

Report for: Overview and Scrutiny Committee – 27th November 2023

Item number: 12

Title: Scrutiny Review - Landlord Licensing in the Private Rented Sector

Report

authorised by: Cllr Alexandra Worrell, Chair of Housing, Planning and Development Scrutiny Panel

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Ward(s) affected: N/A

Report for Key/

Non Key Decision: Non Key

1. Describe the issue under consideration

1.1 Under the agreed terms of reference, the Overview and Scrutiny Committee (OSC) can assist the Council and the Cabinet in its budgetary and policy framework through conducting in-depth analysis of local policy issues and can make recommendations for service development or improvement. The Committee may:

- (a) Review the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (b) Conduct research to assist in specific investigations. This may involve surveys, focus groups, public meetings and/or site visits;
- (c) Make reports and recommendations, on issues affecting the authority's area, or its inhabitants, to Full Council, its Committees or Sub-Committees, the Executive, or to other appropriate external bodies.

1.2 In this context, on 28th November 2022, the Overview and Scrutiny Committee agreed to set up a review project to look at Landlord Licensing in the Private Rented Sector.

2. Cabinet Member Introduction

N/A

3. Recommendations

3.1 That the Committee approve the report and its recommendations and that it be submitted to Cabinet for a response.

4. Reasons for decision

4.1 The Committee is requested to approve the report and the recommendations within it so that it may be submitted to Cabinet for response.

5. Alternative options considered

- 5.1 The Committee could decide not to agree the report and its recommendations, which would mean that it could not be referred to Cabinet for response.

6. Background information

- 6.1 The rationale for the setting up of the review, including the scope and terms of reference, is outlined in paragraphs 3.1 to 3.7 of the report.

7. Contribution to strategic outcomes

- 7.1 This review relates to Theme 5 of the Corporate Delivery Plan – Homes for the Future. Specifically, it relates to High Level Outcome One – Everyone has a home that is safe, sustainable, stable and affordable, and Intermediate Outcome: There will be an improvement in the quality of the private rented sector.

8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

Finance and Procurement

- 8.1 There are no financial implications arising from the recommendations of this report. If there are any future action by the Cabinet in relation to the recommendations of this report, Cabinet will be advised accordingly at that time.

Legal

- 8.2 The Head of Legal and Governance has been consulted in the preparation of this report and comments as follows.
- 8.3 Licensing of HMOs and other rental properties is governed by the Housing Act 2004 (“the Act”). There are three potential licensing schemes:
- (i) Mandatory licensing – under Part 2 of the Act. All HMOs meeting the description specified by the Secretary of State must be licensed.¹
 - (ii) Additional licensing - also under Part 2 of the Act. Local housing authorities have power, with the consent of the Secretary of State², to designate areas where other descriptions of HMO than those covered by the mandatory scheme must be licensed.

¹ The current description, summarised, is an HMO occupied by 5 or more persons in two or more households

² There is a general consent for all such designations where all relevant parties have been consulted over a period of at least 10 weeks

- (iii) Selective licensing – under Part 3 of the Act. Local housing authorities have power, again with Secretary of State consent³, to designate areas within which all houses – not being HMOs - let on one or more tenancies (ie not on long lease) must be licensed.
- 8.4 The power to designate an area as subject to additional licensing is subject to demonstration that *“a significant proportion of the HMOs of that description in the area are being managed sufficiently ineffectively as to give rise, or to be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public.”*
- 8.5 The conditions on the exercise of the power to designate an area as subject to selective licensing are set out at 5.2-5.4 of the Review.
- 8.6 When setting licensing fees under any of the three schemes, the Council is entitled to take into account:
- Its costs incurred in administering the relevant scheme
 - Its costs of enforcement under part 1 of the Act (covering Category 1 and 2 hazards in housing) in relation to the homes covered by the scheme

The Council is not however permitted to recover more than it expends under those heads; this has the effect of (i) ring-fencing licensing income to expenditure under the schemes and (ii) making direct comparisons of licence fees between boroughs less relevant save in assessing efficiency.

- 8.7 The Act gives power to the First Tier Tribunal to make Rent Repayment Orders requiring landlords to refund up to 12 months of rent paid on an unlicensed property, either to the tenant or, if the housing element of Universal Credit or Housing Benefit was paid, the Council.
- 8.8 The UK GDPR must be observed when considering data-sharing between departments of the Council.

Equality

- 8.9 The council has a Public Sector Equality Duty (PSED) under the Equality Act (2010) to have due regard to the need to:
- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
 - Advance equality of opportunity between people who share protected characteristics and people who do not
 - Foster good relations between people who share those characteristics and people who do not
- 8.10 The three parts of the duty apply to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex

³ There is a general consent for all such designations which cover less than 20% both of the borough's geographical area and of the number of privately rented properties in the borough

and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.

- 8.11 Although it is not enforced in legislation as a protected characteristic, Haringey Council treats socioeconomic status as a local protected characteristic.
- 8.12 The scrutiny report recommends that the Cabinet Member for Housing Services, Private Renters and Planning explore ways to extend the landlord licensing scheme to the west of the borough, as well as many other recommendations aimed at improving the quality of the private rented sector in Haringey.
- 8.13 Women, disabled people, BAME people, young people and low-income people are overrepresented in the private rented sector, and some groups who share protected characteristics experience discrimination when looking for rented accommodation. Any actions taken to improve the quality of the private rented sector and increase landlords' accountability should positively affect those who share protected characteristics and advance the public sector equality duty in Haringey.
- 8.14 If any of these recommendations are taken forward, they will be subject to complete equality analysis, including equality impact assessments where appropriate.

9. Use of Appendices

Appendix A: Draft report of the Housing, Planning & Development Scrutiny Panel: Scrutiny Review into Landlord Licensing in the Private Sector.

10. Local Government (Access to Information) Act 1985

- 10.1 Link to 2019 Cabinet Report on Additional HMO Licensing:
[February 2019 Cabinet Report](#)
- 10.2 Link to appendices to 2019 Cabinet Report on Additional HMO Licensing:
[Appendices](#)
- 10.3 Link to Cabinet Report 8th March 2022:
[Selective Licensing Cabinet Report](#)
- 10.4 Link to appendices to 2022 Cabinet Report on Selective Licensing:
[Appendices](#)