

## London Borough of Hammersmith & Fulham

**Report to:** Cabinet

**Date:** 01/03/2021

**Subject:** Improving private sector housing through discretionary property licensing

**Report of:** Councillor Lisa Homan, Cabinet Member for Housing

**Report author:** Ed Shaylor, Private Sector Housing Manager

**Responsible Director:** Sharon Lea, Strategic Director for the Environment

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### Summary

The Council has two discretionary property licensing schemes which expire in June 2022. These schemes require landlords of privately rented houses and flats which meet the criteria of the schemes to apply to the Council for a licence for each property. The criteria for each scheme are:

- Additional Licensing for Houses and Flats in Multiple Occupation (“HMOs”) for all HMOs which are outside the scope of Mandatory HMO Licensing
- Selective Licensing for all rented dwellings in 128 specified streets

Cabinet is asked to decide that officers should conduct a public consultation with a view to re-designating both schemes from June 2022 for a further 5 years, with appropriate adjustments in order to focus on the streets and types of properties which cause the most significant problems.

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### Recommendations

To agree that the Strategic Director for the Environment carry out the process of evidence gathering and public consultation in respect of the re-designation of the additional and selective licensing schemes.

**Wards Affected:** All

<b>Our Values</b>	<b>Summary of how this report aligns to the H&amp;F Values</b>
Building shared prosperity	The Council aims to encourage private landlords to provide accommodation for renters to live and work in the area
Creating a compassionate council	The Council supports tenants in private rented accommodation to live in safe and healthy conditions
Doing things with local residents, not to them	The Council enables tenants and landlords to provide information about living conditions in the borough, and provides advice for tenants and guidance to landlords as well as enforcement
Being ruthlessly financially efficient	Income from licensing schemes is used to improve conditions in the private rented sector through education and (where necessary) enforcement
Taking pride in H&F	The Council's aims for satisfaction with living conditions in H&F to be above the national average

### **Financial Impact**

The costs of the process of evidence gathering and public consultations in respect of the re-designation of the additional and selective licensing schemes will be done mainly electronically, via social media, website, email etc, with a minimum of postal surveys.

These costs will be contained within Private Sector Housing Service's approved budgets for 2020/21.

### **Legal Implications**

Under Part 2 of the Housing Act 2004 ("the Act"), the Council, as a local housing authority, must licence large HMOs; this is called "Mandatory HMO Licensing". In October 2018, the statutory definition of a dwelling which requires a Mandatory HMO licence was widened to include a dwelling of less than three storeys, provided it is occupied by five or more persons living in two or more separate households (ie are not all related to each other or partners). Exceptions include purpose-built flats situated in a block comprising three or more self-contained flats.

A local housing authority may designate the whole or part of its area for "Additional HMO Licensing" in relation to a description of HMOs specified in the designation. The designation can be made if the Council considers that a significant proportion of the HMOs in the area are being managed sufficiently ineffectively to be likely to give rise to particular problems either for those occupying the HMOs or for members of

the public. For example, a designation could include HMOs occupied by less than 5 persons and purpose built flats in blocks.

Under Part 3 of the Act, a local housing authority may introduce Selective Licensing of privately rented homes to address problems in the area caused by significant anti-social behaviour, poor property conditions, an influx of migration, a high level of deprivation or high levels of crime. If the number of private rented households in streets designated for Selective Licensing exceeds 20% of the borough's total private rented sector, approval for the scheme is needed from the Secretary of State.

Sections 56(3) and Section 80(9) of the Act state that before making a designation for additional or selective licensing the Local Housing Authority must take reasonable steps to consult persons who are likely to be affected by the designation, and consider any representations made in accordance with the consultation and not withdrawn. Prior to commencing the consultation, the Council should produce a draft proposal identifying what is to be designated and its consequences. The consultation should last for a minimum 10-week period and be informative, clear and to the point so that the proposal can be readily understood by local residents, landlords, letting agents and businesses. It should be more than a general listening and engagement exercise.

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**Background Papers Used in Preparing This Report - *PUBLISHED***

[Report](#) for Cabinet 5 December 2016 “Improving Private Renting”

Hammersmith & Fulham [Borough Profile](#) 2018

## Proposals and Analysis of Options

### Background

1. The Council's Housing Strategy 2015 set out a number of measures to improve the private rented sector, one of which was investigating the advantages and disadvantages of discretionary property licensing schemes within the Borough.
2. A review of data found that less than one fifth of streets in the borough accounted for about one third of the borough's police call outs, crime, environmental nuisance, litter and rubbish dumping.
3. There were also concerns that some smaller HMOs (i.e. those with no more than one or two storeys or 3 or 4 occupiers) were overcrowded and / or lacking basic safety amenities, being outside the scope of national Mandatory HMO Licensing.
4. A [key decision](#) was made by Cabinet on 5 December 2016 to introduce discretionary property licensing schemes. The key objectives of the schemes (which started on 5 June 2017 and expire on 4 June 2022) were to introduce:
  - **Additional HMO Licensing** - improve standards of property management and living conditions in HMOs, and
  - **Selective Licensing** - reduce antisocial behaviour (ASB) in 128 selected streets in the borough where the ASB, rubbish and noise problems were above average
5. A recent survey of licence holders found that nearly two thirds of the landlords and agents who responded believe licensing schemes make little difference in improving standards and are regarded by them as unnecessary and an unwelcome financial burden on landlords. However, one third believe licensing schemes help to raise standards and enable Councils to deal with rogue landlords who fail to apply for licences.

### Additional HMO Licensing

6. Although officers have found many HMOs to be of a good standard, inspections have uncovered significant problems which can be improved through licensing conditions, such as:
  - Lack of fire doors or adequate fire detection systems
  - Undersized kitchen for the number of occupiers
  - Overcrowding
  - HMOs offering a bedroom which is too small,
  - HMOs where the only reception room is used as a bedroom, so that there is no shared living space apart from the kitchen

- Flats formerly owned by the Council but now in leasehold ownership, altered internally and in some cases unsuitable for multiple occupancy in terms of space, amenities and pressure on services and utilities.

### **Selective Licensing**

7. Issues relating to antisocial behaviour, noise nuisance, poor waste management and public health nuisance, are easier to address if specific streets are designated, so that dedicated resource can be focussed on targeted enforcement interventions in those areas.
8. Of the streets in the currently designated area, half have produced less than 10% of the total number of Selective Licences. Conversely, there are other streets and neighbourhoods with significant issues arising from the private rented sector, which could be included in a new designation. Consultation about a re-designated scheme would, therefore, consider revising the selection of streets in the scheme to make sure that they are the streets which require most intervention to improve conditions.
9. Privately owned blocks of purpose-built flats in Selective Licensing streets may have effective self-management arrangements through their leasehold conditions, management companies and service charges. Consultation would consider exemption of such blocks from a re-designated scheme. Flats in converted houses and flats above shops which are not regulated so effectively, and sub-let leasehold flats in blocks where the Council is freeholder, would be prioritised for inclusion in a re-designated scheme.

### **Reasons for Decision**

10. Before making a designation for Selective Licensing or Additional HMO Licensing, the authority must take reasonable steps to consult persons who are likely to be affected by the designation; and consider any representations made in accordance with the consultation and not withdrawn.

### **Equality Implications**

11. Data held by the Council shows that the majority (64%) of landlords are White British or other White background, which is similar to the borough population profile. There is strong representation among landlords of Asian ethnicity (8%) and Irish (3%) ethnicity, which are also similar to the borough profiles. Compared to the borough profile, there are very few landlords of Black British, Caribbean or African ethnicity.
12. Nearly half (45%) of landlords are in the 46-65 age group, with 16% aged 31-45 and very few under 30. 20% of landlords are aged over 65, so there are a significant number of landlords above normal retirement age.
13. The housing stock of the borough is characterised by a large proportion of flats and maisonettes. They account for 73% of all dwellings compared to a London average of 52% and England average of 21%. The private rented

sector is the sixth highest in London and eighth highest in the country as a whole and accounts for 33.2% of all households. The highest concentration of private rented sector is in Avonmore & Brook Green and North End wards (43% of all households).

### **Other Implications**

N/A

### **Consultation**

14. A survey of current licence holder landlords was conducted in September / October 2020. A summary of the findings is in Appendix 1.

15. A survey of private renting tenants in the borough has been launched to run from December to February 2021.

### **List of Appendices:**

<b>Appendix1</b>	<b>Summary of improvements to the private rented sector achieved under the licensing schemes</b>
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## Appendix 1

### Summary of improvements to the private rented sector achieved under the licensing schemes

16. There has been broad compliance by most landlords with the designated licensing schemes with 67% of the expected number of licence applications by June 2022 having been received by January 2021, at which point 73% of the duration of the schemes had elapsed. Officers are working proactively to identify properties which should have been licensed but are not – by the end of the current schemes in June 2022 it is expected that the number of applications will be higher still. Enforcement notices will be served where there is failure to licence without reasonable excuse.

Type of licence	Licence applications by Jan 2021	Number of licences issued	Number anticipated by June 2022
Selective Licences	2,730	2,600	4,110
Additional HMO Licences	2,820	2,650	4,110

17. With regard to Additional HMO Licensing, it was not intended that all licensed HMOs would be inspected under the scheme (unless there is a specific complaint), as landlords are expected to take note of detailed minimum standards, fire precaution advice and conditions attached to licences which were revised and re-issued in 2020. The new minimum standards and licence conditions are clearer and easier to enforce. They can be found on the Council [website](#).

18. A sample of 170 inspections of Additional Licensed HMOs have taken place. Officers have them to be mostly of a good standard, a summary of key findings being as follows:

- About 10% have a deficiency of a basic amenity, such as an undersized kitchen for the number of occupiers living in the HMO
- About 10% are traditional 3 or 4 bedroom houses or flats where the smallest bedroom is less than 6.5 square metres - these have been required to cease to be used as a bedroom as it is too small, which in some cases results in the maximum occupancy number being reduced by one
- More than 75% have smoke alarms on each floor, which complies with the minimum standard in the Smoke Alarm Regulations 2015 but not the LACORS Guidance “Housing Fire Safety” or the Housing Health

and Safety Rating System, which calls for a higher standard of fire detection in HMOs. Similarly, many do not have a fire door on the kitchen or a heat alarm in the kitchen

19. These inspections have resulted in action to improve fire safety in smaller HMOs, to prohibit the use of bedrooms less than 6.5 square metres by adult occupiers and to reduce overcrowding.
20. Where there is a leasehold covenant prohibiting use of a flat for multiple occupation, a policy has been implemented to limit the duration of the licence to two years (instead of the usual five) during which time the licence holder is expected to either cease using the flat as an HMO when tenants move out, or obtain a waiver from the freeholder. The same approach has been adopted where the council is the freeholder, as the council has a policy not to allow its leasehold flats to be used as HMOs.
21. A significant number of leasehold flats where the council is freeholder, have been found to have been altered internally before an HMO licence was applied for. In some cases, the alterations are unsuitable in terms of space, amenities and basic fire protection (for example bedrooms opening directly off kitchens). The licensing scheme therefore assists with challenging unauthorised alterations.
22. A new H&F Landlords' Charter was launched in 2016, and landlords who sign up to it benefit from a discount on licence fees. Approximately half of licence holders have signed up to the Charter or are a member of a recognised landlords' professional association.
23. With regard to Selective Licensing, 64 streets in the Selective Licensing scheme accounted for 8.9% of ASB reports in the whole borough in 2016, despite having only 5.3% of the total households in the borough. These 64 streets have seen a decrease in ASB reports from 8.9% in 2016 to 4.9% in 2020.
24. The other 64 streets in the Selective Licensing scheme accounted for 17% of ASB reports in the whole borough in 2016, but have a larger proportion (11.1%) of the total households in the borough. These 64 streets have seen an increase in the borough's ASB reports from 17% in 2016 to 21.8% 2020, which suggests that attention needs to re-focus on larger streets with high percentages of households in the private rented sector. A re-designated scheme would assist with this process.
25. The licensing scheme means that officers have a wealth of information about licensed properties and can isolate those properties which are not licensed and are therefore more likely to be badly managed.
26. Street level surveys have been undertaken in Goldhawk Road, Fulham Road and the Melrose Conservation Area, near Shepherd's Bush Road. These surveys have provided valuable information about unlicensed properties and the current levels of problems with housing conditions in the private rented



sector and associated antisocial behaviour. Further street level surveys will be conducted during 2021/22.

27. Since 2017, the council has taken two successful prosecutions for housing offences under the licensing schemes, with fines totalling £83,000, and has issued three financial penalties totalling about £25,000. There are three further prosecutions pending, where court dates have unfortunately been delayed due to Covid 19.

28. In September 2020, the Council sought feedback on its schemes to licence rented residential properties in the borough from 2,600 landlords and property managers who have at least one flat or house in a Property Licensing Scheme in Hammersmith & Fulham. About 10% (250) replied to the survey.

29. There were several positive responses received such as:

- One third of responses said licensing has made improvements to the private rented sector
- Most landlords (75%) have made improvements to rented properties
- Most responses were not concerned about antisocial behaviour by tenants or visitors (89%), or in the neighbourhood (72%)
- Most responses (74%) were not concerned about noisy neighbours
- Small majority (55%) had little concern about rubbish or litter in the neighbourhood
- Strong positives around provision of waste bins (85%), knowledge of waste collection arrangements (76%) and encouragement of tenants to keep property clear of litter and refuse (87%)

30. There were, however, some less positive responses, such as:

- Two thirds of responses said licensing has not made improvements to the private rented sector
- Three quarters (77%) said fees charged for licensing are unreasonable
- Over a quarter of responses expressed concern about antisocial behaviour in the neighbourhood and noisy neighbours
- Nearly half expressed concern about rubbish or litter in the neighbourhood
- A significant minority (15%) of responses indicated lack of awareness of the need to provide enough refuse bins and 24% expressed lack of

awareness of the refuse collection arrangements including dates and times of collections

31. As the scheme moves towards its conclusion in 2022, these findings will be incorporated into procedures to fulfil the objectives of the schemes, and into planning for proposals for a new re-designated scheme so that improvements can be made.