

TONBRIDGE & MALLING BOROUGH COUNCIL

LICENSING & APPEALS COMMITTEE

3 April 2006

Report of the Chief Solicitor

Part 1- Public

Matters for Recommendation to Council

1 HOUSING ACT 2004: LICENSING OF HOUSES IN MULTIPLE OCCUPATION

1.1 Introduction

- 1.1.1 Under the provisions of Part 2 and 3 of the Housing Act 2004 the Government has introduced licensing of houses in multiple occupation and selective licensing of other residential accommodation.
- 1.1.2 The aim of licensing of HMOs is to improve the controls on HMOs and to raise the standards of some of the highest risk properties often occupied by some of the most vulnerable people, whilst seeking to ensure an adequate supply of rented accommodation is maintained.
- 1.1.3 Selective licensing will provide councils with the means of ensuring landlords take greater responsibility for the management of their property and deal with antisocial tenants.
- 1.1.4 The licensing regime comes into effect on 6 April 2006 and the enforcement provisions for HMO licensing follow on the 3 July 2006.
- 1.1.5 This matter has previously been reported to the Executive, through the Strategic Housing Advisory Board, and the principle of licensing has been adopted by the Council.

1.2 Licensing requirements

- 1.2.1 Mandatory HMO licensing requires that all prescribed HMOs within the local housing authority must be licensed. HMOs that will require licensing are those that fall under the definition "the HMO or any part of it comprises three storeys or more; it is occupied by five or more persons and it is occupied by persons living in two or more single households". The licence relates to one property and one person (the licence holder).

1.2.2 The Act allows housing authorities to set a fixed fee for an HMO licence application and the Cabinet has fixed this fee at £325 for a licence period of a maximum of five years.

1.2.3 In considering the application the following has to be determined that:

- the house is reasonably suitable for occupation by not more than the maximum number of households or persons as specified in the application or as decided by the Local Authority;
- the proposed licence holder is a fit and proper person and the most appropriate person to be the licence holder;
- the proposed manager is a fit and proper person; and
- satisfactory management arrangements are in place.

1.2.4 Licence conditions **must** include:

- production of gas safety certificate;
- evidence that electrical appliances and furniture are in a safe condition;
- the installation and maintaining of smoke alarms; and
- provision to occupiers of a written statement of terms.

1.2.5 Licence conditions **may** also include:

- restrictions on use of parts of the property;
- steps to reduce anti-social behaviour by occupants or visitors;
- facilities to be available to meet suitability requirements; and
- requirements to attend training on codes of practice.

1.3 Administrative arrangements

1.3.1 It is proposed that applications for licences should be processed by the Chief Solicitor and that authority be delegated to him to determine unopposed applications. It is proposed that opposed applications should be referred to a Panel of this committee for determination.

1.4 Legal Implications

1.4.1 The Council is required to put in place procedures for dealing with this new requirement.

1.5 Financial and Value for Money Considerations

1.5.1 Budgetary provision has been made for this additional function.

1.6 Risk Assessment

1.6.1 This is a mandatory function which the Council has to undertake.

1.7 Recommendations

1.7.1 It is **recommended** that:

1.7.2 The authority be delegated to the Chief Solicitor to determine unopposed applications for HMO licences and that opposed applications be considered by the Licensing and Appeals panel.

1.7.3 Council be requested to authorise the appropriate amendments to Part 3 of the Council's constitution.

Background papers:

Housing Act 2004

Report by Director of Health and Housing to Strategic
Housing Advisory Board on 21 February 2006

contact: Duncan Robinson
01732 876033

Duncan Robinson

Chief Solicitor