

Report for: **Cabinet**

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| Date of Meeting: | 29 th April 2021 |
| Subject: | Renewal of the Additional Licensing Scheme for Houses in Multiple Occupation |
| Key Decision: | Yes |
| Responsible Officer: | Michael Butler, Divisional Director (Environment) |
| Portfolio Holder: | Councillor Varsha Parmar, Portfolio Holder for Environment |
| Exempt: | No |
| Decision subject to Call-in: | No |
| Wards affected: | All |
| Enclosures: | Appendix A – EQIA Appendix B – Designation Appendix C – Consultation Responses |

Section 1 – Summary and Recommendations

Proposal to renew the Additional Licensing Scheme under Part 2 of the Housing Act 2004 (as previously adopted by Harrow in June 2010 and November 2015).

Recommendations:

Cabinet is requested to:

1. Note the outcome of the consultation and to agree to the proposed Additional Licensing Scheme to license Houses in Multiple Occupation (HMOs) of any number of storeys occupied by three or more unrelated people.

2. Agree that the Designation shall be made on 6th May 2021, to come into force on 6th August 2021 after the statutory 3-month period required by The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006.
3. If the scheme is approved, delegate authority to the Head of Community & Public Protection, following consultation with the Portfolio Holder for Environment and Equalities, to take all steps necessary to publicise, commence and administer the scheme including the issuing and amending of licences.
4. If the scheme is approved, delegate authority to the Corporate Director Community, following consultation with the Portfolio Holder for Environment and Equalities, to amend and approve licensing conditions.

Reason: (For recommendation)

- Obtaining approval would enable us to deal effectively with complaints relating to issues such as overcrowding, anti-social behaviour, overflowing bins, lack of fire safety and amenities.
- Licensing conditions will ensure landlords compliance and therefore benefit tenants and neighbours alike.
- Having the scheme will 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.
- 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 enable us to better 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 (5 or more occupants comprising two or more households since October 2018). 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

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

- 2.2.2 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. This changed in October 2018 to remove the 3 or more storey aspect (The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018) Mandatory Licensing applies nationally.
- 2.2.3 The second licensing scheme introduced by the Act allows Local Authorities to introduce additional (discretionary) licensing to cover HMOs that fall outside of the mandatory scheme. Such a scheme can be applied to part or all of the Authority's District.
- 2.2.4 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.
- 2.2.5 The renewal of the Additional Licensing of HMOs scheme covering the whole of the London Borough of Harrow was originally approved by Cabinet in June 2010 and came into force in November 2010. That scheme was reviewed and renewed after 5 years, leading to the last scheme that ended in February 2021.
- 2.2.6 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.
- 2.2.7 While previously 66% of HMOs fell outside the mandatory scheme, this has reduced since 2018 legislative changes to just over 20%. But these do play a significant role in issues associated with overcrowding, disrepair and environmental matters (e.g. waste). As is seen below, 95% of all HMOs, including those captured under additional licensing, still are subject to schedule of works to bring them up to standard and indicating that self-management of such properties is still not feasible to ensure consistent minimum standards
- 2.2.8 In line with legal requirements under Section 56 of the Act, the Authority is required to consult on the need to renew the scheme.
- 2.2.9 As a result, following consultation, 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.

2.2.10 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 an ordinary house².

2.2.11 Making such properties 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.

2.2.12 To exclude the other properties from the licensing scheme, could expose the occupants of these properties, who are often the most vulnerable, to poor housing conditions such as overcrowding, damp and mould and lack of fire safety measures.

Need for Additional Licensing

2.2.13 The Housing Act 2004 sections 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;
- 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; and
- 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

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

- 2.2.14 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, and now estimated to be above 250,000⁴.
- 2.2.15 The Service have evidenced, through complaints, proactive visits and through survey of Wards (e.g. Edgware surveyed for the purposes of renewing Selective Licensing in 2020), that there is an increased presence of the transient population within the Borough.
- 2.2.16 The last census was conducted nearly a decade ago, so accuracy of information about Harrow is based upon other surveys as well as trend data (e.g. population increases).
- 2.2.17 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 23rd 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 37 pph and London's overall density is 52 pph.
- 2.2.18 In 2010, approximately 20% of the 85,000 units of housing stock in Harrow was in the private rented sector. This had risen to 30% by 2017⁵. 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 country⁶. Recent figures show that 66% of housing were homeowners; by 2017 this had fallen to around 60%.
- 2.2.19 There was a 6.5% (5,150) increase in the number of households in Harrow between 2001 and 2011, from 79,112 in 2001 to 84,268 in 2011 and 91,909 in 2019. Harrow has the second lowest proportion of one-person households nationally, with 22.6% of households being one-person (26.2% in 2001). The national average rate is 26%. Harrow is also rated 24th worst of 326 local authorities in England for severe overcrowding⁵
- 2.2.20 It is therefore clear, with the increase in population in an area already rating high in density per area, that there is an increasing amount of multiply occupied premises to accommodate these changes.
- 2.2.21 House and flat prices in Harrow are such that it is becoming harder for first time buyers to get on to the housing ladder. Year ending 2010, the average price in Harrow was £265,000, going to £500,000 year ending 2017⁷.
- 2.2.22 As a result, London as a whole has seen an increase in multiple-occupied premises to accommodate the increasing population within a

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

⁴ <https://directory.londoncouncils.gov.uk/demographics/harrow/>

⁵ <https://www.harrow.gov.uk/downloads/file/23835/annual-equalities-data-2017-18>

⁶ West London Strategic Housing Market Assessment, 2010

⁷ Data.london.gov.uk

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.⁸ 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 HMO⁹.

Current Situation

2.2.23 The Additional Licensing scheme, first introduced to Harrow under the Act in 2010, allows a proactive approach to managing all HMOs by the Council, and the provision of clear standards that must be met. 2.43 indicates a significant amount of HMOs in Harrow still fall outside any mandatory scheme, and would not be subject to any licensing scheme if additional is not renewed.

2.2.24 The Borough has not been subject to a Housing survey for a number of years, so it is not feasible to predict the overall number 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.

2.2.25 A breakdown of HMOs by additional and mandatory licensing shows that 1 in 5 HMOs would not be licensable under mandatory even with the changes in 2018. All licenses are available to view on the public register on the Council website¹⁰.

2.2.26 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 2018 to have fire and CO detectors in all such premises.

2.2.27 Since the Additional Licensing 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.

2.2.28 In the financial year 2010-11 there were 202 such requests for information, 166 in 2014-15 and 157 in 2019-20. While the figures do fluctuate, there is clearly a need to be proactive in this area.

2.2.29 In terms of complaints, overcrowding led to an increase when additional licensing came into place but has now started to decrease as premises are brought to compliance. Overcrowding accounted for 70 of the received complaints in 2010-11, increasing to 106 in 2014-15

⁸ <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>

⁹ <http://www.bbc.co.uk/news/uk-england-london-34404651>

¹⁰ http://www.harrow.gov.uk/download/downloads/id/4555/hmo_register

and registering 80 in 2019/20. Evidence from officers show that overcrowding through Landlord actions are decreasing, but illegal sub-letting leading to overcrowding (and therefore a “hidden” sector as we do not receive the complaints) is increasing.

2.2.30 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 and 199 in 2019-20. This is not to say that there is less disrepair, but that this issue is being proactively addressed rather than waiting for complaints.

2.2.31 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.

2.2.32 Over the last 3 years, Harrow has experienced a large 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 previously^{11 12} and is ongoing.¹³

2.2.33 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.

2.2.34 Additional Licensing 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.

2.2.35 The Additional HMO Licensing Scheme has also assisted in allowing the Authority to address some of its high-risk premises that fall outside Mandatory Licensing and would otherwise not require any proactive approach.

2.2.36 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

¹¹ <http://www.dailymail.co.uk/news/article-2572749/Thermal-imaging-camera-reveals-shocking-extent-illegal-beds-sheds-housing-immigrants-built-rogue-landlords.html>

¹² <http://www.iharrow.com/council/harrow-council-uncovers-bed-in-shed-tenants-paying-165week/>

¹³ http://www.harrowtimes.co.uk/news/12967792.Homeowners_and_shopkeepers_to_be_prosecuted/

caused by such premises is consistently and appropriately addressed across all similar premises.

2.2.37 This is shown in the number of suspected HMOs which has increased by 465% over the last 5 years, but across all wards. This data is based on complaints / reports to the Council in this period.

2.2.38 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

2.2.39 There is a statutory requirement on the Council to carry out consultation with stakeholders on introducing or renewing the scheme.

2.2.40 To maximise publicity of the scheme, the following steps were taken:

- Officers email signatures contained a link to the consultation;
- Posters around the whole of the Borough with details and how to comment; and
- Letters and emails to all landlords, managing agents and letting agents advising them of the consultation.

2.2.41 Consultation began on 3rd September 2020 and continued until 12th November 2020. It included online consultation overseen by the Community Engagement Team. This included consulting with neighbouring Boroughs, including Barnet Council who additionally advertised Harrow's consultation on their website.

2.2.42 A second consultation took place from 15th January 2021 and continued until 26th March 2021 in order to maximise responses to renew the scheme, due to lack of initial responses and to ensure we had covered all necessary parties. This included expanding the consultation on other internet platforms including London Properties, as well as addressing previous issues highlighted in the first consultation.

2.2.43 The consultation responses are found in **Appendix C**, including comments made to the proposal to renew the scheme, a separate letter and comments from a representative of managing agents.

2.2.44 In respect of the first consultation, the Council received a total of 23 responses, 21 being residents (20 owner occupied and 1 council tenant) and 2 landlords. 91% of those participating were not landlords, 18 people answered the question around continuing the scheme of which 89% (16) were in favour.

2.2.45 The second consultation received 87 new responses which were from landlords and landlord bodies. 87% (68) of those answering stated they

were landlords, 81 answered the question about continuing the scheme of which 74% (60) said no. This is to be expected as the burden of any licensing rests on the landlords involved.

2.2.46 Overall, 110 people responded, 64% being landlords. Overall, Landlords were against the renewal of the scheme, but split in terms of ensuring HMO standards were imposed (e.g. conditions). This compared to the majority of other respondents being in favour of introducing the renewal, and 45% of all respondents being in favour of imposed standards

2.2.47 Despite two consultations taking place and advertising on numerous media streams. The numbers responding to the proposal for the renewal of the Additional Licensing Scheme were low and even lower for landlords, considering the amount of current licensed premises in Harrow. However, the main complaint from those opposing the renewal, were mainly landlords, it was felt that it was another “tax” rather than a scheme to ensure safety and standards for premises within Harrow.

Consistent with Housing Strategy

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

2.2.48 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.

2.2.49 The Council’s Housing Strategy (2019-2024), found at <https://www.harrow.gov.uk/downloads/file/26993/housing-strategy-2019-with-heading>, 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 Objectives |
|--|---|
| 1. Prevent and tackle homelessness and rough sleeping | 1. Increase the supply of privately rented accommodation, including bringing empty properties back into use |
| 2. Promote realistic housing options for people who need to move | 2. Enable and enforce better housing conditions in the private sector. |
| 3. Prioritise new homes for people living or working in Harrow | 3. Meet the needs of vulnerable households living in the private sector. |
| 4. Increase the supply of | |

| | |
|---|--|
| affordable homes to rent and buy | |
| 5. Meet the needs of older and vulnerable residents | |
| 6. Improve quality and standards, especially in the private rented sector | |

2.2.50 The Housing Strategy clearly sets out that “Successfully addressing issues of property management and standards as well as supply within the private sector relies on the abilities of a number of agencies to work together” and that includes working with landlords and applying a consistent standard across the sector.

2.2.51 Housing Services, Environmental Health (Residential Licensing, Enforcement), Building Control and Planning work together to improve quality and standards in private sector housing, particularly in the private rented sector. The Private Sector Strategy Steering Group meets on a quarterly basis to discuss strategic issues relating to private sector housing and agree necessary actions. This includes overseeing the licensing regime for the private rented sector.

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

2.2.52 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).

2.2.53 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.

2.2.54 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.

2.2.55 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

2.2.56 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.

2.2.57 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

2.2.58 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.

2.2.59 The running of an additional HMO licensing scheme under the Act since 2010 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.

2.2.60 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.

2.2.61 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 the statutory requirements.

2.2.62 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.

2.2.63 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

2.2.64 Mandatory licensing refers to the licensing of Houses in Multiple Occupation (HMO) where the premises are 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 and occupancy which tends to be less than 5. Even if additional licensing was not renewed, this Mandatory Licensing would still take place.

2.2.65 Mandatory Licensing can 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 will not affect HMOs that do not meet the definition above.

Borough Wide Designation under Selective Licensing (which covers all rented properties, not just HMOs)

2.2.66 Some councils have adopted Borough Wide Selective Licensing schemes, as seen in The London Borough of Newham, which requires all private rented premises in the Borough to be licensed. 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.

2.2.67 It should be noted that there has been widespread support for Selective Licensing on a wider scale within the borough, 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.

2.2.68 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.

2.2.69 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 those areas, and therefore not subject to the same standards.

2.2.70 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

2.2.71 There are national 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.

2.2.72 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.

2.2.73 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.

2.2.74 Harrow does not currently run its own accredited landlord scheme but does recognise others that are in place.

Action Against Individual Cases

2.2.75 The Housing Act 2004, and relevant regulations including those covering management, do allow enforcement action against private rented accommodation including HMOs.

2.2.76 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.

2.2.77 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.

2.2.78 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.

2.2.79 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

2.2.80 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 the First-Tier Tribunal (Property Chamber).

2.2.81 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.

2.2.82 These are strong powers to deal with isolated individual problems of individual anti-social behaviour which nevertheless seriously impact upon the community.

2.2.83 This process would not address standard conditions, such as space standards, 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)

2.2.84 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. Unfortunately, this year, such a forum was not possible due to covid-19.

Conclusion of Options

2.2.85 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.

2.2.86 The lack of an Additional Licensing scheme would mean that premises previously covered would have a lower standard to comply with compared to those subjected 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 3 storey HMO with 4 people would not, and would have different, lower, standards.

2.2.87 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 a recognised 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 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 would not 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 record 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; and
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; and
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 has naturally ended in March 2021, and the new designation will come into place after a 3 month statutory period if approved by Cabinet. 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. In these current times, it also allows consideration to covid-19 restrictions to be taken into account.
- 4.4 The HMO standards have been updated to ensure remain relevant and are in place 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.
- 4.5 Additionally, after a low response from the initial consultation, it was felt best to consult again to increase coverage and opportunity to comment. This has led to a delay but felt necessary to ensure a fair process and maximise input. The responses of the consultation are found at **Appendix C**.

5. Implications of the Recommendation

Resources

- 5.1 If (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 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.
- 5.4 The cost of meeting the publication requirements, including the advertising in two papers, would equate to approximately £10,000 that would have to be met by the Service.
- 5.5 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 Sections 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 Building Regulations 1991 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. This ten-week period is defined under The Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2015.
- 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 will therefore ensure all parties stated within the legislation specified in paragraph 6.5 are 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.

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 In line with *Hemming v Westminster City Council*, the fee is split into an administrative and management parts.
- 7.4 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.
- 7.5 The fees and charges are reviewed annually and presented to Cabinet for approval under a separate report. HMO licensing fees are included in the fees and charges schedule for Cabinet noting, and they were approved by Full Council in February 2021.
- 7.6 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.
- 7.7 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.
- 7.8 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.
- 7.9 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.
- 7.10 In line with requirements, benchmarking of fees and charges takes place regularly to ensure they meet the needs of the legislation as well as do not pose an additional burden to landlords who operate across a number of Authorities. Such benchmarking includes comparison with other London Boroughs, for example at <https://www.hmoserviceslondon.com/hmo-licensing-cost/>

8. Performance Issues

- 8.1 Performance issues not identified.

9. Environmental Impact

9.1 Such a scheme assists with the environment by ensuring clear conditions attached to address such aspects as waste. This has seen improvements, but enhanced since October 2018, when it has been mandatory to add a condition about waste to any HMO licence. Work has recently taken place with Keep Britain Tidy to do some understanding of waste and HMOs, to feed into a HMO waste policy to be implemented.

10. Procurement Impact

10.1 There is no procurement impact associated with the renewal of this scheme.

11. Risk Management Implications

11.1 Risks included on corporate or directorate risk register? **No**

11.2 Separate risk register in place? **No**

11.3 The relevant risks from the risk register are attached/summarised below. **N/A**

11.4 The following key risks should be taken onto account when agreeing the recommendations in this report:

| Risk Description | Mitigations | RAG Status |
|--|--|------------|
| Bad publicity due to being seen as a tax on landlords | <ul style="list-style-type: none">▪ Evidence based approach to show need, especially with increase in HMOs over the last 5 years▪ Consultation process allowing input from all to understand any concerns▪ Scheme been in place for the last 5 years so is known | |
| Poor compliance, including take up of the scheme | <ul style="list-style-type: none">▪ Publicity, including 3 months advertising as per legislation, to take place to push scheme▪ Better understanding of where premises are from the last 5 years | |
| Lack of benefit from the scheme | <ul style="list-style-type: none">▪ Inspections of premises as part of the licensing scheme means all premises do gain a proper inspection and follow up▪ Monitoring of progress conducted to show effective, including conditions applied | |
| Judicial review of the scheme by a landlord / representative | <ul style="list-style-type: none">▪ Evidence base to show justification for renewing▪ Meet the legislation in terms of | |

| | | |
|---|---|--|
| | consultation, advertising and implementation ▪ Address any concerns raised directly to prevent need for a judicial review | |
| Lack of resources to implement properly | ▪ Residential Licensing team in place to oversee, with additional officers introduced to assist ▪ Better on line applications and payments scheme, with further work taking place | |
| Cost of scheme not recovered | ▪ Part of wider licensing target, so mitigation in place to cover costs if needed ▪ Past scheme shows targets are met and this is likely as increasing amount of HMOs in the Borough | |

12. Equalities implications / Public Sector Equality Duty

12.1 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.

12.2 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.

12.3 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 C**, and to summarise, found that no group has been or would be adversely impacted by the introduction of this scheme.

12.4 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.

12.5 Part of the benefits of such a scheme mean that there is a better standard of housing available to all. With consideration that HMOs are being used more due to cost of living, such a licensing scheme helps protect the vulnerable using them.

13. Council Priorities

The renewal of the additional HMO Scheme feeds into the following priorities:

1. **Improving the environment and addressing climate change**
2. **Tackling poverty and inequality**

3. **Building homes and infrastructure**
4. **Addressing health and social care inequality**

Section 3 - Statutory Officer Clearance

Statutory Officer: Jessie Man

Signed on behalf of the Chief Financial Officer

Date: 8th March 2021

Statutory Officer: Jabou Kinteh

Signed on behalf of the Monitoring Officer

Date: 14th April 2021

Statutory Officer: Nimesh Mehta

Signed by the Head of Procurement

Date: 20th February 2021

Statutory Officer: Michael Butler

Signed by the Corporate Director

Date: 14th April 2021

Statutory Officer: Susan Dixon

Signed by the Head of Internal Audit

Date: 5th March 2021

Mandatory Checks

Ward Councillors notified: No as Borough Wide

EqIA carried out: YES

EqIA cleared by: Dave Corby

Section 4 - Contact Details and Background Papers

Contact: Richard Le-Brun, Head of Community and Public Protection, 020 8424 6267, Richard.lebrun@harrow.gov.uk

Background Papers:

The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006, regulation.9
<https://www.legislation.gov.uk/uksi/2006/373/regulation/9/made>

Housing Act 2004

<https://www.legislation.gov.uk/ukpga/2004/34/contents>

Call-in waived by the Chair of Overview and Scrutiny Committee

NO