



## **SWANSEA COUNCIL**

# **HOUSES IN MULTIPLE OCCUPATION (HMO)**

## **LICENSING POLICY 2020**

**Including**

## **DESIGNATION OF AREAS FOR ADDITIONAL LICENSING**

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# 1 Introduction

- 1.1 This policy replaces the HMO Licensing Policy 2016 and sets out the way Swansea Council implements the requirements of the Housing Act 2004 in relation to HMO licensing and health and safety hazards. It also outlines how the Council intends to continue to use the discretionary powers in the Act to ensure fair and equitable enforcement.
- 1.2 The total number of HMOs in Swansea is estimated to be approximately 2,200. All HMOs that are three storeys or more with five or more occupants must be licensed. This is a statutory requirement and is known as mandatory licensing. Every HMO meeting this description in all parts of Swansea must be licensed.
- 1.3 Discretionary powers are available to Council to require licensing of other, often smaller, HMOs not subject to mandatory licensing. Section 6 contains further details on this. Of the total estimated number of HMOs in Swansea, 1,850 are estimated to be in the Castle and Uplands electoral divisions. Additional HMO licensing schemes have been in force in these two areas since the introduction of the legislation in 2006, incorporating smaller HMOs with less than three storeys and those with three or more occupants, including certain converted self-contained flats.
- 1.4 This means that all HMOs in the Castle and Uplands electoral divisions have been subject to licensing with the exception of some properties that are specifically exempt under the provisions of the Housing Act 2004 e.g. HMOs that are owned and managed by a university.
- 1.5 Additional HMO licensing schemes have a maximum five years duration.
- 1.6 The exact number of HMOs in Swansea varies over time as properties come in to and out of multiple occupation. The detail below gives an indication of the number and geographical distribution of HMOs across the city about licensed HMOs.

There were 1,695 HMOs licensed under both the mandatory and additional schemes in Swansea on 28<sup>th</sup> August 2020. These were in the following wards:

Castle	529
Landore	2
Oystermouth	1
St Thomas	12
Sketty	15
Townhill	1
Uplands	1,135

- 1.7 Community cohesion and sustainability issues are linked with high concentrations of HMOs in the Castle and Uplands Wards. Both have high

and increasing proportions of single person and multi- adult households. In contrast, traditional family households are on the decline in these areas.

- 1.8 Alongside general concerns about the impact HMOs may have on specific communities, particularly around the issues of waste and anti-social behaviour, Ward Members and residents have raised concerns over the potential increase in numbers of HMOs in St Thomas. This has primarily been since the development of Swansea University's Bay Campus in September 2015 and the subsequent development by the University of Wales Trinity St David's in SA1. Concerns mainly relate to the possibility of the breakdown of and impact on, the long-term community with higher numbers of transient HMO tenants.
- 1.9 HMOs are a frequent source of complaints about housing conditions, refuse and the impact of HMOs on neighbours. Complaints are concentrated in Castle and Uplands, reflecting high numbers of HMOs in the area. The enforcement of licence conditions is a significant factor in bringing about improvements in HMO condition and management.
- 1.10 The HMO Team is responsible for inspecting HMOs and processing new applications, progress and management visits, reactive service requests, advice and enforcement including prosecutions. Since the introduction of the 2011 HMO Licensing Policy the Council has taken 46 prosecutions and issued 38 Simple Cautions. Licensing Committee has found six landlords not fit and proper and has subsequently revoked 13 licences and refused 10 applications. One landlord successfully appealed to the Residential Property Tribunal against Committee's decision and his existing licence was re-instated and two applications were granted.
- 1.11 There are concerns from many quarters that the number and density of HMOs in certain areas is adversely affecting the sustainability of communities. This policy, based around the application of functions under Part 2, Housing Act 2004, deals with licensing, condition and management of HMOs. It cannot address HMO density issues, which are a Planning matter and are now dealt with by way of the Local Development Plan (LDP)<sup>1</sup> and new Supplementary Planning Guidance (SPG).<sup>2</sup>
- 1.12 This Policy will be reviewed prior to the expiry of the Additional HMO Licensing Scheme.

## **2 Aims and Objectives**

- 2.1 The aim of the policy is to improve housing and management standards in the private rented sector specifically Houses in Multiple Occupation.

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<sup>1</sup> The Swansea Local Development Plan (LDP) 2010-2025

<sup>2</sup> Swansea Council Supplementary Planning Guidance – House in Multiple Occupation and Purpose Built Student Accommodation in Swansea

2.2 The objectives of the policy are to:

- Meet the statutory obligations of the Housing Act 2004 and regulations made pursuant to it.
- Eliminate poor property conditions and management standards through regulation and enforcement.
- Promote high standards across the HMO sector.

### **3 Swansea Population and Household Information**

- 3.1 The latest official estimate of the population of the City and County of Swansea stands at 247,000 (mid-2019 estimates, Office for National Statistics - ONS). Swansea has the second highest population of the 22 Welsh local authorities, representing almost 8% of the total population of Wales (3,152,900).
- 3.2 The latest official mid-year household estimates are those for mid-2018 (as published by Welsh Government in December 2019). These estimates suggest that there were around 108,900 households in Swansea in 2018.<sup>3</sup>
- 3.3 Average household size provides a simple ‘headline’ measure of household composition, and is calculated by dividing estimates of the number of people living in private households by the number of households. Over the 10-year period 2008-2018, the number of households in Swansea has grown at a faster rate than the private household population (in line with all parts of Wales). As a result, average household size in Swansea has decreased from 2.28 in 2008 to 2.22 people per household in 2018 (although below the current Wales average of 2.27).
- 3.4 In 2018, one and two person households together account for just over two-thirds of all households in Swansea, with single person households (approx. 38,000 or 34.9% of the total) and two person, no child households (32,000 or 29.4%) being by far the most common household types. The proportion of single person households in Swansea is above the Wales average (32.0%), but the proportion of two adult (only) households is slightly lower (Wales: 31.2%).
- 3.5 The largest household type category increase, in numeric terms, between 2008 and 2018 has been in single person households – up by approximately 5,300 (+16.2%) over the period.
- 3.6 A significant change over the last ten years, at least in percentage terms, has occurred in the proportion of four+ adult, no child households, with a total

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<sup>3</sup> Mid-year Household Estimates, 2018. Swansea Council - Information, Research & GIS (Strategic Delivery Unit), December 2019

increase of 18.4% (+700) to 4,500 by 2018. This could in part reflect the recent increase in student numbers (and therefore student/shared households) in Swansea and other recent social trends in living arrangements and household composition.

- 3.7 Data from the UK Census of Population 2011 identified 15,260 households (14.7%) in Swansea living in private rented accommodation and 2,800 households living in part of a converted or shared house (including bedsits).<sup>4</sup>

## **4 Housing Need and Role of HMOs**

- 4.1 Swansea's Local Housing Strategy 2015 – 2020<sup>5</sup> included information from The Local Housing Market Assessment in 2013, updated in 2015. It reported that HMOs make an important contribution to the private rented sector in Swansea by providing housing for specific groups and households, for example students. Further, they contribute to the local economy by providing a housing supply for those moving to an area for work reasons, or for the existing population in lower paid employment. This classification of housing must be considered alongside accommodation for people who share housing and housing costs in order to afford self-contained market housing.
- 4.2 Changes outlined in the Welfare Reform and Work Act are leading to a greater demand for smaller accommodation as well as for an increase in shared accommodation from single persons under 35 years. Previously, single people aged over 25 were entitled to Housing Benefit to cover one bedroom, self-contained accommodation. The changes mean that single people aged up to 35 are now assessed using the lower shared accommodation rate. This is increasing demand for HMO accommodation within Swansea.
- 4.3 The Housing (Wales) Act 2014 introduced new responsibilities for local authorities to help homeless people and those who are threatened with homelessness. This includes options for helping people find a new home in the private rented sector and HMOs continue to provide solutions for some of these situations.
- 4.4 The role of the private rented sector in helping meet the housing aspirations of local households is expanding. The sector has grown significantly in recent years. The number of students in Swansea has increased significantly and although demand across the local housing market is well dispersed, the concentration of students in the Castle and Uplands wards indicates a localised market sensitive to external influences.
- 4.5 The Local Housing Market Assessment in 2015 highlighted the need for a significant increase in the number of one bed homes, which if not delivered becomes a requirement for additional private sector one bed homes which is likely to be a requirement for HMOs.

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<sup>4</sup> 2011 Census, Office for National Statistics

<sup>5</sup> Local Housing Strategy 2015 - 2020

- 4.6 Records of properties exempt Council Tax due to student occupancy suggest that students occupy around 65% of HMOs in Swansea. It is important to ensure an appropriate number and quality of accommodation is provided for students to allow for the sustainable growth of Swansea's expanding universities alongside purpose-built student accommodation. Purpose-built accommodation is increasingly helping to meet the needs of students and potentially may reduce the pressure for additional HMOs.

## **5 The Legal Framework**

### **5.1 Housing Health & Safety Rating System**

The Housing Health and Safety Rating System (HHSRS) applies to all housing including HMOs regardless of type or tenure. It involves a risk assessment of the effect of housing conditions on the health of occupiers and an assessment of 29 potential hazards. If Category 1 hazards (i.e. the more serious hazards) are found the Council has a duty to require the owner to take appropriate action. If Category 2 hazards (i.e. less serious hazards) are found the Council may take appropriate action as provided for within its enforcement policies. Councils are required to assess licensable HMOs to ensure that there are no functions under Part 1 of the Act (HHSRS) that ought to be exercised by them. This has to be done within five years of a licence being issued and in practice requires an inspection to be carried out.

### **5.2 HMO Definition**

A house is in multiple occupation where three or more people forming more than one household share amenities, such as a kitchen or bathroom, occupy the house as their only or main residence and where rent is payable for their occupation.

The Act defines a building as an HMO if it meets one of the following tests:

- the Standard Test – any building in which three or more people forming more than one household share basic amenities;
- the Self-contained Flat Test – any flat in which three or more people forming more than one household share basic amenities;
- the Converted Building Test – any converted building with one or more units that are not self-contained and which is occupied by three or more people forming more than one household;
- certain Converted Blocks of Flats – any converted building comprising self-contained flats that do not meet the 1991 Building Regulations Standards and more than one third of the flats are occupied on short

tenancies and where there are three or more people in total forming more than one household.

Certain buildings are exempt from HMO legislation:

- buildings managed by a local council, housing association, police, fire or health authority;
- registered care homes;
- halls of residence that are managed by the university;
- buildings occupied by religious communities;
- buildings, predominantly owner-occupied, including resident landlords where the owner-occupier occupies the building (of flat) with no more than two other persons (lodgers);
- buildings occupied by only two persons who do not form a single household.

### **5.3 Mandatory HMO Licensing**

Mandatory licensing applies to HMOs where there is an occupation of five (or more) persons in properties of three (or more) storeys. HMOs consisting entirely of fully self-contained flats, which are not occupied as flats in multiple occupation, are exempt, except for where the flat itself is arranged on three storeys (with the exception of certain converted blocks of flats as referred to in 3.2). When assessing the number of storeys account will be taken of all storeys of residential accommodation, whether above or below adjoining ground level, including habitable attics.

All residential parts of the building will be subject to these provisions where the property as a whole is eligible for licensing, except for any parts of the property that are solely occupied by a landlord.

### **5.4 Public Register**

It is a requirement for the Council to make a public register of HMO licences available which includes prescribed information. This will include, amongst other things: the name and address of the licence holder, property details and the duration and start of the licence term.

## **6 Additional HMO Licensing**

- 6.1 The Council may adopt an Additional HMO Licensing Scheme, which may include the smaller, lower risk HMOs that fall outside mandatory licensing. The Additional scheme may be based on an area, or areas, or may apply to the entire Council area. The scheme will need to meet other criteria set down by Welsh Government and may only be applied where there are management problems with existing HMOs within the area.

- 6.2 Additional HMO licensing supports the Council's Corporate Plan 2018 – 2022<sup>6</sup> particularly linking with the Value of a *People Focus* – focussing on community needs and outcomes and on improving the lives of the people who live and work in Swansea, by working to improve housing conditions and management.
- 6.3 Additional HMO licensing supports the three key principles outlined in the Plan of Sustainability, Prevention and Partnerships and our well-being objectives. Chapter 5 of the Local Housing Strategy 2015 – 2020 - Improving and Making the Best Use of Existing Housing Stock includes a section of the private rented sector. This again reflects the One Swansea Plan value that people have good places to live and work and the Service Objective of Leading and promoting improvement of housing conditions in the private sector.
- 6.4 Regulating HMOs effectively prevents them from becoming problematic for surrounding neighbours and communities in terms of both the physical property and the behaviour of residents. Properties that do cause problems damage community cohesion and have a knock-on negative impact on surrounding properties, which if left unchecked could lead to a downward spiral in a neighbourhood. Unregulated HMOs can have a serious impact on the health and wellbeing of individuals. Residents in poor quality or unsafe housing are less likely to contribute positively to the city and thrive in work or education. Positive improvements can be made by the Council working in partnership with local communities, landlords, agents, universities, police and voluntary agencies.
- 6.5 As a result of a Scrutiny Working Group review of HMOs in November 2016 and January 2017, a survey was carried out in March 2017 to identify HMOs in St Thomas. Officers visited approximately 3,100 residential properties. This suggested that 107 of those were HMOs and 11 of those were already licensed under mandatory HMO licensing requirements. No further licensable properties were identified.
- 6.6 Further investigations were made using existing records and details from Council Tax and Planning records and 99 properties were inspected using existing Housing Act powers. 71 properties were found to be existing or proposed HMOs. 60 properties were identified as properties, which do not currently require licensing, but would under an Additional HMO licensing scheme.
- 6.7 Information about relevant complaints in Castle, Uplands and St Thomas between April 2016 and March 2020 is shown in the tables below. The ability to deal with many of these issues is linked to conditions applied as a result of HMO licensing and particularly Additional HMO licensing in the Castle and Uplands wards.

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<sup>6</sup> Swansea Council Corporate Plan 2018 – 2022 Delivering a Successful & Sustainable Swansea  
HMO Licensing Policy 2020 and Designation  
V5 August 2020

Number of complaints received by type April 2016 – March 2020	Castle	
	All residential properties	HMOs
Waste within property curtilage	289	158
Noise (all types including DIY, music, barking dogs etc.)	948	414
General HMO enquiries	-	811
From HMO occupiers about conditions, licence status etc.	-	92
From non-HMO occupiers about HMOs	-	114
Requests for HMO Advisory service	-	44

Number of complaints received by type April 2016 – March 2020	Uplands	
	All residential properties	HMOs
Waste within property curtilage	658	539
Noise (all types including DIY, music, barking dogs etc.)	835	619
General HMO enquiries	-	1428
From HMO occupiers about conditions, licence status etc.	-	178
From non-HMO occupiers about HMOs	-	206
Requests for HMO Advisory service	-	52

Number of complaints received by type April 2016 – March 2020	St Thomas	
	All residential properties	HMOs
Waste within property curtilage	116	6
Noise (all types including DIY, music, barking dogs etc.)	292	15
General HMO enquiries	-	199
From HMO occupiers about conditions, licence status etc.	-	5
From non-HMO occupiers about HMOs	-	9

Requests for HMO Advisory service	-	28
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6.8 Information about housing enforcement activity, other than HMO licensing, in HMOs in Castle, Uplands and St Thomas between April 2016 and March 2020 is shown in the table below. The majority of issues are dealt with via informal action or licence conditions.

Ward	Number of Improvement Notices served	Number of Prohibition Orders served	Number of warning letters sent regarding management or licence conditions
Castle	5	5	25
Uplands	7	5	33
St Thomas	6	-	22

### 6.9 General Consent

The National Assembly for Wales gave general approval on 13<sup>th</sup> March 2007 for designated areas made subject to additional licensing by the Council under the Housing Act 2004 (Additional HMO Licensing) (Wales) General Approval 2007.

### 6.10 Designation

A designation of an area subject to additional licensing ceases to have effect five years after the date it comes into force, unless previously revoked.

Under the terms of the General Consent Order, Council, by way of this policy, revokes the designation made in 2016 in respect of Castle and Uplands wards and that scheme will cease to have effect on 14<sup>th</sup> February 2021.

The prescribed requirements for consultation have been applied and the requirements for publication of a designation of an Additional HMO Licensing scheme will be applied to enable the Castle, Uplands and St Thomas Wards to be designated Additional HMO Licensing areas with effect from 15<sup>th</sup> February 2021, subject to the terms of this policy. This scheme will be known as the Additional HMO Licensing (Castle, Uplands and St Thomas) Scheme 2021.

This Additional HMO Licensing scheme specifically applies to all HMOs which do not come within the remit of mandatory licensing within the Castle, Uplands and St Thomas wards including HMOs defined under Section 257, Housing Act 2004 i.e. 'poorly converted' blocks of self-contained flats. The only exceptions to this will be those HMOs specifically excluded from licensing under relevant parts of the Housing Act 2004.

HMO licences issued under the previous Additional HMO Licensing scheme in the Castle and Uplands Wards will be pass ported through to the new scheme. Their expiry dates and licence conditions will not be altered by the new scheme, but on expiry, if the properties remain HMOs they will be subject to the requirements of the Additional HMO Licensing (Castle, Uplands and St Thomas) Scheme 2021.

## 7 HMO Licensing Process

7.1 The HMO licensing process applies to all HMOs requiring a licence whether under the mandatory or additional licensing scheme.

### 7.2 Applications

The licensing process and duration will start from the date of receipt of the application form. Where there are incorrect or incomplete forms the licence may be granted for a reduced period to take account of those delays.

Applications for the renewal of an existing licence by the same applicant will not be accepted earlier than two months prior to the expiry date of the existing licence.

Inspection priority will be in order of the date applications are received.

Properties will normally be inspected prior to issuing a licence. The inspection will also address any Part 1 issues relating to the Housing Health and Safety Rating System.

### 7.3 Granting of a Licence

In accordance with Housing Act 2004, Sections 64 – 66, in order to grant a licence the Council must be satisfied that:

The property is (or can be made) **reasonable suitable for occupation** for the maximum number of occupants, in that it:

- meets the amenity standards set out in Appendix A
- has satisfactory means of escape in case of fire and other fire precautions. Any remedial works will be risk assessed for each property using the schedule in Appendix B as a basis.

The proposed licence holder is a **fit and proper person**

- The Council will issue a licence to an owner or manager of an HMO provided they self-certify that they meet the criteria for Fit and Proper Person as set out in Appendix C.

- In cases where applicants do not meet this criteria the Council will exercise its discretion to issue a licence. These cases will be considered by the Licensing Committee.
- The Council may prosecute and may revoke a licence if significant false information is provided on the application form, which influences the decision to issue a licence.

There are satisfactory **management arrangements** in place

The Council may issue a licence if satisfied that there are satisfactory management arrangements in place. These must include, but are not limited to:

- Management competency (assessed at the Council's discretion)
- Fit and proper person criteria of any person involved in the management of the house (see Appendix C)
- Suitable management structures (assessed at the Council's discretion)
- Appropriate funding arrangements (assessed at the Council's discretion)

And may include other matters such as:

- The ability to meet the licence conditions (assessed at the Council's discretion)
- Any unsatisfactory history relating to the management of the property (assessed at the Council's discretion).

The details of the manager, if appointed, will be included in a licence issued by the Council. The Council will provide advice to applicants on how to demonstrate satisfactory management arrangements.

#### 7.4 **Approval and Duration of Licence**

The Council will normally grant a licence for a period of five years from the date of application, but may grant a licence for a shorter period in some circumstances as described below.

In the case of a renewal of a licence to the same licence holder the Council will normally grant a new licence for a period of five years from the date of expiry of the previous licence.

As an enforcement sanction the Council may issue a licence for a reduced period. The circumstances for this sanction include, but are not limited to:

- Delays in submitting a complete application

- The issuing of a Simple Caution to the licence applicant
- Considerations of the Licensing Committee.

With the change to the Town and Country Planning (Use Classes) Order 1987 proposed licence holders will be required to evidence planning permission for the use of the property as an HMO, where appropriate. Where planning permission is pending, a licence will generally be issued for one year in order for the relevant consent to be determined.

## 7.5 Refusal

Refusal will be the decision of the Licensing Committee.

The Committee may refuse an application if:

- the property is not capable of being made suitable for occupation
- the licence holder or manager is not a fit and proper person
- the management arrangements are not satisfactory.

When considering if the licence holder or manager is a fit and proper person the Committee must have regard to:

- whether there have been breaches of the matters set out in Appendix C
- any other matters which include, amongst other things, previous history relating to unsatisfactory management of the property.

## 7.6 Revocation

Licensing Committee may revoke a licence if:

- there has been a breach of licence conditions
- the licence holder or manager is no longer a fit and proper person.

## 7.7 Licence Conditions

The Housing Act 2004 lays down mandatory licence conditions relating to:

- provision of annual gas safety certificates
- safety of electrical appliances and furniture
- provision and maintenance of smoke alarms
- provision of written statement of terms for tenants.

In addition the Council can impose its own discretionary conditions. By imposing more demanding conditions the Council is able to have more effective regulatory control over both the physical standards of HMOs and their standards of management.

The Council will grant a licence subject to conditions set out in Appendix D. These conditions may be varied for specific property requirements by the Director of Place or Officers authorised to act on his behalf.

## **7.8 Fees**

The Council will charge a fee for HMO licence applications. Fees will be set to cover costs incurred in administering the licensing schemes.

Fees are not refundable unless in exceptional circumstances and at the discretion of the Director of Place or Officers authorised to act on his behalf.

## **7.9 Temporary Exemption Notices (TEN)**

These are used when a landlord of an HMO, which should be licensed, notifies the Council of his intention to take steps to ensure that the HMO is no longer required to be licensed.

The Council may grant a TEN where:

- the owner of a licensable HMO states in writing that he is asking to make it non-licensable and
- the Council is satisfied that it will be non-licensable within three months of the date of receiving the notice.

The Council will not normally grant more than one TEN per property and in doing so will have regard to the proposals for the property, any planning considerations and the arrangements for meeting the needs of the occupiers including those likely to be displaced.

The Council will only grant a second TEN in exceptional circumstances.

## **8 Enforcement**

8.1 The Council may generally take any relevant enforcement action against a landlord who operates an HMO without a licence or fails to comply with HMO licence conditions or a landlord or manager who knowingly lets a property to more people than authorised by the licence.

8.2 The Council will take into account wilful non-compliance and avoidance and those circumstances where occupants or immediate neighbours are put at unnecessary risk.

8.3 The Council will exercise its powers in accordance with the Public Protection Enforcement Policy 2018 and will apply them in a consistent, transparent and proportionate manner.

8.4 The requirements for the registration of landlords and licensing of landlords and agents in the private rented sector in Wales under Part 1, Housing (Wales) Act 2014 (Rent Smart Wales) will be taken in to account when consideration is being given to fit and proper person status.

#### **8.5 Housing Act 2004, Part 1 – Housing Health and Safety Rating System**

The legal framework for HHSRS is described in section 5. In the case of Category 1 hazards encountered in HMOs the Council will exercise its statutory duty to intervene and take the appropriate enforcement option. In the case of Category 2 hazards the Council will exercise its discretionary power and consider the appropriate enforcement option.

The Council may serve a variety of enforcement notices including Improvement, Emergency Remedial, Prohibition and Hazard Awareness, all of which may be suspended or varied.

Additionally, the Council has powers under the Housing Act 1985 relating to demolition and declaration of Clearance Areas.

#### **8.6 Rent Repayment Orders**

A landlord who is convicted of operating an unlicensed HMO can be made subject to a Rent Repayment Order (RRO) by a Residential Property Tribunal (RPT) (First Tier Tribunal).

Upon application by a tenant, an RRO may require the repayment of rent received by the landlord over a period of up to 12 months. Where the rent is paid as Housing Benefit, the Council may apply to the RPT for an RRO.

#### **8.7 Interim and Final Management Orders**

The Act gives Councils powers to serve notices and take action where there is no prospect of an HMO being licensed. In relevant circumstances Councils are under a duty to act. Where extreme circumstances require it, Councils must take over the management of an HMO, becoming responsible for running it, making necessary improvements and collecting rents.

The Council reserves the power to make an HMO Management Order in exceptional circumstances and having regard to the criteria included in the Act.

#### **8.8 Management Regulations**

The Management of Houses in Multiple Occupation (Wales) Regulations 2006 apply to all HMOs with the exception of some converted blocks of flats which are covered by the Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (Wales) Regulations 2007.

The Regulations impose certain duties on managers including the maintenance of fixtures and fittings, fire safety measures, gas and electricity supplies and waste disposal arrangements. The Regulations also impose duties on occupiers. A person who fails to comply with these Regulations commits an offence which carries a fine not exceeding Level 5 on the standard scale— see also 8.9 below.

Where there are breaches of these Regulations the Council will normally issue a warning letter to the relevant person specifying remedial measures and the consequences of failing to address them.

Where there are significant breaches of these Regulations the Council may move immediately to a prosecution.

## **8.9 Penalties**

The Act lays down a number of licensing-related offences and corresponding penalties including:

- Operating an unlicensed HMO or allowing an HMO to be occupied by more persons than a licence allows: fine
- Breach of a licence condition: fine not exceeding Level 5 on the standard scale
- Supplying incorrect information in a licence application: fine not exceeding Level 5 on the standard scale.

The standard scale is a system whereby fines have maximum levels set against a standard scale.

It is a defence to any of the above if the accused person can demonstrate that they have reasonable excuse.

## **9 Delegation**

9.1 The enforcement options contained within Part 1 (Housing Health and Safety Rating System), Part 2 (HMO Licensing), Part 4 (Management Orders and Overcrowding Notices), Part 6 (Powers of Entry etc.) and the relevant Schedules of the Housing Act 2004 shall be delegated to the Director of Place or Officers authorised to act on his behalf.

9.2 Decisions relating to the refusal or revocation of a licence on grounds of fit and proper person and satisfactory management arrangements shall be delegated to the Licensing Committee.

9.3 Where, as an enforcement sanction, a licence is granted for a shorter period than five years, there will be a right of appeal to the Licensing Committee.

- 9.4 Changes to the technical specifications in Appendices A (Amenities) and B (Means of Escape and Other Fire Precautions) shall be delegated to the Director of Place or Officers authorised to act on his behalf.
- 9.5 Changes to licence conditions (Appendix D) shall be delegated to the Director of Place or Officers authorised to act on his behalf.

## **10 Non-Licensable HMOs**

- 10.1 HMOs that fall outside the licensing requirements will be subject to the Management of Houses in Multiple Occupation (Wales) Regulations 2006 or the Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (Wales) Regulations 2007.
- 10.2 Where they are inspected under Part 1 of the Act each property will be risk assessed. The remedial work for fire safety will be based on Appendix B.