
REPORT FOR: CABINET

Date of Meeting:	19 November 2015
Subject:	Renewal of the Additional Licensing Scheme for Houses in Multiple Occupation
Key Decision:	Yes
Responsible Officer:	Venetia Reid-Baptiste, Divisional Director of Commissioning
Portfolio Holder:	Councillor Graham Henson, Portfolio Holder for Environment, Crime and Community Safety
Exempt:	No
Decision subject to Call-in:	Yes
Wards affected:	All
Enclosures:	Appendix A – Housing Act 2004 s.56 Appendix B – The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006, r.9 Appendix C – EQIA Appendix D - Designation

Section 1 – Summary and Recommendations

Proposal to renew the Additional Licensing Scheme Part 2 of the Housing Act 2004 as adopted by Harrow in June 2010.

Recommendations:

1. Cabinet to note that consultation on the renewal started in April 2015
2. Agree the proposed Additional Licensing Scheme to license Houses in Multiple Occupation (HMOs) of any number of storeys occupied by three or more unrelated people.
3. Agree that the Designation shall be made on 1st December 2015, to come into force on 1st March 2016 after the statutory 3 month period
4. Delegate authority to the Corporate Director of Community to take all steps necessary to publicise, commence and administer the scheme including the issuing and amending of licences
5. Cabinet to note that the fee is set at the level to recover the cost to administer the scheme.

Reason: (For recommendation)

1. Obtaining approval would enable us to deal effectively with complaints relating to overcrowding, anti-social behaviour, overflowing bins, lack of fire safety and amenities.
2. Licensing conditions will ensure landlords compliance and therefore benefit tenants and neighbours alike.
3. Fit in with the overall policy of the Council to address private rented sector premises to ensure standards are met, in line with the use of Mandatory HMO and Selective Licensing
4. As the majority of the housing stock and HMO's in the borough are two storey properties and not subject to mandatory licensing additional licensing would be enable us to protect the health, safety and welfare of the occupants.

Section 2 – Report

2.1 Introduction

- 2.1.1 This Administration has a key priority of making a difference to families, communities and the vulnerable. Key to this is the residential sector, which includes private rented accommodation. Current legislation allows for the licensing of private sector accommodation based on need, and includes mandatory licensing of some Houses in Multiple Occupation (3 storeys or more, with 5 or more occupants comprising two or more households). This report addresses the additional licensing scheme that can be adopted by Councils, and has been in place in various guises and designations in Harrow since 2000.

2.2 Overview

- 2.21 Section 254 of Part 7 of the Housing Act 2004 (hereinafter “the Act”) defines what a HMO is and sets out two licensing schemes for HMOs.

- 2.22 The first licensing scheme introduced by the Act is mandatory licensing for larger HMOs. These were defined in The Licensing of Houses in Multiple Occupation (Prescribed Descriptions) (England) Order 2006 as all HMOs that were 3 or more storeys, with 5 or more occupants comprising two or more households. Mandatory Licensing applies nationally.
- 2.23 The second licensing scheme introduced by the Act allows Local Authorities to introduce additional (discretionary) licensing to cover HMOs that fell outside of the mandatory scheme. Such a scheme can be applied to part or all of the Authority's District.
- 2.24 For such a designation to be made, the authority must consider that a significant proportion of the HMOs of that description in the area are being managed sufficiently ineffectively as to give rise, or to be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public.
- 2.25 The majority of the HMOs in Harrow are two storey properties (66% of those licensed to date) which fall outside the mandatory scheme. Therefore the use of Additional Licensing allows the Council to effectively monitor and maintain standards in smaller HMOs.
- 2.26 A scheme similar to additional licensing was implemented in Harrow covering the whole Borough for HMOs of 1 or 2 storeys under legislation prior to the Act. This scheme originally ran until March 2009. The permission of the Secretary of State was required, and obtained, for the scheme. Since 2010, a general consent has been applied, leaving it to the Council to agree any such designation
- 2.27 The renewal of the Additional Licensing of HMOs scheme covering the whole of the London Borough of Harrow was approved by Cabinet in June 2010, and came into force in November 2010. In line with the Act, this designation was in place for 5 years and will come to an end in November 2015.
- 2.28 In line with legal requirements under Section 56 of the Act, the Authority is required to consult on the need to renew the scheme.
- 2.29 As a result, this report seeks permission to renew the additional licensing scheme delegation, to require the licensing of HMOs of any number of storeys occupied by three or more unrelated people, and buildings which are converted entirely into self-contained flats which do not comply with the Building Regulations 1991 under section 257 of the Act.
- 2.210 These types of properties are considered potentially high risk. The Housing Health and Safety Risk System states about HMOs and damp that "Preventive measures are particularly important here because of the likelihood of occupants having to be more confined to one or two areas; thus making them more vulnerable to any dampness etc., that

might be present”¹ Additionally, it recognises increased risk from hygiene, pests, fear of crime, insulation and fire. Government research also shows that you are six times more likely to die from fire in an HMO than a ordinary house²

- 2.211 Making them subject to Additional Licensing would enable the Council to ensure that regulations in relation to fire safety standards, basic amenities and general management of the properties are being met in a proactive manner.
- 2.30 To exclude the smaller properties from the licensing scheme, could expose the occupants of these properties, who are often the most vulnerable, to poor housing conditions and lack of fire safety measures

Need for Additional Licensing

- 2.31 The Housing Act 2004 Section 56 and 57 require certain aspects to be fulfilled before any designation can be made, including:
- a. The Authority considers that a significant proportion of the HMOs of that description in the area are being managed sufficiently ineffectively as to give rise, or to be likely to give rise, to one of more particular problems either for those occupying the HMOs or for members of the public;
 - b. Take reasonable steps to consult persons who are likely to be affected by the designation; and
 - c. Considered whether there are any other courses of action available to them that might provide an effective method of dealing with the problem or problems in questions;
 - d. Ensure it is consistent with the Authority’s overall housing strategy

Consider that a significant proportion of the HMOs of that description in the area are being managed sufficiently ineffectively as to give rise, or to be likely to give rise, to one of more particular problems either for those occupying the HMOs or for members of the public;

Demographics of Harrow

- 2.32 There has been a 15% increase in Harrow’s population over the last decade, rising from 207,000 in 2001 to 239,000 in 2011. By 2013, this had increased to 243,400³. The increase is higher than the national increase of 7.9 per cent and London’s, at 14 per cent.
- 2.33 Based on these figures, it is likely that the population of Harrow by the end of 2015 will equate to approximately 260,000 including the transient population moving into London in the last 2 years. The

¹ Page 23,

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/9425/150940.pdf

² House of Commons Standard Note SN/SP/708, December 2014

³ http://www.harrow.gov.uk/info/200088/statistics_and_census_information/968/population_estimates

Service have evidenced, through complaints, proactive visits and through survey of Wards (e.g. Edgware surveyed in October 2014 to April 2015 for the purposes of Selective Licensing), that there is an increased presence of the transient population within the Borough, especially of Eastern and Central European descent

- 2.34 Harrow is one of the more densely populated of all local and unitary authorities in England, ranked 23rd out of 326 local authorities in England; where 1st is the most densely populated area. Harrow is ranked 21st in London. The average density in Harrow is 47.4 persons per hectare (pph), with higher rates in most wards to the south of the borough (the exception is Harrow on the Hill) Nationally the average density is 3.7 pph and London's overall density is 52 pph
- 2.35 In 2010, approximately 20% of the 85,000 units of housing stock in Harrow is in the private rented sector. This is almost twice the size of the social housing sector and, whilst roughly in line with levels throughout London, is much higher than in other areas of the country⁴.
- 2.36 There was a 6.5 per cent (5,150) increase in the number of households in Harrow between 2001 and 2011, from 79,112 in 2001 to 84,268 in 2011. Harrow has the second lowest proportion of one-person households nationally, with 22.6 per cent of households being one-person (26.2% in 2001). The national average rate is 26 per cent.
- 2.37 It is therefore clear, with the increase in population in an area already rating high in density per area, that there will be an increase in multiply occupied premises to accommodate these changes.
- 2.38 House and flat prices in Harrow are such that it is becoming harder for first time buyers to get on to the housing ladder, with an average 11.8% increase annually in prices. This is higher than Brent (10.7%), Barnet (11%) and Hillingdon (10.5%) Across London, this equates to a £4,500 a week increase⁵
- 2.39 As a result, London as a whole has seen an increase in multiply occupied premises to accommodate the increasing population within a static housing stock. This is led to more people being put in smaller spaces, and research showing increased overcrowding and a failure to meet standards by Landlords.⁶ Perhaps the best recent example of the state of the London housing market is the advertisement in of the space under some stairs for rent in a HMO⁷

⁴ West London Strategic Housing Market Assessment, 2010

⁵ www.itv.com, 19 May 2014 report

⁶ <http://www.telegraph.co.uk/finance/personalfinance/investing/buy-to-let/10990419/Buy-to-let-creating-bedsits-for-20pc-returns-is-just-a-response-to-the-market.html>

⁷ <http://www.bbc.co.uk/news/uk-england-london-34404651>

Current Situation

- 2.41 In Harrow, the majority of premises that are currently operating as Houses in Multiple Occupation are 2 storey buildings that fall outside the remit of Mandatory Licensing. The Additional Licensing scheme, first introduced to Harrow under the Act in 2010, allows a proactive approach to managing these premises by the Council, and the provision of clear standards that must be met.
- 2.42 The Borough has not been subject to a Housing survey for a number of years, so it is not feasible to predict the overall amount of HMOs that are likely to exist. The latest survey was a focused one in Edgware as part of the Selective Licensing Scheme, and a further Housing Survey is being conducted in the Wealdstone Ward. Both have found HMOs that would fall under the Additional HMO scheme, that are new and not in compliance with standards including fire safety.
- 2.43 There are currently 401 licensed HMOs in the Borough, of which 67% are licensed by virtue of additional licensing and 33% by mandatory licensing. All 401 licenses are available to view on the public register on the Council website⁸. A further 168 suspected HMOs that would be caught by the additional licensing scheme have been identified; 1 or 2 storey accommodation is favoured by landlords to maximise investment.
- 2.44 95% of licensed HMOs inspected have resulted in a schedule of work to bring up to standards, including fire safety works as a provision of granting the license and enforced by clear conditions. This is likely to increase due to changes in legislation including the requirement from October to have fire and CO detectors in all such premises.
- 2.45 Since the scheme came into place in 2010, the amount of service requests around HMOs (include request for information, complaints and enquiries) has stayed approximately the same despite more people taking over or converting into HMOs
- 2.46 In the financial year 2010-11 there were 202 such requests for information, 209 in 2011-12, 156 2012-13, 206 2013-14, and 166 2014-15. While the figures do fluctuate, there is clearly a need to be proactive in this area
- 2.47 In terms of complaints, overcrowding has shown an increase since the scheme came into place, with 70 of the received complaints in 2010-11 being about this, increasing to 106 in 2014-15. This has been found to be linked to more people trying to fit in the existing housing stock, and an increased need for HMOs. It is therefore imperative that standards are proactively maintained.

⁸ http://www.harrow.gov.uk/download/downloads/id/4555/hmo_register

- 2.48 The impact of the licensing scheme has seen a positive difference to disrepair complaints, with 417 complaints in 2010-11, reducing to 232 in 2014-15. This is not to say that there is less disrepair, but that this issue is being proactively addressed rather than waiting for complaints.
- 2.49 Overall, there is a demand on the service to address the increased amount of HMOs that are arising through necessity in the Borough. Officers are finding that the majority of these are two storey houses built originally for single family occupancy, and therefore not naturally meeting the legal requirements set out for HMOs, especially in terms of fire safety. As previously stated, such premises are at a greater risk from death by fire than normal occupied houses.
- 2.50 Over the last 3 years, Harrow has experienced a large number of “beds in sheds” issues within the Borough as well as an increase in number of sub-let premises reported to the Council, including single family occupancies let to multiple families / individuals. This is well documented, including in the national media over the last 2 years^{9 10} and is on-going¹¹
- 2.51 A number of raids carried out by the Licensing Team, Police and Immigration show an emergence of illegal HMOs in the Borough, connected with foreign nationals. An example of this is a raid on 30th September 2015 in the Kenton area where 38 people were found living in a 3 bedroom house, resulting in one arrest. Such a premise falls within additional licensing, but would not be captured under mandatory licensing.
- 2.52 Additional Licensing has allowed such issues to be addressed quickly and efficiently, including the benefit of additional enforcement options that come with such a scheme. This has included controlling the maximum number of occupants that can reside at the premise in order to control overcrowding and maintain basic standards.
- 2.53 It has made it easier for the Council to identify and work with those landlords whose management and / or accommodation standards are inadequate, by placing the onus on landlords to identify themselves. And it has enabled the Authority to create a comprehensive database of properties including HMOs to allow improved communication and identification of issues.
- 2.54 The Additional HMO Licensing Scheme has also assisted in allowing the Authority to address some of its high risk premises, that otherwise there would be no obligation to proactively visit, but reduce the burden on the Council Tax payer by recovering fees.

⁹ <http://www.dailymail.co.uk/news/article-2572749/Thermal-imaging-camera-reveals-shocking-extent-illegal-beds-sheds-housing-immigrants-built-rogue-landlords.html>

¹⁰ <http://www.iharrow.com/council/harrow-council-uncovers-bed-in-shed-tenants-paying-165week/>

¹¹ http://www.harrowtimes.co.uk/news/12967792.Homeowners_and_shopkeepers_to_be_prosecuted/

- 2.55 The spread of HMOs currently covered by Additional Licensing is across the whole Borough and not centred around any one area, leading to a Borough wide designation to ensure that the potential risk caused by such premises is consistently and appropriately addressed across all similar premises.
- 2.56 Based on the above, the Authority does consider that problems have arisen and are likely to continue to arise within this sector in Harrow.

Consultation

Take reasonable steps to consult persons who are likely to be affected by the designation

- 2.57 There is a requirement on the Council to carry out consultation with stakeholders on introducing or renewing the scheme.
- 2.58 Consultation was started in April 2015, with a presentation at the annual landlord's forum. This included an overview of the scheme to date, as well as encouragement to participate in the consultation process
- 2.59 Online consultation began in May 2015, overseen by the Community Engagement Team. The consultation was not restricted to any party, and sought all views. This included consulting with neighbouring Boroughs, including Barnet Council who additionally advertised Harrow's consultation on their website.
- 2.60 To maximise publicity of the scheme, the following link was added to all Public Protection Officers email signatures, ensuring any person in receipt of an email (internally and externally) would have been aware:

“Harrow wants your views on Additional HMO Licensing – get involved now at <http://goo.gl/ITfo3g>”

The link took the person straight to the consultation page

- 2.61 Communication took place with landlords by Officers at drop in sessions as part of their normal duties, as well as on site visits, and licensed landlords were written to.
- 2.62 Consultation was split between those running or overseeing properties in the rented sector (e.g. Landlords and Managing Agents) and Resident & tenants. Numbers returning the consultation were surprisingly poor despite the consultation being well advertised.
- 2.63 Only 3 people responded on behalf of those overseeing premises, with 2 landlords and 1 managing agent. Two agreed that the additional licensing scheme would assist in improving how HMOs are managed and maintained, reduce overcrowding, as well as improve property conditions and safety standards. All three agree it would reduce badly

managed premises, and improve lack of fire precautions in HMO properties

- 2.64 The consultation asked how would the Council identify and deal with some of the problems associated with HMOs without the scheme. Two responded, one stating by removing the fee as it deters landlords, and another stated it would be more difficult. No party stated any practical alternative to the proposed renewal apart from those covered in the options section in the report. The general complaint against the scheme rested on the feeling that “landlords are seen as cash cow and money generating industry” indicating more work is needed to show the fee covers the Councils costs, and is not additional income.
- 2.65 In terms of residents and tenants, there were 10 responses, 5 being owner occupiers, 1 private tenant, 1 housing association tenant and 2 council tenants. All had experienced issues around HMOs, including ASB, sub-letting, damage caused by tenants, bin storage and nuisance. Three of the respondents felt that not enough was being done by the Council or landlords to stop problems with HMOs
- 2.66 In terms of the continuation of the scheme, 2 responses stated no as they had concerns about more premises turning into HMOs and that the Council should be replenishing social housing rather than leaving it to the private rented sector. Again there were concerns from all parties about the scheme being used to purely generate income.
- 2.67 The scheme has, in various designations or forms, been running for over 15 years and therefore the scheme is known to the Borough and the landlords within it. Therefore understanding of it will be high. This could help explain the low response to the consultation, which had been widely advertised including on other council’s websites (e.g.Barnet)
- 2.68 It is worth noting that there has been support for the scheme amongst landlords spoken to due to them having clear standards to meet. It is recognised that a lot of landlords are not big property owners, but those with one or two premises trying to maximise investment and have little or no previous experience of managing such premises. The presence of the scheme aids them in understanding the requirements, and getting assistance.

Consistent with Housing Strategy

Ensure it is consistent with the Authority’s overall housing strategy

- 2.69 A person’s home can have a major impact on their quality of life and general health and wellbeing. It plays a key role in sustaining communities. Everyone wants to live in a home that is warm, dry, secure, affordable and suitable for their needs.
- 2.70 The Council’s Housing Strategy (2013-2018) sets out the Council’s strategic housing aims and highlights in particular the increasing

importance of the private rented housing sector in meeting housing needs. Additional Licensing fits into the objectives set out in the strategy being:

Housing Strategy Objectives	Private Sector Housing Strategy Objectives
Increase the supply of housing, including locally affordable housing and make best use of existing social housing stock	<ol style="list-style-type: none"> 1. Increase the supply of privately rented accommodation within the borough 2. Enable and enforce better housing conditions in the private sector
Continue to tackle homelessness by improving access to, and improving standards in the private rented sector	<ol style="list-style-type: none"> 3. Bring empty properties back into use
Enhanced housing options, promoting mobility and choice	<ol style="list-style-type: none"> 4. Meet the needs of vulnerable households living in the private sector
Improving neighbourhoods and the quality of existing homes	<ol style="list-style-type: none"> 5. Improve energy efficiency and reduce fuel poverty 6. Develop new and strengthen existing partnerships to support private sector housing

Co-ordinated Approach in Connection with Homelessness, empty properties and ASB affecting the Private Rented Sector

- 2.71 The licensing of Houses in Multiple Occupation is just one aspect of the Public Protection Service, who also oversee the Anti Social Behaviour Team, inspection of all rented accommodation and enforcement of environmental issues (e.g. fly tipping caused by persons including tenants)
- 2.72 Key to the success of the service, and such schemes as Additional Licensing, is partnership working and for that reason Officers meet regularly with the Council Housing Service to ensure a consistent approach to Homelessness, empty properties and emergency accommodation.
- 2.73 It is through such schemes as Additional Licensing that standards of properties are proactively improved and maintained, providing a better standard and quantity of housing stock to be used to address issues.
- 2.74 Additionally, the Residential Licensing Unit of Public Protection is one of the key partners addressing the “beds in sheds” issue that Planning Enforcement lead on.

Options considered

Considered whether there are any other courses of action available to them that might provide an effective method of dealing with the problem or problems in questions

- 2.75 Section 57 of the Act sets out the requirement that Councils must have considered other potential courses of action available to provide an effective method of achieving the objective or objectives that the designation would intend to achieve.
- 2.76 Consideration was given to other options as part of the consultation, including at the landlord forums and drop in sessions.
- 2.77 At all points, the authority continues to have due regard to legislative requirements as well as related codes of practice and guidance in relation to the Housing Act 2004, and any other relevant legislation.

Do Nothing

- 2.78 Evidence has shown that the majority of Houses in Multiple Occupation in Harrow fall outside the remit of Mandatory licensing due to their size rather than number of occupants affected.
- 2.79 The running of an additional HMO licensing scheme under the Act since 2006 has shown that the need to maintain standards in the Houses in Multiple Occupation remains across all storeys of HMO with an increase of premises in this area due to demographic and economic pressures.
- 2.80 The Additional Licensing scheme puts in place, clear set standards that are advertised and consistent, ensuring that the risk across Houses in Multiple Occupation is addressed. It also places an emphasis on proactive application by landlords, which the majority do, allowing Officers to focus resources on those operating outside of the scheme.
- 2.81 While basic statutory standards can be enforced without a scheme, this would be on a reactive, complaint based process that does not lead to a consistent standard of protection to tenants, nor provision of clear standards for landlords to refer to. This will lead, even inadvertently, to new premises not meeting statutory requirements.
- 2.82 It is therefore more bureaucratic and costly for good landlords to have to be reactive in dealing with issues, that the scheme would equip them to deal with at the time of licensing.
- 2.83 In line with Council commitments and requirements of putting the community first, and protecting the vulnerable and families, doing nothing is not an option.

Mandatory Licensing

- 2.84 Mandatory licensing refers to the licensing of Houses in Multiple Occupation (HMO) where the premises are three or more storeys and occupied by five or more people who form two or more households. This licensing regime has been in place in Harrow (and nationally) since 2006, but only covers a small portion of the HMO sector, especially in Harrow due to the nature of the housing stock. Even if additional licensing was not renewed, this Mandatory Licensing would still take place
- 2.85 Mandatory Licensing is able to ensure that standards are in place for specific, individual premises but does not apply to all HMOs. Therefore the use of this mandatory licensing regime alone would not meet the objectives of ensuring all high risk housing is addressed. It won't effect HMOs that don't meet the definition above.

Borough Wide Designation under Selective Licensing

- 2.86 Some councils have adopted Borough Wide schemes, as seen in Newham, but Harrow has been keen to ensure that such a scheme is used only where it is required for a targeted approach, and in line with legal requirements. Additionally, it is important that there is a clear evidence base to support any scheme in terms of effect on an area.
- 2.87 It should be noted that there has been wide spread support for selective licensing on a larger scale, but this in itself cannot be evidence to justify introducing a wider scheme. Additionally, all areas will probably suffer from aspects of anti-social behaviour linked to private rented accommodation, but it is imperative that a proportionate, evidenced approach is taken to target and tackle areas.
- 2.88 It is therefore unreasonable, and would not stand up to scrutiny, to introduce a Borough wide scheme for the purposes of capturing all private rented sector premises including those HMOs that fall outside of the mandatory licensing scheme.
- 2.89 While Selective Licensing will be looked at as an option in areas that meet the requirements, this would lead to a lot of Houses in Multiple Occupation not being captured that are outside of the areas, and therefore not subject to the same standards
- 2.90 This option therefore not viable due to a lack of Borough wide evidence to justify it at present, and inconsistency of approach if used to address HMOs

Accredited Landlord Scheme

- 2.91 There are accredited landlord schemes in operation that put in place a consistent standard and lead to improved standards of accommodation. While such schemes are valuable, it is imperative that all landlords in an area engage in improving it. Such a scheme is

voluntary and so take up is variable. Therefore it is felt that a more intensive intervention is required, making it mandatory on all landlords to comply with conditions in order to address the problems being experienced in the area.

- 2.92 As part of the additional licensing scheme, it is proposed that a £75 discount is applied to the initial application if the landlord is a member of an accredited scheme. This recognises the actions of landlords to be proactive in approach and already have signed up to agreed set standards.
- 2.93 This option is already in place, but merely compliments licensing and does not address the wider issues that additional licensing is expected to help with.
- 2.94 Harrow does not currently run its own accredited landlord scheme, but does recognise others that are in place.

Action Against Individual Cases

- 2.95 The Housing Act 2004, and relevant regulations including those covering management, do allow enforcement action against private rented accommodation including HMOs.
- 2.96 Enforcement powers under Part 1 of the Housing Act 2004 are designed to effectively deal with hazards within a property and though effective at getting landlords to remedy such hazards, it does not offer a wider strategic procedure approach.
- 2.97 The issue with reliance on these powers is that it affects property and / or person specific issues and does not necessarily address wider issues such as poor standards. However, enforcement action, including prosecution, may have some deterrent effect for other landlords.
- 2.98 It should be noted that while this action is available, it is a reactive action against a problem that exists rather than a proactive approach to prevent it happening in the first place. As a result, such action can be time and resource intensive rather than having clearly defined minimum standards that are proactively set under a licensing scheme.
- 2.99 This option is already in place, but has localised effect on its own and would not achieve the same outcomes as an Additional Licensing Scheme.

Special Interim Management Order

- 2.100 A Special Interim Management Order transfers the management of a residential property to the local housing authority for a period of up to 12 months and can only be made if approved by a residential property tribunal.
- 2.101 These orders are used to address matters of anti-social behaviour emanating from a property that the landlord is failing to take

appropriate action to deal with. The order is then made to protect the health, safety or welfare of persons occupying, visiting or engaged in lawful activities in the locality of the house.

- 2.102 These are strong powers to deal with isolated individual problems of individual anti-social behaviour which nevertheless seriously impact upon the community.
- 2.103 This process would not address standard conditions, such as space standard, kitchen facilities and so forth, that Additional Licensing covers. It can be used in conjunction with additional licensing where a focused approach is needed. This option is already in place, but has localised effect on its own and is a very costly process due to taking on the management of a property to stop issues related to that property only.

Landlords Forum(s)

- 2.104 The council has been hosting landlord forums for years which have shown a lot of interest from landlords and is a great way of exchanging information and educating our landlords who operate in the borough but this does not offer a comprehensive, structure for managing private rented properties and tenants and offers no enforcement to ensure that such a structure is adhered to.

Conclusion of Options

- 2.105 Therefore, based on the above options, there are a number of options that can be, and are, used to improve the rented sector, but the use of Additional Licensing will proactively address the most common high risk premises found within the Borough.
- 2.106 The lack of an additional licensing scheme would mean that premises previously covered would have a lower standard to comply with compared to those subject to mandatory licensing, though the risk factor remains high due to occupancy levels. For example, a 3 storey HMO with 5 unrelated people would require licensing, but a 2 storey HMO with 5 people would not, and would have different, lower, standards.
- 2.107 The renewal of such a scheme ensures a consistent safe standard across Harrow's HMOs and also clearly sets the standards for any person who intends to start the operation of any type of HMO to ensure the safety and welfare of tenants from day one.

3. Objectives and outcomes of an Additional licensing scheme

- 3.1 The purpose of an Additional HMO Licensing scheme is to ensure the safety of premises that are high risk, mainly due to occupation levels and to allow this to be carried out in a proactive way.

- 3.2 Harrow has unfortunately witnessed increasing issues with housing standards over the last few years, especially in terms of overcrowding and inappropriate letting of premises (e.g. “Beds in Sheds”), which has led to increased environmental and ASB issues. This has included increased fly tipping due to lack of suitable numbers of bins for the occupants in place. The majority of these issues are directly linked to premises that fall within the definition of Houses in Multiple Occupation
- 3.3 By renewing Additional Licensing, the Council can continue to put in place proactive measures to address potential tenant issues as well as ensure suitable conditions are provided at premises to maximise the potential to prevent or address poor conditions and safety. It places the onus on landlords to identify themselves as the responsible owner, and lessen the need for reactive and resource intensive Officer approach.
- 3.4 With the use of a clear licensing regime, it will continue to bring confidence to the private rented sector within the Borough, with all parties understanding the standards that all HMOs will operate to.
- 3.5 Encouragement is given to good landlords with a discount being offered for membership of an accredited landlord scheme.
- 3.6 For the vast majority of landlords that the Council encounters in terms of non-compliant premises, the problem tends to stem from a lack of understanding of standards or inexperience of managing a premise. Additional Licensing, in conjunction with educational work that officers routinely carry out, will aid in setting down clear guidance and standards to actually assist rather than penalise, and help the landlord and tenants.
- 3.7 For “rogue” landlords, the renewal of the additional licensing scheme introduces elements that discourage their activities. The licensing scheme allows a sanction that is wouldn’t otherwise be available, being that a landlord that operates without a licence can be made, by Court Order, to repay rent paid in respect of the unlicensed premise. Additionally, it will discourage the approach to use all available space, regardless of suitability, to house tenants to put money before safety.
- 3.8 The Licensing scheme also introduces powers to reject applications based on the “fit and proper person” test, for instance a Landlord who has previously been convicted for housing offences, to ensure responsible management of this type of premise.
- 3.9 Overall, additional licensing aims to improve premises conditions in an area of high risk, being multiply occupied premises. It will aid in protecting the welfare of tenants, provide confidence in the rented sector, and put clear standards in place for the good of all allowing all landlords of HMOs to understand the clear standards that apply. This, as well as targeted enforcement against rogue landlords, will help ensure a fair playing field in that area to encourage good landlords to operate.

- 3.10 The Council and its partners have an excellent track of multi-agency working and ensuring a co-ordinated approach in dealing with homelessness, empty properties and anti-social behaviour. This has included the housing survey of Edgware and Wealdstone to identify such issues, as well as partner visits to areas of concern on a regular basis.
- 3.11 Public Protection also benefits from having all necessary enforcement agencies under one service, including licensing, Environmental Health, ASB and Environmental Compliance. This provides a co-ordinated approach in dealing with matters affecting residential premises, supported by schemes such as additional HMO Licensing.

Aims:

To ensure:

1. A regulated standard of management and condition of private rented multiply occupied properties, setting clear standards to ensure safe, compliant premises
2. Protect tenants, especially those that are classed as vulnerable
3. Aid landlords in understanding their legal obligations, and help provide sustainable accommodation
4. Benefit those who live next to HMOs
5. Harrow to be considered an attractive area to live and work, which can result in improved economic future for local businesses including landlords

Objectives:

A reduction in:

1. Rogue landlords
2. ASB
3. Environmental non-compliance (e.g. fly tipping)
4. Fire incidents related to Houses in Multiple Occupation
5. Illegal conversions
6. Detrimental effect on an area due to badly managed and poorly maintained properties
7. Overcrowding
8. Sub-letting

4. Renewal Procedure

- 4.1 Should the designation be agreed to renew the scheme, a 3 month period will be in place in line with legislation where licensing does not take place. This period will be used to advertise the new designation, as well as the standards that apply and the fee structure
- 4.2 The current designation will end naturally in November 2015, with the new designation coming into place (after a 3 month statutory period) in March 2016. The 3 month statutory period is set out in the Housing Act 2004 and in line with The Licensing and Management of Houses in

Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006

- 4.3 This break is being used to reassess HMO standards being operated in Harrow and to specifically address the issues found over the last designation.
- 4.2 A draft set of standards, and new licensing policy, is in place and will be consulted on prior to being brought to future cabinet for approval, to accompany the new designation when it comes into force. Therefore a clear break between designations is a sensible option to be able to highlight to landlords the change in any standards linked to the new designation, rather than the impression it is an exact continuation of what was in place.

5. Implications of the Recommendation

Resources

- 5.1 If the discretionary additional licensing is not reinstated then this will adversely affect resources as the service would have to react to issues and complaints about HMOs rather than carry on a proactive approach
- 5.2 The licensing fee is calculated on the basis of self-financing the scheme following the increase in statutory responsibilities introduced due to the Act.
- 5.3 The fee structure is a standard rate for all types of properties, regardless of the number of storeys or number of occupants. The current fee is £1250 based on processing and officer inspection time for up to a five year licence. Self-contained flats which do not comply with Building Regulation 1991 would be charged £250 for up to five years.
- 5.4 In line with the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 (as amended), any designation must be published in line with the requirements of Regulation 9. These are set out in Appendix 2.
- 5.5 The cost of meeting the publication requirements, including the advertising in two papers 6 times, would equate to approximately £10,000 that would have to be met by the Service
- 5.6 Staffing for the operation of the scheme, including processing of the applications, is already in place and no further staff resources would be required.

6. Legal comments

- 6.1 The Housing Act 2004 Section 56 and 57 provides Local Authorities with the power to designate areas within their district, or the whole

district, as being subject to an additional HMO licensing scheme in relation to some or all of their HMO properties in that area. These HMOs would be those not already subject to the mandatory HMO Licensing that is required under the Act.

- 6.2 Converted properties containing flats, which fail to meet the 1991 Building Regulations can be licensable under an additional licensing scheme. These are referred to as Section 257 HMOs, due to Section 257 of the Act defining them.
- 6.3 The Authority must consider that a significant proportion of the HMOs proposed to fall within the designation are being managed sufficiently ineffectively. Additionally, a ten week consultation period must take place, and the scheme must be consistent with the Authority's overall housing strategy.
- 6.4 Once a designation is issued to implement such a Scheme, the designation will only be in force for a period not exceeding 5 years, but must be subject to review.
- 6.5 The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006, regulation 9 sets out the method by which any designation must be advertised and people informed.
- 6.6 The Council has to consult with stakeholders and therefore all those affected by the change in legalisation will be informed and advised of the impact through a Public Notice in two local newspapers, informative leaflets/letters, the website and landlords Forum to be held in the Autumn.
- 6.7 There is no fee structure prescribed by the Housing Act 2004, but Government guidance and best practice indicate that it should be self funding.

7. Financial Implications

- 7.1 Section 63(7) of the Housing Act 2004 states that "when fixing fees under this section, the local housing association may (subject to any regulations made under subsection (5)) take into account:
 - (a) all costs incurred by the authority in carrying out their functions under this Part, and
 - (b) all costs incurred by them in carrying out their functions under Chapter 1 of Part 4 in relation to HMOs (so far as they are not recoverable under or by virtue of any provision of that Chapter).
- 7.2 However, the EU Directive and the Provision of Services Regulations 2009 which was subsequently passed states, at Regulation 18(4):

“Any charges provided for or by a competent authority which applicants may incur under an authorisation scheme must be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities.”

- 7.3 Once fees are set, the Council is expected to review its fees and adjust them where necessary to reflect previous deficits or surpluses. It can take into account the cost of administering the licence over a 5 year period.
- 7.4 Based on the scheme intending to be self-financing, for the life of the licensing period (5 years), a fee of £1250 is proposed per application, and is set at a level where the total revenue from the fee is intended to cover the costs as stated above. This is in line with the previous designation. Based on the current number of properties being granted an Additional Licence, this generates an income of approximately £500K over a period of 5 years, which will be sufficient to fund the costs of processing applications, inspections and administering the licence during the period. No increase is proposed due to efficiencies in the service leading to no increased costs incurred or recovered.
- 7.5 An initial discount of £75 is proposed for landlords who are a member of an accredited landlord scheme. This is in line with recognising that Additional Licensing is to be used in conjunction with other action to improve Houses in Multiple Occupation. Ultimately, the ideal situation would be for the private sector to manage itself, addressing the issues, and the recognition of accredited schemes assists in encouraging this.
- 7.6 A licence will not be issued until a complete application and full payment has been received by the Local Authority, to ensure that costs are covered.
- 7.7 If the scheme is not renewed, reactive work will still need to take place by the Service in receipt of complaints to ensure the safety of Houses in Multiple Occupation, but costs would not be recovered. Additionally, due to not having in place licensing conditions or process, enforcement would be more time consuming and less clear. Overall, it would place a burden on the service.
- 7.8 The only additional cost this renewal would bring to the service would be that incurred in meeting statutory requirements for publishing the designation, if approved. This is estimated at £10K in total, and will be met from the service’s budget.

8. Performance Issues

- 8.1 Performance issues not identified.

9. Environmental Impact

- 9.1 Environmental Impact issues not identified.

10. Risk Management Implications

- 10.1 Full cost recovery is to be achieved by the service, and the work around Houses in Multiple Occupation (including Mandatory) currently costs the Council approximately £120,000 per annum which is fully recovered
- 10.2 The removal of the additional licensing scheme would still leave cost recovery from mandatory licensed premises, but not for any action required to address any concerns from HMOs outside of this scheme that are brought to the Service attention
- 10.3 This scheme does not feature in the Directorate or any other corporate risk register.
- 10.4 The consultation and processes undertaken to get to the stage of recommending renewal of additional HMO licensing were carried out in line with government guidance and statutory requirements and minimises legal risk.
- 10.5 The introduction of a consistent standard across Houses in Multiple Occupation also enables that properties, and those connected to them, are treated fairly and consistently, minimising any complaint regarding process or policy.

11. Equalities implications / Public Sector Equality Duty

- 11.1 Pursuant to section 149 of the Equality Act 2010 (“the Act”), the council, in the exercise of its functions, has to have ‘due regard’ to (i) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; (ii) advancing equality of opportunity between those with a relevant protected characteristic and those without; and (iii) fostering good relations between those who have a relevant protected characteristic and those without.
- 11.2 The relevant protected characteristics are age, race, disability, gender reassignment, pregnancy and maternity, religion or belief, sex and sexual orientation. The duty also covers marriage and civil partnership, but to a limited extent.
- 11.3 In line with this, an Equalities Impact Assessment (EqIA) has been conducted and took into account the consultation feedback. The EqIA can be found in **Appendix 3**, and to summarise, found that no group would be adversely impacted by the introduction of this scheme.
- 11.4 Additionally, the policies and procedures governing, that oversee the licensing process and enforcement, address equalities and ensure a fair, balanced approach in line with statutory requirements and guidance.

12. Council Priorities

The Council's vision:

Working Together to Make a Difference for Harrow

The additional HMO licensing aids in meeting the priorities of the Council including:

Making a difference to communities:

Fundamentally, links into this priority, by addressing rented accommodation which will impact the area people live

Making a difference to the most vulnerable:

By putting in place a proactive approach to ensuring a minimum standard of housing, especially in terms of safety aspects, it aids in protecting those that may be considered vulnerable in the private sector housing market.

Making a difference to families:

The renewal of the scheme fundamentally affects where families live, as well as ensure a minimum housing standard families can expect in the housing market.

Section 3 - Statutory Officer Clearance

Name: Jessie Man	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 12 October 2015		
Name: Andrew Lucas	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 12 October 2015		

Ward Councillors notified:	YES
EqIA carried out:	YES
EqIA cleared by:	Hanif Islam

Section 4 - Contact Details and Background Papers

Contact: Richard Le-Brun, Environmental Services Manager
(Public Protection), 020 8424 6267
Richard.lebrun@harrow.gov.uk

Background Papers: See Enclosures

**Call-In Waived by the
Chairman of Overview
and Scrutiny
Committee**

NOT APPLICABLE

[Call-in applies]