

Report for: Cabinet Meeting on 12th March 2024

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

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Ward(s) affected: N/A

Non-Key Decision:

1. Describe the issue under consideration.

1.1 The report sets out the proposed Cabinet response to the recommendations of the Housing, Planning & Development Scrutiny Panel (HP&DS) on landlord licensing in the private rented sector. (Attached as Appendix 1 to this report.)

2. Cabinet Member Introduction

2.1 I would like to thank Scrutiny members for their hard work on this Review, and special thanks to the residents and other external witnesses who gave up their time and energy to participate in the in-person and online evidence gathering sessions.

2.2 With around forty per cent of Haringey's population living in the private rented sector, Houses in Multiple Occupation (HMOs) are a much-needed affordable type of housing. The Council is committed to ensuring residents live in safe and well-maintained homes. Additional HMO licensing is designed to improve the quality, safety, and management of smaller HMO's not covered by Mandatory Licensing. It provides the regulatory framework to support the many good landlords in Haringey, whilst also providing the powers for officers to act against those landlords who rent property that is below the standards we expect.

2.3 Haringey's selective licensing scheme, which has been in operation since May 2019, has been incredibly successful in protecting private renters and holding landlords to account. Enforcement action has been taken against landlords who do not fulfil their legal responsibilities to protect residents through licencing. To date, a total of 46 fines amounting to over £250,000.00 have been issued to landlords who have failed to licence their houses in multiple occupation.

2.4 Many of scrutiny's recommendations can help shape the proposed new additional licensing scheme, inform criteria for separate licensing schemes, and help

define other mechanisms which will support private renters. There is only one recommendation that we cannot agree due to restrictions on how the resources within the licensing scheme are used. I am keen for Cabinet colleagues to either agree or partially agree to the other recommendations as set out in Appendix 2.

3. Recommendations

3.1 To consider the recommendations agreed by the Overview and Scrutiny Committee attached at Appendix 1.

3.2 To agree the response to these recommendations attached at Appendix 2.

4. Reasons for decision

4.1 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.

4.2 The Housing, Planning & Development Scrutiny Panel agreed to review and scrutinise the Council's approach to licensing in the private rented sector, in order to understand how effective this was. On 28th November 2022, the committee agreed the terms of reference for this project. Evidence gathering to fulfil this review took place between February and September 2023.

4.3 On 27th November 2023, the committee agreed a set of recommendations on service development or improvement in respect of landlord licensing, private renters and general matters relating to the private rented sector, for the consideration of cabinet. (appendix 2)

5. Alternative options considered.

None.

6. Background information

6.1 At the Housing, Planning & Development Scrutiny Panel meeting on 28th June 2022 the Panel received an update on Private Sector Landlord Licensing, which provided some background and information on both the existing licensing scheme for Houses

in Multiple Occupation (HMO) and the then-proposed Selective Licensing scheme for non-HMO rented properties.

6.2 Following this meeting it was agreed that the Panel would undertake a piece of scrutiny work to look into the Council's approach to licensing in the private rented sector and to understand how effective this was.

6.3 As part of the work planning process for Scrutiny for 2022/23 & 2023/24, the Housing, Planning & Development Scrutiny Panel (HP&DS) undertook an online scrutiny survey and an in-person Scrutiny Café event at the Selby Centre in September 2022. The purpose of the Scrutiny Café was to engage with local community and resident groups, in order to seek their views about which areas Scrutiny should focus its attention upon for the next two years. As part of the feedback relevant to the Housing, Planning and Development Panel, one of the areas where most concern was raised was around private rented sector housing, particularly in terms of an out-of-control housing market and a general lack of affordable properties. A number of young people advised the panel that the cost of rent was just too high for them and that this was a real barrier to their ability to thrive.

6.4 The Overview & Scrutiny Committee agreed the terms of reference for the Scrutiny Review on 28th November 2022. Evidence gathering for the Review took place between February and September 2023. The starting point was to speak to Officers and the Cabinet Member to get a better understanding of how landlord licensing works in Haringey. A range of external witnesses including various tenancy advocacy groups (both those located within Haringey and those operating on a more London-wide basis), other London boroughs, a representative of the National Residential Landlord Association and Acorn who are a community union that have a strong focus on housing were also spoken to.

6.5 The rationale for the setting up of the review, including the scope and terms of reference can be found in appendix 1.

7. Contribution to the Corporate Delivery Plan 2022-2024 High level 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. Carbon and Climate Change

8.1 The current Selective property licensing scheme has objectives within it which contribute to the Council's carbon and climate change action plan. The proposed new additional HMO licensing scheme designation will also contain commitment to this plan if approved.

9. Statutory Officers comments (Director of Finance (procurement), Head of Legal and Governance, Equalities)

Finance and Procurement

9.1 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

9.2 The Head of Legal and Governance has been consulted in the preparation of this report and comments as follows.

9.3 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.
- (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 (i.e., not on long lease) must be licensed.

9.4 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.”*

9.5 The conditions on the exercise of the power to designate an area as subject to selective licensing are:

- The area to be designated has a high proportion (in England, 19% or more⁴) of property in the Private Rented Sector and it is (one or more of):
 - An area of low housing demand (or is likely to become such an area).
 - Experiencing a significant and persistent problem caused by anti-social behaviour and that some or all private landlords letting premises in the area are failing to take appropriate action to combat that problem.
 - Experiencing poor property conditions in the privately rented sector.
 - Experiencing or has recently experienced an influx of migration and the migrants occupy a significant number of properties in the privately rented sector.
 - Suffering high levels of deprivation affecting those in the privately rented sector.
 - Suffering high levels of crime affecting those in the privately rented sector.

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.

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.

⁴ The national average for PRS accommodation across England

- The Housing Act 2004 also requires the local authority to demonstrate the following outcomes as part of its process of delivering a selective licensing initiative:
 - That the exercise of the power is consistent with their overall Housing Strategy.
 - A co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the PRS as regards combining licensing with other action taken by them or others. And it must:
 - Consider whether there are any other courses of action available to them (of whatever nature) that might provide an effective method of achieving the objectives that the designation would be intended to achieve.
 - Consider that the making of the designation when combined with other measures taken by the authority alone or with other persons will significantly assist them to resolve the problem identified (whether or not they take any other course of action as well).
 - Take reasonable steps to consult persons who are likely to be affected by the designations and consider any representations made.
- Where the proposed designation covers either 20% of the total geographic area of the authority or 20% of the total privately rented stock (based on census figures), the designation requires approval by the Department for Levelling Up, Housing and Communities (DLUHC). Selective Licensing applications to the DLUHC require local authorities to first demonstrate the evidence for their concerns as well as look at alternative approaches and consult widely.

9.6 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.

9.7 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.

9.8 The UK GDPR must be observed when considering data-sharing between departments of the Council.

9.9 Cabinet must have regard to the Equality implications of the recommendations in this Report set out in the next section.

9.10 There is no legal reason why Cabinet should not adopt the recommendations in this Report.

Equality

9.11 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.

9.12 The three parts of the duty apply to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex, and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.

9.13 Although it is not enforced in legislation as a protected characteristic, Haringey Council treats socioeconomic status as a local protected characteristic.

9.14 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.

9.15 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.

9.16 If any of these recommendations are taken forward, they will be subject to complete equality analysis, including equality impact assessments where appropriate.

10. Use of Appendices

Appendix 1 - Scrutiny Review: Landlord Licensing in the Private Rented Sector (PRS) Report.

Appendix 2 - Response to the Recommendations of the Housing, Planning & Development Scrutiny Panel.

11. Background papers

13.1 Link to 2019 Cabinet Report on Additional HMO Licensing:
[February 2019 Cabinet Report](#)

13.2 Link to appendices to 2019 Cabinet Report on Additional HMO Licensing:

[Appendices](#)

13.3 Link to Cabinet Report 8th March 2022:
[Selective Licensing Cabinet Report](#)

13.4 Link to appendices to 2022 Cabinet Report on Selective Licensing:
[Appendices](#)