

REPORT FOR: CABINET

Date of Meeting:	14 September 2010
Subject:	Housing Act 2004: (Re)-Introduction of Additional Licensing Scheme for Houses in Multiple Occupation (HMO) for properties consisting of 2 or more storeys
Key Decision:	Yes
Responsible Officer:	John Edwards, Divisional Director Environmental Services
Portfolio Holder:	Councillor Phillip O'Dell, Portfolio Holder for Environment and Community Safety
Exempt:	No
Decision subject to Call-in:	Yes
Enclosures:	Appendix A - Correspondence from Communities and Local Government Appendix B - London Fire Brigade letter of support Appendix C – Metropolitan Police letter of support Appendix D –Submission to Secretary of State

Section 1 – Summary and Recommendations

This report sets out the proposal to re-introduce an Additional Licensing Scheme, under Part 2 of the Housing Act 2004, in relation to a specified description of Houses in Multiple Occupation, within the Borough of Harrow, namely properties of 2 or more storeys occupied by four or more unrelated persons.

Recommendations:

Cabinet is requested to:

1. Agree that Harrow should implement the proposed Additional Licensing Scheme to licence HMO properties of 2 or more storeys occupied by four or more unrelated persons.

Reasons: (For recommendation)

1. As the majority of the housing stock and HMOs in the borough are two storey properties, licensing HMOs in this category will enable the council to protect the health, safety and welfare of the occupants and others.
2. An additional licensing scheme will enable the council to better deal with HMOs not being properly managed. It will enable the council to deal effectively with complaints relating to overcrowding, anti social behavior, overflowing bins, lack of fire safety measures and amenities within HMO dwellings.
3. Licensing conditions and HMO management will ensure better landlord compliance and therefore benefit tenants and neighbours alike.

Section 2 – Report

Introduction & Current situation

The Housing Act 2004 defines what a House in Multiple Occupation (HMO) is and the number of occupants that can occupy a property before it becomes licensable. The Housing Act 2004 brought in a mandatory HMO licensing scheme to target those HMOs thought to be at highest risk (3 storeys or more occupied by 5 or more persons, who do not live together as a single family or other household).

The Housing Act 2004 also provides for local authorities to have an additional licensing scheme for non mandatory HMOs. Harrow had such an Additional Licensing Scheme but this ceased to operate in April 2009.

Up until earlier this year, in order to introduce or continue such a scheme, permission had to be sought from the Secretary of State (Communities & Local Government), and thus a formal application was made by Harrow in September 2009.

In April this year a response from Communities & Local Government was received (see appendix A) informing that from 1 April 2010 a general approval / consent had been introduced to allow local authorities to introduce additional HMO licensing schemes without needing formal approval from that department. Local authorities are still expected to comply with the legislative requirements.

There are estimated 85,000 households in Harrow. 12% of the households are privately rented, bringing to a total of 10,000 households who live in privately rented accommodation, including those persons living in HMOs.

Since 2000, we have licensed 467 HMOs and it is estimated that there are 1500+ HMO's in the Borough.

Why a change is needed

The mandatory HMO licensing scheme only covers larger HMO properties with 3 or more storeys and occupied by five or more unrelated people. The majority of the HMO properties in Harrow are two storey properties, and hence reintroducing the additional licensing scheme will enable the council to effectively monitor smaller HMO properties.

The proposal is to reintroduce the additional licensing scheme, and to reflect the evidence gathered, to change the criteria to licence two or more storey properties which are occupied by four or more people, and buildings which are converted entirely into self contained flats, which do not comply with the Building Regulations 1991, under section 257 Housing Act 2004. These types of properties are considered as not meeting appropriate building standards as per the said regulations, and therefore 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.

To exclude the smaller HMO properties from the licensing scheme, could expose the occupants of these properties, who are often the most vulnerable, to poor housing conditions and/or lack of fire safety measures and/or adequate amenities.

Implications of the Recommendation

Resources, costs

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 £655.00 based on processing and officer inspection time for a five year licence. Self contained flats which do not comply with Building Regulation 1991 would be charged a reduced rate of £133.00 for five years.

Staffing/workforce

Reintroducing the additional licensing scheme is unlikely to require any extra staff as an additional licensing scheme was operated from 2006 – 2009 with the same number of staff. If identified that additional staffing is required in future, then a case will be made for the same at that point.

Equalities impact & Consultation

The proposed scheme would cover the whole of the borough and therefore affect all properties in Harrow that fall into the definition that has been proposed, as noted above in 'Why a change is needed'.

An equalities impact assessment has been carried out and no further action is required at this point.

As required by the Housing Act 2004, a full consultation was carried out with all interested parties and with the wider public through direct mail to tenants, landlords and relevant associations and Authorities. The consultation was sent to landlord and Tenant Associations and newspaper articles were written to advertise the consultation carried out by the Authority. The findings were submitted to the Secretary of State as part of the process, and are also included with this report, in Appendix E.

Legal comments

Section 56(2) of the Housing Act 2004 requires that, in order for a local authority to designate its area (or part of it) as being subject to additional licensing, 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'.

The Private Sector Housing Enforcement team at Harrow considers this to be the case based on past experience and the consultation carried out as part of the process.

The Housing Act 2004, and also the general approval /consent given by the Minister for Housing and Planning, Communities and Local Government (see appendix 1), places a duty on the authority to consult persons that may be affected by the designation (for at least 10 weeks), and to consider the results of this before making such a designation. If such a consultation does not take place, then the authority cannot rely upon the general approval/consent, and it will also be in breach of the legislation.

Section 57 of Housing Act 2004 also requires the authority to take a number of other considerations in to account when looking to bring in an additional licensing scheme, such as considering if there are any alternative options (to an additional licensing scheme) available to deal with the problems being encountered, and that having such a scheme will significantly help them to deal with them.

Financial Implications

Budget for HMO licensing income is £21K. The majority of this income will be raised from the additional licensing scheme. The rest of the income is expected to be raised by the statutory scheme.

Performance Issues

No issues identified.

Environmental Impact

This proposal will help the council to deliver its climate change strategy in respect HMOs.

Extension of this scheme to two-storey HMOs will improve the council's ability to identify homes with low thermal efficiency - as licensing of HMOs requires the council to undertake inspections using the Housing Health and Safety Rating System (HHSRS) within 5 years of registration.

Under HHSRS, local authorities have a legal duty to take "appropriate action" wherever a property is found to have a "Category 1" hazard. They may take action for a Category 2 hazard.

Local authorities also have a legal duty to carry out systematic reviews of the housing stock in their area for Category 1 and 2 hazards.

It is estimated that 4.8 million homes in England (22%) have Category 1 hazards present, of which 4.2 million are in the private sector. The most common Category 1 hazards are Excess Cold and Falls.

According to the government's Operating Guidance on HHSRS, Excess Cold on its own would be enough to classify the average pre-1945 dwelling as a Category 1 hazard.

HHSRS can be used to enforce action in private rented sector homes, which are typically the least energy efficient and where there are the greatest barriers to encouraging action.

Risk Management Implications

If the proposal is rejected, the Authority may find it difficult to control the standards in smaller HMO properties and the impact to neighbouring properties and the environment.

Risk included on Directorate risk register? No

Separate risk register in place? No

Equalities implications

Was an Equality Impact Assessment carried out? Yes (Screening only)

As the Licensing of HMO's deals with improving Fire Safety, Space Standards and Amenity Standards in multiply occupied dwellings, no issues affecting equalities are identified for action at this moment. .

Corporate Priorities

Please identify which corporate priority the report incorporates and how:

- Build stronger communities

The licensing of smaller HMO's as described earlier in this report should increase the standards in these premises and improve the health and welfare of the residents of these properties. It further enables the Council to better control the environment of these properties and those living in the vicinity through licence conditions, and to minimize anti social behaviour and nuisance caused by such premises.

Section 3 - Statutory Officer Clearance

Name: Kanta Hirani	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 23 August 2010		
Name: Paresh Mehta	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 26 August 2010		

Section 4 – Performance Officer Clearance

Name: Anu Singh	<input checked="" type="checkbox"/>	on behalf of the Divisional Director Partnership, Development and Performance
Date: 27 August 2010		

Section 5 – Environmental Impact Officer Clearance

Name: Andrew Baker	<input checked="" type="checkbox"/>	on behalf of the Divisional Director (Environmental Services)
Date: 20 August 2010		

Section 6 - Contact Details and Background Papers

Contact:

Mr P Sivashankar
Service Manager
Community Safety Services
020 8736 6237

Background Papers:

Housing Act 2004 s58(6)
Housing Act 2004 Sec 56 to 60
Support letter from the London Fire Brigade
Support letter from the Metropolitan Police

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

NOT APPLICABLE