

**Report for:** Cabinet February 12<sup>th</sup> 2019

**Title:** Proposals to introduce an Additional Licensing schemes for private rented properties and the use of civil penalties

**Report authorised by :** Stephen McDonnell Director of Neighbourhoods & Environment.

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**Ward(s) affected:** All

**Report for Key/  
Non Key Decision: Key Decision**

## 1. Describe the issue under consideration

- 1.1 The Housing Act 2004 introduced licensing for the Private Rented Sector (PRS). Mandatory Licensing for Houses in Multiple Occupation (HMO) exists for all HMOs occupied by five or more tenants. The Act also gave powers to Councils to introduce discretionary licensing schemes within their local authority;
  - i. Additional Licensing for smaller Houses in Multiple Occupation and
  - ii. Selective Licensing for all privately rented property.
- 1.2 Mandatory HMO Licensing is a legal requirement and has been in operation in Haringey since 2006. The borough also has an existing Additional HMO Licensing scheme within five wards in Tottenham. This commenced on 1<sup>st</sup> May 2014 and is due to end on 30<sup>th</sup> April 2019.
- 1.3 Public consultation was undertaken between 11<sup>th</sup> December 2017 and 5<sup>th</sup> March 2018. The consultation presented proposals on two property licensing schemes; a borough wide Additional HMO Licensing scheme and a Selective Licensing scheme for non HMO property within 29 Lower Super Output Areas (LSOA) across the borough.
- 1.4 In light of the consultation results and taking into account learning from other recent Local Authority designations, the proposed Selective Licensing designation requires further review. The planned recommendation to designate a Selective Licensing scheme and its proposals are not included within this report. A new proposal for Selective Licensing will be presented for Cabinet decision in 2020.
- 1.5 This report seeks Cabinet approval for the designation and operation of a borough wide Additional (HMO) Licensing scheme.

- 1.6 The designation of a borough wide Additional HMO Licensing Scheme will require all privately rented Houses in Multiple Occupation in the borough to have a licence.
- 1.7 The consultation documents supporting this report include both the Additional HMO Licensing Scheme and Selective Licensing Scheme consultation results. Within the Consultation responses and feedback document in some instances the responses relate to both property licensing schemes. Those overlapping responses have been included as well as those that relate solely to the Additional HMO Licensing scheme. Only the results relating to the Additional HMO Licensing scheme have been used to support the recommendations within this report. Appendix 4
- 1.8 The Housing Act 2004 provides to the Local Authority the discretion to set a fee for the administrative process associated with the Licencing. The fee set must be fair and transparent and reflect the cost to the council of administering such a scheme. Cabinet are asked to refer to Statutory Officers comments in paragraph13.1 and approve the fee structure as set out in appendix 5.
- 1.9 Additionally, Cabinet is asked to note the powers to issue, use and enforce civil penalties and other enforcement powers created by the Housing and Planning Act 2016 (“the 2016 Act”) set out at Section 11 below and to approve the policy on determining the appropriate level of civil penalty for offences under the Housing Act 2004 set out in the ‘Civil penalty matrix’ within Appendix 6.
- 1.10 The use of these new powers will support and complement the proposed Additional HMO Licensing scheme and can be used throughout the borough. The civil penalties are an alternative to prosecution, penalties can be imposed up to the value of £30,000 and will provide a new deterrent to criminal landlord behaviour.

## 2. Cabinet Member Introduction

Haringey is a borough which has traditionally had a very high level of privately rented properties. Current estimates are that some 33% of households in Haringey are privately rented (equating to 35,000) exceeding by 14% the national average of 19%. Between 2001 and 2011 our private rented sector has grown by 45.6%, an upward trend which is likely to continue given the huge need and the current lack of affordable public sector housing.

Houses in Multiple Occupation (HMO) are a huge component of the private rented sector and provide accommodation for a wide range of individuals, and increasingly, families. It is vital that these properties are well and effectively regulated, to ensure they are safe and compliant with environmental and other regulations. The landlord licensing scheme proposed in this report provides the regulatory framework to support the many good landlords in Haringey, whilst also providing the powers for officers to tackle the rogue landlords who do not comply. The scheme will also enable the Council to know who owns and manages these properties through the issuing of licenses to operate.

The additional (HMO) scheme has been developed following wide research, evidence gathering and public consultation and I am delighted to bring this report to the Cabinet for approval.

### **3. Recommendations**

It is recommended that Cabinet:

- 3.1.1 Consider the consultation results and representations received in response to the consultation on the Additional HMO Licensing Scheme. (Appendix 4).
- 3.2 Designate pursuant to s56 (1) (a) of the Housing Act 2004 the whole area of the Borough as subject to additional licensing of houses in multiple occupation (HMO's) as set out in the draft designation at Appendix 1, the designation to be cited as the "London Borough of Haringey Designation for an Area for Additional Licensing of Houses in Multiple Occupation, No 3, 2019" coming into force on 27 May 2019. (Appendix 1)
- 3.3 Approve the scale of fees and charges (Appendix 5)
- 3.4 Delegate to the Director of Environment and Neighbourhoods in consultation with the lead Cabinet Member for Housing and Estate Renewal, the authority to agree minor changes to the proposed implementation and delivery, including administration, fees and conditions and give all necessary statutory notifications
- 3.5 Approve the policy on determining the appropriate level of civil penalty for offences under the Housing Act 2004 set out at Appendix 6

### **4. Reasons for decision**

- 4.1 Additional HMO Licensing has been piloted in our borough previously. In 2011 a scheme was designated within the Haringay ward and ran for 5 years and we currently have a small scheme within five wards in Tottenham.
- 4.2 The outcomes of these schemes provide our greatest evidence base that licensing improves the standard of accommodation for tenants, provides a register of responsible parties and has enabled the Council to adopt a multiagency approach to tackle issues arising from poorly managed HMO property.
- 4.3 With an expanding Private Rented Sector, HMOs are likely to be growing in demand as it offers an affordable accommodation option for many tenants. Rolling out Additional HMO Licensing borough wide will allow the Council to require standards to be met across all HMOs, will give us greater intelligence on our private rental sector and provide details of who is responsible for those property.
- 4.4 Public Consultation identified that tenants and the public are in favour of having licensing for Houses in Multiple Occupation and provided feedback on how this can be targeted to provide them with the greatest support.

- 4.5 In contrast we know that landlords are not in favour of such schemes and see the implementation as a money making initiative for the Council. The licence fee is a cost associated with the administration of the licence applications and compliance process. The Housing Act 2004 allows a fee to be set that is reasonable and transparent. The License fee income is to be used for running of the licensing project and should be set at an amount which is reflective of this.
- 4.6 It is important to prove to compliant landlords and the public that we are pursuing those landlords who remain non compliant. Taking appropriate enforcement action and publicising these outcomes to promote the schemes successes is essential. The use of civil penalties is an alternative to prosecution and provides an additional enforcement tool for officers when deciding what penalty is appropriate for the offence committed.
- 4.7 It is necessary for Cabinet to agree licensing proposals under the Housing Act 2004. Approval is therefore sought for the designation of a borough wide Additional Licensing for Houses in Multiple Occupation.
- 4.8 Cabinet are required to agree and approve the use of civil financial penalties and all other enforcement powers under the Housing and Planning Act 2016 and to delegate these powers to authorised officers. (Appendix 6)

## 5. **Alternative options considered**

- 5.1 **Do nothing and continue with existing legal powers** - Existing powers available to the Council are largely reactive with officers responding to tenants' complaints. Many tenants are reluctant to complain through fear of retaliatory eviction. Although current enforcement activity has been successful in remedying problems in individual dwellings, it is not felt to have raised the standard of private sector dwellings generally and at the scale now required.
- 5.2 **Voluntary Accreditation** - Although the voluntary accreditation scheme is helpful in driving up standards, take up is generally poor and is likely to be used by self-selecting professional landlords rather than rogue landlords
- 5.3 More detail regarding other courses of action already used by the Council appears below at paragraphs 7.3 and within Appendix 2

## 6. **Background information**

### **Introduction**

- 6.1 The Council recognises the crucial contribution the private rented sector makes in providing good quality, much needed accommodation, and that many landlords manage their properties well. We also know, however through evidence gathered from the Council's Mandatory and ward based Additional Licensing scheme, that there is an issue with rogue and absentee landlords. There are also well-intentioned landlords who are not aware of their responsibilities or the problems caused by their tenants.

- 6.2 The main aim of having an Additional HMO Licensing scheme is to improve the standard of accommodation within this sector, improving property condition is one of the main priorities of this scheme. The introduction of a suitable licensing scheme will also enable a significant change in the way that property is managed by landlords. Better property management will allow the Council to tackle issues such as anti-social behaviour and poor waste management. Through licensing, the Council will know who is responsible for the management of properties that are rented out and who is responsible for dealing with problems associated with the dwelling.
- 6.3 We know that in Haringey we have many smaller HMO property that cause just as many problems for the tenants and local community as those property covered by the Governments Mandatory HMO Licensing scheme. (see table in 8.4)
- 6.4 A borough wide Additional HMO Licencing scheme will require anyone renting smaller HMO accommodation, those occupied by less than five persons, to also have a licence. This scheme will complement the borough wide Mandatory HMO Licensing making it compulsory for anyone renting an HMO in the borough to have a licence. (Appendix 2)
- 6.5 The private rented sector (PRS) in Haringey has grown by 45.6% between 2001 and 2011, this trend is expected to continue. The current estimate of PRS is 35,000 which has increased from the 2011 census figure of 32,000.
- 6.6 33% of households in Haringey are privately rented. This is 14% more private rental properties than the national average of 19%.

### **Power to introduce Additional HMO Licensing Scheme**

- 6.7 Sections 56 & 57 of the Housing Act 2004 provide local authorities with the power to designate areas within their district or borough as being subject to an Additional HMO Licensing Scheme in relation to some or all of the HMO properties in that area which are not already subject to Mandatory HMO Licensing. (Appendix 2)
- 6.8 Converted properties containing flats which fail to meet the adopted standards of the 1991 Building Regulations – often called ‘Section 257 HMOs, due to their definition under Section 257 of the Housing Act 2004 – can be licensable under the Additional HMO Licensing Scheme.
- 6.9 Additional HMO Licensing Schemes may be introduced for a period not exceeding 5 years and can be used to address problems that may exist in sub-standard converted self-contained flats or smaller HMO accommodation.

## **7. Statutory conditions and evidence**

- 7.1 Before making an Additional HMO Licensing designation for a particular type of HMO, or for a particular area, the local authority must:

- Consider that a significant proportion of the HMOs (that will be subject to the proposed designation) in the area are being managed sufficiently ineffectively as to give rise, or likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public.
- Consider whether there are any other courses of action available to them that might provide an effective method of dealing with the problem or problems in question.
- Consider that the making of the designation will significantly assist them to deal with the problem or problems.

7.2 There is also a requirement on the local authority to:

- Ensure that the exercise of the power is consistent with their overall Housing Strategy.
- Adopt a coordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector as regards combining licensing with other action taken by them or others.
- 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.

7.3 All other courses of action are already used by the Council (Appendix 2):

- Landlord accreditation
- Community safety partnerships
- Part 1 Housing Act
- Article 4 – Planning controls
- HMO management regulations
- Nuisance and Noise

7.4 The designation cannot come into force until at least 90 days after the Cabinet decision is made. There are prescribed notification requirements in that a public notice of a designation must be given within set timescales once it is made. There will also be a further publicity campaign inviting landlords to license and an awareness campaign for residents to report HMOs which might not be licensed.

7.5 If the additional HMO licensing designation is approved the authority will review the operation of the licensing scheme from time to time. This will be essential to monitor the progress of the scheme and the effectiveness of dealing with rogue landlords.

7.6 It is proposed that an initial review is carried out at the end of the first year of enforcement in 2020 with a further review towards the end of year 4 which will be useful for determining the strategic direction of the scheme in particular if a further scheme is required.

## 8. The Evidence

8.1 The Council recognises the value that HMO accommodation provides to residents in the borough. It is our priority to ensure that this accommodation is safe, well maintained and managed effectively so as to not cause problems for those living within the community.

8.2 We know that much of the borough's HMO accommodation is not safe, well maintained and continues to cause problems for neighbours and the local community. Evidence has been identified through complaints, inspections and from learning outcomes of the Councils previous and current additional HMO Licencing schemes.

8.3 The Council has licensed 918 properties under its existing Additional Licensing schemes. These properties had significant failures which required remedial action.

8.4 The Table below shows the significant level of deficiencies found in properties within each of schemes. (Appendix 3)

Property Deficiency Main elements of the condition of a licence that properties on inspection failed to meet.	Harringay Ward Scheme	Tottenham Ward
<b>Fire/Means of Escape</b> Was not present or lacked adequate means of escape and fire safety measures.	483 (92%)	553 (92%)
<b>Security</b> Was not present or lacked adequate security measures to front/rear doors and windows and the actual room doors of the individual rooms.	289 (55%)	493 (82%)
<b>Heating</b> Was not present or lacked adequate heating within the property and individual rooms. This ranged from no heating at all, expensive systems, no heating controls and key meter issues.	141 (27%)	328 (54%)
<b>Maintenance</b> Was not present or lacked adequate management to ensure maintenance was undertaken. Such as fire alarm not working, fire equipment damaged,	373 (71%)	471 (78%)

heating and hot water broken down, dirty conditions to common parts, poor waste arrangements, failing to deal with anti-social issues and general lack of dealing with basic repairs.		
<b>Kitchen / Bathroom Provision</b> Was not present or lacked adequate kitchen facilities e.g. inadequate numbers of cookers, sinks, work surfaces and kitchen cupboards/refrigerators.	104 (20%)	300 (49%)
<b>Hygiene</b> Was not present or lacked adequate bathroom facilities such as insufficient bathrooms for the number of occupants, lack of wash hand basins or additional separate toilets required	Not recorded	191 (32%)
<b>Overcrowding</b> <b>Space standards are applied to rooms which may be over occupied. Occupancy numbers would have to be reduced or layout of property altered</b>	Not recorded	133 ( 22%)

- 8.5 Directly linking data to a House in Multiple Occupation in the borough has been difficult. The evidence used to substantiate the problems associated with HMO accommodation given in the paragraphs below is likely to be an under estimation of the actual size of the problem. This is due to the fact that many tenants do not want to complain about property condition for fear of reprisal. Also the way information is given about a property when residents complain often means the complaint is not identified as being linked to an HMO but is associated to a broader private renting category.
- 8.6 The data below outlines evidence where we know the property is an HMO or is highly likely to be an HMO. The disrepair and poor management uncovered by the existing Additional HMO Licensing scheme provides clear evidence that there is still much to do to address these unsatisfactory conditions.
- 8.7 The evidence shows that there is significant disrepair/poor housing conditions in HMOs. For the period January 2016 to December 2016, 1,904 housing complaints were received. Of those, 1,150 (59%) related to housing disrepair.
- 1041 category 1 & 2 (high risk) hazards were recorded between January 2016 and December 2016, 69% related to private sector dwellings. The two most common types were excess cold (19%) and damp and mould growth (16%).
  - Pest control complaints received during January 2016 and December 2016 confirmed a total of 7,168 recorded incidents relating to private sector dwellings.
- 8.8 Anti-Social Behaviour (ASB) and Noise – These are recorded across the borough and a large percentage are related to the private rented sector.

- The rate of anti-social behaviour reported to the police in Haringey is above that of the London average, with 34.9 incidents reported annually per 1,000 residents, compared to 33.7 for London.
- The number of ASB incidents that can be directly linked to HMO accommodation stands at 2,942 incidents (24%).
- Noise complaints received directly by the Council between January 2016 to December 2016, totalled 19,942.
- From the total we extracted and analysed complaints recorded as: private rented; unknown and blank - the number of complaints totalled 15,923, (80%) of the overall total. Of this 27% were directly linked to HMO accommodation.

## 8.9 Environmental Crime

- The number of environmental crime incidents e.g. rubbish in front gardens, fly tipping, improper recycling, recorded between January 2016 to December 2016 totalled 13,585. 6,641 related to private sector dwellings.
- Dealing with fly-tipping costs the tax payers in Haringey £3 million per year.
- 36% (43,268 reports) of environmental crime can be directly linked to HMO accommodation.

## 9. How will Additional Licensing (help) solve the problem

- 9.1 HMO licensing places the onus on landlords to identify themselves as the responsible owner and provide the Council with details of those HMOs that require licensing. It is possible, therefore, to target portfolio owners / landlords about all of their properties rather than on an individual basis through a reactive approach.
- 9.2 It is an offence for owners to be renting HMOs without a licence. The sanctions for not licensing a property are severe and they also encompass a sanction that cannot be pursued by enforcement outside of a licensing scheme. Housing Benefit payments can be recovered for the amount paid over the past year if it is identified that the property has been operating as a licensable HMO without a licence.
- 9.3 When applying for an HMO licence, owners are required to ensure that the property meets the required standards before a licence can be granted and, because details of the landlords and properties are stored on a database, officers will know who to contact if there any problems with a licensed property in the future.
- 9.4 Licences are issued in conjunction with a set of conditions which all landlords must meet and continue to adhere to for the lifetime of the licence. Failure to comply with conditions or repeat offending can lead to prosecution or the revocation of the property licence.
- 9.5 Licensing powers enable local authorities to turn down a licence application submitted by a landlord who is deemed not to be a ‘fit and proper person’

because, for example, they have previously had an HMO licence taken away and/or been prosecuted and convicted for housing related offences, fraud or violence.

9.6 Introducing an Additional HMO Licensing scheme borough wide will make it easier for the Council to target non-compliant landlords.

9.7 By improving the overall standard of HMO accommodation, it will also be possible to improve the quality of life of those residents who live next to HMOs. Additional HMO Licensing will enable the Council to use its powers to tackle the worst offenders and to focus activity and resources effectively on properties of concern.

9.8 The Additional HMO Licensing scheme will enable the Council to target problematic properties. It will:

- Put the onus firmly on the landlord to inform the Council of the existence of an HMO (rather than expect the Council to identify HMOs reactively and then take formal action to get improvements);
- Reduce the burden on the Council Tax payer by setting licensing fees to cover the cost of administering the scheme;
- Enable the Council to create a comprehensive database of all the licensable HMO accommodation within the designated area;
- Make it easier for the Council to identify and work with those landlords whose management and/or accommodation standards are inadequate and ensure that steps are taken to bring them up to the required standard;
- Control the maximum number of occupants allowed to reside at the property, so as to assist in controlling issues with overcrowding;
- Enable the Council to promote landlord accreditation and offer incentives to good landlords through adjustments to the licence fees and the length of the licence period;
- Make it easier for the Council to develop a more co-ordinated approach, and to share intelligence, in order to address poor property standards more efficiently and effectively; and
- Help the Council tackle rogue landlords and ensure that only those landlords who are 'fit and proper' have control of an HMO.

9.9 Lessons learned from previous schemes.

9.9.1 The Additional HMO Licensing scheme that came into effect in the Harringay Ward on 1 October 2011 and the current scheme within Tottenham, have demonstrated the considerable benefits that can be gained from having a targeted area and the ability to compel landlords to license all of their licensable HMOs within the designated area.

- 9.9.2 The advantage of targeting portfolio landlords (landlords who have a number of properties in the area), is that this is an efficient and effective way of using limited resources to deliver very successful outcomes. Knowing that the scheme will operate for at least 5 years, landlords appear more willing to engage with the Council.
- 9.9.3 Landlords are asked to provide the Council with details of all of the properties they own or manage within the designated area. They are asked to provide a comprehensive address list and are informed that, if a property is left off the list and is later found to be licensable, this may result in prosecution. This targeted approach has improved joint working between the Council and private landlords.
- 9.9.4 Implementation of the Additional HMO Licensing schemes has led to the development of a cross-service approach to the licensing process. Following receipt of a licence application, services are now contacted and consulted on the issues relating to that particular property. This has improved cross-service working and problem-solving.
- 9.9.5 It is also important to demonstrate to the compliant, professional landlords that poor quality properties will be targeted. Feedback from landlords has indicated that they often feel that they are disadvantaged because they cooperate with the licensing process and yet unscrupulous landlords appear to go undetected.

## 10. Consultation

- 10.1 Before making a designation under Part 2 of the Housing Act 2004, the authority must take all reasonable steps to consult persons who are likely to be affected by the designation, and consider any representations made in accordance with the consultation. In order to take advantage of the general approval the statutory consultation must be for a minimum period of at least 10 weeks.
- 10.2 The statutory consultation ran from 11 December 2017 until 5 March 2018. This consisted of an on-line survey and 4 focus groups, direct mail outs etc. There was also an additional 5 focus groups specifically aimed at tenants and hard to reach groups facilitated by the Bridge Renewal Trust.
- 10.3 An online survey was used as the main method of consultation, which was hosted independently by M.E.L Research, they also ran the four focus groups which were delivered during the consultation period. The consultation ran for twelve weeks from 11th December 2017 to 5th March 2018 and consulted on the original proposal of introducing both additional and selective Licensing. In total, 607 responses were received.
- 10.4 Key findings;
- 10.4.1 Overall, support for a borough-wide Additional Licensing scheme is quite strong (70% in support). Opposition to the scheme is highest amongst landlords (39%), whilst residents are most in favour (80%). Around half of all respondents

(53%) feel it will have a positive impact on them, with residents again most positive (65% positive), whilst landlords are most negative (34% negative).

## 10.5 Fees

10.5.1 The consultation asked respondents to comment on the existing HMO licence fee at the time of consultation which was £208.00 per habitable unit. Just under six out of ten (57%) respondents feel that the proposed Additional Licensing fee is reasonable. Around three out of ten (28%) think it is unreasonable. Results are similar when asked about the 'other fees/charges' for the Additional Licensing, with over half (53%) saying they are reasonable and three out of ten (29%) saying they are unreasonable. (Appendix 5 )

## 10.6 Conditions

10.6.1 Just under six out of ten respondents (58%) agree that the Additional Licensing conditions are reasonable, and that they will help improve the standard of private rented housing, whilst a quarter (25%) said they did not agree.

## 10.7 Priorities for tenants

10.7.1 There were 5 focus groups delivered by Bridge Renewal Trust - their 3 priorities were;

- Lack of tenancy agreements or understanding them.
- Very low/no landlord response on health and safety matters in the Building.
- Limited supply of properties, forcing up rents and increasing fears of eviction and its personal consequences.

10.8 The full consultation report and results is attached at Appendix 4 this also includes the Council's consideration of responses to the consultation and any changes to the proposal.

## 11. Implementation of powers introduced by the Housing and Planning Act 2016 ("the 2016 Act")

11.1 The 2016 Act provides additional powers and remedies:

- the power for the Council to issue civil financial penalties as an alternative to criminal prosecution (inserted into the Housing Act 2004 at s249A and Sch 13A);
- power for the First Tier Tribunal to make 'Banning Orders' (s15 of the 2016 Act);
- creation of a national rogue landlord database which will identify the worst offenders (maintained by local authorities) (s28 of the 2016 Act); and
- an increase in the number of offences where Rent Repayment Orders (RRO's) can be sought against criminal and rogue landlords (Part 2 Chapter 4 of the 2016 Act).

11.2 The Council will be able to impose a civil penalty as an alternative to criminal prosecution for the following offences under the Housing Act 2004:

- Failure to comply with an Improvement Notice (section 30);
- Offences in relation to licensing (section 72 and 95);
- Offences of contravention of an overcrowding notice (section 139);
- Failure to comply with management regulations in respect of HMOs (section 234); and
- Breaching of a Banning Order (Housing and Planning Act, section 23).

11.3 Section 15 (1) of the Act provides the power to a local authority in England to apply for a banning order against a person who has been convicted of a banning order offence. A banning order under section 14 (1) of the Act will prevent a person from;

- letting any house;
- engaging in letting agency work;
- engaging in property management work, or
- doing two or more of these activities.

11.4 Each case will be carefully assessed to identify and apply the appropriate sanction dependent on the severity of the offence and circumstances. These will include a civil financial penalty or undertaking other enforcement interventions, such as issuing prosecution proceedings or offering a simple caution. It is important to note that if a civil financial penalty is imposed a prosecution cannot be pursued for the same offence. The same criminal standard of proof is required for a civil penalty as for a prosecution therefore officers will need to be satisfied there is a 'realistic prospect of conviction' under the Code of Crown Prosecutors.

11.5 The Secretary of State has issued Guidance on the use of civil financial penalties (*"Civil penalties under the Housing and Planning Act 2016 : Guidance for Local Housing Authorities"*). The guidance states that local authorities *"...should develop and document their own policy on determining the appropriate level of civil penalty in a particular case"*.

11.6 Banning Orders will be reserved for the most serious cases and therefore civil fixed penalties will potentially form the bulk of the enforcement action for any relevant criminal offences under the Housing Act 2004.

11.7 The Council's overarching enforcement policy will support the use of enforcement powers set out in this report. The level of fine will be determined using the matrix within the enforcement policy attached at Appendix 6.

## 12. **Contribution to strategic outcomes**

12.1 Before deciding whether a licensing scheme is appropriate, the local authority must consider whether the approach is consistent with its Housing Strategy and how it will support dealing with homelessness, empty properties and anti-social behaviour.

12.2 Housing Strategy 2017 to 2022

Haringey's housing strategy has four key strategic objectives:

- Achieve a step change in the number of new homes being built.
- Improve support and help to prevent homelessness.
- Drive up quality of housing for all residents.
- Ensure that housing delivers wider community benefits.

12.2.1 In terms of driving up the quality of housing in the borough, our priority is to improve the quality and reliability of homes in the private rented sector. The Councils' draft Borough Plan outlines our priority and objective to "*Improve the quality of private rented housing and the experience of those living it, including, by expanding landlord licensing and associated enforcement.*"

12.2.2 To meet this priority, we have committed to continue encouraging private rented sector landlords and lettings agents to sign up with the London Landlord Accreditation Scheme. For the landlords who are unwilling to make changes voluntarily we see licensing as an important statutory power to drive up quality.

12.2.3 Our priorities include promoting independence, health and wellbeing, and providing stable, safe well-managed homes in decent environments. We have committed to improving health by tackling poor quality homes in the private sector, where the highest levels of serious repairs and hazards often occur.

12.2.4 The priorities for the private rented sector articulated in the Council's Housing Strategy go hand in hand with licensing. Interventions such as licensing can bring about an uplift in the quality of the sector through eliminating poor management practices and property conditions and reducing ASB that can adversely affect a neighbourhood. It offers private sector tenants added protection and supports a thriving, much needed, private rented sector through working with landlords to address concerns, raising awareness of good practice and driving out rogue landlords.

### 12.3 Homelessness

12.3.1 Within London, Haringey has the second highest number of households living in temporary accommodation because they are homeless. The main reason for homelessness in Haringey is loss of a private rented sector tenancy.

12.3.2 Licensing, by raising standards of management and property conditions will further help to increase the supply of good quality homes in the private rented sector. At the same time, it can address instances of poor management that may lead to households losing their homes and presenting as homeless. Licensing also helps the Council to build a relationship with local landlords and identify those who may be willing to work alongside the council's homelessness team to enable easier access to temporary accommodation.

12.3.3 More importantly, licensing offers additional protection for assured short-hold tenants. Licensing precludes a landlord from serving a notice under section 21

of the Housing Act 1988 (notice requiring possession) if the landlord has failed to licence the property.

#### 12.4 Empty Homes

12.4.1 Whilst the Council is not pursuing a licensing scheme on the grounds of low housing demand (demand for purchasing and renting in Haringey is high), there is a clear relationship between our approach to empty homes management and improving the private rented sector. The Council takes a proactive approach to empty homes, using a combination of encouragement and enforcement to bring empty homes back into use.

#### 12.5 Anti-Social Behaviour

12.5.1 The evidence shows (paragraph 8.6) that there is a significant and persistent problem with ASB directly linked to private sector properties. Licensing will support existing anti-social behaviour initiatives by requiring landlords to take action against their tenants, by ensuring that household waste is correctly disposed of and that front gardens are maintained and free from rubbish.

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

#### 13.1 **Finance**

13.1.1 Haringey currently has an Additional HMO licencing schemes within five wards in Tottenham which ends on the 31st March 2019. This proposal will allow for the licensing of HMO accommodation to continue by expanding it across the borough another five years starting in May 27th 2019.

13.1.2 The licensing schemes have to be cost neutral whereby the total licensing income does not exceed the expenditure over the 5 year duration. Any funding not used within this period would need to be refunded back to the landlords who have paid for a licence. However, any refund is highly unlikely as the Council currently contributes towards the running of the HMO schemes. There is a proposed £135,000 set up as a reserve in 2017/18 to fund additional costs of staffing that will arise from operating the schemes.

13.1.3 The funding of the additional staff and the income from licences has been included as part of the five year Medium Term Financial Strategy proposals for 2020/21. The introduction of a borough wide scheme will triple the amount of licences issued. The Council will be able to benefit from economies of scale and reduce its current subsidy of £465k to £65k in 2020/21.

13.1.4 Enforcement costs in relation to un-licensed premises have been excluded from the licence fee income and expenditure calculations to comply with legislation on keeping this cost separate.

13.1.5 The fees charged for the licensing schemes following the designation will alter from those currently charged for Additional HMO Licensing and Mandatory HMO Licensing following court rulings. The fee charged will be set fee of £1100 (average cost for 5 bed let) as opposed to £208 per unit fee previously charged.

The fee will be taken in two stages. £500 at the application stage and a further £600 on the issuing of the licence. Appendix 5

### 13.2 **Procurement [Barry Phelps head of procurement]**

13.2.1 Strategic Procurement notes the contents of this report; however, there are no procurement implications associated with the recommendations made in this report.

### 13.3 **Legal [Robin Levett : Interim Senior Litigation Lawyer]**

13.3.1 The Assistant Director Corporate Governance has been consulted in the preparation of this report.

13.3.2 The statutory requirements for making an additional licensing designation are set out at paragraphs 7.1 and 7.2 above.

13.3.3 The requirements at paragraph 7.1 are met - officers have:

- Summarised the evidence of the problems to which inadequate management of HMOs in the borough has given rise at paragraphs 8.6 to 8.9 and Appendix 3 and provided full reports on the evidence by a separate mailing
- Set out the other courses of action available, considered, and used, at section 5, paragraph 7.3 and Appendix 2; and
- Explained in section 9 how the making of this designation will assist in resolving the problems identified

13.3.4 Officers have set out how the requirements set out at paragraph 7.2 are met in the remainder of the report.

13.3.5 The consultation carried out met the consultation requirement set out at 10.1.

13.3.6 Members will be aware that in carrying out its consultations, the Council must comply with its own consultation policy, and adhere to the so called 'Sedley principles'. These are :

- That consultation must be at a time when proposals are still at a formative stage;
- That the proposer must give sufficient reasons for any proposal to permit of intelligent consideration and response;
- That adequate time must be given for consideration and response; and
- That the product of consultation must be conscientiously taken into account in finalising any statutory proposals.

13.3.7 Members should conscientiously consider the consultation outcome summarised in paragraphs 10.4 to 10.7, and Appendix 4.

13.3.8 Otherwise legal comments, including a summary of the provisions of the 2016 Act (at section 11), appear in the body of the report.

13.3.9 Under the Constitution these decisions are for Cabinet.

13.3.10 The Assistant Director sees no legal reason why the recommendations in this report should not be adopted

#### 13.4 Equality

13.4.1 The Council has a Public Sector Equality Duty 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 those protected characteristics and people who do not
- Foster good relations between people who share those characteristics and people who do not.

13.4.2 The three parts of the duty applies 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.

13.4.3 The decision is to introduce and operate a borough-wide Additional (HMO) Licensing scheme, with associated enforcement powers including civil penalties. This will require all privately rented Houses in Multiple Occupation in the borough to have a licence.

13.4.4 Two groups will be significantly affected by the proposal. The first is tenants in the private rented sector (PRS). We know that individuals and groups with protected characteristics are overrepresented among PRS tenants. Notably, young people, lone parents of whom the majority are women, and individuals from BAME communities and migrants in particular are significantly more likely than other groups to live in PRS accommodation. The proposal is likely to improve housing conditions for PRS tenants. It is therefore likely that individuals with protected characteristics will be overrepresented among those who benefit from the proposal. The Council can therefore meet its public sector equality duty by eliminating discrimination in relation to housing conditions for those with protected characteristics.

13.4.5 The second affected group is PRS landlords. We do not currently have data on the proportions of landlords in Haringey with protected characteristics. This proposal offers an opportunity to collect this data, and in so doing monitor its equalities impact.

13.4.6 An equalities impact assessment has been carried out on the proposal, which details its full impact in relation to each protected characteristic and each part of the public sector equality duty. It is attached at Appendix 7.

13.5 See attached EIA in Appendix 7

#### 14. Use of Appendices

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Attachments to report;  
Appendix 1 – Designation  
Appendix 2 – Background Information  
Appendix 3 – Summary of Evidence  
Appendix 4.1 – M.E.L Consultation Report  
Appendix 4.2 – M.E.L Consultation Reprt Appendices  
Appendix 4.3 – Bridge Renewal Trust consultation report  
Appendix 4.4 – Summary of consultation feedback and Council responses.  
Appendix 5 – Proposed fees  
Appendix 6 – Enforcement Policy  
Appendix 7 – EIA

## 15. Local Government (Access to Information) Act 1985

- Housing Act 2004.
- UK Migrants and the private sector (John Perry) – Joseph Rowntree Foundation 2012.
- <https://www.jrf.org.uk/report/uk-migrants-and-private-rented-sector>
- London Borough of Haringey – Property Licensing –Additional & selective cabinet report and Appendix 14<sup>th</sup> November 2017
- London Borough of Haringey – Additional and Selective Licensing, Evidence Base. October 2017 (Appendix 1)

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