the council to improve conditions and protect vulnerable tenants. This has become particularly important with the increased numbers of children living in HMOs in Southwark, and because housing pressures have led to greater degrees of overcrowding in HMOs. These changes also introduce a broader range of criteria for different types of HMO to ensure that appropriate standards are established rather than the current less flexible approach.

## **RECOMMENDATIONS**

1. That the cabinet agrees to adopt the revised standards for HMO’s as set out in Appendix 1 of this report.
2. That the strategic director of environment and leisure be given delegated authority to make further amendments to the standards as may be found necessary without reducing the standard in any way.

## **BACKGROUND INFORMATION**

3. The term “house in multiple occupation” (HMO) is defined by section 254 of the Housing Act 2004, which states that a HMO is a property which is occupied by 3 or more unrelated people in 2 or more households. It is a very wide definition and covers bedsits, shared houses, flatlets and hostels.
4. HMOs house many lower income households, vulnerable adults and families with children. Traditionally, the most disenfranchised sectors of the community are accommodated within this sector. Whilst it is accepted that HMOs fulfil a need within the private rented sector, it is imperative that prescribed standards are fit for purpose, reflect the current housing environment and work to ensure the health, safety and welfare of the occupiers.

5. The Housing Act 2004 gives the council powers to deal with poor living conditions within such premises including the licensing of certain types of HMO. It is estimated that there are at least 10,000 HMOs in the borough (sources include 2011 Census and data from Experian Mosaic). When the existing standards were written in 1989 the number was estimated at 2500. In the last 5 years the team received 5216 complaints regarding housing conditions, the majority of which were regarding conditions in HMOs. The revised standards allow take into account the changes in the housing landscape, will assist responsible landlords to comply, reduce council intervention and support the robust enforcement of rogue landlords.
6. There are no defined national standards for room sizes within HMOs, and it is for each council to set their own standards (regardless of whether the HMO is licensable). The current HMO standards (see background documents) were formally adopted by Southwark Council in 1990 under the Housing Act 1990, prior to the introduction of the housing health and safety rating system (HHSRS). HHSRS is a risk-based evaluation tool to help local authorities identify and protect against potential risks and hazards to health and safety from deficiencies identified in dwellings and was brought in under the Housing Act 2004. The system is used to raise standards in the private sector by requiring owners to take action as necessary to remove or minimise hazards identified within their properties.
7. Although the existing standards were updated when the Housing Act 2004 came into force, they do not reflect the evolution of new styles of HMO now common place within Southwark. The proposed revisions will enable the team to raise standards in today's changing private rented sector housing market, and protect vulnerable tenants. For example, when the existing standards were written it was rare to find children living in bedsit type HMOs, now it is more common place. Additionally, due to the lack of affordable housing in London, it is not unusual to find severe levels of overcrowding, with landlords maximising their incomes at the expense of tenants who accept poor standards out of necessity.
8. Appendix 2 provides a table detailing the proposed changes from the old standards to the new standards.

## **KEY ISSUES FOR CONSIDERATION**

9. The current standards are complex and cumbersome, and responsible landlords do not always understand what parts apply to their particular premises, and so rely on officers to interpret them in seeking compliance. This is resource heavy and detracts from officers dealing with rogue landlord who deliberately avoid compliance.
10. Appendix 1 contains the proposed revised standards. The document is intended to be read by owners and managers of HMO's, tenants, and enforcement officers. References to documents and legislation, that influenced them have also been included within the document,
11. The revised standards are more concise and appropriately arranged, affording easier access to the information for landlords and tenants alike. They are more flexible, and are more reflective of the current HMO landscape, allowing for the variation of risk between individual properties and occupation styles. For example, standards have been introduced which allow for the different levels of

risk found in houses with shared living space compared to those that do not, and also include standards for HMOs occupied by families with children.

12. The revised standards are designed to ensure that those reliant on HMO accommodation (often society's most vulnerable) are protected. Further they were devised having regard for research and analysis on the impacts on overcrowding and design standards for living, and also on statistical information regarding risks and hazards in different types of occupation. Barnardos were also consulted to shape the standards as they apply to families with children.
13. If the revised standards changes are agreed, they will be adopted and published on the council's website, together with the hyperlinks to all referenced supporting documents.

### **Policy implications**

#### **Southwark's Housing Strategy to 2043**

14. The new long-term housing strategy for the borough was agreed by cabinet on 27 January 2014. It contains a vision for the future of housing in the borough, which consists of four principles:
  - Principle 1: We will use every tool at our disposal to increase the supply of all kinds of homes across Southwark
  - Principle 2: We will demand the highest standards of quality, making Southwark a place where you will not know whether you are visiting homes in private, housing association or council ownership
  - Principle 3: We will support and encourage all residents to take pride and responsibility in their homes and local area
  - Principle 4: We will help vulnerable individuals and families to meet their housing needs and live as independently as possible.
15. Principle 2 of the strategy makes a number of specific references to improving conditions in the private rented sector, and includes a specific commitment to 'introducing an improved HMO standard to protect the health and safety of our residents'.
16. The revised standards support Southwark's additional and selective licensing scheme.

### **Community impact statement**

17. As well as driving up standards, the revised standards are more robust and will be easier to enforce via the Housing Act 2004 legislation. This in turn will have a positive impact on the wider community, as it is recognised that an increase in decent homes is linked to improved communities, reducing crime and educational attainment.

### **Equality analysis**

18. Poor housing has been identified as a health inequality, which adversely impacts

on the health of vulnerable groups, and it is accepted that the ability to live in appropriate housing is key to other aspects of wellbeing. HMOs house many lower income households, vulnerable adults and families with children. Traditionally, the most disenfranchised sectors of the community are accommodated within this sector. The proposed new standards seek to improve the quality of accommodation for occupiers of HMOs, reduce the impact on the wider community and make our expectations and enforcement of the conditions in HMOs clear and transparent. The Equalities Impact Assessment is provided in Appendix 4.

19. As is the case now, the enforcement of overcrowding provisions may lead to a re-housing liability for the council. However, the inclusion of a new reduced standard that takes into account the communal areas within a house, will reduce the number of existing HMOs that do not meet the councils standards, but do in fact accommodate the occupiers sufficiently. The flexibility built into the standard also allows for minor reductions in the standard for individual properties where, under HHSRS, the risk is deemed to be lower than average

### **Resource implications**

20. There are no resources or financial implications. This standard form part of the council existing regulatory offer.

### **Consultation**

21. Lacors Guidance: recommends “councils might consider agreeing similar standards for room sizes in their sub-region, to assist landlords with property portfolios in adjoining areas and aid consistency. Landlords and tenants should be consulted on the standards, following which they should be formally adopted.” “Local Planning Authorities will have adopted relevant space and amenity standards for new developments of residential accommodation through local development frameworks. These will often be of a higher, aspirational standard than a minimum space standard which may be applied to existing premises subject to regulation under the HA 2004. Councils must ensure that local consultation takes place with planning colleagues before agreeing space standards for HMOs.

Consultation was undertaken using a variety of methods that included:

- An eform linked to the main consultation webpage
- A prepaid response card for the community in general which was used at a variety of events below
- A prepaid response card for the residents in and around the selective licensing area which was posted out
- A prepaid response card sent to addresses which were indicated by our data to be occupied by residents with a profile that matched those in private rented property
- A prepaid response card for students which was distributed at local higher education establishments
- Community meetings and events in Southwark, including community councils, area housing forums, street consultation events and focus groups for some minority groups
- Landlord representative events, including Landlords Forum and the Landlords focus group, Southwark’s Homeowners Forum for Leaseholders

- Emails to a wide range of national regional and local stakeholders
  - Advertising in local publications, street adverts on buses and bus shelters and using electronic media
  - A dedicated email address for responses
  - Publicity on a landlord information website
  - Advertisements on various platforms.
22. Few responses in relation to the proposed HMO standards were received. However, there were no major concerns raised. On the basis of responses received the standards were amended to simplify their application
23. Benchmarking HMO Standards against other London Authorities (Appendix 3) - There are a wide variety of standards applied throughout London. Southwark's standard for shared houses with communal living rooms is higher than those in the south east area but is more in line with inner and north London authorities. The borough has more in common with other inner London authorities, i.e. density and demographics than boroughs such as Bromley for example.
24. Southwark's current standard have undergone rigorous scrutiny at Residential Property Tribunal (RPT). These have been successfully defended. The new standards are easier to follow and represent a relaxation compared with the old standards. These have been scrutinised by the RPT and accepted. Where comments by the RPT have been made, they have been included in the new standard.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Head of Procurement**

25. N/a

### **Director of Legal Services**

26. The legal minimum standards for Houses in Multiple Occupation (HMOs) are prescribed in regulations under the Housing Act 2004. These relate to provision of kitchens, bathrooms, toilets, fire safety and heating within HMOs. Under Section 65 of the Housing Act 2004, more detailed local HMO standards can be set to reflect local housing conditions, provided they do not fall below the national standards.

### **Strategic Director of Finance and Corporate Services**

27. There are no financial implications.

### **Director of Planning**

28. Change of use from conventional dwelling houses (planning Use Class C3) to homes in multiple occupation (HMOs) (planning Use Class C4) is permitted development where the HMO is shared by six or fewer people. The council's proposed HMO standards are suitable for all HMOs that are not subject to the planning permission or the planning enforcement process. Where an HMO would be shared by more than six people planning permission is required. From 1 November 2015 planning permission for larger HMOs (not covered by a certificate of lawfulness) will only be granted where the HMO meets the national "Technical

Housing Standards – Nationally Described Space Standards” unless there are material considerations that indicate otherwise. This planning permission needs to be granted before such a HMO before it can be given a licence.

29. On 27 October 2014 the council confirmed the Article 4 Direction to withdraw permitted development rights granted by Schedule 2, Part 3, Class I of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) which allows a change of use from a dwelling-house (use class C3) to a house in multiple occupation (use class C4) and vice versa on Henshaw Street, Walworth, SE17, London. Where permitted development has been withdrawn smaller HMOs will also be required to meet the “Technical Housing Standards – Nationally Described Space Standards” before a licence will be granted. The council will continue to monitor the proliferation of smaller HMOs and may confirm further Article 4 Directions where evidence demonstrates a need to manage the proliferation of HMOs in a specific area.”

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
The Existing HMO Standards	Environment and Leisure Departments, Environmental Health and Trading Standards Southwark Council 160 Tooley Street SE1 2QH	Emma Trott 0207 525 5773
<a href="http://www.southwark.gov.uk/downloads/download/2951/standards_for_houses_in_multiple_occupation_hmo">http://www.southwark.gov.uk/downloads/download/2951/standards_for_houses_in_multiple_occupation_hmo</a>		

## APPENDICES

No.	Title
Appendices circulated separately as follows:	
Appendix 1	The New Draft HMO Standards
Appendix 2	Summary of changes in table format
Appendix 3	Benchmarking against other LA's across London
Appendix 4	Equalities Impact Assessment

## AUDIT TRAIL

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<b>Lead Officer</b>	Deborah Collins, Strategic Director Environment and Leisure	
<b>Report Author</b>	David Littleton, Environmental Health and Trading Standards Manager	
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<b>Officer Title</b>	<b>Comments sought</b>	<b>Comments included</b>
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
Director of Planning	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
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