

**Appendix One - Report on the review of the Hastings Houses in Multiple Occupation Additional Licensing Scheme.**

# Report on the review of the Hastings Houses in Multiple Occupation Additional Licensing Scheme

## Background

1. On the 11 September 2011, the Hastings Borough Council introduced an Additional Houses in Multiple Occupation (HMO) Scheme. The scheme covers the four town centre wards of Gensing, Castle, Braybrooke and Central St Leonards. It requires landlords and freeholders operating HMOs in these wards to license their properties with the Council. The scheme lasts for five years, unless revoked earlier.
2. The scheme covers traditional room rent HMOs, shared HMOs as well as certain buildings converted into flats<sup>1</sup>. The latter make up the majority of HMOs in the town.
3. The scheme was introduced under the provisions of the Housing Act 2004.
4. The Housing Act 2004 requires Council's to review the scheme. If following a review the Council considers that the scheme has met its objectives or believes will not do so they may revoke the scheme.
5. The [background evidential report](#) (section 8) taken before Cabinet prior to the introduction of the scheme set out the criteria for reviewing the scheme against key outcomes:
  - a. Improvements in housing conditions for HMO tenants
  - b. Improved management standards
  - c. Increased property values keeping pace with average house price growth in the Borough
  - d. Decrease in transience and property turnover
  - e. Reduction of empty properties
6. The report recognised that licensing is part of an overall approach to help regenerate the town centres of Hastings and St Leonards and outcomes achieved may not be solely as result of licensing.
7. The report identified that there were a potential 2,065 HMOs that would require licensing in the scheme area. This was based on a sample based stock condition survey estimate.

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<sup>1</sup> A building converted into flats is an HMO if the building is not compliant with the 1991 Buildings Regulations and a third or more of the flats are rented.

## **Introduction**

8. At the time of introducing the scheme, it was the Council's intention to undertake a review of the scheme at year 2. However, the volume of applications received in the first two years of the scheme and the time needed to process them was higher than originally anticipated. This resulted in a reappraisal of scheme outputs within the first two years of the scheme. The review was therefore postponed to the latter stages of year 3 (September 2014) so that officers could concentrate on the operation of the scheme and start to tackle properties that remain unlicensed.
9. The Licensing Team have been proactive in seeking out unlicensed HMOs. In doing so they have revealed that a number of buildings converted into flats that were suspected of being licensable HMOs have proved not to be. This is mainly due to flats within blocks not being rented out in sufficient numbers to meet the legal definition of what constitutes a HMO. It is anticipated therefore that the overall number of licensable properties in the scheme areas will be lower than originally considered to be the case. This was accounted for within the parameters of the scheme, which was based on licensing 60% of the possible HMOs.
10. It was estimated that at the time of the review 805 licenses would have been issued. However, at the time of the review 570 Licenses have been issued, 235 less than anticipated. This is in the main due to the issues set out in paragraph 12, but we have also encountered a problem with the receipt of a large number of incomplete applications which have required significant additional work to process. Work is now underway to close the gap on the numbers of licences to be issued.
11. This review report sets out how we have achieved against the review objectives set out in the evidential report (outlined above) and in addition provides a financial review of the scheme. Conclusions are drawn and a way forward proposed.

## **Improvements in housing conditions for HMO tenants**

12. One of the main thrusts of the Additional licensing scheme is to improve the physical condition of HMOs and, in particular, ensure that sufficient amenities are provided for the number of occupants accommodated and that fire safety provisions meet current requirements. This is achieved by requiring landlords to execute works within a specified timescale to bring HMOs up to standard. These requirements are placed on landlords by means of conditions attached to each licence. Where the licence is issued to a freeholder who is in control of the building, but is not in control of any individual letting units the conditions will relate to the building containing the flats and the parts of the building in common. Where the licence holder is in control of all units within a building then the conditions will include requirements relating to all letting units as well as facilities used in common. The conditions attached to the licences are shown at Appendix one. Failure to comply with the licence conditions is a criminal offence.

13. At the time of the review, 570 HMO licences have been issued. Of the licence applications received only 10% of the properties comply with the standards adopted by the Council in respect of amenity and fire safety standards. The other 90% of properties were deficient in some way, as follows:
  - a. 57% of HMOs lacked suitable automatic fire detection and alarm systems.
  - b. 41% of HMOs lacked emergency lighting installations in the common parts.
  - c. 71% of HMOs lacked a complete and satisfactory means of escape in case of fire.
14. This is indicative of the general poor fire safety standards in the town's HMOs. It should be noted that these properties are cases where the landlord has applied for a licence. It is reasonable to assume that those properties where the landlord has failed to apply or has deliberately avoided applying may exhibit far worse fire safety hazards. The HMO Licensing regime is being used as the vehicle by which the properties are brought up to standard. Each of the licences issued have conditions requiring improvements to be carried out, usually within one year of the licence being issued. Whilst this might appear generous in terms of the timeframe for improvements it is necessary in a number of cases to allow for quite complicated negotiations to take place between various interests where fragmented ownership is an issue. In many HMOs there will be a requirement for the freeholders to legally consult with lessees. However, officers are actively seeking compliance with these conditions and some have now reached their expiry date. Failure to comply with the conditions applied to HMO licences is an offence and enforcement action is being taken where necessary.
15. Conversely, when only looking at amenity standards 2% of HMOs where occupants shared kitchens bathrooms and WCs (defined as HMOs by section 254 of the Housing Act 2004), failed to comply. Amenity standards were a focus of previous HMO registration schemes operated by the Council and these schemes may have successfully contributed to bringing about these improvements. Other issues still remain with these HMOs, such as management standards and fire standards, which the current licensing scheme is seeking to address.
16. The Housing Act 2004 also requires the Council, within five years of the licence being issued to inspect each property and the residential units within to assess compliance. This process is ongoing and when an HMO gets an inspection it is based upon risk to health and safety.
17. HMOs within the scheme have been subject to a continuing pro-active inspection. These officers have been inspecting flats and common parts within licensed and licensable HMOs. Their remit has been to identify unsatisfactory standards and take action to remedy those, to identify contraventions of the HMO Management regulations and to confirm compliance with HMO licence conditions. Officers have inspected 552 properties. Of these, 334 properties were identified as having unsatisfactory standards. This shows that a significant number of properties eligible for licensing have serious issues requiring intervention by the Council.

18. Intervention has so far directly improved 88 properties. Many more properties have works in progress but not all works have been completed and as noted above, generous time periods have been allowed for compliance with licensing conditions due to the number of interested parties involved. Many properties have conditions imposed relating to the execution of works but the time periods for compliance have not yet expired.

## **Improved Management Standards**

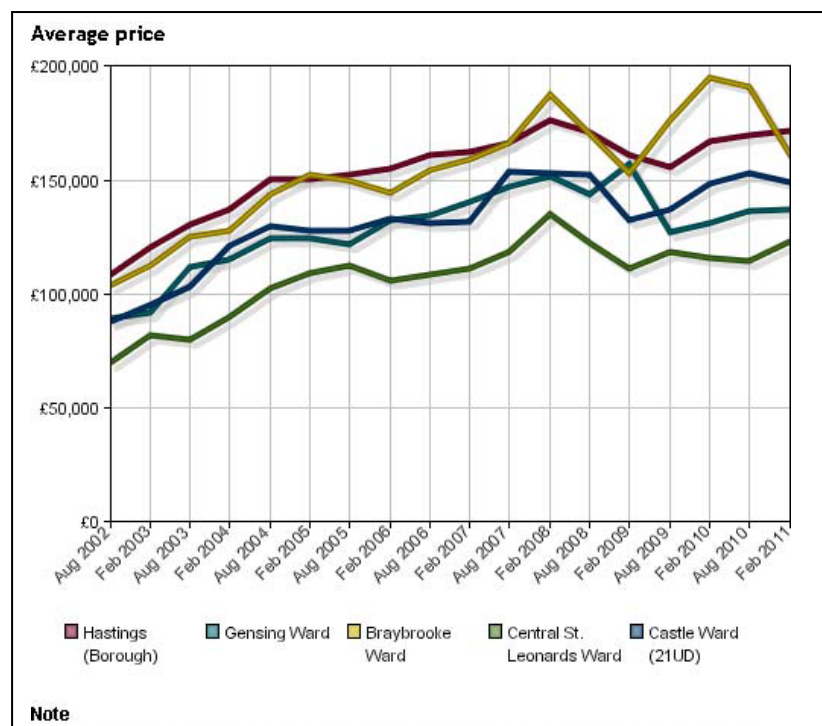
19. The Council has imposed conditions on each of the licences issued regulating the management, use and occupation of HMOs for which licences have been issued. Such licence conditions imposed are set out in Appendix two. These conditions are structured to ensure that the licence holders and managers attain satisfactory standards of management so that common parts of premises and installations and facilities in common use, such as shared bathrooms, kitchens and WCs and fire precautionary facilities are properly maintained and the property is in a safe condition.
20. Many properties converted into self-contained flats have historically suffered from poor management. This in part has been due to the fragmented ownership of such premises where individual flats have been sold off on long leases and often sub-let. In these circumstances the occupants of such flats have little idea as to who is responsible for repairs and maintenance of the building and are unable to contact this responsible person in the event of an emergency. Similarly, the emergency services on being called to an HMO have had the difficulty of being unable to identify who should be contacted to undertake emergency works. The HMO Licensing regime seeks to resolve these issues by imposing conditions on the licence holder. Firstly by identifying the persons who are responsible, (the licence holder and the manager) and secondly by requiring them to display in the property their contact names and addresses and telephone numbers so that occupiers and members of the emergency services are able to contact them easily. The licence holders are also required to provide notification as to procedures available for out of hour's contacts. By these conditions, freeholders of HMOs are called to account and are made to bear responsibility for these often neglected properties.
21. The licensing regime also imposes conditions regarding anti-social behaviour. Landlords are required to report anti-social behaviour emanating from their property both to Sussex Police and to the Council. A further requirement of each licence is that landlords must issue tenancy agreements for new tenancies and that each agreement contains penalties involving forfeiture of the tenancy in the event of any tenant being involved in anti-social behaviour. Sussex Police have given an undertaking that they will assist co-operative landlords by gathering evidence and if necessary giving evidence in court where landlords are seeking possession. Officers are currently pursuing compliance with these conditions. Failure to comply with these conditions is an offence and enforcement action will be taken where necessary.
22. Under the HMO Licensing regime, the Council must also be satisfied that any person applying to be a licence holder or manager is a "fit and proper person" and has sufficient expertise and financial resources to manage an HMO

effectively. Each licence applicant is required to sign a declaration confirming that they have no relevant criminal convictions in relation to fraud, dishonesty, violence, drugs or sexual offences or in relation to offences under the Housing Acts. The Council has had sufficient reason to reject one proposed manager on this basis.

## Increased Property Values Keeping Pace with Average House Prices in the Borough

23. It should be noted that the average house price in three of the four wards subject to the licensing scheme is now greater than the borough average. This can be compared with the situation in February 2011 (see chart 'Average House Prices – 4 Town Centre Wards versus Borough 2002 – 2011' below) when the house prices in all of the four wards was below the borough average.

Average House Prices – Four Town Centre Wards v. Borough



## Decrease in Transience and Property Turnover (rental)

24. Unfortunately the statistics that related to gross population turnover are no longer collected by the Office of National Statistics. This means that we are unable to compare statistics to ascertain whether transience and rental property turnover has reduced.

## Reduction of Empty Properties

25. The table below shows the reduction in the number of long term empty homes in the four wards following the introduction of the Additional HMO Licensing

Scheme. There is a significant decrease in the number of empty homes. This suggests that the Council's move to improve conditions and management through licensing has succeeded in encouraging owners of empty homes to bring them back into use as there is stronger confidence in the housing market in Hastings. As people see the Council take a proactive interventionist stance and see surrounding properties being improved, there is now a stronger willingness to improve their properties or buy empty homes for refurbishment.

26. Number of Long Term Empty Homes by Ward (Empty for 6 months or more)

	September 2008	November 2013	Reduction (-) Increase (+)	% Change
Central St Leonards	231	150	- 81	- 35%
Castle	152	135	- 17	- 11%
Gensing	96	67	- 29	- 30%
Braybrooke	53	39	- 14	- 26%
Borough Average	55	42		

**Impact upon rental values as a result of Additional Licensing.**

27. The Council has looked at the impact of the scheme on rent levels locally. Whilst wishing to raise standards the Council would be concerned if landlords were passing the cost of licensing, including the payment of the fee, directly on to their tenants.

28. When looking at traditional 'room rent' style HMOs the Local Housing Allowance (LHA), 'room rate' is a good indication of whether rents have been disproportionally increased. LHA rates are set by taking a sample of the market rents within a defined area and then basing the LHA rate on the 30th percentile of those rates. The table below gives the LHA 'room rates':

29. LHA room rates for Hastings (rates are set in April and the licensing scheme began in September 2011).

Year (set in April)	Rate (weekly)
2011	£65.00
2012	£65.00
2013	£66.43
2014	£67.09

30. As can be seen from the table the room rate in April 2012 didn't change from April 2011. Even accounting for the time needed for landlords to adjust rents following the schemes introduction the increases have been small. This would suggest that landlords have not passed on the cost of licensing to tenants.
31. The majority of HMOs being licensed are buildings converted into flats. It is apparent from the work carried out by the licensing team that with 90% of the HMOs inspected requiring improvements, freeholders may seek to pass the costs of these improvements onto the leaseholders in line with the legislation that governs freeholder and leaseholder agreements. It is also conceivable that freeholders may also seek to pass on the cost of the license fee to lead leaseholders. However, there is no evidence that costs are being passed on directly to tenants by leaseholders.
32. Appendix three shows a table comparing the median rental prices per ward since 2011. It is again apparent when comparing the rents with other wards<sup>2</sup> that there has not been a disproportionate increase in average rental values in wards where licensing has been implemented. This supports the view that the cost of additional licensing is not being passed onto tenants at present.

### **Finding unlicensed property and prosecution**

33. As outlined above, significant work has already been carried out in taking action to improve properties.
34. The council has been conducting proactive investigations to reveal licensable HMOs that have not been licensed. As a result 640 letters have been sent to persons having control of 497 identified un-licensed HMOs. These letters advise that an offence has been committed and threatens prosecution unless a duly made application is submitted. In the vast majority of cases, those persons targeted have responded by submitting applications. However, the Council have already successfully carried out three prosecutions for multiple offences on property where landlords have failed to maintain standards and management. A further five prosecutions are pending for multiple offences. When compared with other authorities Hastings is one of the best authorities for pursuing prosecutions in Sussex.

### **Financial Review**

35. The fees generated by the additional HMO licensing scheme can only be used to cover the administration of the scheme. The Council cannot make a profit on the scheme.
36. Appendix four sets out the original estimates on the costs and fee generation projections for the scheme prior to its implementation. The scheme was predicated on licensing 60% of the estimated number of HMOs we believed

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<sup>2</sup> The median rental prices in 2011 for Castle Ward are unusually different from the other data in the table. It is unclear whether this is a mistake in that statistics or something else, but for the purposes of this report these statistics would have been set prior to the introduction of the scheme.



existed in the scheme area. This projects costs over the five year life of the scheme of £1,255,611 and fee income generation of £1,253,915.

37. The actual total cost of the scheme since it started in September 2011 to December 2014 is £489,476.84. The costs reflect the administration of the scheme and include staffing costs, accommodation, on-costs and publicity and advertising. These costs sit against revenue generated of £561,804.90. The surplus of £72k is carried forward into future years to account for anticipated reductions in revenue generation as the numbers of HMOs licenses issued falls.
38. The current projections are that the scheme will create a further £431,882 of revenue against projected costs of £487,714.
39. This means that by the end of the scheme the total cost is currently estimated to be £978,000 against revenue generation of £994,000, leaving a small surplus of £16k. These are purely indicative figures and actual figures may alter.

## **Discounts**

40. The scheme offers discounts to applicants, namely:
  41. 10% licensing fee discounts are available for landlords/freeholders who are licensing multiple properties, or are members of certain accreditation schemes. Should both of these apply, the applicant will be eligible to the maximum 20% discount for each application being made.
  42. Should the Council decide to adopt a Selective Licensing of private rented property scheme (currently under consideration), then having two different sets of discounts will prove impractical to administer and add to the costs of the schemes. It is therefore recommended that the discounts currently offered via the Additional Licensing Scheme are replaced with the discounts offered (if any) within the Selective Licensing Scheme (if adopted). This will assist in the efficient administration of the scheme and create a fair system of discounts available to all.

## **Conclusions**

43. As the report demonstrates the scheme is succeeding against the review objectives set out at the inception of the scheme.
44. The licensing regime has revealed that even responsible landlords and freeholders who have willingly submitted license applications are far more than likely to have properties that are substandard and need improvement.
45. Empty homes are being brought back into use in the areas and property values are increasing above the borough average.
46. Although projections on the numbers of licenses issued are less than anticipated a significant number of the HMOs we believe require licensing have now been licensed. Landlords and freeholders are as a consequence being made to take

action to improve conditions, improve and/or maintain management and ensure that where applicable proper tenancy arrangements are made.

47. It is only licensing that provides the Council with tools to impose conditions that ensure management of property is maintained and tenancy arrangements are adhered to by landlords and freeholders. It is only licensing that allows the Council to check to see if a landlord is fit and proper to operate a lettings business. There are no other legislative enforcement tools that achieve this, to this scale.
48. These are achievements that could not have been otherwise achieved at this scale over this shorter timeframe without licensing.
49. This is being achieved on a cost recovery basis, showing a scheme that is both economically viable and productive.
50. A great number of local authorities only operate a service that is seen to react to tenants complaining about their conditions, which can often lead to retaliatory eviction. Licensing has the effect of changing this landscape as it is the landlord or freeholder that has to apply to be licensed and are as a consequence required to improve their properties. Pro-active inspections are carried out of property, which often leads to other substandard issues being discovered and landlords being required to remedy these. This is all achieved without the need of a tenant or leaseholder complaining about their conditions.

## **Way Forward**

51. It is clear that licensing is working and achieving what it set out to do. However there is more to do. It is therefore recommended that the scheme continues that a further exit review is carried out in the final year of the scheme.
52. Officers will:
  - a. Continue to seek out unlicensed HMOs and seek to get them licensed so they can be improved for their occupants.
  - b. Continue to work towards the corporate target of licensing 250 HMOs per annum.
  - c. Check whether landlords/freeholders are suitable to operate HMOs.
  - d. Carry out proactive inspections of these HMOs to check standards and compliance with licensing provisions.
  - e. Respond to landlords and tenants needing advice and assistance.
  - f. Look to prosecute landlords that continue to fail to license their HMOs or fail to comply with license conditions and/or management regulations.
53. It is also recommended that the discounts on license fees offered through the Additional HMO Licensing Scheme are harmonised and match the reduced rates

offered via the proposed Selective Licensing, if a scheme is adopted by the Council.

## **Appendix one – license conditions relating to living standards**

- a. The conditions attached to a licence which will result in improvement of living conditions include the following:
- b. Ensuring that the property complies with the standards adopted by the Council in respect of washing and sanitary facilities, kitchen facilities, heating and space standards. The conditions can require the provision of additional facilities, having regard to the number of persons accommodated and will specify the time period within which the works must be completed. The conditions can also restrict or prohibit the use of rooms which may be unsuitable for the purpose for which they are being used.
- c. Imposing a limit on the number of households and in certain cases, persons that can be accommodated and by prohibiting the use of unsuitable rooms for specified purposes.
- d. Requiring the execution of works to improve the fire safety in premises. These works can include the up-grading of a means of escape in case of fire, the provision of an automatic fire warning system and emergency lighting to escape routes. Again, the conditions specify the time period within which the works must be completed.
- e. Requiring the submission of a gas safety certificate, confirming that any gas installations in a building are safe.
- f. Requiring the submission of periodic electrical inspection reports, confirming that the electrical installations in the building are safe for tenants to use.
- g. Requiring any furniture provided in furnished accommodation complies with fire safety regulations and that any electrical appliances are maintained in a safe condition.
- h. Ensuring that the common parts and installations of HMOs are maintained in good repair and that living accommodation is in a clean condition at the beginning of a tenant's occupation.
- i. Before issuing a licence, officers must be satisfied that a premises is reasonably suitable for occupation by a specified number of households and persons, having regard to the Council's standards adopted for HMOs.

## **Appendix two – licensing conditions relating to management**

- j. The conditions attached to a licence which will result in improved management standards include the following:
- k. Ensure that gas and electrical installations, including fire alarms and emergency lighting are maintained and regularly tested and inspected.
- l. Ensure that the licence holder and manager comply with the requirements of the appropriate HMO management regulations.
- m. Ensure that gas and electricity supplies are not interrupted and that water supplies are properly maintained.
- n. Require landlords to provide each new tenant with a written tenancy agreement.
- o. Require landlords to take steps to reduce anti-social behaviour. This includes tenancy agreements with clauses regarding forfeiture of tenancies in the event of anti-social behaviour or criminal activity by tenants. The conditions also require landlords to report incidences of anti-social behaviour and criminal activity to the police and other enforcement agencies.
- p. Require landlords to provide each tenant with a written tenancy agreement.
- q. Require landlords to notify the Council of any changes in the property or regarding the management of the property.
- r. Require landlords to inform the Council if there has been a fire in the property.
- s. Require landlords to display in the property a copy of the licence, together with contact details of the manager and details of out-of-hours arrangements in the event of emergencies.

**Appendix three - Median Monthly Rental Figures by Ward (the four Additional HMO Licensing wards highlighted)**

	2011	2011	2011	2012	2012	2012	2013	2013	2013	2014	2014	2014
	1 bed	2 bed	3 bed	1 bed	2 bed	3 bed	1 bed	2 bed	3 bed	1 bed	2 bed	3 bed
Ashdown	£475	£675	£800	£525	£675	£800	£450	£675	£875	£450	£700	£838
Baird	£540	£760	£738	£580	£650	£763	£395	£695	£775	£463	£688	£825
Braybrooke	£425	£550	£695	£425	£550	£728	£445	£575	£725	£450	£575	£788
Castle Ward	£795	£910	£1,200	£425	£550	£685	£425	£575	£700	£425	£575	£730
Central St. Leonards	£400	£500	£650	£400	£525	£663	£425	£550	£695	£425	£550	£750
Conquest	£450	£638	£825	£498	£675	£850	£485	£695	£850	£485	£695	£850
Gensing	£425	£525	£650	£425	£537	£675	£437	£550	£675	£450	£560	£695
Hollington	£410	£600	£750	£425	£595	£750	£443	£633	£775	£395	£650	£763
Maze Hill	£425	£575	£775	£450	£595	£795	£450	£600	£788	£475	£625	£815
Old Hastings	£450	£595	£778	£468	£600	£795	£470	£600	£850	£463	£675	£895
Ore	£450	£525	£770	£450	£595	£750	£463	£600	£750	£487	£600	£750
Silverhill	£425	£550	£725	£400	£575	£795	£455	£650	£800	£450	£650	£825
St. Helens	£418	£600	£1,050	£435	£625	£763	£450	£650	£850	£425	£725	£895
Tressell	£410	£597	£700	£450	£595	£700	£450	£575	£750	£425	£625	£775
West St. Leonards	£425	£550	£750	£428	£595	£775	£410	£575	£775	£455	£625	£795
Wishing Tree	£425	£600	£775	£425	£613	£763	£440	£600	£780	£450	£625	£775

## Appendix four - HMO Additional Licensing - Cost Breakdown

### 1. Resourcing Costs (per annum)

Posts	Cost (per annum)
Salaries	£137,000
On-costs	£62,000
Accommodation Costs	£7,500
Marketing/publicity/administration	£30,000
Total	£236,500

### 2. Fee Generation

Year	Number of Licences	Fee Income
Year 1	183	£174,765
Year 2	311	£297,005
Year 3	311	£297,005
Year 4	311	£297,005
Year 5	197	£188,135
Totals	1,313	£1,253,915

Assumes average Licence fee = £955

### 3. Cost/Income Breakdown

Year	Costs (Assumes 3% inflation)	Fee Income	Net Position
Year 1	£236,500	£174,765	-£61,735
Year 2	£243,595	£297,005	£53,410
Year 3	£250,903	£297,005	£46,102
Year 4	£258,430	£297,005	£38,575
Year 5	£266,183	£188,135	-£78,048
Totals	£1,255,611	£1,253,915	-£1,696

NB: Annual inflation has not been applied to the average licence fee for the purpose of the calculations shown here. This is because there may be significant fluctuations in the numbers of licences actually issued in each of the years than has been assumed in the report for the purpose of the calculations. Inflation has been added to the costs as these are fairly fixed over the 5 year period. The effect of inflation may create a small surplus at the end of the 5 year period.