


<p align="center">London Borough of Hammersmith & Fulham</p> <p align="center">ECONOMIC REGENERATION, HOUSING AND THE ARTS POLICY & ACCOUNTABILITY COMMITTEE</p> <p align="center">8th March 2016</p>	
<p align="center">IMPROVING THE PRIVATE RENTED SECTOR</p>	
<p align="center">Report of the Director for Environmental Health</p>	
<p>Open Report</p>	
<p>Classification - For Policy & Accountability Review & Comment Key Decision: No</p>	
<p>Wards Affected: All</p>	
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1. EXECUTIVE SUMMARY

- 1.1. The Council wants to achieve better outcomes for our residents in the private rented sector, which now accounts for a third of the housing stock in the Borough. There are a number of responses the Council is considering to improve the standard and safety of private rented housing and address anti-social behaviour in what historically has been a difficult area to intervene in effectively.
- 1.2. This report sets out the basis for proposals for the introduction of additional and selective licensing, revising local Houses of Multiple Occupancy (HMO) standards and the introduction of a landlord's charter to proactively raise housing standards and protect residents.
- 1.3. The report provides an update on the Healthier Homes project an early interventions initiative that tackles poor housing conditions thereby keeping people in better health and in their homes.

2. RECOMMENDATIONS

- 2.1. The Committee is invited to review and comment on proposed measures to improve the private rented sector.

3. INTRODUCTION AND BACKGROUND

- 3.1. The private rented sector in LBHF has grown rapidly in the last ten years and now accounts for approximately 27,500 properties, a third of the Borough's housing. It is likely that this trend is to continue leading to the private rented sector becoming the dominant source of housing in the borough.
- 3.2. There is a variety of property and landlords: ex Right-to-Buy council homes; private landlords with a small to medium portfolio; "accidental" landlords who have one or more homes owned for investment or family reasons; and buy-to-let landlords (sometimes from overseas) who have bought homes in new developments.
- 3.3. A notable proportion of private rented sector accommodation is provided by Houses in Multiple Occupation (HMO). It is estimated that there are over 6,000 HMOs in the Borough. The definition of an HMO in the Housing Act 2004 is a property rented out by at least three people who are not from a single 'household' but share facilities like the bathroom and kitchen. The current mandatory licensing scheme in operation in the borough applies only to larger properties that have five or more sharers and three or more stories (although the Government is currently consulting on the potential extension of this definition to capture a wider section of the sector).
- 3.4. HMOs provide a valuable source of accommodation, however they also account for the largest proportion of reported hazardous defects annually to the Environmental Health private housing team. HMOs also tend to be at greater risk from poor management, fire safety issues, damp, mould, poor ventilation, inadequate heating and anti-social behaviour.
- 3.5. The increased demand and competition from tenants to find accommodation that is in short supply means that there is little market driven incentive for poor landlords to maintain minimum safe housing standards.
- 3.6. It is reported that one in three private rented properties are 'non-decent' according to official measures. But this can obscure the harsh reality of what non-decency means: one in six privately rented homes (16 per cent) is considered physically unsafe according to a recent Citizen's advice report.
- 3.7. A Citizens Advice Report (A Nation of Renters, How England moved from secure family homes towards rundown rentals) reports that whilst nationally, in 2004 the most common household type renting were young single persons, in 2014 it was couples with children. This changing demographic is of key concern to the council, which is committed to reducing the effects of child poverty.
- 3.8. The Council is keen to develop ways to Improve Standards in this sector in ways that are good for tenants and good for landlords.
- 3.9. Cabinet agreed 2nd November 2015 to undertake a Borough wide and cross-boundary consultation on 5 options to improve the private rented sector including the potential introduction of additional and selective licensing and the revision of current HMO housing standards.
- 3.10. The Council is currently procuring a consultancy to lead on the consultation.

4. PROPOSAL AND ISSUES

- 4.1. The Council wants to achieve better outcomes for residents and landlords in the private rented sector. To improve the standard and safety of private rented housing the Council's Housing Strategy: 'Delivering the change we need', adopted in May 2015 following a full consultation, sets out the following key actions:

The Council will:

- Take steps to improve the Private Rented Sector
 - Investigate the advantages and disadvantages of licensing schemes within the Borough
- 4.2. Seventy-six percent of those who responded to the housing strategy consultation agreed with the private rented sector actions.
- 4.3. The Economic Regeneration, Housing and the Arts Policy and Accountability Committee formally resolved to support the proposals for improving private rented housing in the borough and asked the Cabinet to bring forward detailed plans for their implementation.

Stock condition private rented sector

- 4.4. The Council has encouraged the improvement of the private rented sector through enforcement, mandatory licensing of large HMOs and the promotion of landlord accreditation. Despite continuing work, last year (2014/2015) the private housing team received 903 requests from residents about defects within their rented accommodation, a 46% increase on the previous year.
- 4.5. The majority of defects were remedied as a result of the Council's intervention. Formal enforcement action was required in 87 properties where the most serious Category 1 Hazards (e.g. fire, electrical and gas safety) were identified, 43 of which were due to excess cold (inadequate insulation and heating). The council is duty bound to take enforcement action where a Category 1 hazard exists whereas the enforcement of Category 2 hazards is discretionary and policy based.
- 4.6. Research has shown that a large proportion (over 40%) of the Borough's anti-social behaviour emanates from a small proportion (20%) of the Borough's private rented housing stock. Anti-social behaviour of concern includes noise nuisance and issues with rubbish collection and storage.
- 4.7. There are currently 284 licensed House's in Multiple Occupation (HMOs with 3 or more stories with 5 or more households) within the Borough providing homes to at least 1,400 residents. Last year, April 2014 to March 2015, private housing licensed 30 HMOs providing a total of 279 habitable rooms.

Enforcement

- 4.8. The Council seeks to improve the private rented sector through inspection and responding to resident complaints. The Council routinely undertakes enforcement and has secured a number of prosecutions against landlords, for example:

- The landlord of 145 Talgarth Rd W14 9DA was prosecuted (April 2015) for failing to license his HMO and poor management that included no hot water, leaking soil pipes and inadequate heating and ordered by the court to pay £23,380.48.
- The landlord of 835 Harrow Road was prosecuted (March 2015) for failing to license his HMO and poor management and ordered by the court to pay £24,916.57.
- The landlord of 37 Lawson House, W12 was prosecuted (December 2015) for poor management that included defective electrics and leaks in the bathroom. And received an 18-month conditional discharge on each offence and was ordered to pay full costs £8,621.99

- 4.9. The Council has recently committed to fund two additional officers from existing identified resources for a period of 12 months. The officers will tackle unlicensed HMOs that require licensing and inspection but are currently operating outside the law. In addition, they will locate and identify HMOs that though not licensable require improvement to comply with legislation to make them safe habitable accommodation.
- 4.10. In addition, the Council has been successful in securing further funds from the Department for Communities and Local Government of £91,000 to tackle rogue landlords. The project funding runs from 22nd January to 31st March and it is hoped that this can be extended.
- 4.11. Despite the increase in resources enforcement relies predominantly on tenant complaints. Evidence suggests that tenants are fearful of retaliatory eviction following complaints about conditions even though the recently introduced laws under the Deregulation Act 2015 affording a degree of protection.
- 4.12. Reactive enforcement in response to resident complaints is insufficient on its own to deliver widespread improvement of the private rented sector. A more proactive and wider approach is needed and licensing removes the need for a complaint for conditions to be addressed.

Healthier Homes Project

- 4.13. Environmental Health is leading on the 'Healthier Homes' project an early interventions initiative that tackles poor housing conditions thereby keeping people in better health and in their homes. This in turn will reduce the burden on the NHS by reducing GP visits and hospital admissions.
- 4.14. Planned activities, through this Public Health funded project, seek to reduce fuel poverty and the risk of ill-health from falls or excess cold due to poor housing conditions. The activities target vulnerable persons including those aged over 60 and children under 5.
- 4.15. Activities include putting in measures to identify and target the appropriate at risk groups, training front line services (GPs etc) to make referrals and to raise awareness and implement physical improvements, such as new boilers, to the home.

- 4.16. Fuel Poverty and cold homes can have a wide array of impacts, most notably on resident health. Cold homes increase the risk of respiratory and circulatory problems, and exacerbate existing health conditions. Home temperature also has an impact on mental health and is linked with an increased risk of conditions such as depression and anxiety.
- 4.17. Cold homes also affect other factors associated with health (wider determinants of health) such as educational performance in children and increased absences from work amongst young people. The Child Poverty Joint Strategic Needs Assessment has identified poor housing as a priority that needs to be tackled and the Public Health strategy made child poverty a strategic priority for Hammersmith & Fulham.
- 4.18. Older people are also particularly vulnerable to the effects of cold homes through increased risks of strokes, circulatory problems and hospital admission. Cold also lowers strength and dexterity leading to a higher rate of accidents and falls. The Public Health Strategy recognises the needs of the older population and in particular mentions social isolation and its effect on mental wellbeing. Fuel poverty can exacerbate this because people can be unwilling to invite visitors to an unheated home.
- 4.19. To date (February 2016) more than 220 households have been offered input from the team with 68 physical adaptations/measures provided (energy and heat saving solutions). Enforcement against 17 landlords identified as providing deficient housing placing vulnerable persons at risk has commenced.

Improving the private rented sector through Licensing

- 4.20. The introduction of wider licensing schemes would help the council to work with landlords to proactively ensure homes are safe and well managed through a set of minimum standard conditions. This approach would shift the reliance away from using resident complaints to identify problems.
- 4.21. Many London Boroughs subject to the same housing issues have introduced licensing schemes. Notably Newham Council has led on a Borough wide scheme, with other Boroughs including Camden and Croydon following suit. In addition Brent, Haringey, Hillingdon, Barking and Dagenham and Hounslow have introduced and operate a range of different schemes to meet their needs.
- 4.22. Under the Housing Act 2004 the Council can introduce other non-mandatory licensing schemes within its area; either Additional and/or Selective licensing.
- 4.23. The law states that any decision to implement a selective or additional licensing scheme must be consistent with the council's housing strategy and must be part of a coordinated approach for dealing with homelessness, empty homes and anti-social behaviour. The council must be satisfied that there are no other courses of action that might provide an effective remedy and that the introduction of a licensing scheme will significantly assist in dealing with the problem. So there is a lot of evidence that the council will need to collect and consider before it can introduce such a scheme.

Mandatory Licensing

- 4.24. Currently an HMO is required to be licensed with the Local Authority if it is three or more storeys in height and is occupied by five or more tenants, of which at

least 2 households share one or more basic amenities including kitchen, bathroom or WC.

- 4.25. Between 6th November 2015 and 18th December 2015 the Department for Communities and Local Government consulted on the potential extension of licensable HMOs.
- 4.26. The Council has responded to the consultation stating that based on local context that the prescribed number of storeys and number of households is too restrictive and needs to be widened to reflect the current housing market and the premises types with our borough.
- 4.27. At the time of writing the DCLG is analysing feedback.

Additional Licensing

- 4.28. An additional licensing scheme can be introduced if the council is satisfied that a significant proportion of HMOs are being poorly managed and are giving rise, or likely to give rise, to problems affecting the occupiers or members of the public.
- 4.29. An additional licensing scheme for HMOs would require landlords who let a HMO property that meets criteria to be determined by the council, which falls outside of the mandatory licensing scheme that is occupied by three or more non-related occupiers that share some basic facilities (such as a kitchen) to have a licence.
- 4.30. Licensed HMOs must be inspected within the period of the licence, which can be for a maximum of five years. Self certification on application and a guaranteed inspection provides greater confidence that hazardous defects will be proactively identified and remedied by landlords.
- 4.31. Councils can implement an additional licensing scheme provided it meets all the requirements in the Housing Act 2004 and they have consulted with everyone affected by the designation for a minimum of 10 weeks.

Selective Licensing

- 4.32. Selective licensing can be introduced if anti-social behaviour (ASB) is identified as a 'significant' and 'persistent' problem. A *selective licensing scheme* would require landlords who let residential accommodation that falls outside of the mandatory and additional HMO definition to have a licence.
- 4.33. When assessing ASB, government guidance says that councils should consider crime, nuisance neighbours and environmental crime and then assess whether landlords are failing to take appropriate action to help resolve the problem.
- 4.34. Under new regulations introduced in March 2015 (the Selective Licensing of Houses (Additional Conditions)(England) Order 2015), councils have been given new wider powers to implement selective licensing schemes in areas containing a high proportion of private rented properties. Exactly what 'high proportion' means has not been defined although it will require councils to determine the density of private rented accommodation when developing scheme proposals. Councils must also satisfy one of four new criteria around poor housing conditions, migration, deprivation or crime. Whether any London boroughs decide to use these new wider powers is yet to be seen.
- 4.35. Councils can implement a selective licensing scheme provided it meets all the requirements in the Housing Act 2004 and they have consulted with everyone

affected by the designation for a minimum of 10 weeks. Under new rules that came into force on 1 April 2015, any selective licensing scheme that covers more than 20% of the area or 20% of private rented homes can only be introduced with specific Government approval.

Licensing Fees

- 4.36. The introduction of any scheme would need to operate on a cost neutral basis to the Council.
- 4.37. A fee would be charged for a licence that has been calculated on the basis of the anticipated scheme costs. The fee would cover the costs running and enforcement of the licensing scheme and be subject to consultation.

H&F Landlord's Rental Charter

- 4.38. In London the main accreditation provider is the London Landlord Accreditation Scheme (LLAS) run by Camden as not for profit organisation, which awards accreditation to reputable landlords who undergo training and comply with a code of conduct.
- 4.39. The London Borough of Hammersmith & Fulham supports the LLAS. However, to date only 350 Hammersmith & Fulham landlords have signed up to the scheme, which represents a small fraction of the private rented sector market.
- 4.40. The Council is committed to introducing its own landlord charter that reflects local needs and widens the participation of landlords in improving the private rented sector.

HMO Standards

- 4.41. Minimum national standards for Houses in Multiple Occupation (HMOs) are prescribed in regulations under the Housing Act 2004. These relate to provision of bathrooms, WCs, kitchens, fire safety and heating within HMOs.
- 4.42. Under Section 65 of the Housing Act 2004, more detailed local HMO standards can be set to reflect local housing conditions, provided they do not fall below the national minimum standards.
- 4.43. The Council adopted its own minimum HMO standards in 2006. However, to reflect the increase in the private rented sector and to drive forward improvement these standards need revision to ensure that HMOs provide a good level of suitable accommodation and facilities.

5. CABINET REPORT RECOMMENDATIONS

- 5.1. On 2nd November 2015 Cabinet agreed:
 - to consult Borough wide and cross-boundary on five key proposals including the introduction of additional and selective licensing, the introduction of an H&F private landlord's rental charter, the revision of minimum standards applied to Houses in Multiple Occupation and the formation of a Social Lettings Agency to proactively raise housing standards and protect residents.
 - funding of up to £60,000 using existing capital funding for project management of consultation including the development of a cross boundary impact assessment.

6. CONSULTATION

- 6.1. The consultation will seek the views of residents and landlords, both in the affected areas and neighbouring wards and Boroughs, on the proposed introduction of licensing schemes.
- 6.2. The consultation will run for a minimum of 12 weeks to ensure that sufficient opportunity is given for feedback.
- 6.3. The consultation will be managed by an external consultancy experienced in running such initiatives which is currently being procured that is and will include extensive publicity and the development of a cross boundary impact assessment.
- 6.4. It is proposed to commence consultation in mid-2016 with the aim to get a report to cabinet by December 2016.

Consultation: Proposal to Introduce Additional Licensing

- 6.5. A significant proportion of the complaints received from residents by the Council relate to defects such as inadequate heating, damp, mould and deficient fire safety measures owing to poor management by landlords.
- 6.6. The Council is to consult on the potential introduction of additional licensing across the whole Borough in order to protect families, children and individuals living in accommodation with shared facilities and raise overall standards.
- 6.7. The definition of a HMO in the Housing Act 2004 is a house or flat occupied by three or more people who form more than one household. The definition of HMO includes:
 - Buildings that consist of bedsit rooms where at least some of the facilities are shared (kitchen or bathroom)
 - Buildings with multiple units of accommodation that all have their own exclusive facilities but which are not self-contained
 - Buildings which contain a mixture of the above types of accommodation
 - Shared houses
 - Buildings converted into self-contained flats that don't comply with the Building Regulations 1991 and where less than two thirds of the flats are owner-occupied are known as section 257 HMOs (applicable in the proposed scheme to only those properties where half or more of the units are let and only those parts under the control of the proposed licensee or freeholder).
- 6.8. To identify potential HMOs within the Borough analysis has been undertaken through statistical modelling using a number of council data sets. Officers have inspected a sample set of properties to verify the data which appears to be both accurate and robust. It is estimated that there are potentially 6,000 HMOs in the Borough.

Consultation: Proposal to Introduce Selective Licensing

- 6.9. A review of the available data confirms a link between rented properties in the private sector and anti-social behaviour.
- 6.10. There is a strong correlation between the private rented sector and anti-social behaviour at street level in a number of locations. In order to verify the accuracy

of the modelling data officers inspected a sample set of properties. Streets with notable proportions of social housing have been excluded to ensure the data is not skewed.

- 6.11. A model has been developed that has arrived at a number of options to cover those private rented properties that result in high levels of anti-social behaviour (for example, noise and litter), which will deliver the best outcome in terms of improving the private rented sector. Field inspections confirmed that the modelling appears accurate and robust.
- 6.12. The Council is to consult on the potential introduction of selective licensing covering a fifth of the Borough's streets. It would seek to protect families, children and single households in rented accommodation and raise overall standards.
- 6.13. The proposed option would cover over 5,000 properties accounting for 40% of the borough's anti-social behaviour. The majority of this accommodation is in streets with a mixed commercial/residential make up i.e. predominantly along major roads and adjoining streets.

Consultation: Revision of local HMO standards

- 6.14. It is proposed to revise the local HMO standards that are used to determine whether a property is reasonably suitable for occupation by a certain number of persons.
- 6.15. By amending its local standards the Council ensures that accommodation is maintained above minimal national standards that do not adequately reflect the built form, size, layout and type of HMO that is typically found in our Borough.
- 6.16. New local standards will provide information for landlords on what is required of them to comply with the law. This will include the management, safety, facilities and living space for the occupiers.
- 6.17. The main proposed changes to the HMO standards are: -
 - To separate the previous HMO standards into three categories of property type, as follows:
 - HMOs comprising bedsit/studio rooms
 - Flats in multiple occupation and shared houses
 - Hostels/staff/vocational accommodation
 - To include studio type accommodation (i.e. where all facilities are provided within the main room) within the standards.
 - To require improved standards and guidance to reflect the main hazards in the Housing Health and Safety Rating System such as fire safety and excess cold.

Consultation Proposal: Introduction H&F Landlord's Rental Charter

- 6.18. The Council is to consult on the potential introduction of a 'H&F Landlords Rental Charter' that commits landlords to best practice on rents, housing standards, charges, tenants' deposit protection and security of tenure.

- 6.19. Landlords will be able to display a copy of their signed charter to demonstrate to tenants that they uphold to the principles of good management. Landlords renting a property, which requires a licence will benefit from a discount off the licence fee.
- 6.20. The proposal aims to be light touch and the council will not verify that landlords are upholding the principles set out in the charter. However, landlords who have signed the charter but do not uphold to the principles will have their chartered status removed if an inspecting council officer has cause to, subject to review.

7. EQUALITY IMPLICATIONS

- 7.1. An Initial Screening Equality Impact Analysis has been undertaken and shows positive advantages to particular groups of person from the proposals.
- 7.2. The key groups that will be affected by the proposals are private rented sector tenants within the designated areas and landlords who will be required to purchase a license.
- 7.3. Licensing seeks to target poor housing that is below a standard considered to be safe or fit for habitation as defined under the Housing Act 2004. Such housing is often inhabited by persons and families who are on low incomes and potentially vulnerable. The introduction of licensing is envisaged to have a positive impact on equalities.
- 7.4. A full equalities impact assessment will be undertaken following the consultation feedback and the development of recommended proposals.

8. LEGAL IMPLICATIONS

- 8.1. The legal implications are contained within the body of this report. This report is seeking the view of the Committee on the various options outlined in order to fully inform the scope and ambit of any consultation that takes place at a later date.
- 8.2. The London Mayoral and Assembly elections will take place on Thursday 5 May 2016. Whilst usual Council business should not come to a standstill, consideration must be given to the Purdah Period leading up to the elections. The Purdah period begins on 21 March 2016. The launching of any new projects, initiatives and consultation which could be regarded as politically controversial during this period should be avoided.

Legal Implications provided by by Joyce Golder, Principal Solicitor, 020 7361 2181.

9. FINANCIAL AND RESOURCES IMPLICATIONS

- 9.1. As the exact level of income from fees should a scheme be adopted will depend on the number of actual properties meeting the selective licence criteria, the number HMO properties, number of units within the HMOs and the number of discounts granted, all of which are not yet known, it is not possible to accurately predict the exact level of income that will be received from fees for the scheme.

- 9.2. All expenditure associated with administration of the scheme will need to be funded from the fee income received. In order to ensure that all appropriate costs are met from fee income an annual budget will need to be set based on the latest income forecast.
- 9.3. The level of income received from fees would need to be monitored closely and expenditure plans altered accordingly to ensure the scheme covers its administration costs and the proposals are revenue neutral.

10. IMPLICATIONS FOR BUSINESS

- 10.1. The Council sees this as an opportunity for landlords to sustain and grow their businesses by creating a level playing field where irresponsible landlords who flout their legal responsibilities are required to up their game to comply.
- 10.2. Good landlords will gain from the improved local environment from improving management standards to tackle anti-social behaviour. By knowing who is responsible in the first instance for dealing with problems associated with the premises, will improve the quality of life for local residents and the local area.
- 10.3. Licensing allows a strategic approach to raising the standard in a larger number of properties without the need for enforcement, except in those cases where landlords do not comply or do not come forward to license. For landlords, it will create a level playing field and allow peace of mind through knowing that their property meets minimum standards.
- 10.4. For small scale landlords (The National Landlords' Association 2014 research shows that 70% of landlords are 'part time' and do not make their main income through being a landlord), some of whom are 'accidental' landlords, it will ensure that they are aware of their responsibilities and property standards.
- 10.5. The scheme will provide an overview of the private rented sector stock, and contact details for landlords. As well as being able to better plan sector policy, it will enable the council to support landlords in ensuring their properties are good quality homes. For example landlords will have better access to private sector housing advice and Council tenants in need of homes.

12. RISK MANAGEMENT

- 12.1 The proposals contribute strongly to the management of housing risk in the private rented sector. Key concerns in the private sector are the poor condition of properties. The primary function of central and local government enforcement work is to protect the public, the environment and specific groups such as tenants and consumers. At the same time, carrying out enforcement functions in an equitable, practical and consistent manner helps to promote a thriving national and local economy. The Council is committed to ensuring that all persons living in the Borough are housed in dwellings that meet the standards set down in legislation. In doing so the Council aims to play a crucial role in providing a private rental market that delivers high quality, secure and affordable homes and fully contributes to the development of sustainable local communities. Through the proposals the Council will work to drive up the management standards and professionalism of private landlords contributing to

risk number 12 on the Shared Services risk register, meeting the customers' needs and expectations.

Implications verified/completed by: Michael Sloniowski, Shared Services Risk Manager, 02087532587

LOCAL GOVERNMENT ACT 2000
LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT

No.	Description of Background Papers	Name/Ext of holder of file/copy	Department/ Location
1.	N/A		