

<p>Cabinet</p> <p>30 January 2018</p>	 <p>TOWER HAMLETS</p>
<p>Report of: Ann Sutcliffe, Acting Corporate Director, Place</p>	<p>Classification: Unrestricted</p>
<p>Consultation on an Additional Licensing Scheme for Houses in Multiple Occupation</p>	

Lead Member	Cllr Sirajul Islam - Statutory Deputy Mayor and Cabinet Member for Housing Management and Performance
Originating Officer(s)	David Tolley – Head of Environmental Health and Trading Standards
Wards affected	All apart from Weavers, Whitechapel, Spitalfields and Banglatown wards
Key Decision?	Yes
Community Plan Theme	A Healthy and Supportive Community

Executive Summary

Houses in Multiple Occupation (HMOs) play a key role in meeting the housing needs of residents in the Borough. It is estimated that there could be as many as 9,000 HMOs within the Borough. It is recognised that there are many good landlords operating in Tower Hamlets, but unfortunately there are also those who do not maintain their properties leaving tenants at risk and giving potential problems to neighbouring properties. Enforcement action against landlords can be costly, resource intensive and notoriously complicated. The Environmental Health and Trading Standards Service deal with such issues on a mainly reactive basis where there is a mandatory duty to licence a premises or to take enforcement action.

There are currently 2 licensing schemes operating in Tower Hamlets and which are:

1. Mandatory HMO licences – for properties of 3 or more storey's with 5 or more tenants from two or more households. This is Borough-wide.
2. Selective licences – this is required for any privately rented property irrespective of number of floors or tenants within Weavers, Whitechapel, Spitalfields and Banglatown wards.

There is now a proposal to introduce an Additional Licensing scheme and which will allow the focus from reactive to one of enabling and supporting landlords who wish to be compliant, whilst targeting those who do not wish to comply with the current standards ensuring that tenants are protected. The Additional Licensing Scheme will apply to any privately rented property with 3 or more tenants from 2 or more households across the Borough that are not already required to be licensed under either the Mandatory Licensing Scheme or the Selective Licensing Scheme.

Recommendations:

The Mayor in Cabinet is recommended to:

- 1) Agree that a consultation exercise takes place on introducing an Additional Licensing scheme for HMOs outside the current Selective Licensing area
- 2) Agree that subject to consultation, the Additional Licensing Scheme will apply borough wide to HMOs of the descriptions set out in Appendix 3

3) Agree that the following proposals will form part of the consultation:

- Fee Structure
- Licence conditions
- Amenity Standards
- Fit and Proper Person Protocol

4) Note that once the consultation exercise has been completed, the responses will be analysed and then a report will be submitted to the Mayor in Cabinet for a decision as to whether to adopt an Additional Licensing Scheme.

1. REASONS FOR THE DECISIONS

- 1.1 If the Council wishes to introduce an Additional Licensing scheme within the Borough for HMOs, then it is required to undertake a formal consultation on its proposals. This report seeks the approval to undertake such consultation.

2. ALTERNATIVE OPTIONS

- 2.1 The Mayor in Cabinet can determine not to introduce an Additional Licensing scheme and therefore no consultation process would be required.
- 2.2 The Council could consider increasing the reactive enforcement approach in relation to HMOs dealing with cases as they are presented to the Team. A more proactive approach would need to be taken against the worst landlords, although experience has shown that this is resource intensive. There would need to be an increase in the current staffing arrangements. This places an additional burden on the General Fund rather than against those who are making a profit from renting out HMOs.
- 2.3 Instead of consulting on a Borough wide Additional Licensing scheme (excluding the current selective licensing area), an area based Additional Licensing scheme could be consulted upon. This is not recommended as the report in Appendix 1 demonstrates a need for a broader scheme and this would further fragment the approach to the regulation of HMOs across the Borough.
- 2.4 Further given the increasing dependency in the Borough on the private rented sector, it is recognised that HMOs play a vital part in the Housing sector.

Although it is recognised that there are some areas in which they occur in concentration, an area based scheme would cause inconsistency in regulation and confusion amongst landlords and tenants.

3. DETAILS OF REPORT

- 3.1 HMOs are properties that are occupied by at least 3 different tenants, forming more than 1 household whereby the tenants share facilities such as cooking or sanitary facilities.
- 3.2 The definition of a HMO includes bedsits, shared houses, flats, lettings with their own facilities but which are not self-contained, and some types of poorly converted self-contained flats. The full legal definition is set out in Appendix 2.

Existing Controls on Houses in Multiple Occupation

Mandatory Licensing

- 3.3 In 2006, the Housing Act 2004 introduced a national mandatory licensing regime for larger HMOs. This is a property that is occupied by 5 or more persons comprising 2 or more households, living in a property of 3 or more storeys where the units of accommodation are not fully self-contained or the bathroom, toilet or kitchen is shared.
- 3.4 A licence is issued on application and the licence holder and property managers declare that they are fit and proper persons to manage such properties. Conditions are attached to the licence that covers property management, fire safety and general safety certification. The licence is for a period of 3 years and the licence holder is subjected to periodic verification requests i.e. fire safety certificates, gas safety certificates are up to date.
- 3.5 There are around 300 mandatory licensed HMOs in the Borough, although this number is fluid as properties fall in and out of the licensing criteria.

Selective Licensing

- 3.6 In order for a Selective housing licensing designation to be made, the Council must demonstrate that the designated area is experiencing a significant and persistent problem caused by anti-social behaviour (ASB) and that it is attributable to occupiers of privately rented properties and that some or all of the private sector landlords are failing to take action that it would be appropriate for them to do to combat the problem. New rules from Central Government also allow selective licensing schemes to be considered where there is evidence of widespread poor property conditions, or where there are high levels of crime, inward migration, and/or deprivation. A Selective Licensing scheme covers all private rented property, including HMOs.
- 3.7 On 2nd February 2016 the Mayor in Cabinet agreed to introduce a Selective Licensing Scheme for the pre 2014 wards of Whitechapel, Weavers and Spitalfields and Banglatown. This Scheme came into force on 1st October 2016.

- 3.8 With effect from 1st April 2015 the Government introduced a new General Approval and which requires local authorities to obtain confirmation from the Secretary of State for any selective licensing scheme which would cover more than 20% of their geographical area or would affect more than 20% of privately rented homes in the local authority area.
- 3.9 Currently, the Council is operating just under this threshold, so if an extension to the current Selective Licensing Scheme is required then Secretary of State's confirmation is needed. To date, with the exception of LB Newham who successfully re-submitted an application to have an all Borough Selective Licensing Scheme less the Olympic Village wards, no other Authority is believed to have received approval from the Secretary of State for a Scheme.
- 3.10 A request will be sent to the Secretary of State to explore the feasibility of extending the Selective Licensing Scheme to the whole Borough. This will be done separate to the proposed consultation exercise for additional licensing.

Landlord Accreditation

- 3.11 This is a mechanism that helps landlords or agents meet agreed standards of competence, skill and knowledge about the business of managing and letting a private rented home. In order to be accredited, landlords and agents must go through specific training. The Council actively supports this process as it may avoid intervention from the Environmental Health and Trading Standards Service, although take up within the Borough has been rather low.

Landlords Forum

- 3.12 The Landlord Forum is an open forum run by Housing Strategy. It uses a network to provide information to landlords and agents. It is held several times a year and is used as a launch pad for several initiatives such as the Tenants Charter.

Reactive Enforcement Action

- 3.13 The Environmental Health and Trading Standards Service has a direct response to deal with service requests from tenants who live in private rented property, including HMOs. Issues that are identified are dealt with in accordance of statutory powers and advice. Such action includes securing improvements by service of notices, prohibiting the property or parts of it from use due to poor conditions and then to prosecution.

Consideration of Additional Licensing

- 3.14 The Government recognises that issues of poor management and facilities in HMOs are not confined to those that are regulated by mandatory HMO licensing. Therefore the Housing Act 2004 gives powers to local authorities to require certain other private rented accommodation to be licensed in specific circumstances.
- 3.15 In order for an Additional Licensing designation to be made, it must be demonstrated that a significant proportion of HMOs in their area are considered to be managed sufficiently ineffectively as to give rise, or likely to

give rise to one or more particular problems for those occupying HMOs or for members of the public.

3.16 Examples of properties being managed sufficiently ineffectively and therefore having a detrimental effect on an area are;

- Whereby the external condition and curtilage adversely impacts on the general character and amenity of the area.
- Where the HMO has not been set up to meet the needs of the number of people living there, for example, because it lacks adequate fire precautions; insufficient kitchen, bathroom or toilet amenities; bedrooms are undersized, etc.
- Whereby the internal condition, such as poorly maintained amenities, leaks, damp and dirty conditions, pest infestations or overcrowding adversely impact on the health safety and welfare of the tenants and the landlords are failing to take the appropriate remedial action.
- Where there are significant and persistent problems of anti-social behaviour affecting other residents and/or the local community and the landlords are not taking steps to address the issues.
- The lack of management or poor management skills or practices is otherwise adversely impacting on the health, safety and welfare of the tenants and/or the wider community.

3.17 If Additional Licensing was adopted across the Borough this would create a level operating platform for all landlords in relation to HMO standards. It would also discourage landlords who reduce their occupancy levels to avoid mandatory licensing. The Selective Licensing area of Weavers, Whitechapel, Spitalfields and Banglatown wards will be excluded however from the Additional Licensing area as private rented properties regardless of their occupation and size must be licensed under that scheme and therefore the additional licensing scheme does not apply. Likewise, the Additional Licensing Scheme would not apply to an private rented properties to which mandatory licensing applies.

3.18 An Additional Licensing designation would place a legal responsibility on the landlord to identify themselves, the property and any management arrangements. This would reduce the difficulty in Council Officers having to identify these premises. There would be a single point of contact as well as clear lines of responsibility should complaints from tenants be received. Such complaints can then be investigated and addressed more promptly.

3.19 It is proposed that the introduction of such a licensing scheme for HMO's would be the best way to regulate such premises by:

- Targeting resources at the properties and management arrangements of most concern.
- Promote engagement with landlords, tenants and agents with an involvement with HMOs.

- Assist with raising standards in the private rented market in relation to health, safety and welfare of the occupants – thus reducing the need for expensive intervention strategies.
- Helping to improve standards of fire safety which are a particular problem in HMOs, benefitting HMO occupiers and people who live in neighbouring properties
- Enable licensed HMOs database to be published on the Council's website.
- Assist with the identification of the worst properties to enable the Services to work with landlords and managing agents to bring them up to standard
- Enable local residents, occupiers or potential occupiers to inform the Council of any HMO's which they think need a licence but do not have one.
- Prevent overcrowding by setting limits as to the number of permitted occupiers.
- Assist with reducing any associated detrimental impacts upon local neighbourhoods and reducing the number of complaints
- Ensure that criminal landlords are targeted and dealt with appropriately and to make certain that only those proven to be fit and proper persons can have control over an HMO
- Promote engagement between enforcers (such as Environmental Health and Trading Standards depts) with the various tenants' advice services to tackle poor practice and exploitation of tenants by local landlords.
- Helping to prevent exploitation of tenants by ensuring that they are issued with lawful tenancies and are aware of their rights, keeping people secure in their homes and preventing illegal evictions.
- Making sure that HMOs can take their proper place among other dwelling types in the housing market, and that they are not a choice of last resort.

3.20 If an Additional Licensing scheme is introduced, focus should be on enabling and supporting landlords who are, or wish to be compliant, whilst targeting those landlords who do not wish to comply with the legislation for enforcement action.

3.21 The details of a proposed additional licensing scheme are contained in Appendix 3.

3.22 The proposed licensing terms and conditions are contained in Appendix 4, along with the Fit and Proper person criteria at Appendix 5.

3.23 The standards that are currently used in relation to HMOs have been reviewed and updated and will be part of the consultation process to adopt an additional licensing scheme. These standards are detailed in Appendix 6.

3.24 Within the analysis from Mayhew and Harper (see Appendix 1), it has been concluded that evidence for Additional Licensing has been identified with a

recommendation that it is introduced Borough-wide except in the wards where Selective Licensing currently operates.

- 3.25 The data provided in the report by Mayhew and Harper has shown that the problems associated with HMOs are not in single or small numbers and which could effectively be tackled by an Interim Management Order where the management of the residential property is transferred to the Housing Authority for up to twelve months, if approved by a Residential Property Tribunal.
- 3.26 Additionally, the conditions outlined in the report would not be addressed by taking a course of action available under the Housing Health and Safety Rating Scheme or with Demolition Orders. This is due to the scale and nature of the issues identified.
- 3.27 It is also proposed that poorly converted blocks of self-contained flats would form part of the scheme as such are known to present a higher fire risk and are specifically defined in section 257 of the Housing Act 2004. This relates to 'converted block of flats' which is any building (or part of a building) which that has been converted into and consists of, self-contained flats and
- The conversion work was not done in accordance with 'appropriate building standards' (appropriate building standards means the 1991 Building Regulations) and
 - Less than two-thirds of the self-contained flats are owner-occupied.
- 3.28 Many such properties were converted a number of years ago and as such, would not be able to be dealt with through Planning or Building Control enforcement. It is proposed that an Additional Licensing scheme would apply to these units and the common parts.

Additional licensing scheme within the overall housing strategy

- 3.29 The tenure mix in Tower Hamlets has changed dramatically and at a very rapid rate over the last 20 years. Social rented housing used to provide homes to the vast majority of Tower Hamlets residents now provides just 36 per cent of the housing in the borough. The private rented sector is now the largest single tenure, with 39 per cent of the Borough's homes rented from a private landlord.
- 3.30 To reflect this, for the first time the Council's Housing Strategy has an appendix 3 detailing our approach to private renting: the Private Sector Housing Strategy. In the Council's Housing Strategy 2016 – 2021, the Mayor has committed to improve the private rented sector. Contributing to this commitment, Action 21 of the Strategy is to "review Selective and Additional Licensing schemes for the private rented sector".
- 3.31 The Private Sector Housing Strategy gives more detail. Specifically at Part 4.1.5 it states: "After the CLG [the Department of Communities and Local Government] reach a decision on whether to extend the scope of mandatory

HMO licensing, the Council will consider introducing an additional licensing scheme for Houses in Multiple Occupation either across the borough or in specified areas; and to apply this either to all HMOs or to certain types of HMO.”

- 3.32 The CLG’s technical consultation on the extension of the mandatory HMO scheme proposes to exclude purpose-built blocks of flats. Such blocks comprise most of Tower Hamlets’ housing stock. In 2011, 85% of all private sector homes were flats, and because 70% of the stock was built after 1945, these are overwhelmingly in purpose-built blocks. These figures include former local authority flats sold under the ‘Right to Buy’ programme – and the proportion of purpose-built blocks is even higher within social housing.
- 3.33 The Council’s Housing Strategy notes: “Many HMOs in the borough do not fall under the current provisions of the mandatory licensing scheme. These include a significant proportion of former Council stock sold under Right to Buy and now let by the room to multiple families and to young people. With a lack of affordable homes, the impact of welfare reform, and increasing private sector rents, it is likely that many households will adopt this tenure in order to remain in Tower Hamlets. “
- 3.34 The Housing Strategy also notes that around 15,000 ex-Council homes have so far been bought in Tower Hamlets under the ‘Right to Buy’ programme – and that an estimated 6,000 of these are now being let, often as HMOs, by private landlords. The numbers are increasing: more than 3,000 flats were sold in the 4 years from April 2012, and the extension of the right to housing association tenants could lead to an ever greater concentration of flats in multiple occupation on Tower Hamlet’s estates. Most of these flats are in purpose-built blocks. Historically, lease agreements are weak in relation to sub-letting and place few if any restrictions on the use of the property as an HMO.
- 3.35 The Housing Strategy identifies registered housing providers’ increasing concerns that these privately-let flats in multiple occupation are often seriously overcrowded and have led to anti-social behaviour, such as noise nuisance and fly-tipping, and drug-related criminal behaviour on the borough’s estates.
- 3.36 The Council Housing Strategy states that the council “wants to use landlord licensing to tackle anti-social behaviour associated with private renting, deal with poor housing standards and assist in improving the overall management of private rented accommodation”.
- The licensing scheme assists with a co-ordinated approach*
- 3.37 Homelessness: Tenants of flats in multiple occupation are amongst the most vulnerable and insecurely housed. Additional Licensing would allow us to identify their landlords and then to work with and educate them as part of our homeless prevention work. We are confident that this would reduce unlawful eviction and contribute positively to tenancy sustainment work.

- 3.38 Empty properties: There are privately owned properties lying empty in Tower Hamlets. There is an undoubted housing need in Tower Hamlets, and these vacant properties could provide much needed accommodation. Many of these properties are in a neglected state and have a damaging effect in the areas in which they are located.
- 3.39 The Council keeps a record of long term empty properties (those which have been empty for over a year) in the private sector by ward. At present, derived from the last report produced by from Council Tax records there were 84 properties across the Council in various wards.
- 3.40 At the last stock condition survey there were approximately 1,500 homes empty for six months or more and currently considerable efforts are made to bring these back into use. This Landlord Licensing Scheme may help us in identifying owners, encouraging them to bring properties back into use.
- 3.41 Anti-social behaviour: in some instances private letting by leaseholders in former Right-to-Buy flats has led to serious overcrowding and anti-social behaviour such as noise nuisance fly-tipping, and drug-related criminal behaviour on estates owned by the council and its housing association partners. In addition, partners report that parties in Airbnb-style short-term lets is a growing problem for their tenants. In October 2016, the Council met with Tower Hamlets Homes and key local Housing Associations Poplar HARCA, Swan, and East End Homes, to begin to formulate a response to these issues. The attendees confirmed that these are significant concerns, and asked that work on a shared approach be explored by the Tower Hamlets Housing Forum.
- 3.42 In February 2017, the Council established a working group of Registered Providers through THHF to pursue this work. The group includes representatives from East End Homes, Genesis, London & Quadrant, Poplar HARCA, and Tower Hamlets Homes. On 12 May 2017, the group recommended that all providers in the borough contribute strong support to the case for implementing Additional Licensing in the borough.
- 3.43 Regeneration: the Council's regeneration remit is aimed at both economic and physical renewal and primarily carried forward through our Local Plan and growth policies. However, the private rented sector is primarily amenable to those aims through our Housing Strategy: and Additional Licensing is a key part of that strategy.
- 3.44 Where the Environmental Health team receive reports of flats in multiple occupation, it is not unusual to find that the layout has been altered to maximise the spaces that can be let out. Frequently no fire or safety precautions are taken prior to the property becoming multiply occupied. Such accommodation presents fire risks not only to the occupiers but also to people living in neighbouring dwellings. Because demand is so high, landlords can at present confidently market dangerous and overcrowded accommodation in the knowledge that rental income is high with minimal risk of discovery by the local authority.

3.45 Additional Licensing would enable the Council to enforce minimum safety standards without having to rely on the reports of vulnerably housed tenants. Many tenants of such properties are vulnerable. Frequently they are forced to accept cramped, potentially dangerous and unsuitable accommodation. However, they are often reluctant to complain to their landlords or to the Council for fear of retaliation by their landlord, because they do not understand their rights, or because it is hard to find alternative accommodation. With the introduction of additional licensing, the Council's enforcement work will no longer have to rely on tenants' reports – or on reports from neighbours and housing providers which are reactive, unreliable and limited, undermining the Council's ability to take the strategic response needed.

How the scheme will assist with the housing strategy

3.46 Part 6 of The Housing Strategy focuses on the private rented sector, setting out the commitment to ensure that the standards of accommodation for people in private rented housing are good – not only by weeding out the bad landlords who give the sector a poor reputation but also by working to professionalise the sector, supporting “amateur” and small landlords to provide decent, well-managed homes to their tenants.

3.47 Part 4.4 of The Private Housing Strategy sets out steps that council will take to professionalise the sector including through a reinvigorated landlords' forum; by providing landlords with e-bulletins, information and training sessions, energy efficiency schemes and customer panel; by incentivising landlords to join the London Landlord Accreditation Scheme; and requiring landlords who breach licensing conditions to attend The London Landlord Accreditation Scheme.

3.48 Additional Licensing will go a very long way to remove the major obstacle to all these initiatives: the difficulty we have identifying those “amateur” and small landlords in order to engage with them, especially those who operate at the cheapest end of the market. Again, this is a particular concern for Registered Providers whose leaseholders let out the flats in multiple occupation we wish to bring into the Additional Licensing scheme.

3.49 Once a landlord of a HMO is licensed, we can not only impose conditions through the licensing scheme, but we can also provide a broad range of support and education in order to promote good practice.

3.50 Part of the strategic commitment to improve and professionalize the private rented sector is our adoption of a Tower Hamlets Private Renters' Charter. Launching on 29 June, the Charter was developed with a broad range of advice agencies, landlord bodies, and tenants' groups. It sets out clearly the standards that all tenants can expect when they rent from a private landlord in the borough, and also the steps that the council and its partners will take to support those standards in individual cases. The Council will publicise the Charter actively and widely: its central purpose is to reach out to landlords

and, of course, tenants in the borough, raising awareness of tenants' rights particularly with those groups that are currently least aware.

- 3.51 In the first phase of the Charter, we do not intend landlords and agents to sign. In large part this is because it is so difficult to identify them. Additional Licensing would allow us to identify landlords of flats in multiple occupation in preparation for the second phase of the Charter in which we aim to use it as a Quality Mark for local landlords.

Any alternatives such as an accreditation scheme

- 3.52 The Housing Strategy commits the council to supporting the London Landlord Accreditation Scheme. As a result, the Council has joined the steering committee of the scheme and now hosts regular training sessions for Tower Hamlets landlords. However, take-up as a proportion of the number of landlords in the Borough is negligible. Additional licensing can be used as a means of supporting the take-up of accreditation by the smaller, "amateur" and "accidental" landlords who are currently unaware of the scheme.

Criteria to Consider before introducing an additional scheme

- 3.53 In order to consider establishing an additional licensing scheme the Housing Act 2004 requires that certain criteria must be met. These are detailed in italics below;
- 3.54 *The Authority must consider that a significant proportion of the HMOs of the description to be included 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 HMO or for member of the public.*
- 3.55 This evidence is outlined in the report by Mayhew Harper Associates in Appendix 1.
- 3.56 *The Authority must have regard to any information regarding the extent to which any codes of practice approved under section 233 of the Housing Act 2004 have been complied with by persons managing HMOs in the area:*
- 3.57 The Council has had regard to the following Codes of Practice under section 233 in relation to the management of student housing and for the purposes of schedule 14 which lists buildings which are not HMOs for the purpose of the Housing Act 2004
- The ANUK/Unipol Code of Standards for Larger Developments for Student Accommodation Managed and Controlled by Educational Establishments
 - The Universities UK/Guild HE Code of Practice for the Management of Student Housing

- 3.58 *The Authority must consider whether there are other courses of action available to them that might prove an effective method of dealing with the problem.*
- 3.59 Consideration of this is contained in section 2 of the report.
- 3.60 *The Authority must consider that making the designation will significantly assist them in dealing with the problems highlighted.*
- 3.61 This is considered in paragraphs 3.17 -3.20 above.
- 3.62 *The Authority must consult persons who are likely to be affected by the designation and consider any representations.*
- 3.63 Authorisation for a consultation is now being sought in the recommendations of this report.
- 3.64 *The Authority must consider that the exercise of this power is consistent with the Authority's overall Housing Strategy.*
- 3.65 Paragraphs.3.29 to 3.36 above consider the proposal on the overall Housing Strategy.
- 3.66 *The Authority must seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour and as regards to combing licensing with measures taken by other persons.*
- 3.67 These matters have been considered within the main body of this report, specifically but not limited to paragraphs 3.3 to 3.13 and 3.34 to 3.39 above.
- 3.68 *Monitoring* – the scheme will be monitored part way through to ensure that the improvements to HMOs are being achieved.

Consultation Process

- 3.69 If the Council is to designate an additional licensing scheme, then a formal consultation will need to be carried out. The consultation will include:
- On line questionnaires
 - Use of Social Media
 - Mailshots to estate agents, managing agents, landlords and tenants groups
 - Landlord workshops
 - Newspaper adverts
 - Local residents
- 3.70 The proposed consultation would inform the final decision making process. The consultation will inform interest groups of the main key points of the scheme.

- 3.71 The Council will take reasonable steps to consult persons who are likely to be affected by the designation and consider any representations made in accordance with the consultation.
- 3.72 The proposal outlined in appendix three along with the proposed amenity standards and licence conditions will be consulted with local residents, tenants, landlords, agents and other members of the community who live or operate businesses or provide services within the proposed designation and surrounding area.
- 3.73 The consultation will give a detailed explanation of the proposed designation, explaining the reasons, how it will tackle specific problems and the benefits. Once the consultation has been completed the results will then be published and made available.
- 3.74 The fee structure will be the same for that of selective licensing as detailed in Appendix 3.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 This report sets out for consideration whether a consultation exercise is carried out on the introduction of an Additional Licensing scheme for Houses in Multiple Occupation. The proposed Additional Licensing scheme will only impact on HMOs that sit outside the current Selective Licensing area with the proposed that the same fee structure is applied.
- 4.2 The rationale for the proposed Additional Licensing scheme set out in the body of the report states, the Authority must consider that a significant proportion of HMOs are being managed sufficiently ineffectively and that designation will significantly assist in dealing with the problem. Regulating the premises through the licensing scheme will enable a co-ordinated approach to be undertaken. If the scheme is approved, the additional burdens placed on the general fund would be covered by the licence.
- 4.3 If the decision is made to carry out the consultation exercise, the cost will be funded from within the service revenue budget. The fee has been calculated to enable the Council to levy a reasonable charge for a licence. The full costs including administration and enforcement in relation to any final proposal will be financially neutral for the authority over the five year period of the licence.

5. LEGAL COMMENTS

- 5.1 This report is asking the Mayor in Cabinet to agree that a consultation exercise takes place on introducing an Additional Licensing Scheme for HMOs outside the current Selective Licensing area.
- 5.2 The Housing Act 2004 ('the 2004 Act') makes provision for 3 types of private rented property licence as follows:

- (i) Mandatory Licensing: A Landlord must seek a licence from the Council in cases where a property is in multiple occupation and that property comprises 3 or more storeys and is shared by 5 or more people living in 2 or more households [Section 61 of the 2004 Act].
- (ii) Selective Licensing: Selective licensing zones were introduced to deal with specific problems where an area is experiencing one or more of the following conditions: low housing demand (or is likely to become such an area); a significant and persistent problem caused by anti-social behaviour; poor property conditions; high levels of migration; high level of deprivation; and/or high levels of crime. All privately rented properties within a selective licensing zone, regardless of their occupation and size, must be licensed [Section 80 of the 2004 Act].
- (iii) Additional Licensing: The Council can introduce an Additional Licensing Scheme to an area within Tower Hamlets or the whole of Tower Hamlets where the Council is satisfied 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. To be a HMO in such a scheme the property must be shared by 3 or more tenants living in 2 or more households and not be a property that requires either a mandatory licence or a “selective scheme” licence. [Section 56 of the 2004 Act].

5.3 Prior to the Council making an Additional Licensing Scheme, the Council has a statutory duty to take reasonable steps to consult persons who are likely to be affected by the designation; and consider any representations made in accordance with the consultation and not withdrawn.

5.4 As to consultation, the Council must also comply with its common law duty and which imposes a general duty of procedural fairness when exercising functions which affects the interests of individuals. This requires:

- (a) that the consultation be at a time when proposals are still at a formative stage and the proposals are still formative.
- (b) the Council must give sufficient reasons for any proposal to permit intelligent consideration and response and paragraphs 3.53 to 3.68 and Appendix 1 sets these out and which justify going out to consultation on an Additional Licensing Scheme. Indeed, in the report of Matthew Harper Associates Limited at Appendix 1 they state “..... *it is recommended that Additional Licensing be introduced borough-wide except in wards where Selective Licensing currently operates. The report provides the evidence and analysis to support these recommendations and includes a property level database which can be used for further analysis as required;* and
- (c) adequate time must be given for consideration and response. Most consultations can be satisfactorily undertaken in four (4) to six (6)

weeks but due to the extent of the area to be included there will be a 12 week consultation period and which is appropriate in the circumstances.

- 5.5 Once the consultation exercise has been completed, the responses will be analysed prior to a report being submitted to the Mayor in Cabinet for a decision as to whether to adopt an Additional Licensing Scheme. That report will give a summary of the feedback and will set out detailed reasons addressing the statutory considerations that need to be applied so as to enable an informed decision to be made.
- 5.6 In its consideration of this Report and its recommendations, the Mayor in Cabinet must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who do not (the public sector equality duty). There is some information in the report relevant to these considerations in paragraph 6 below and Appendix 7.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1 The Equalities Impact Assessment and which is at Appendix 7 has been reviewed in respect of the consultation exercise and no adverse issues have been identified.
- 6.2 Through the Landlord's compliance with specific licensing conditions there will be an indirect but positive secondary impact upon those tenants living in the Private Rented Sector. This will be derived through raising the housing standards in relation to health, safety and welfare of the occupants of those who are living in HMOs.
- 6.3 Further information may be gathered during the consultation phase regarding the recipients of the positive impacts listed above. Following consultation and adoption of any recommended practice, once identified there will be continued monitoring and reviewing the impact of the policy on these groups.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 The Council is fulfilling its best value duty by considering that those landlords that impose a cost on managing anti-social behaviour contribute financially to its regulation

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 There are no environmental impacts with regards to this scheme, however it is likely that cold and damp properties that are identified will be made more energy efficient.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 If an Additional Licensing Scheme is introduced then this could be subject to legal challenge by landlord associations

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 The Appendices to the report identifies the current anti-social behaviour statistics data. If adopted, the scheme should have a downward pressure on the number of anti-social behaviour incidents and complaints.

11. SAFEGUARDING IMPLICATIONS

- 11.1 An inadvertent outcome of the additional licensing scheme may be to enhance safeguarding provisions for children and adults within rented accommodation. Any action that improves the living conditions and tenancy security of renters would have an impact on their wellbeing. Visits to properties by regulators may highlight concerns around exploitation of renters which then can be signposted to other agencies.

Linked Reports, Appendices and Background Documents

Linked Report

None

Appendices

Appendix 1: the potential for an extension of discretionary licensing in the London Borough of Tower Hamlets

Appendix 2: Definition of a House in Multiple Occupation

Appendix 3: Tower Hamlets Additional licensing scheme proposal

Appendix 3: Proposed schedule of licence conditions

Appendix 5: Fit and Proper person criteria

Appendix 6: Houses in Multiple Occupation – rented housing property standards

Appendix 7: Equality Impact Assessment – checklist

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

None

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