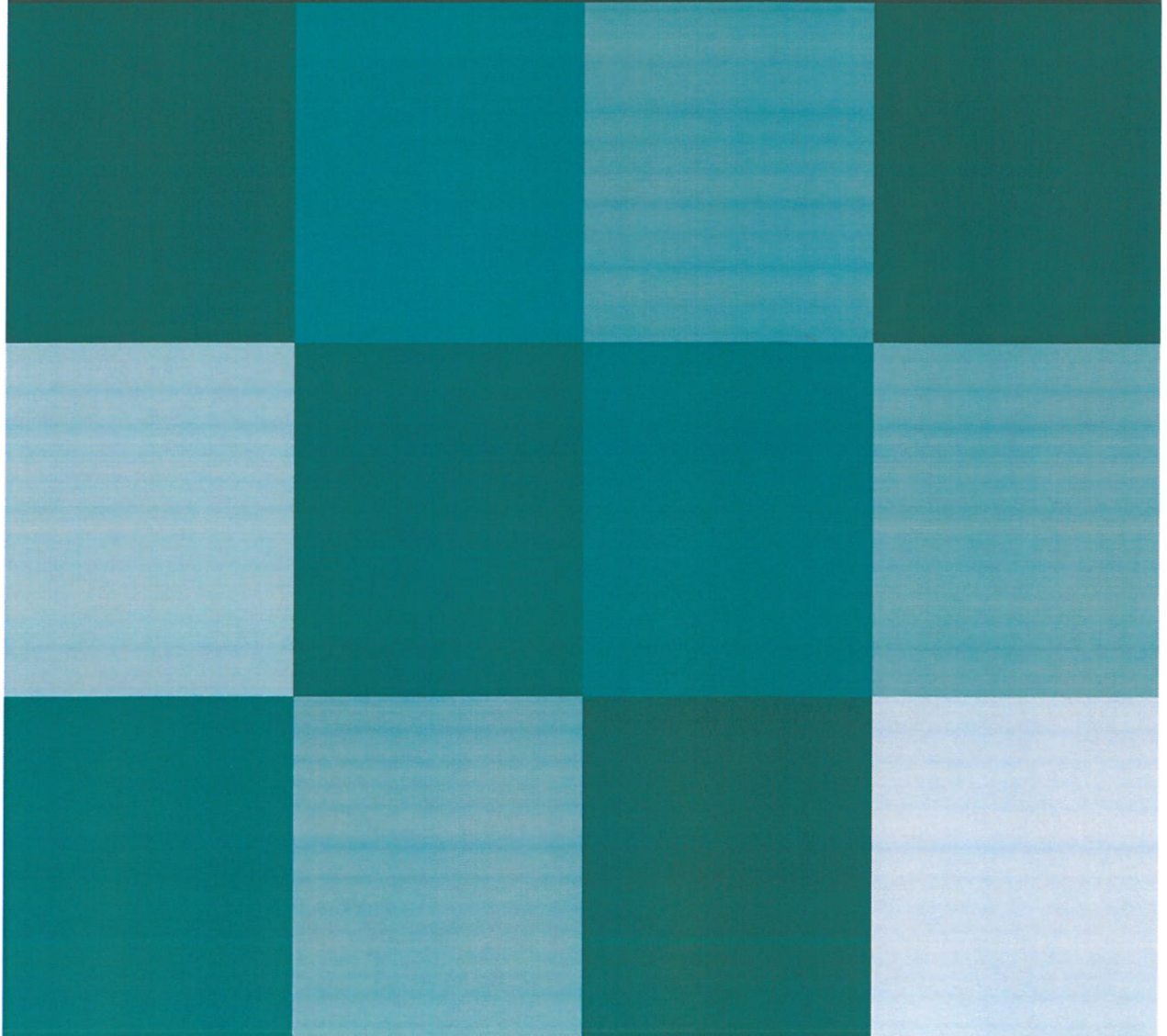


# INFORMATION NOTE (2013)

## HOUSES IN MULTIPLE OCCUPATION



## **HOUSES IN MULTIPLE OCCUPATION INFORMATION NOTE**

### **1. What is the purpose of this Note?**

- 1.1 The purpose of this information note is to clarify the role of the Council in respect of Houses in Multiple Occupation (HMOs) and to explain various issues relating to this type of accommodation. The status of this document is as information only. It is not a policy document and is therefore not intended for use for the purpose of making decisions relating to HMOs.

### **2. What are HMOs?**

#### **Planning and Licensing**

- 2.1 The main involvement of the Council with regards to HMOs is likely to be in relation to the land use planning duties and licensing duties of the Council. The planning and HMO licensing systems are two separate regimes.

#### **Planning**

- 2.2 HMO accommodation is not strictly defined by planning legislation. However, the Town and Country Planning (Use Classes) Order 1987 (as amended) sets out that the use of a dwelling house by a family, by not more than 6 residents living together as a single household falls within the definition of a dwelling house. Therefore, for the purposes of planning a property occupied by more than 6 residents not living together as a single family or household could be described as a HMO. However, as there is no strict definition of a HMO each case where it is alleged that a dwelling has changed to a HMO, must be investigated and assessed individually and on its merits

#### **Licensing**

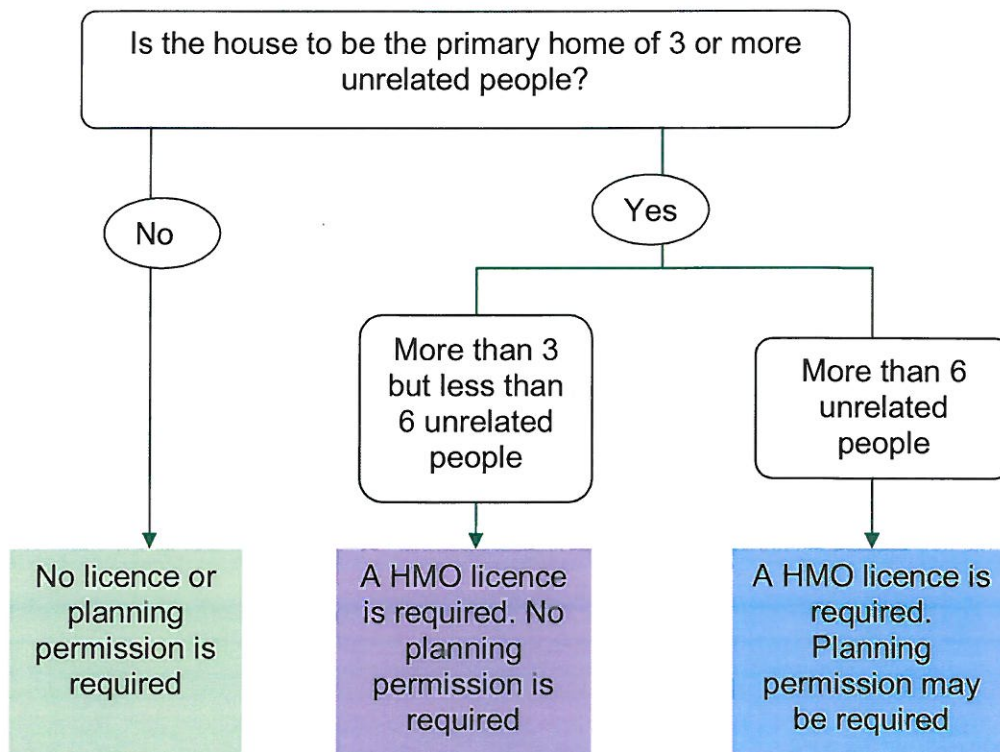
- 2.3 HMOs for licensing purposes have a wider definition inclusive of a variety of types of accommodation, including shared houses, bedsits, hostels, bed and breakfast facilities guest houses and self-contained converted flats. It will therefore often be the case that a property is licensed as a HMO under Housing legislation, but falls outside of planning control.

### **3. What are the differences between planning and licensing?**

- 3.1 The land use planning duties of the Council are the responsibility of the Planning and Environment Service. The licensing duties of the Council are the

responsibility of the Private Housing Unit of the Social Services, Housing and Leisure Service. **(See Appendix 1 for Useful Contacts)**. Both Services work closely together and with other Services where required, in relation to HMO matters.

- 3.2 Planning duties consider the land use implications such as the impact of the proposed use on neighbouring residents, parking levels and the character of an area. The granting of planning permission cannot be taken into account when considering whether to grant an HMO licence, and vice versa.
- 3.3 HMO licensing duties consider whether or not a property is fit for human habitation is safe and is properly managed. Licences can be revoked if the property and/or its tenants are not properly managed.
- 3.4 The diagram below highlights the main differences between planning and licensing and when each system is applicable (this example relates to a house only).



N.B. All HMOs in Gwynedd are required to be licensed.

#### **4. When is planning permission required?**

4.1 Having regard to the definition of a HMO for planning purposes, planning permission is required for:

- the construction of a new HMO
- the change of use of a dwelling house to a HMO
- an extension to a HMO

4.2 If a property is listed then extensions to HMOs will also require listed building Consent. Alterations may also require listed building consent.

#### **5. How will planning applications for HMOs be dealt with?**

5.1 Planning applications for HMOs will be dealt with individually and on their merits, having regard to all the material planning considerations and in the context of the adopted Gwynedd Unitary Development Plan (UDP). The relevant material planning considerations may include consideration of amenity issues, highways and parking. There are a number of planning policies in the UDP that may be relevant, but the specific planning policy relating to HMOs is Policy CH14. (See Appendix 2 for Policy CH14).

5.2 The Council will consult on each planning application, in accordance with the statutory requirements, so that there will be an opportunity for any interested parties to submit representations. All representations received which are based on planning issues will be considered in dealing with the applications.

#### **6. When is a licence required?**

6.1 Under the Housing Act 2004, the following properties require a licence:

- An entire house or flat which is let to three or more occupiers who are not related and who share a kitchen, bathroom or toilet.
- A house which has been converted entirely into bedsits or other non self-contained accommodation and which is let to three or more tenants who are not related and who share a kitchen, bathroom or toilet facilities.
- A converted house which contains one or more flats which are not wholly self contained and which is occupied by three or more tenants who are not related



- A building which is converted into self-contained flats if the conversion did not meet the standards of the 1991 Building Regulations and more than one-third of the flats are let on short-term tenancies.

## **7. How will an application for a licence be determined?**

- 7.1 Once the Council is in receipt of an application, the Council must be satisfied that the proposed licence holder is a fit and proper person to manage a HMO. The property will then be inspected by an officer from the Council, and if satisfied with the conditions within a property, will grant a licence for a maximum number of persons. There then follows a period of 42 days consultation with the applicant where upon he/she is given the opportunity to object to any condition that the Council may impose on the licence.

## **8. Are any other Council Services involved with HMOs?**

### **Waste collection**

- 8.1 One of the other main responsibilities that the Council has is in relation to the collection of domestic waste. This duty is the responsibility of the Waste Management and Commissioning Service.
- 8.2 The current service level offered by the Council is the provision of one 240 litre wheeled bin collected every two weeks, a minimum of two recycling boxes, collected weekly and a 23ltr food waste bin again collected on a weekly basis. These receptacles are provided free of charge. It is accepted that in some cases where there may be more residents living in a property, this standard level of provision will not be sufficient. As a result, the Council will be introducing measures to try and ensure that receptacles with sufficient capacity are provided, to try and meet the additional needs of properties with a higher number of residents.
- 8.3 The Council has no responsibility (in its role as waste collection authority) to remove any waste that cannot be stored within the bins and boxes that are provided for that purpose.
- 8.4 Any arrangements that need to be made for the extra collections of any excess waste can be arranged in discussion with the waste department. A cost would be applied for this extra collection. As with other residential properties, HMO properties are entitled to a bulky waste collection service. This service is limited to the collection of 5 items in any one visit to the property at a cost of £16.50. House clearances can be arranged and will be priced subject to requirements.

## **Council tax**

8.5 For the purposes of Council tax a HMO is classed as either:

**a)** was originally constructed or subsequently adapted for occupation by persons who do not constitute a single household,

or

**b)** is inhabited by a person who, or by two or more persons each of whom either:

i) is a tenant of, or has a licence to occupy, part only of the dwelling

or

ii) has a licence to occupy, but is not liable (whether alone or jointly with other persons) to pay rent or a licence fee in respect of, the dwelling as a whole.

## **9. What are the enforcement responsibilities of the Council?**

### **Planning Enforcement Responsibilities**

9.1 The Planning Enforcement Unit of the Planning and Environment Service will investigate alleged breaches of planning control in respect of HMOs. These may include:

- The change of use of a dwelling house to a HMO without planning permission
- The extension to a HMO without planning permission

9.2 Such cases are investigated in accordance with the Council's Planning Enforcement Policy and dealt with in the context of the Gwynedd Unitary Development Plan.

9.3 Before considering what (if any) action to take, there must first of all be clear evidence to prove that there has been a breach of planning control. With regards to alleged changes of use from a dwelling house to HMO, this can be difficult to prove, having regard to the definition of a dwelling house and a HMO for planning purposes.

- 9.4 If there is evidence of a breach of planning control, formal enforcement action will only be taken if it is expedient to do so and in the public interest. The fact that there is a breach of planning control would not in itself justify enforcement action.

### **Licensing Enforcement Responsibilities**

- 9.5 The Private Housing Unit of the Social Services, Housing and Leisure Service carry out the duty of assessing conditions of residential premises, and the enforcement of housing standards in relation to such premises.
- 9.6 There is a general duty to take enforcement action where Category 1 hazards exists on any residential premises. The Housing Health and Safety Rating System(HHSRS) came into force in April 2006, replacing the old fitness standard under the Housing Act 1985. The HHSRS applies to all residential dwellings and moves away from the bricks and mortar approach of the old fitness standard. It introduces a risk assessment approach to rate potential health and safety hazards which may be found in the home. Any hazards identified will be rated taking into consideration the likelihood of an event occurring and the severity of harm from that event. There are two Categories of hazards, Category 1 hazards are deemed to be the most serious and where these are present the Council has a duty to take action. The unit may also take enforcement action if there is sufficient evidence of breach of licensing conditions.

### **Domestic Waste Enforcement Responsibilities**

- 9.7 Local authorities can serve notices on owner/occupiers specifying, for example, that they must put their waste receptacles in a certain place at certain times to facilitate waste collection. People who fail to comply with a notice can be prosecuted through the courts, facing a maximum fine of £1,000. A £100 fixed penalty notice may be issued as an alternative to prosecution. The definition of 'receptacles' can include a black bin bag or bags, a wheelie bin, recycling boxes and other waste such as carrier bags, boxes or large items.
- 9.8 The above process enables local authorities to deal more effectively with such problems as tenants, residents or businesses that leave waste out on the streets at the wrong time, causing disruption, nuisance and additional costs to the local authority, which has to clear the waste.
- 9.9 Notices issued under Sections 46 and 47 of the Environmental Protection Act 1990, will set reasonable requirements regarding the collection of waste receptacles.
- 9.10 In the case of houses in multiple occupation, Section 46 notices are generally served upon the occupier of the property. In tenures where a house is contracted

to several residents, all tenants will be served with a Section 46 notice. Details of tenants can be obtained directly, or by serving the landlord or tenants with a legal notice requesting the full names and details of all of the tenants.

- 9.11 Bedsits/apartments in one house which share a bin will have a notice served upon each unit.

## **10. USEFUL DOCUMENTS RELATING TO HMOs**

- 10.1 Documents relating to HMOs which can be viewed on the Council's website include:

### **Planning**

Gwynedd Unitary Development Plan 2009  
Gwynedd Planning Enforcement Policy

### **Licensing**

The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provision) (Wales) Regulations 2006



## APPENDIX 1

### Useful Contacts

#### Planning:

For planning advice on planning applications for HMOs or complaints alleging breaches of planning control relating to HMOs.

E- mail : [Planning@gwynedd.gov.uk](mailto:Planning@gwynedd.gov.uk)

Phone : 01766 771000

Post : Planning and Environment Service, Gwynedd Council, Council Offices,  
Ffordd y Cob, Pwllheli, Gwynedd LL53 5AA

For planning policy advice and information regarding the preparation of the Joint Local Development (Gwynedd and Anglesey), contact the Joint Planning Policy Unit (Gwynedd and Anglesey) at:

E-mail : [PlanningPolicy@gwynedd.gov.uk](mailto:PlanningPolicy@gwynedd.gov.uk)

Phones: 01766 771000 or 01286 685003

Post : Joint Planning Policy Unit, Town Hall, Bangor, LL57 1DT

#### Licensing

For advice on licensing of HMO's or complaints relating to HMO's.

E-mail : [Tai@gwynedd.gov.uk](mailto:Tai@gwynedd.gov.uk) / [housing@gwynedd.gov.uk](mailto:housing@gwynedd.gov.uk)

Phone : 01766 771000

Post : Social Services, Housing and Leisure, Private Sector Housing Unit, Arfon Area Office, Penrallt, Caernarfon, Gwynedd LL55 1BN

#### Waste Management

For advice on waste collection issues contact the Council's Waste and Recycling Helpdesk on 01766 771000 or visit [www.gwynedd.gov.uk/recycling](http://www.gwynedd.gov.uk/recycling).

## APPENDIX 2

### Gwynedd Unitary Development Plan (UDP) (2001 – 2016)

#### Policy CH14 – Planning Policy (Extract from UDP)

##### FLATS

5.2.65 The Housing Needs Survey 2000 clearly shows a reduction in the size of the average household. The main reasons for this are fewer children per family, more single parents and more people choosing to separate or live on their own. Therefore flats are an effective way of satisfying an existing need for homes for smaller households.

#### **POLICY CH14 - CONVERSION OF DWELLINGS INTO FLATS, BED-SITS OR MULTIPLE OCCUPANCY DWELLINGS**

*Proposals to change the use of dwellings or other residential buildings into flats, bed-sits or multiple occupancy units will be approved provided they conform to the following criterion:*

1. *the development will not result in the overprovision of this type of accommodation in a specific street or area where the accumulative effect has, or is likely to have, a negative impact on the social or environmental character of the street or area.*

5.2.66 **Explanation** - This policy is applicable when considering applications for the change of use of dwellings into flats and the use of dwellings as bed-sits or multiple occupancy accommodation (where more than five unrelated individuals reside together). Ideally, these types of development would be a method of using buildings to their full potential and reducing the need to build new living units.

5.2.67 The accumulative effect or overprovision of this type of accommodation can affect the social character of an area and lower its environmental quality, thus detrimentally affecting the standard of living of other inhabitants. The situation can further worsen as families move out in order to seek a better living environment. The Council does not wish to see this happen (or continue in some areas) and therefore it will object to the conversion of houses into flats or the use of houses as multiple occupancy accommodation unless proposals conform in full to the policy.

5.2.68 The pressure for this type of development, as well as its consequences, can be clearly seen in Bangor and pressure also exists in other parts of the County where there are large houses e.g. Pwllheli, Abermaw and Caernarfon. The situation is manifest in Bangor, since this type of accommodation is ideal as student accommodation and consequently whole streets of houses are used in this way. Very often these buildings suffer from lack of maintenance and they do not contribute positively to the appearance of the street or area.