On 2nd February 2015 the Housing Committee agreed that a public consultation should be carried out in relation to an Additional Licensing Scheme for houses in multiple occupation (HMOs) in Barnet and for a further report to be presented to the Housing Committee to consider the findings of the public consultation and to determine whether an Additional Licensing Scheme should be adopted in Barnet.
# Recommendations

1. That the Committee note the results of the consultation exercise

2. That the Committee approve the following:

   a. the designation of the whole of the borough of Barnet as subject to an additional licensing scheme for houses in multiple occupation (HMOs) under the Housing Act 2004 in relation to the classes of HMOs detailed in section 1.14 of this report

   b. the licence fees as set out in this report

   c. that an inspection of a property shall be carried out before the first licence is issued

   d. the licence application process and milestones as set out in paragraphs 1.21-1.27 and 4.1-4.6 of this report

   e. the Fit and Proper Person Policy set out in Appendix 1

   f. the HMO standards set out in Appendix 2

   g. the HMO licence terms and conditions set out in Appendix 3

3. That the Committee authorise the Commissioning Director – Growth and Development to:

   a. Take all steps necessary to publicise, commence and administer the scheme including the issue and amendment of licences.

   b. determine the date upon which the designation in 2.a. comes into operation

## 1. WHY THIS REPORT IS NEEDED

1.1 Houses in multiple occupation (HMOs) are properties that are occupied by at least three different tenants, forming more than one household and the tenants share or lack a toilet, bathroom or kitchen facilities. The definition of an HMO includes bedsits, shared houses, lettings with their own facilities but which are not self-contained, and hostels. The definition also includes some types of poorly converted self-contained flats. Where the properties are well managed HMOs have been recognised by the Council to provide a necessary part of the more affordable accommodation in the borough.
1.2 The current estimate of the number of all types of HMOs in the borough is 5,931 properties.

1.3 Having more than one household living in a property can increase the risk to the health, safety and welfare of the occupiers if the property is not properly managed.

1.4 It is recognised that there are many good landlords working within Barnet. Unfortunately there are also those who do not maintain their properties, leaving tenants at risk and leading to nuisances which affect neighbouring premises.

1.5 Enforcement action against HMOs is costly, resource intensive and complicated. Currently, the contractual requirement for Re is to deal on a reactive basis with the worst premises and those where there is a mandatory duty to licence or take enforcement action. This has led to a fragmented approach to enforcement in relation to HMOs.

1.6 The Department of Communities and Local Government (DCLG) paper ‘Approval steps for additional and selective licensing designations in England’\(^1\) acknowledges that “Houses in multiple occupation (HMOs) are amongst the more difficult to manage properties in the sector. In some HMOs the standards of management and living conditions can be poor. In particular they [local housing authorities] need to engage with the less responsible private landlords who do not proactively manage their properties, nor address the unacceptable behaviour of their tenants.” However, the Government recognises that problems of poor management and facilities in an HMO are not confined to the larger ones (subject to mandatory licensing). It also recognises that poor management and associated problems exist elsewhere in the private rented sector and are not simply a phenomenon of HMOs. For this reason the Housing Act 2004 gives Local Housing Authorities powers to require certain other private rented accommodation to be licensed in specified circumstances.

1.7 The Council also plans to use powers under the Town and Country Planning Act to introduce an Article 4 Direction which will require landlords to apply for planning permission on properties that they intend to convert into a small House in Multiple Occupation (HMO).

1.8 Landlords currently can convert houses into small scale HMOs (for 3 to 6 unrelated persons) without the need for planning permission. Larger

HMOs require planning permission. The Article 4 Direction will enable the Council to consider applications for all HMOs. Consultation on the Article 4 Direction will be considered by the Planning Committee as part of confirmation of the Direction before 29 May 2016 when the Direction is due to come into force.

**Current HMO Licensing Scheme**

1.9 There are currently 182 licenced HMOs in Barnet. 94% of licences issued this year were issued in 90 days or less and 81% of licenced HMO landlords have complied with major work requirements linked to the licence.

1.10 The Council works with landlords and tenants to improve the standards of accommodation across the borough. Where landlords fail to licence or have properties in a poor condition the appropriate enforcement action is taken in line with the Council’s adopted Environmental Health Enforcement Policy. In 2015, 7 Prohibition or Emergency Prohibition Orders were served and 12 potential prosecutions linked to failure to licence properties or related to property conditions are currently being worked on.

1.11 The London Landlord Accreditation Scheme is actively promoted with landlords to help them understand all the requirements linked to property management and ownership. There are currently 522 accredited landlords in the borough. Barnet have been highlighted as being in the top 12 (out of 33) performing boroughs in relation to numbers of accredited landlords, over the past 2 years.

1.12 Since the consultation on a proposed Additional HMO Licensing scheme commenced, there has been an increase in the number non-licensed HMOs identified, including previously unknown landlords approaching the Council for a licence.

1.13 If an additional licensing scheme is adopted this will merge with the current scheme to provide a uniform approach to all licensable accommodation.

**Types of HMOs to be covered by the licensing scheme**

1.14 It is recommended that a borough wide Additional Licensing scheme is adopted, targeted at properties which are considered to present the highest risk to the occupying tenants.

These are:
a) Any HMO of two or more storeys, occupied by four or more persons in two or more households and where some or all facilities are shared or missing.

b) Any flat occupied by four or more persons in two or more households and where some or all facilities are shared or missing, where the flat is on the second storey or higher.

c) Any HMO of two or more storeys, with a resident owner and occupied by four or more other persons in two or more households and where some or all facilities are shared or missing.

d) All buildings of three or more storeys that have been converted into and consist of four or more self-contained flats where the conversion was not undertaken in accordance with the Building Regulations 1991 (or later) and fail still to so comply; and where both the building and self-contained flats it contains are owned by the same person (none of the individual flats within the building being under separate ownership).

e) Any 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.

**Licence Fees and Charges**

1.15 In setting the licence fees, the Council must follow certain principles established by the European Services Directive (ESD) and in particular that the fee must not exceed the actual and direct costs of processing an application, monitoring compliance and enforcing the scheme. The fee structure is also required to be reasonable and proportionate.

1.16 The licence fee is therefore set to cover the administration and associated costs of the licence. A review of fees will be undertaken annually and will be adjusted to reflect changes in costs.

1.17 The fees will also be reviewed in line with the findings of the pending decision of Hemming v Westminster City Council which has been referred to the European Court of Justice.

1.18 Where the landlord requires additional help this will be provided for upon payment of a higher fee through an Assisted Licensing process. For the existing mandatory licensing scheme a minority of applicants opt for Assisted Licensing. General advice is provided at no extra cost.

Accordingly, the proposed fee structure is:
<table>
<thead>
<tr>
<th>Fee Type</th>
<th>Fee Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>New HMO Licensing Fee for a 1 year licence (paper application)</td>
<td>£ 655</td>
</tr>
<tr>
<td>New HMO Licensing for a 1 year licence - assisted fee (paper application)</td>
<td>£ 849</td>
</tr>
<tr>
<td>New HMO Licensing Fee for a 5 year licence (paper application)</td>
<td>£ 1,008</td>
</tr>
<tr>
<td>New HMO Licensing Fee for a 5 year licence – assisted fee (paper application)</td>
<td>£ 1,202</td>
</tr>
<tr>
<td>New HMO Licensing Fee for a 1 year licence (online application)</td>
<td>£ 606</td>
</tr>
<tr>
<td>New HMO Licensing Fee for a 1 year licence-assisted fee (online application)</td>
<td>£ 800</td>
</tr>
<tr>
<td>New HMO Licensing Fee for a 5 year licence (online application)</td>
<td>£ 958</td>
</tr>
<tr>
<td>New HMO Licensing Fee for a 5 year licence Assisted fee (online application)</td>
<td>£ 1,153</td>
</tr>
<tr>
<td>Renewal HMO Licensing fee (paper application) for a 5 year licence</td>
<td>£ 911</td>
</tr>
<tr>
<td>Renewal HMO Licensing fee (paper application) for a 5 year licence-assisted application</td>
<td>£ 1,106</td>
</tr>
<tr>
<td>Renewal HMO Licensing fee (on line application) for a 5 year licence</td>
<td>£ 862</td>
</tr>
<tr>
<td>Renewal HMO Licensing fee (on line application) assisted fee for a 5 year licence</td>
<td>£ 1,056</td>
</tr>
<tr>
<td>Fee associated with an abortive visit</td>
<td>£ 72</td>
</tr>
<tr>
<td>Each extra unit of accommodation over 5 units</td>
<td>£ 24</td>
</tr>
<tr>
<td>Recovery fee for dishonoured cheque</td>
<td>£ 84</td>
</tr>
<tr>
<td>Change in Nominated Licence holder or Manager</td>
<td>£ 84</td>
</tr>
<tr>
<td>Property to be used in full by Barnet Homes</td>
<td>£0 – fee paid by Barnet Homes</td>
</tr>
<tr>
<td>Discount for accredited landlords</td>
<td>10%</td>
</tr>
<tr>
<td>Discount for registered charities</td>
<td>10%</td>
</tr>
</tbody>
</table>
These fees have formed part of the formal consultation and been consulted on (less the annual 2% increase).

1.19 The Council recognise that there are many good landlords who want to provide a good standard of accommodation for their tenants. It is proposed that landlords who are accredited with the London Landlords Accreditation Scheme (LLAS) or alternative similar scheme accepted by the Local Authority will be eligible for a 10% discount to the additional licensing fee.

1.20 If the scheme is approved and becomes operative it will be an offence to operate an HMO falling within the scope of the scheme without a licence. An unlimited fine can be imposed upon summary conviction. Rent Repayment Orders can also be issued requiring the repayment of rent for up to 12 months of the unlicensed period.

Licence Application Process

1.21 It is proposed that the introduction of an Additional Licensing Scheme should re-iterate that the responsibility for HMO property management lies with the landlord and not the Council, in the same way that an MOT proves a certain level of responsibility and maintenance by a driver for their car.

1.22 As such, it is proposed that the licensing process should require the landlord to complete and submit to the Council an application form together with the required fee. All details will be provided on line or in hard copy on request. The form requires provision of some basic information about the property, such as the number of letting rooms or flats, shared bathrooms, toilets and kitchens as well as details of safety measures that have been put in place, such as the type and installation of a fire detection system. Evidence of the following will be required:

- Gas safety - Gas safety record (12 months)
- Electrical Safety –Current electrical installation condition report (5 years from date of issue) and portable appliance (PAT) test
- Safety of property in the event of fire - Alarm system, Emergency lighting.
- Evidence of arrangements which demonstrate competent property management - Management records and copies of tenancy agreements
- Floor plan with room sizes and uses clearly shown
- Any proposed licence holder or manager of the property will be required to make a declaration that they are a “fit and proper person”
- Current occupancy details

1.23 This evidence is consistent with the current mandatory licensing scheme, although additional evidence is required to enable the landlord to clearly
demonstrate competent property management. The requirements are consistent with actions that a responsible landlord should be taking. The additional criteria are marked as bold.

1.24 Following the receipt of a complete application, the aim will be to licence properties following a full inspection of the property. This will enable the tenants, landlords and public to have confidence that all licensed premises in the borough meet specific minimum standards. This is likely to prolong the timescales for granting a licence in the early stages of the scheme as the number of initial applications likely to be received is not known at this stage.

1.25 The inspection will consider suitability of the property for licensing, compliance with the relevant legislation and compliance with the reviewed and updated Barnet Adopted Standards for Houses in Multiple Occupation (Appendix 2).

1.26 It is proposed that the licence is issued in accordance with the Terms and Conditions detailed in Appendix 3 - Proposed Licence Terms and Conditions.

1.27 In order to demonstrate that the Council distinguishes landlords that comply with the relevant legislation from those that don’t, it is proposed that those that submit their complete application within three months of the Council’s declaration will be licensed for five years, and those that fail to do so without good reason, will be initially licenced for one year. Following expiry of a licence and should an Additional Licensing scheme still continue to be in operation, a decision will be made on the standard of management of the property and the property relicensed accordingly for another year or five years. All licences continue for the term granted even when this extends beyond the life of the scheme.

**Fit and Proper Persons**

1.28 In reviewing an application for a licence under the additional scheme, the Council will consider whether the proposed licence holder is a ‘fit and proper person’. The relevant persons will be considered in line with the policy detailed in Appendix 1. If the owner is found not to be a “fit and proper person” against these criteria, then he/she must find someone else agreed by the Council to manage the property.

2. **REASONS FOR RECOMMENDATIONS**

2.1 On 2\textsuperscript{nd} February 2015 the Housing Committee agreed that a public consultation should be carried out in relation to an Additional Licensing Scheme HMOs in Barnet. It further agreed the proposed scheme should form the basis of the consultation exercise.
2.2 Following completion of the consultation exercise (details in section 5.7) the proposed scheme consulted on has been reviewed in consideration of the consultation feedback.

2.3 The scheme will help the Council work together with landlords to make sure that their HMOs are safe, well managed and causing minimal issues for the local community.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

3.1 Consideration has been given to other options that the Council could pursue if the proposals in this report are not supported.

Do Nothing

3.1.1 Barnet could continue solely with the current enforcement regime, linked with more aggressive promotion of Accreditation.

3.1.2 This is not the approach supported by the public (excluding landlords) in the consultation exercise. Of HMO residents, other PRS tenants, local residents and other stakeholders/organisations 75% or more of each group support the introduction of a scheme. The main reasons for supporting the scheme include that it would improve the standards/living conditions of housing in Barnet, help ensure a more consistent standard of accommodation throughout the borough, improve the quality of landlords and target rogue landlords. Further details of the consultation responses are included in section 5.7, 6.1 and 6.3.

Expand the Current Enforcement Regime

3.1.3 The Council currently has a reactive enforcement approach in relation to HMOs, dealing with cases as they present themselves. A more proactive approach could be taken to target the worst landlords. This would develop an outward facing image of enforcement in relation to rogue landlords.

3.1.4 To practically do this would involve the need to increase the resourcing allocated for Environmental Health Services by a minimum of two additional posts. The cost could be up to £135,000 per annum.

3.1.5 This is a more traditional enforcement approach and less of an enabling one than Additional Licensing will bring.

Area Based Additional Licensing Scheme
3.1.6 Given the high number of town centres in the borough, the location of Middlesex University, and the increasing dependency on the private rented sector, it is recognised that HMOs are spread across the borough. The consultation exercise did not demonstrate that this was an option supported by the public. An area based scheme would cause inconsistency in regulation and confusion amongst landlords and tenants.

4. POST DECISION IMPLEMENTATION
4.1 Provisional key milestones are detailed below. The dates may vary depending on the success of the officer recruitment campaign:

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Date of Completion</th>
</tr>
</thead>
<tbody>
<tr>
<td>1  Delivery model agreed with Re</td>
<td>February to March 2016</td>
</tr>
<tr>
<td>1  Recruit staff</td>
<td>March to June 2016</td>
</tr>
<tr>
<td>2  Finalise processes and procedures</td>
<td>March to May 2016</td>
</tr>
<tr>
<td>3  Commissioner for Growth and Development to agree:</td>
<td>March to May 2016</td>
</tr>
<tr>
<td>• Measures of success and programme monitoring and review mechanisms.</td>
<td></td>
</tr>
<tr>
<td>• A strategy in the event that the targets are not met and which includes options for alternative approaches that might be adopted at the relevant time.</td>
<td></td>
</tr>
<tr>
<td>4  Commissioner for Growth and Development makes a designation to adopt an Additional HMO Licensing Scheme</td>
<td>April to June 2016</td>
</tr>
<tr>
<td>5  Additional HMO Licensing Scheme Designation comes into force</td>
<td>Not less than 3 months from the designation date</td>
</tr>
<tr>
<td>6  Borough wide scheme promotion</td>
<td>In line with legal requirements from date of designation to date that scheme comes into force</td>
</tr>
<tr>
<td>7  Fee review in line with the annual review of the Council’s fees and charges and the outcome of the Hemmings case</td>
<td>November 2016 - March 2017</td>
</tr>
<tr>
<td>8  Year 1 Report to Housing Committee on the first 12 months of the programme with a review of the programme plan for 2017-2021.</td>
<td>August 2017</td>
</tr>
<tr>
<td>9  Scheme completion/review</td>
<td>May 2021</td>
</tr>
</tbody>
</table>
4.2 From the recent data collection exercise it is estimated that there are 3,836 properties that will fall under the proposed scheme. Based on previous experience there will be fluctuations in this number caused by changes in mode of occupancy and property sale. The licensing programme has been designed around the licensing of an assumed 3,000 properties.

4.3 It is not practical or realistic to design a programme around licensing all of these properties in year 1.

4.4 Properties that submit licence applications will be inspected and licensed first.

4.5 Where applications are not submitted, properties will be targeted for licensing on a risk basis with the larger properties being tackled first, those known to be in a poorer condition and those where enforcement action has been taken historically.

4.6 700 applications will be targeted annually except in year one when a reduced target of 200 will be used to allow for setting up systems, recruiting staff, scheme launch and promotion. These numbers are dependent upon the number of licences submitted reactively by landlords and will be constantly reviewed.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 The policy meets the Council’s key Corporate Priorities detailed in the Barnet Corporate Plan 2015-20 as follows:-

- Barnet will be a place of opportunity where people can further their quality of life- Additional Licensing will improve the standard of accommodation provided by HMOs which will be beneficial to occupying tenants and the wider local community.

- Barnet is a place where people are helped to help themselves realising that prevention is better than cure. The scheme has been designed to assist landlords in providing a higher standard of accommodation. Increasing the available housing stock meeting minimum standards will help ensure that more people have access to safe accommodation which will help enable stability in schooling, working, health care etc.

5.1.2 The improvement in housing conditions that will be achieved through Additional HMO licensing will also have a positive effect on the health and
well-being needs of the local population as identified in the Joint Strategic Needs Assessment 2015-2020. One of the evidence based public health interventions with the highest “return on investment” according to the respected Kings Fund are housing interventions. This is particularly key with the long term shift in housing tenure towards renting and away from owner occupancy.

5.1.3 The Additional HMO licensing scheme will support the aims of the Joint Health and Well Being Strategy 2015-2020 by improving the energy efficiency of HMOs in the borough and reducing the amount of non-decent housing.

5.1.4 Barnet’s Housing Strategy 2015-2025 is committed to sustaining quality in the private rented sector. The proposal for a borough wide Additional Licensing scheme contributes to this through improving the condition of the existing private rented housing stock.

5.1.5 The vision of Barnet’s Children and Young People Plan is that ‘All children and young people in Barnet should achieve the best possible outcomes, to enable them to become successful adults, especially our most vulnerable children. They should be supported by high quality, integrated and inclusive services that identify additional support needs early, are accessible, responsive and affordable for the individual child and their family.’ Young children, along with some other groups are most vulnerable to the negative effects of poor housing which affects physical and mental health as well as affecting wider determinants of health such as educational performance. Additional Licensing in Barnet will help to protect children and young people living in HMOs from poor or dangerous conditions.

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

5.2.1 Licence fees will be set in accordance with the considerations in paragraphs 1.15 -1.20.

5.2.2 The proposed licence applications and calculated income stream based on the current fee calculations are detailed as follows. This cannot be guaranteed at this stage as it is dependent upon the number of applications received when the scheme is launched and reactively from then onwards. The fees are subject to annual review to ensure recovery of all relevant costs:

<table>
<thead>
<tr>
<th></th>
<th>2016/17 (6 months)</th>
<th>2017/18</th>
<th>2018/19</th>
<th>2019/20</th>
<th>2020/21</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application</td>
<td>200</td>
<td>700</td>
<td>700</td>
<td>525 paper 175</td>
<td>350 paper 350 on</td>
<td>3000</td>
</tr>
<tr>
<td>Fees (with 2% increase per annum)</td>
<td>£1,008.50</td>
<td>£1,028.67</td>
<td>£1,049.24</td>
<td>1070.22/1017.5</td>
<td>1091.62/1037.85</td>
<td></td>
</tr>
<tr>
<td>--------------------------------</td>
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<td></td>
</tr>
<tr>
<td>Income</td>
<td>£201,700</td>
<td>£720,069</td>
<td>£734,468</td>
<td>£739,928</td>
<td>£745,315</td>
<td></td>
</tr>
</tbody>
</table>

5.2.3 A review of fees will be undertaken annually and will be adjusted to reflect changes in costs. The fees will also be reviewed in line with the findings of the pending decision of Hemming v Westminster City Council which has been referred to the European Court of Justice.

5.2.4 The proposed scheme will generate a high level of additional work and need to be resourced accordingly. It is estimated that a team of 10 staff will be required to manage the workload and this will be built up as demand dictates. It is intended that the team will be staffed sufficiently to process around 700 applications per year, with a lower target in year 1 to allow for recruitment and scheme set up. The total cost of the staff would be in the region of £3,009,000 over the 5 year programme. A challenge will be faced to recruit the right number of suitable staff. The viability of this assumption will be better known a year after implementation. A full scheme review will be completed 12 months after the scheme goes live considering licence applications received, licences issued, and enforcement action required.

5.2.5 Subject to formal agreement the proposed scheme will be delivered by the service provider Re Ltd (joint venture between CAPITA plc and the London Borough of Barnet) on behalf of Barnet under the terms of the existing contract. The income generated from this activity will, subject to formal approval, count towards the guaranteed income target. The scheme will be closely monitored and reviewed on a regular basis.

5.2.6 All staff administering the scheme will be employed directly by Re at no additional cost to Barnet unless the contractual guaranteed income threshold is reached, in which case Re will then recharge the Council for costs in accordance with the contract.

5.2.7 In the event that there is a change to the mandatory HMO licensing scheme through statute the contractual arrangements will be reviewed as necessary.

5.2.8 HMO Licensing linked enforcement work will be undertaken by the new team and the existing HMO Licensing Officer with assistance as necessary from the Private Sector Housing Enforcement Team.

5.3 **Social Value**
5.3.1 Having consideration to the Public Services (Social Value) Act 2013 there are no specific social value considerations arising out of this report. Additional licensing will deliver social, economic and environmental benefits for residents in relation to improvement in standards of the private rented sector.

5.4 **Legal and Constitutional References**

5.4.1 Constitution, Responsibility for Functions, Annex A, sets out the terms of reference of the Housing Committee including:

- Promote the better integration of privately rented properties into the Borough’s framework
- Be responsible for all matters related to Private Sector Housing including Disabled Facility Grants
- Be responsible for housing licensing and housing enforcement

5.4.2 The Housing Act 2004 Section 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.

5.4.3 Converted properties containing flats, which fail to meet the 1991 Building Regulations can be licensable under an additional licensing scheme. These are referred to as Section 257 HMOs after the defining section of the Act.

5.4.4 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.

5.4.5 If the Council decides to introduce an Additional HMO Licensing Scheme it can come into force no earlier than 3 months after the date on which the designation is made.

5.4.6 Once a designation is issued to implement such a Scheme it will be in force for a period of 5 years and will be subject to regular review.

5.4.7 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.

5.4.8 The Council has to consult with stakeholders and therefore all those affected by the change in legalisation will be informed and advised of the impact through a Public Notice in two local newspapers, informative
leaflets/letters, the website and Landlords Forum.

5.5 Risk Management
5.5.1 Whilst additional HMO licensing is likely to be welcomed by residents and tenants there is a risk that it will not be popular with some Landlords. Some Local Authorities have been subject to costly Judicial Review following the declaration of an Additional Licensing Scheme for example R (on the application of Regas) v Enfield LBC [2014] EWHC 4173 which was in relation to inadequate consultation.

5.5.2 In order to minimise the risk, care has been taken to design a scheme that targets poor property management whilst using a lighter touch on the more compliant landlords.

5.5.3 If landlords are reluctant to apply this will mean that due to the size of the borough and numbers involved significant staffing resource will be required to actively enforce the licensing requirements. This will impact on the time available to officers to licence landlords.

5.5.4 If the number of HMOs has been overestimated this will affect the fee income and associated programme staffing.

5.5.5 If the number of HMOs has been underestimated and the team is unable to cope with higher than expected volumes of applications this could lead to service delays.

5.5.6 In relation to 5.5.4 and 5.5.5 the programme will be closely monitored and a flexible approach used in relation to staffing.

5.5.7 As many boroughs are currently introducing additional licensing schemes and there may be a change to the current mandatory licensing scheme through statute, this could cause difficulties recruiting a suitable number of competent staff which may cause delays in scheme administration.

5.5.8 There could as a result of the expansion of licensing be a possible increase in single homelessness as some Landlords may choose to leave the market, or convert their HMOs into flats/back into houses as family homes. The situation will be monitored. The risk is looked at in further detail in Appendix 5.

5.6 Equalities and Diversity

5.6.1 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.

5.6.2. 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.

5.6.3 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 4.

5.6.4 It is considered that an Additional Licensing Scheme for HMOs would have an overall positive impact for landlords, tenants, residents and businesses by virtue of the potential improvement to the quality of HMOs and the management of them.

5.6.5 In addition there are potential benefits arising from the increased choice of high quality, well-managed affordable housing.

5.6.6 As well as the benefits to the occupying tenants from the improved conditions that licensing would bring about, they are potentially at less risk of retaliatory evictions for complaining about their conditions as this is prohibited in licensable properties which are not licensed and should have been.

5.6.7 The Additional Licensing Scheme will improve the quality of HMOs and this has the potential to benefit all groups within the wider local community by reducing social and environmental factors associated with HMOs relating to noise, rubbish and general upkeep.

5.6.8 There may be a potential for the introduction of an Additional Licensing Scheme to distort the housing market. Those affected are likely to be young people, particularly young single males, students and young professionals, those on lower incomes including the unemployed and transients who are the more typical occupants of HMOs. This might occur through the displacement of HMOs to surrounding areas where there are no licensing schemes that would otherwise constrain their occurrence. This could lead to a loss of HMOs from the borough or a reduction in the number of occupiers in some HMOs where landlords might want to avoid licensing requirements. In addition it is possible that the costs associated with licensing which might include the licence fee, may be passed on to tenants in the form of higher rents.

5.6.9 The potential negative effects may be mitigated to an extent by the emergence of similar schemes in neighbouring local authority areas with the overall effect that large areas are now committed to an extended HMO licensing approach. Barnet’s proposed scheme will therefore complement the wider improvement of housing conditions in North London brought about by
HMO licensing. For more information on this aspect refer to Appendix 5

5.6.10 There may be implications for an increase in homeless applications to Barnet Homes due to the potential loss of units of accommodation referred to in 5.6.8. This has been discussed with Barnet Homes and the situation will be monitored. A record will be kept by Re of private rented units of accommodation known to be lost as a result of the licensing scheme.

5.7 Consultation and Engagement
5.7.1 A consultation was undertaken over 17 weeks from the 25th of June 2015 until the 23rd of October 2015. The results of the consultation and the council’s response are detailed in sections 6.1-6.3. A total of 278 responses to the consultation questionnaire were received. Additionally, 32 landlords and 73 participants attended the deliberative forums, and 10 members of the public and organisations contributed their views in writing on the consultation.

5.7.2 The key findings were as follows:

- **Questionnaire responses:** HMO residents in Barnet, other private sector tenants, local residents and other organisations/stakeholders indicated very high levels of support for the scheme (75% or more in each group). The main reasons for this were that it would improve the standards/living conditions of housing in Barnet, help ensure a more consistent standard of accommodation throughout the borough, and improve the quality of landlords (and target rogue ones in particular). In contrast, landlords and letting agencies (and organisations that represent them) have indicated very low levels of support (less than 20%). The main reasons for this were: that it will create unnecessary red tape; that existing licence provisions are sufficient and; that additional licensing will result in rent increases for tenants in HMOs.

- **Written submissions:** These varied considerably in terms of support for the scheme. Submissions from organisations that opposed the scheme typically argued: that it would penalise good landlords and won’t effectively target the bad ones; that it would simply mean rent increases across the borough and; that it fails to consider other means that fall within the Council’s power. Submissions from other organisations, for example Barnet and Harrow Public Health Team, felt that the proposals could significantly improve the health of those living in HMOs and potentially the wider community as well.

- **Resident’s deliberative forums:** Participants overall agreed that introducing an additional licensing scheme in Barnet is a positive proposition, but many qualified this support by noting that the Council
will need to ensure that is has a robust strategy and an effective mechanism in place to enforce the scheme.

- **Landlord’s Events:** Participants were strongly opposed to the introduction of additional licensing. Above all, they felt the Council should use its existing powers more effectively to pursue unlicensed HMOs under the mandatory licensing regime rather than embarking on an ambitious new Additional Licensing Scheme. Participants at these forums were convinced that poor landlords will evade Additional Licensing, whereas the good ones will conform and be penalised. In particular, they said that the licence fees and the additional costs of complying with the conditions attached to licences would force landlords to raise their rents disadvantaging poorer tenants.

5.7.3 The Council’s response to some of the more common concerns, particularly from landlords and managing/letting agents are as follows:

- **The scheme is just more ‘red tape’ for landlords.** The Council is currently streamlining the licensing application and associated processes to ensure that the scheme is as straightforward as possible.

- **The existing powers together with the mandatory licensing scheme is sufficient and/or there is no need for an Additional Licensing scheme.** The rapid turnover and the vulnerable nature of some tenants in HMOs mean that poor standards often go unreported and can escape the attention of the Council. The primarily reactive approach that has been taken up until now has meant that problems in HMOs have been dealt with on more of an ad hoc basis and in this situation the Council can only deal with difficult or potentially dangerous situations or poor conditions after they have arisen. The Council can more easily target the rogue landlords within the licensing framework, and create and share intelligence. The scheme will enable resources to be more effectively targeted toward the improvement of the worst properties.

- **The scheme will punish good landlords/Barnet should target rogue landlords/Rogue landlords will avoid licensing and conditions could worsen.** Being a licence holder is a signal to tenants that a potential home will meet minimum safety standards. One of the scheme’s objectives is to provide a reasonable, simple and unambiguous set of basic health and safety standards and to create clear expectations of what is required between all the parties (landlords, tenants and the council). A rigorous enforcement policy is essential to the success of proposed scheme and will be implemented along with continuous evaluation and development of the inspection programme, licensing processes as well as measures of the scheme’s performance. The emphasis will be towards landlords being more aware of and fulfilling their responsibilities through the operation of the scheme, at the same time, bad landlords or those who are not fit and proper persons will be
forced to leave the sector. The Council does not intend good landlords to be the focus of its attention.

- **Costs may or will be passed onto tenants by way of rent increases.** Whilst rents have risen generally, distinguishing the potential effects of licensing on rents and the general increase in demand and other inflationary pressures is problematic. It has been suggested in research carried out for the London Borough of Camden by the LSE that many landlords set rents with reference to market comparables. There is as yet no evidence from other boroughs that have introduced discretionary schemes, that this has been the case.

- **The scheme may or will lead to a decrease in the supply of housing in the private rented sector or HMOs in the borough, as landlords withdraw from the market**/The scheme may or will lead to a risk of homelessness and this will put more pressure on the council. There is little evidence from other local authorities of any significant impact of licensing on the housing supply in the private rented sector. Oxford City Council reported in a ‘Review of Licensing in Houses in Multiple Occupation 2015’ that they estimated HMOs had fallen from 12% to around 8% as a proportion of their total housing stock in the 10 years between 2005 and 2015. It is not clear to what extent HMO licensing may have been attributing contributing factor among other influences on the market. Any potential effects of the scheme will be monitored where possible as part of an on-going review of the scheme. As a result of consultation feedback, the general importance of some of the Council’s proposed licence conditions have been made more explicit and others have been extended to make them more comprehensive, particularly in relation to electrical safety, fire precautions, heating and security. In addition, a condition surrounding the display of information in licensed HMOs has been added.

### 5.8  Insight

5.8.1 Data sources including census, valuation office data, electoral register and the Environmental Health data management system were used to produce “The Case for an Additional HMO Licensing Scheme in Barnet” which informed the decision to proceed with the consultation made by Housing Committee on 2nd February 2015 and made up one of the consultation documents.
6 BACKGROUND PAPERS


6.4 R v London Borough of Enfield Case No: CO/3170/2014