

Title: Simplifying the Houses in Multiple Occupation (HMO) Licence Renewal Application Form IA No: Lead department or agency: Department for Communities and Local Government Other departments or agencies:	Impact Assessment (IA)
	Date: 04/05/2012
	Stage: Final
	Source of intervention: Domestic
	Type of measure: Secondary Legislation
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Summary: Intervention and Options	RPC Opinion: Green
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Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£6.82m	0	0	Yes OUT

What is the problem under consideration? Why is government intervention necessary?

The Housing Act 2004 introduced a comprehensive package of powers for local authorities to deal with the worst privately rented properties, including the statutory duty to licence larger, high risk privately rented Houses in Multiple Occupation (HMOs). Whilst the Government is satisfied that the overall legislative framework for tackling problems in HMOs achieves the right balance between the rights and obligations of private landlords and tenants, the current application process for HMO licence renewals makes the re-licensing of HMOs burdensome on business. Ministers therefore wish to simplify the HMO licence renewal application form as part of the commitment to reduce red-tape and unnecessary form filing.

What are the policy objectives and the intended effects?

The simplification of the HMO re-licensing application form will help speed up the administrative process for HMO licence renewals and will also help reduce costs both for local authorities and those private landlords who are required to renew an HMO licence for their properties. The further benefit is that time 'freed' up by simplifying the form will enable local authorities to better target their resources at those private landlords who evade the licensing requirements.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Amending the secondary legislation is the only route with which to simplify the HMO licence renewal form. Under the existing HMO licensing regulations, application forms for HMO licences require certain information to be provided by private landlords and processed by local authorities. The same information is required for both initial HMO licence applications as well as HMO licence renewal applications. The legislation therefore makes no provision for HMO licence renewals. In order to reduce the bureaucracy associated with the HMO licence renewal process, we wish to simplify the HMO licence renewal application form for those properties where there has been no material change since the initial licence was granted.

Will the policy be reviewed? It will not be reviewed. If applicable, set review date: Month/Year

Does implementation go beyond minimum EU requirements?			Yes / No / N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes/No	< 20 Yes/No	Small Yes/No	Medium Yes/No	Large Yes/No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded:		Non-traded:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister: _____ **Andrew Stunell** _____ Date: 11/08/2012

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year 2012	Time Period Years 5	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: £6.32m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate			

Description and scale of key monetised costs by 'main affected groups'

There may be small costs to local authorities associated with introducing HMO licence renewal application forms, however these will not be significant enough to result in any increase to an HMO licence fee. Private landlords who have already had their properties re-licensed may have already paid a fee that does not take into account the simplified application form, although this will vary across different local authority areas.

Other key non-monetised costs by 'main affected groups'

Local authority officers may spend the time saved on processing HMO licence renewal applications on pursuing private landlords who evade the HMO licensing regime. This may produce additional costs in terms of increased numbers of initial HMO licence application forms and potential prosecutions. However it is for individual local authorities to decide how to prioritise their work given the range and types of HMO that are situated in their local area.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate		£1.4m	£6.32m

Description and scale of key monetised benefits by 'main affected groups'

Private Landlords should benefit from a reduced fee (see option 1 benefits below). An average HMO licence fee is £500. An average renewal for a five year licence could be £375 (25% reduction). We estimate there to be 56,000 licensable HMOs (BRE Report on HMO licensing Implementation 2010). Therefore a total of £7m could be saved every 5 years (£125 x 56,000). £1.4m is saved on an annual basis.

Other key non-monetised benefits by 'main affected groups'

Local authorities will be able to focus resources on tackling those landlords that seek to evade the licensing regime. Prioritising these landlords will lead to an improvement in property condition and management standards in the private rented sector. Local authorities and landlords alike will benefit from reduced bureaucracy due to shorter application forms for HMO licence renewals.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

Local authorities have the discretion to set the licence fee, the average being £500. This means there will be differentiation between the fees local authorities across the country charge, as the number and types of HMOs in different areas will vary. Reducing the amount of information required to be processed by the authority should therefore result in a 25% reduction in cost, as the authority will already hold the information.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs:	Benefits: 0	Net: 0	Yes	OUT

Evidence Base (for summary sheets)

Background

The Housing Act 2004 introduced a comprehensive package of powers for local authorities to deal with the worst privately rented properties, including the statutory duty to licence larger, high risk privately rented Houses in Multiple Occupation (HMOs). Whilst the Government is satisfied that the overall regulatory framework for tackling problems in HMOs achieves the right balance between the rights and obligations of private landlords and tenants, it is also committed to cutting unnecessary red-tape and bureaucracy that places a burden on business. Ministers therefore wish to simplify the HMO licence renewal application form as part of the commitment to reduce red-tape and unnecessary form filing.

Privately rented HMOs are an important source of low-cost accommodation, often for people with limited housing choices. Historically the worst housing conditions have been found in this part of the private rented sector and previous non statutory guidance had failed to address these problems. The Housing Act 2004 provided through regulation a national licensing scheme which aimed to improve the controls on HMOs and ensure adequate management standards.

The Housing Act 2004 introduced a new definition of a HMO (sections 254-259 of the Act). An HMO is an entire house, flat or converted building which is let to three or more tenants who form two or more households, who share facilities such as a kitchen, bathroom and toilet. Part 2 of the Act introduces the mandatory licensing of certain HMOs. Local authorities are now under a statutory duty to licence HMOs that are of three or more storeys housing five or more persons forming two or more households. The Act also gave the discretion for local authorities to extend HMO licensing to smaller types of HMO, known as additional HMO licensing, where they have identified management problems and poor property condition within such properties.

Local authorities are able to impose conditions on licences such as how the licence holder deals with the behaviour of occupiers, maximum occupancy levels, and that adequate facilities are provided and maintained. In order to be granted a licence, a landlord or nominated manager must be a fit and proper person and must also demonstrate that they have adequate skills to manage the HMO effectively. A licence is granted per property, and the local authority has the discretion to charge a licence fee. Breach of a licence condition is an offence subject to a fine of up to £5,000. Letting or managing a property, without a licence is a criminal offence subject to a maximum fine of £20,000. These fines will become unlimited if the LASPO Bill gains Royal Assent.

The aim of the HMO licensing regime is to raise the standard of accommodation available in the private rented sector in order to ensure that standards are decent for persons living independently in HMOs where several individual occupiers share basic facilities. Licensing works alongside Part 1 of the Act which introduced the Housing Health and Safety Rating System (HHSRS) which replaced the previous fitness standard for HMOs and provides for greater protection to the health, safety and welfare of the occupants of residential properties generally. HMO licensing addresses poor management practices and helps to secure a reduction in death and injury from fire and other health and safety hazards, and ensure adequate provision of amenities.

Problem under consideration

The Housing Act 2004 introduced a comprehensive package of powers for local authorities to deal with the worst privately rented properties, including the statutory duty to licence larger, high risk privately rented Houses in Multiple Occupation (HMOs). Whilst the Government is satisfied that the overall legislative framework for tackling problems in HMOs achieves the right balance between the rights and obligations of private landlords and tenants, the current application process for HMO licence renewals makes the re-licensing of HMOs burdensome on business. Ministers therefore wish to simplify the HMO licence renewal application form as part of the commitment to reduce red-tape and unnecessary form filing.

No provision was made for HMO licence renewals under the original legislation. Local authorities therefore required the same information on an HMO licence renewal application form as they would for an initial HMO licence application. In order to reduce the bureaucracy associated with the HMO licence renewal process; these regulations simplify the HMO licence renewal application form for those

properties where there has been no material change since the initial licence was granted. The simplification of the HMO licence renewal application form will not only help speed up the renewal process, it should reduce costs and the administrative burden for those private landlords who require their HMO licence to be renewed. The further benefit is that time 'freed' up by simplifying the process will enable local authorities to better target their resources at those landlords who evade the licensing requirements. These proposals therefore have the added benefit of protecting tenants in sub standard properties.

Rationale for intervention

Whilst Ministers are satisfied with the overall regulatory framework for tackling problems in HMOs, questions were raised by private landlords and local authorities over whether a full HMO licensing application procedure is required in those cases where a private landlord has been issued with an HMO licence, and is seeking to renew it.

Reducing the information required on a HMO licence renewal application form will help to reduce the bureaucratic burden on both private landlords and local authorities. The initial wave of HMO licences were issued in April 2006. The majority of HMO licences were issued for a five year period and many local authorities are now receiving applications for HMO licence renewals. Both local authorities and private landlords alike are supportive of the proposals, and have lobbied Ministers at DCLG to make the change as soon as possible.

Private landlords who currently hold an HMO licence for their property are required to re-apply to the local authority to renew their licence, prior to its expiry, if the property remains licensable. However, with regards to the information required on an HMO licence application form, neither the Act nor the original secondary legislation made any provision for HMO licence renewals.

The simplified HMO licence renewal application form will give local authorities greater flexibility when determining HMO licence applications. It will enable them to prioritise initial HMO licence applications, for example, focusing officer time on property inspections for new applicants rather than on those properties that are currently licensed. It will enable them to focus their resources on pursuing those landlords who evade mandatory HMO licensing. It would also reduce the amount of information required from a landlord as certain information required for a HMO licence renewal application will already have been provided to, and recorded by, the local authority. Whilst local authorities have the discretion to set the licence fee, reducing the amount of information required to be processed when renewing a licence could result in a reduced licence renewal fee for private landlords.

Policy objective

The policy objective is to make provision for HMO licensing renewals in the regulations to help simplify the HMO licence renewal application form.

The new regulations specify that in the case of an HMO licence renewal, the property information required on an initial HMO licence application is not required to be resubmitted, where there has been no material change since the initial licence was granted, as the local authority will already hold that information previously provided by the applicant. These regulations therefore simplify the HMO licence renewal application form for those properties.

Applicants for HMO licences are required to declare that the information they have provided within the application is accurate and that they are committing an offence if they provide false or misleading information. We believe that an applicant for an HMO licence renewal should be able to declare whether there have been any changes to the information they originally gave to the local authority when they previously applied for the HMO licence, rather than resubmitting this information. Therefore, if there has been a material change to the property the new regulations enable a landlord to declare these to the local authority.

The original regulations (SI373/2006 Miscellaneous Provisions) prescribe the information that is required to be provided by HMO licence applicants in the form of a statement. This information sets out who the relevant persons are in terms of receiving notification of an HMO licence application and also the

information that should be provided to those persons. They also specify certain information to be contained in an HMO licence application. We believe it is important to continue to keep all relevant persons informed of an HMO licence renewal application. It is also important that they should be supplied with key information such as the contact details of the licence holder (or proposed licence holder) and the address of the property to which the HMO licence renewal application relates.

We believe it is important to ensure that all applicants for HMO licence renewals continue to meet the 'fit and proper' person test, in order to ensure the protection of tenants residing in such properties. The original regulations (SI373/2006 Miscellaneous Provisions) set out the information that is required from an HMO licence applicant in order to demonstrate that they are suitable in terms of their fitness to manage a licensable property. This information should be re-submitted as part of the HMO licence renewal application.

Consultation

Whilst our original intention was to consult formally on our proposals, Ministers at DCLG decided we should hold an informal consultation with key partners on the draft regulations to enable quick implementation of the regulations and to reduce the burden of formal consultation. As a result of our discussions with key partners we have not made any changes to our original analysis and assumptions. Local authorities and private landlords are supportive of the regulations as they will help reduce the administrative and financial burdens associated with HMO licence renewals.

One In One Out

The regulations result in an "OUT" under the "One In One Out" Rule as they recast the existing regulations in order to reduce burdens on business.

Equivalent Annual Net Cost to Business (EANCB)

Following the introduction of the HMO licensing regulations, all local authorities will be required to introduce a simplified form for HMO licence renewals. Following our discussions with local authorities, we have established that a 25% reduction in the HMO licence renewal fee will be achieved (see cost/benefit analysis). The BRE Report on HMO licensing implementation estimated there to be 56,000 HMOs subject to mandatory HMO licensing. All such properties will benefit from the simplified form. We also estimate the average HMO licence fee to be £500. Therefore an average HMO licence renewal fee will be £375 (25% reduction).

$£500 \times 56000 = £28m$

$£375 \times 56000 = £21m$

The cost to business for HMO licence renewals over the five year period will be £21m. If the simplified form was not implemented then the cost to business over the 5 year duration of the licence would be £28m. Option 1 therefore results in a nominal saving of £7m, with a net present value of £6.32m. However, since the fee reduction is considered to be an indirect benefit for On In One Out purposes and the direct benefits in time savings were not quantified, there is no score for OIOU and the summary boxes for this on page 1 and 2 show '0'.

Description of options considered (including do nothing)

Baseline (Do Nothing)

Application forms for HMO licensing will continue to require the prescribed information set out in Statutory Instrument 373/2006 for both HMO licence renewals as well as initial licence applications. This will increase the bureaucratic and financial burden on local authorities and private landlords.

Local authorities will be unable to provide a simplified application form for private landlords who seek to renew their HMO licence. Private landlords seeking to re-licence their property will need to supply information on an application form that is already held by the local authority. This would increase the administrative burden on them with regards to filling out the form.

Option 1: Amend Statutory Instrument 373/2006 to take account of HMO licence renewals

The only route to reduce the amount of information required on an HMO re-licensing application form is to amend the secondary legislation (Statutory Instrument 373/2006). The Department has considered non-legislative routes with which to achieve this, but no alternative routes exist without leaving local authorities subject to the risk of legal challenge.

Other options

Whilst we are aware that there are other options available to reduce the burdens associated with the licensing of HMOs generally, these regulations focus solely on the information required on an HMO licence renewal application form. This only route to achieve a simplified form is to amend the original regulations to make express provision for HMO licence renewals (Option 1). Further options for simplifying the HMO licensing procedures both for initial HMO licences and renewals have been raised by key partners as part of the Red Tape Challenge. These will be considered by Ministers as part of the Red Tape Challenge process. Any move to further simplify the HMO licensing procedures would require changes to primary legislation (Housing Act 2004) and therefore a separate impact assessment and formal consultation would be required.

Costs and benefits of each option (including administrative burden);

The following assumptions have been made when establishing the potential costs/benefits of option 1.

HMO Licence Fees

Average HMO Licence Fee: £500

In order to administer the HMO licensing regime local authorities have the discretion to set an HMO licence fee. These fees must however reflect the actual costs to the local authority of administering the scheme. They are only allowed to use licence fees to recover the costs of licensing and not to raise funds for other projects. The Local Government Group (LG) has designed a licensing fees toolkit which local authorities use when developing their licensing fee structure.

Estimated number of licensable HMOs: 56,000 (BRE Report on HMO licensing Implementation 2010).

Baseline

Local Authorities Costs

Local authorities will be required to process full HMO licence application forms for HMO licence renewals, even though information will already have been supplied through the initial HMO licence application. This will increase the time local authority officers spend processing HMO licence renewal applications. Whilst it is for local authorities to prioritise resources, this could result in local authority officer time being used to process HMO licence renewals at the expense of initial HMO licence applications.

Benefits

Local authorities will continue to process full HMO licence application forms for HMO licence renewals, which could impact on their ability to target resources at those landlords who fail to comply with the licensing regime. They could therefore charge the full HMO licence fee for HMO licence renewals.

Private Landlords Costs

Private Landlords will be required to fill in a full HMO licence application form for each of their properties that are subject to HMO licensing, even if there has been no material change to the property and despite the local authority already holding the information. This will increase the bureaucratic burden on them. They could also be charged a full licence fee for each of their properties, an average of £500 per property.

Therefore, assuming that all 56,000 HMOs remain licensable and an average licence fee of £500, a total of £28m will be spent by landlords on HMO licence renewals (£500 x 56,000 HMOs).

Benefits

We do not perceive there to be any benefits to private landlords for not making provision for HMO licence renewals.

Option 1: Amend Statutory Instrument 373/2006 to take account of HMO licence renewals

Local Authorities Costs

There may be small costs to local authorities associated with introducing HMO licence renewal application forms, however feedback from local authorities indicates that these will not be significant enough to result in any increase to an HMO licence fee. This option therefore does not create a net cost to business (see ENACB section).

Benefits

Local authorities will no longer be required to process full HMO licence application forms for HMO licensing renewals which will free up officer time. The time taken to process an application for an HMO licence renewal will reduce significantly, as the information will already be held by the local authority, and having a separate HMO licence renewal application will enable local authority officers to prioritise initial HMO licence applications.

We estimate, following feedback from local authority officers, that processing a HMO licence renewal application will take approximately 50% less time than processing an initial HMO licence application form. This is because the application form will be shorter and information received from the initial HMO licence application form will already be held by the local authority. For example, a landlord will be able to declare any material changes to the property. This will assist the local authority in processing the application, as they will be able to see whether any previous licence conditions which required such changes have been complied with.

Of course, local authorities will still need to be satisfied that a property is free from major hazards, and will still be required to conduct an inspection of the property within the duration of the licence. However, the declaration of any material change on the renewal application form could be used to determine the appropriate length of time before conducting the inspection. This would again enable local authority officers to focus resources on targeting non-compliant private landlords.

Private Landlords Costs

Landlords of properties that require re-licensing may still be required to pay a licence fee, on average £500 per licence. However, it is important to note that there will be differentiation between the fees local authorities across the country charge, as the number and types of HMOs in different areas will vary.

Given initial licences were issued in April 2006 and last for a maximum of 5 years, the Department recognises that some private landlords may have already been through the re-licensing process and may therefore have paid a fee that does not reflect the simplified application process. It is not possible to quantify these costs as this is dependant on the fee structure and internal processes within each individual local authority. Moving forward the Department would expect all local authorities to reflect the change so that landlords who have already been issued with renewed HMO licences can benefit from the simplified application form in the future.

Benefits

Landlords of licensable properties could benefit from a reduced fee for HMO licence renewals. Local Government Regulation (LGR), part of the Local Government Group, conducted a discretionary licensing project on behalf of the Department in 2010-11. The licensing fees sub-group commented that;

“..Approximately a quarter of calculated costs are normally associated with initial setup and should therefore not be regarded in re-licensing”

On this basis, given the average initial HMO licence fee is £500, an average HMO licence renewal fee would be £375, a potential saving of £125. Therefore a total of £7m could be saved by private landlords every 5 years (£125 x 56,000 HMOs).

The Department recognises that such a reduction will not be achievable across all local authorities as their licensing fee structure and internal processes will differ, depending on the number and types of HMOs in their area (see Risks and Assumptions).

Landlords should also benefit from reduced bureaucracy, as the application form for an HMO licence renewal will be simplified due to the local authority already holding information about the property on their records. In cases where there has been no material change to the property, private landlords will be required to sign a declaration to that effect, rather than resubmit all details about the property. Whilst we do not have an estimate of the benefit of a reduced HMO licence renewal application on a landlord's time, feedback from local authorities suggests that in situations where a landlord declares that there has been no material change then the burden on the landlord, in terms of completion and submission of the form, will significantly reduce.

Risks and assumptions

The suitability of a person to hold an HMO licence is one of the key principles behind the licensing regime. The move to simplify the licensing renewal process therefore ensures that private landlords who are seeking a licence renewal still meet the “fit and proper” person test, in order to ensure that they are still suitable to hold the licence.

The Department recognises that the regulations do not make any changes to the procedures for issuing licences which are contained in Schedule 5 of the Housing Act 2004. This may therefore impact on local authorities' ability to significantly reduce the HMO licence renewal fee. However, all local authorities should be able to demonstrate a fair, reasonable and transparent approach to their charging process and private landlords have the right to know how a local authority has arrived at a HMO licence renewal fee.

Local authorities will still need to ensure that licensed properties remain free from major hazards, ensure that electrical/gas safety certificates are provided and that fire regulations are still enforced in cases where a property requires re-licensing. Whilst the revised regulations reduce the amount of information required by a local authority when re-licensing a property, they will still be required to inspect the property within the duration of the licence. Of course a local authority may wish to inspect a property prior to renewing an HMO licence, whether or not a landlord has declared whether any material change has been made to the property.

Whilst it is for local authorities to administer the HMO licensing regime, they should be able to demonstrate to those professional landlords that comply with the licensing provisions that landlords who seek to evade licensing and operate outside the law are being targeted. Whilst the requirement for private landlords to declare other HMO licences they may hold on a renewal application form has been removed, any relevant convictions must still be declared.

Wider impacts

The simplified HMO licence renewal application will enable local authorities to focus their resources on pursuing those landlords who evade mandatory HMO licensing, resulting in an improvement to property condition and management standards in the private rented sector. This will have additional benefits for tenants residing in privately rented accommodation.

Summary and preferred option with description of implementation plan.

We are pursuing Option 1, as it fits with the Government's committed to cutting unnecessary red-tape and bureaucracy that places a burden on business.

Simplifying the application form for HMO licence renewals will give local authorities greater flexibility when determining HMO licence applications. It will enable them to prioritise initial licence applications, for example, focusing officer time on property inspections for new applicants rather than on those properties that are currently licensed. It would also reduce the amount of information required from a landlord as certain information required for a HMO licence renewal application will already have been provided to, and recorded by, the local authority