

	<h2>Housing Committee</h2> <h3>23rd October 2017</h3>
<p style="text-align: right;">Title</p>	<p>First year review of additional licensing scheme for houses in multiple occupation</p>
<p style="text-align: right;">Report of</p>	<p>Deputy Chief Executive</p>
<p style="text-align: right;">Wards</p>	<p>All</p>
<p style="text-align: right;">Status</p>	<p>Public</p>
<p style="text-align: right;">Urgent</p>	<p>No</p>
<p style="text-align: right;">Key</p>	<p>No</p>
<p style="text-align: right;">Enclosures</p>	
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Summary
<p>Following approval at Housing Committee on 1st February 2016, an ‘additional licensing scheme’ for certain houses in multiple occupation (HMOs) was introduced on 5th July 2016. The first year has been used to introduce the scheme, set up a new team of Enforcement and Technical Support Officers and to introduce and streamline systems and procedures to handle the new type and number of applications. It was requested by the Housing Committee at the time of the scheme’s approval, that an update report be brought back to committee annually from scheme introduction.</p>

Recommendations
<p>1. That the Committee note the update provided in this report.</p>

1. WHY THIS REPORT IS NEEDED

- 1.1 As noted above, it was requested by the Housing Committee at the time of the additional licensing scheme being approved, that an update report be brought back to committee annually.
- 1.2 Under Part 2 of the Housing Act 2004, higher risk houses in multiple occupation (HMOs) of three or more stories, occupied by 5 or more persons forming two or more households have been required to hold a mandatory HMO Licence. The aim of this legislation was for local authorities to improve standards and conditions in the higher risk HMOs through licence conditions.
- 1.3 Following an extensive consultation exercise, Barnet Council introduced an Additional HMO Licensing Scheme for lower risk HMOs on 5th July 2016. A HMO needs to be licensed under the Additional HMO Licensing Scheme when:
 - it has two or more storeys, occupied by four or more persons in two or more households and where some or all facilities are shared or lacking
 - It has two or more storeys, with a resident owner and is occupied by four or more other persons in two or more households and where some or all facilities are shared or lacking
 - it is a flat occupied by four or more persons in two or more households and where some or all facilities are shared or lacking and where the flat is on the second storey or higher
 - It is a building of three or more storeys that has been converted into and consists of four or more self-contained flats where the conversion was not undertaken in accordance with the Building Regulations 1991 (or later) and fails still to so comply; and where both the building and flats it contains are owned by the same person (none of the individual flats within the building being under separate ownership)
 - It is a house of two or more storeys comprised of both self-contained and non-self-contained units of accommodation occupied in aggregate by four or more persons in two or more households (not including a resident owner), some of whom share or lack one or more basic amenities such as a bathroom, toilet or cooking facilities.
- 1.4 At the time that the Additional HMO Licensing scheme was approved the government had indicated that mandatory HMO licensing was due to be expanded to cover a wider type of properties. This has not yet been forthcoming although indications are that it is still likely.
- 1.5 From the data collection exercise completed as part of the consultation exercise, indications were that there were 3,836 properties that would fall under the proposed scheme in the borough. Based on previous experience fluctuations in this data were expected due to changes in the mode of occupancy and property sale.
- 1.6 The first 12 months have involved a significant amount of infrastructure work:

- New procedures and systems designed and implemented to streamline the HMO licensing process and ensure uniformity of decisions made by officers
- Full web review and introduction of an [HMO Licensing Tool](#) to assist landlords and agents to understand if their property is licensable or not)
- Team of 4 Enforcement Officers, 4 Technical Support Officers and a Team Leader recruited, trained and inducted.
- Ongoing scheme advertising using a combination of:
 - Borough wide publicity in newspapers and Barnet First
 - Targeted publicity to landlords, agents, solicitors, charities and support agencies
 - Targeted publicity to partners within Re and the Council
 - Regular drop in sessions at Barnet House
 - Promotional events at estate agents premises
 - Attendance at Middlesex University events
 - Presentations at landlords forums
 - Regular reminders to landlords and tenants in relation to the scheme through social media
 - Direct communications to premises identified as likely to fall under the HMO licensing scheme (additional and mandatory)
- Action on cases prioritised to ensure that more complex and higher risk cases are dealt with by the more experienced officers
- A close working relationship has continued with the London Fire and Emergency Service (LFEPA). There has been a review of the joint working protocol between Barnet and the LFEPA and a new consultation process developed for HMO Licensing cases. The new process enables lower risk cases meeting the standards detailed in the LACORS Fire Guidance to go through a system of peer checking instead of requiring full LFEPA consultation. This speeds up the processing time for licences and the new paperwork makes all consultations more transparent.
- Officer trained on Fire Risk Assessment. This will be of benefit in relation to:
 - Reviewing and updating as appropriate the current advice to landlords in relation to fire precautions work
 - Refresher training to officers
 - Provision of a new service to provide Fire Risk Assessments for landlords for a fee.

1.7 **Actions completed to date with comparisons to previous years.**

Comparisons with other boroughs have not been included as these can be misleading. No other borough introduced a scheme at the same time as Barnet and numbers licensed will vary significantly depending on if the Borough also has a Selective Licensing scheme, or has large blocks (including purpose-built student accommodation) or small single HMOs to licence. There is therefore no benefit in comparing data with other boroughs. The target for year 1 was 200 applications to allow for setting up systems, recruiting staff, scheme launch and promotion. It was noted in the original report that these numbers were dependent upon the number of licences submitted reactively by landlords and will be constantly reviewed.

	2015-16	2016-17	Q1 2017-18
Mandatory HMO licence applications received	70	111	24
Additional HMO licence applications received	No scheme	227 (July to March)	60
Mandatory HMO Licences issued	64	85 (85.9% issued in 3 months or less)	38 (69% issued in 3 months or less)
Additional HMO Licences issued	No scheme	128 (July to March) (81.6% issued in 3 months or less)	76 (77.6% issued in 3 months or less)
Total number of licensed premises in the borough	149 HMOs in total	371 HMOs in total	474 HMOs in total
Temporary Exemption Notices Served (where landlords have a licensable premises that is reverting to a non-licensable status)	10	35	20
Conditions compliance in mandatory HMOs	80%	70%	65% (1/9/17)
Conditions compliance in additional HMOs	No scheme	17%	14.5% (1/9/17)

Landlords accredited under the London Landlord Accreditation Scheme	YTD March 2016 592	YTD March 2017 632	YTD June 2017 643
Customer satisfaction for landlords		87% (average for Re services 69%)	95% (average for Re services 71%)
Appeals to the First Tier Tribunal received	0	2	1
Appeals to the First Tier Tribunal defended	0	2	1
Successful prosecutions	10 successful prosecutions since April 2016 for failure to licence and/or contraventions of the Management Regulations and/or failure to comply with a Prohibition Order. Total fines/victim surcharge and costs awarded over £215,000.1 case for failure to licence was used by the tenants to support a Rent Repayment Order leading to a repayment of £5,000 of rent to the tenants.		

288 properties are currently being actively targeted by officers for additional HMO licensing applications

Since the introduction of the scheme, 11 paid for HMO Inspections have been completed by Re to landlords to assist them in understanding their legal obligations and options in relation to their HMOs.

1.8 Scheme Strengths

- 218% increase in the number of licensed HMOs overall in the borough since March 2016. All of these properties have been inspected, had action taken in relation to any category 1 hazards identified or other urgent legal contravention and had a licence issued with property specific conditions.
- 9% increase in the number of accredited landlords, perhaps linked with a reduced fee for an Additional and Mandatory HMO licence or details about the scheme sent with the HMO application.
- Improved more streamlined service for all licence applicants
- A balance is being maintained in relation to prioritising action against the higher risk mandatory HMO licenced premises whilst still processing Additional HMO Licence applications

- High level of customer satisfaction with the HMO licensing process. This is particularly pleasing given that the work flow for licensing is not regular and as such some weeks have a large bulk of applications which require the same level of service as weeks with a more manageable number.

Testimonials from Landlords:

“of all the people I have spoken you have been the most human & understanding & made the effort to give as much help as possible. I hope they promote you to high levels of authority. Many Thanks”

“ It was nice to meet you at xxxx. We appreciate your constructive feedback”

1.9 Scheme Issues identified

Other London boroughs have indicated that they are struggling to licence landlords through Additional HMO licensing as it is harder to identify non-compliant cases if the tenants do not want Council involvement. Feedback from other boroughs indicates that where boroughs have selective schemes involving all tenanted premises in the borough it is easier to enforce since all that is required to prove that a licence is needed, is that a property is let in the private rented sector.

Below is a table highlighting issues identified with the additional licensing scheme.

Issue identified	Comment	Action to be taken 2017-18
Lower level of applications than expected for Additional HMO licence	<p>There has been a significant increase in the number of mandatory applications received. This is likely to have arisen as a result of the introduction and promotion of the Additional Scheme and this has been the experience of other boroughs in introducing their schemes.</p> <p>Other boroughs experiences have also indicated that obtaining Additional HMO licensing applications would be difficult.</p> <p>The year one target was exceeded but the year two target of six hundred</p>	<p>On line HMO licensing is being developed in consultation with Lewisham and Bexley to make the application process easier for applicants.</p> <p>Adoption of a policy for civil penalties under the new Housing and Planning Act 2016 as an additional enforcement option for landlords who fail to licence their premises or fail to comply with their HMO licensing conditions. Publicity of this should act as a deterrent for landlords who continue to flout the law.</p> <p>Recruitment to a new post in the HMO Licensing Team to</p>

	<p>applications is proving very challenging. It is difficult to get landlords to apply for licences proactively. The majority of applications require some level of chasing and/or advice/enforcement action.</p>	<p>carry out intelligence focused enforcement work. This post will support and prioritise the work of the existing HMO Licensing Officers.</p> <p>Liaising with CitizensUK and Middlesex University in relation to opportunities to involve students more in identifying non licensed student accommodation.</p>
<p>Properties identified as being licensable are no longer licensable</p>	<p>The data set used to assess the evidence base for Additional HMO Licensing is now 2 years old.</p>	<p>A new data set is being established based on all available sources of information. This will include new data obtained from the Rent Deposit organisations and the Royal Mail (multiple address) data base.</p> <p>Reviewing the data base should ensure that fewer resources are wasted targeting properties that are not licensable.</p>
<p>High turnover of staff</p>	<p>Since the Licensing Team was set up in June 2017, 5 officers have moved onto other opportunities in other organisations for a variety of reasons. Recruiting staff is resource intensive and training them to achieve a high standard of service is time consuming.</p>	<p>The necessary recruitment process is nearing completion.</p> <p>The Private Sector Housing Manager is working closely with Middlesex University in relation to opportunities to strengthen links between Barnet and the Environmental Health BSc and MSc courses. The aim is to build on the success of the current scheme. Of the two students working in Barnet this year, one has just been recruited to a Technical Officer post in the Housing Enforcement Team. We continue to foster good relations with the University by providing occasional lectures.</p>
<p>Balancing enforcement</p>	<p>Conditions compliance in</p>	<p>With the re-establishment of</p>

<p>action in relation to conditions compliance with enforcement for failure to licence.</p>	<p>mandatory HMOs, the highest risk properties have remained at a good level with priority given to re-inspection of these premises.</p> <p>Reduction in Technical Support staff has reduced [the capacity to chase] licensing conditions compliance.</p>	<p>staff and systems chasing of conditions compliance can be undertaken on a regular basis. Priority will continue to be given to higher risk premises.</p>
<p>Targeted enforcement action</p>	<p>Parts of Barnet still have very poor housing conditions and whilst HMO identification visits were prioritised by post code there has not been any area based enforcement action.</p>	<p>On completion of the revised data set enforcement action will be prioritised based on post code, and property condition. Enforcement action will remain a challenge where the tenants do not want the Council involved, regardless of the risk to themselves or their families.</p>

2 REASONS FOR RECOMMENDATIONS

- 2.1 This report has been provided by way of an update to Housing Committee as requested at Housing Committee in February 2016.

3 ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 No other options have been considered as this update was requested by Housing Committee in February 2016
- 3.2 The additional licensing scheme is a 5 year scheme and as such consideration of whether an alternative model for property improvement should be used would be premature at this stage. However, the Private Sector Housing team will keep abreast of any alternative options that become available during the life of the scheme and can advise the committee if an alternative is considered preferable.

4 POST DECISION IMPLEMENTATION

- 4.1 The actions detailed in 1.8 will continue to be implemented.

5 IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 This report is in accordance with the Council's Corporate Plan 2015-2020 which is based on the core principles of fairness, responsibility and opportunity to make sure Barnet is a place:

- Of opportunity, where people can further their quality of life
- Where people are helped to help themselves, recognising that prevention is better than cure
- Where responsibility is shared, fairly
- Where services are delivered efficiently to get value for money for the taxpayer

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.2.1 Finance & Value for Money: The additional licensing HMO fees will be reviewed annually to ensure that the cost of scheme implementation is covered by the fees.

5.2.5 Procurement: At this time there are no procurement implications.

5.2.6 Staffing: At this time there are no staffing implications save those noted earlier in the report.

5.2.7 Property: At this time there are no property implications.

5.2.8 IT: At this time there are no IT implications.

5.2.9 Sustainability: At this time there are no sustainability implications. Improving private rented housing provides an opportunity to reduce energy use and carbon dioxide emissions through improving poor heating and inadequate insulation provision through reduction of Category 1 hazards. Each HMO licence contains the following licence conditions regardless of which scheme it falls within:

"The licence holder shall ensure that all units of living accommodation including sleeping and bath/shower rooms are equipped with an adequate means of fixed space heating (meaning a fixed gas or electrical appliance, or an adequate system of central heating) operable at all times and available at all times, taking into account affordability, the presence of thermal insulation, the location of the appliance, ease of use and performance. Heating appliances in bath/shower rooms must be suitable for use in such locations and be suitably sited within the room. Heating installations must in all other respects, comply with the Council's Adopted Standards for Houses in Multiple Occupation"

"The licence holder shall ensure that any roof voids are insulated with 270mm deep mineral wool (or equivalent) insulation between the joists taking care to maintain roof ventilation and to avoid the overheating of proximate electrical cables. Otherwise the installation is to be in accordance with the manufacturer's/suppliers' instructions"

5.3 Social Value

5.3.1 Through the licensing of HMOs, the highest risk accommodation in the borough is improved to help protect the lives of vulnerable persons. The Private Sector Housing Team will continue to try and target the worst performing landlords.

5.3.2 All enforcement action is taken in line with the Regulatory Services Enforcement Policy which ensures that any action taken is transparent and proportionate in relation to the offence.

5.4 Legal and Constitutional References

5.4.1 The Housing Act 2004, section 56 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. Barnet resolved to have an additional licensing scheme in accordance with this.

5.4.2 Under the Council's Constitution, Responsibility for Functions, Annex A, the Housing Committee has the following specific responsibilities (amongst others):

- Promote the better integration of privately rented properties into the Borough's framework
- All matters related to regulation of private sector housing, including enforcement, licensing, empty properties and squatting
- Housing licensing and housing enforcement.
- All matters relating to provision of disabled facilities and other housing related grants, including the operation of a Home Improvement Agency

5.5 Risk Management

5.5.1 Care continues to be taken to implement a scheme that targets poor property management whilst using a lighter touch on the more compliant landlords.

5.5.2 The more legal action that is taken by the Council, the more exposed the local authority is to appeals. Since the introduction of the Additional HMO Licensing Scheme there have been three appeals to the First Tier Tribunal (two linked to additional cases and one to a mandatory case). Two of the cases were successfully defended by the Council and one was struck out by the tribunal. The appeals to date have not identified any issues with the approach, policies and procedures used in relation to HMO Licensing and have been generally positive.

5.5.3 Securing licensing applications continues to be a challenge and this can be very resource intensive. The programme will continue to be closely monitored and a flexible approach used in relation to staffing.

5.5.4 As many boroughs are currently introducing additional and selective licensing schemes and there may be an expansion to the current mandatory licensing scheme and difficulties recruiting any new staff required may arise which could cause delays in scheme administration.

5.6 Equalities and Diversity

5.6.1 The Corporate Plan 2015-2020 sets the Strategic Equalities Objective, which is: that citizens will be treated equally, with understanding and respect, and will have equal access to quality services which provide value to the tax payer. Changes to policies and services are analysed in order to assess the potential equalities impacts and risks and identify any mitigating action possible before final decisions are made.

5.6.2 The Equality Act 2010 sets out the Public Sector Equality Duty which requires public bodies to have due regard to the need to:

- eliminate discrimination, harassment and victimisation and other conduct prohibited by the Act
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not
- foster good relations between persons who share a relevant protected characteristic and persons who do not

5.6.3 The relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

5.6.4 As part of the proposal to introduce the Additional HMO Licensing scheme, a full Equalities Impact Assessment was completed and submitted with the Committee report.

5.6.5 It is considered that HMO licensing and housing enforcement action requiring the improvement of accommodation has an overall positive impact for landlords, tenants, residents and businesses by virtue of the potential improvement to the quality and management of accommodation in the borough. Any enforcement action taken is in line with the Regulatory Services Enforcement Policy.

5.7 Consultation and Engagement

5.7.1 There has been no specific consultation on the approach detailed in this report as it is an update report. Extensive consultation was undertaken prior to the introduction of the Additional HMO Licensing Scheme.

6 BACKGROUND PAPERS

6.1 [Housing Committee 1st February 2016](#)

6.2 [Equalities Impact Assessment for Additional HMO Licensing](#)