

<b>Cabinet</b>	
<b>25<sup>th</sup> October 2023</b>	
<b>Report of:</b> Raj Mistry, Corporate Director Communities	<b>Classification:</b> Unrestricted
<b>Proposed Additional Licensing Scheme for Houses in Multiple Occupation</b>	

<b>Lead Member</b>	<b>Councillor Kabir Hussain, Cabinet Member for Environment and Climate Emergency</b>
<b>Originating Officer(s)</b>	David Tolley – Head of Environmental Health and Trading Standards
<b>Wards affected</b>	All wards
<b>Key Decision?</b>	Yes
<b>Reason for Key Decision</b>	Significant impact on wards
<b>Forward Plan Notice Published</b>	23 May 2023
<b>Exempt information</b>	None
<b>Strategic Plan Priority / Outcome</b>	Providing Homes for the Future

### **Executive Summary**

The purpose of this report is to outline the proposed renewal designation for an Additional Houses in Multiple Occupation Licensing Scheme for properties in multiple occupation within the Borough, following on from a public consultation.

The proposal is to designate the whole Borough as an Additional Licensing scheme including those previous excluded areas of Weavers, Whitechapel, and Spitalfields and Banglatown where a ‘selective’ housing licensing scheme is currently in operation.

The report also covers proposed standard conditions imposed on each licensed property, the revised rental property standards to be adopted and the fee structure for a licence.

This scheme, if agreed will improve the physical standards within relevant properties in relation to fire safety, health and safety issues including damp and mould and overcrowding. A licensing scheme will help to regularise the HMO market, supporting renters and landlords but holding non-complaint landlords to account.

This scheme will assist with delivering social and health benefits for renters across the whole Borough who live in multi-occupied premises.

It is proposed, if agreed, that the designation will come into force, following statutory notification requirements on the 1<sup>st</sup> April 2024 for a period of five years.

### **Recommendations:**

The Mayor in Cabinet is recommended to:

1. Note the results of the consultation undertaken in relation to the proposed Additional Licensing Scheme as summarised in the report.
2. Designate all wards in the Borough as subject to Additional Licensing under section 56(1) of the Housing Act 2004 in relation to multiple-occupied properties occupied by three or more persons in two or more households where some or all the facilities are shared. Such designation to take effect from 1<sup>st</sup> April 2024 and to last for five years unless revoked before then.
3. Agree the fee structure for the Additional Licensing Scheme as set out in the report, with the fees being determined during the budget setting process for 24/25. The application fee will be apportioned for administrative and enforcement costs.
4. Agree the Additional Licensing Scheme licence conditions, fit and proper person protocol and private rental property standards as detailed for adoption at the commencement of the new designation. The revised private rental property standards, revised conditions and fit and proper person protocol will also apply as necessary, to the mandatory Houses in Multiple Occupation, current Additional Licensing and Selective Licensing schemes from the 1<sup>st</sup> January 2024.
5. To delegate the Corporate Director Communities authority to issue the required statutory notifications in relation to the commencement of the Additional Licensing Scheme designation.
6. To agree that there are no exemptions apart for the statutory exemptions.

## **1 REASONS FOR THE DECISIONS**

- 1.1 The proposed Additional Licensing scheme is an adoptive housing licensing scheme for the private rented sector (PRS) which the Council can adopt. The scheme is for Houses in Multiple Occupation (HMOs) only and the whole Borough or parts of the Borough can be designated accordingly. The Housing Act 2004 gives the Council the power to introduce the proposed Additional Licensing scheme to improve standards of management and conditions within the PRS.

- 1.2 The continuance and extension of this licensing scheme will enable the Council to impose a legal requirement, in the designated area, on all landlords to apply for a licence for each property they rent out which meets the criteria specified in the designation and comply with specific licence conditions, thus giving the Council more power to tackle irresponsible letting of properties.
- 1.3 In addition, improving physical standards and the quality of management in the PRS will deliver social and health benefits as discussed in the Mayhew evidential report. The links between poor health through damp and mould and overcrowding are well established. An improved PRS sector will have an impact across many different partner organisations.
- 1.4 Licensing assists in encouraging stable and long-term tenancies to the benefits of landlords and tenants. Benefits include but are not limited to:
  - Responsible landlords gain clarity of their role in raising property and tenancy management standards while we take action against those who flout their legal responsibilities.
  - Tenants are clear on what they expect from the homes that they rent and the landlords they rent it from.
  - All parties are clear on the minimum standards expected within multi-occupied premises.
  - A simpler enforcement regime continues to cover all HMOs.
  - Property owners and managers are known and it is easier to resolve complaints.
  - The improvement of the housing standards may help meet the Public Sector Equality Duty for the council. For example, it will advance equality of opportunity of the people who live in HMO and PRS. That may also foster good relations between those who live in HMO and PRS, and those who do not, in the borough.
- 1.5 Prior to designating an area for Additional Licensing, the Council must consult with interested groups such as landlords, tenants, letting agents, industry associations and other interested parties. A consultation exercise has been undertaken.
- 1.6 The Additional Licensing Scheme attracts a licence fee for each property and the scheme is self-financing.
- 1.7 The PRS serves a diverse population of tenants and privately rented properties range from luxury apartments to large, shared houses and flats. The landlords also vary from individuals with one or two properties to large companies.
- 1.8 Over the past five years we have started to build up a comprehensive register of HMOs and have been able to: deal with tenants' complaints effectively; ensure landlords are aware of the standards they need to meet; and have carried out visits to high-risk properties.

- 1.9 HMOs, which can include flats, are very often the properties where the worst housing conditions exist, where some of the most vulnerable people in the community live, and which are operated by some of the worst landlords. We have shown in the Mayhew report and MEL Research consultation report that some improvements have been made in the sector. However, we need to continue using Additional Licensing as an effective tool to raise standards and improve local neighbourhoods.

## **2 ALTERNATIVE OPTIONS**

- 2.1 The Additional Licensing scheme is an adoptive power that the Mayor has under the Housing Act 2004. A view can be taken not to renew the extended Additional Licensing scheme and permit the current scheme to come to a natural end. This would mean that no more licences under the existing additional licensing scheme would be issued and as the existing licences expire, all requirements and conditions associated with the licence would fall away. This would mean that the only licensing scheme for HMOs would be the mandatory licensing.
- 2.2 There is also the option to retain the scheme in its current format and not extend its reach into the current selective licensing area i.e., Weavers, Whitechapel, Spitalfields and Banglatown.
- 2.3 There is the option to use the current existing powers under part 1 of the Housing Act 2004 which does not rely on licensing. Using these powers, the Council would only intervene on a complaint basis. This is reactive and has no strategic intervention objectives, there could also be under reporting of complaints due to the fear of retaliatory evictions.
- 2.4 The Council could rely upon voluntary accreditation. This would tend to attract the responsible landlords and be ignored by the irresponsible. There is not a strong incentive for irresponsible managing agents or landlords to join.

## **3 DETAILS OF THE REPORT**

- 3.1 HMOs are of considerable concern in many parts of the Borough because of the unacceptably poor standards, impacts on neighbouring residents and the criminal behaviour of some landlords that puts lives at risk. The Housing Act 2004 has given the Councils the powers to introduce additional licensing for smaller HMOs to improve the living conditions for tenants and the local community in certain circumstances. It also provides those wishing to rent out property, landlords and managing agents with a clear expectation of the standards that are required. The Council adopted the current scheme in April 2019 which expires at the end of March 2024. There has been an opportunity to review the current scheme and consider its extension across the whole Borough.

- 3.2 We have currently received 6,608 additional licensing applications. There is also a mandatory HMO scheme which landlords need to comply with. This is the national and non-adoptive scheme and covers larger HMOs that have five or more renters from at least two different households. This scheme also exempts purpose-built blocks of flats, which contain a significant proportion of the housing in Tower Hamlets. These purpose-built blocks of flats will be covered by the proposed additional licensing scheme.
- 3.3 As part of the preparation for the statutory consultation into considering the future of the additional licensing scheme, the council commissioned a report from Mayhew Harper Associates Ltd to review the current scheme. This report is at Appendix One.
- 3.4 The Mayhew Harper report highlighted approximately 43,000 homes are in the private rented sector, of which approximately 15,000 homes belong to one of the current housing licensing schemes in operation – selective, additional and mandatory. The review found that the significant task of improving standards has made progress but the size of the task continues to grow and remains challenging. The review identified that the licensing schemes are well targeted, although it is recognised that some HMOs which should be licensed may yet be escaping scrutiny. This could be the effect of the Covid-19 pandemic whereby services were disrupted for about 18 months. The report recognises that if the scheme is to be extended from 2024 it needs to be adequately resourced.
- 3.5 The statutory consultation took place for 14 weeks from 12<sup>th</sup> December 2022 to 31<sup>st</sup> March 2023. The consultation was managed by M.E.L Research who reported back at the end of April 2023. Section 56(3) of the Housing Act 2004 states that prior to designating areas subject to licensing must:
- Take reasonable steps to consult persons who may be affected by the designation.
  - Consider any representations made in accordance with the consultation.
  - The Local Authority must consider that a significant proportion of the properties in multiple occupation, of those properties that come within the scope of the scheme, 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 multi-occupied property or for members of the public.
  - Have regard to any information regarding the extent to which any codes of practice approved under section 233 have been complied with by persons managing HMOs in the area.
  - Consider whether there are any other courses of action available to the Council that might provide an effective method of dealing with the problem.
  - That the making of the designation will significantly assist the Council to deal with the problem.

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

- Where 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.
- Where the internal condition, such as poorly maintained amenities, leaks, damp and dirt, pest infestations or overcrowding adversely impacts 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.

3.7 At least a 10-week consultation is required under the General Consent for Additional Licensing Schemes. A 14-week public consultation began on the 12<sup>th</sup> December 2022 until the 31<sup>st</sup> March 2023 by an independent consultation agency M.E.L Research.

3.8 The Additional Licensing Scheme consultation consisted of a covering report detailing the action we have undertaken during the current scheme, the benefits of the scheme and the reasons and evidence for the Boroughwide proposal. The consultation document can be reviewed at Appendix Two. In addition, the consultation included the review undertaken by Mayhew Harper Associates, the fit and proper person test (Appendix Three), the review of the property amenity standards (Appendix Four) the draft licence conditions which have been updated after the consultation comments (Appendix Five) and general ward data (Appendix Six)

3.9 The proposed scheme is estimated to cover 9,000 HMOs. The Additional Licensing scheme would ensure that the responsibility for the HMO property management lies with the landlord. The licensing process would require the landlord to:

- a) Complete and submit an application form to the Council together with an application fee. The form would require information such as the size of the property, the available amenities as well as details of safety measures that have been put in place, such as the type and installation of a fire detection system.

In order to demonstrate competent property management, the landlord will need to provide evidence on application of the following: ,

- b) Annual gas safety certificate (where applicable)

- c) Electrical installation condition certificate in the last 5 years and a portable appliance test certificate
- d) An automated alarm system in the event of fire, and if appropriate emergency lighting
- e) Evidence of arrangements which demonstrate competent property management – management records and copies of tenancy agreements.
- f) The suitability of management structures and adequacy of management structures
- g) Floor plan with room sizes and uses clearly shown.
- h) Copy of the Energy Performance Certificate where this applies.
- i) Current occupancy details
- j) The proposed licence holder and manager of the property will be required to make a declaration that they are fit and proper persons. The decision on whether they are in fact fit and proper persons to be involved in the licensing and management of the HMO will be made by officers. The completed application will be reviewed, and a licence may be granted with conditions prior to an inspection taking place.

3.10 The proposed scheme would cover the whole Borough and would cover:

- Any HMO of two or more storeys, occupied by three or more persons in two or more households and where some or all the facilities are shared or missing.
- Any flat in multiple occupation which is occupied by three or more persons in two or more households and where some or all facilities are shared or missing.
- Any HMO of two or more storeys with a resident owner and occupied by three or more persons in two or more households and where some or all facilities are shared or missing.
- Any flat with a resident owner and occupied by three or more persons in two or more households and where some or all facilities are shared or missing.
- Any buildings which have been converted into and consist of self-contained flats only and which does not comply with the 1991 Building Control Regulations and less than two thirds of the flats are owner occupied.
- Any house of two or more storeys comprising both self-contained and non-self-contained units of accommodation occupied in aggregate by three or more persons in two or more households ( not including a resident owner), some who share or lack one or more basic amenities such as a bathroom, toilet or cooking facilities.

3.11 The objectives of the proposed licensing scheme is detailed below:

- to support and ensure landlords continue to improve the conditions and management of HMOs across the borough and that they are made aware of the standards required with managing property within Tower Hamlets,
- to enable the identification and potential inspection/audit of HMOs over the licensing period to ensure standards are met,
- to support renters so that they are aware of the standards that they can expect and help when things go wrong,
- Promoting engagement with landlords, tenants and agents with an involvement with HMOs
- to complement other housing initiatives that the Council undertakes, such as fuel poverty and cost of living, and to work with landlord and renters' organisations to promote safe and compliant homes,
- to continue with an active enforcement programme against criminal and exploitative landlords and agents,
- to ensure all residential letting agents are fully compliant with consumer protection and rights legislation,
- to ensure that the sector funds its own regulation
- assisting 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 tenants and people who live in neighbouring properties.
- enabling local residents, occupiers or potential occupiers to inform the Council of any HMOs which they think need a licence but do not have one.
- preventing overcrowding by setting limits as to the number of permitted occupiers.
- assisting with reducing any associated detrimental impacts upon local neighbourhoods and reducing the number of complaints
- 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.
- It is considered that the improvement of the housing standards will help meet the Public Sector Equality Duty - eliminate discrimination, harassment and victimisation; advance equality of opportunity, and; foster good relations between the residents.

3.12 The consultation consisted of an online survey available on the Council's consultation web pages. The survey was accompanied by information on the scope of the scheme in relation to the properties covered, the fee structure, the fit and proper person protocol, licence conditions and the property amenity

standards. The following activities were undertaken to encourage completion of the online survey and to gather views.

- Letters to all licence holders
- Letters to all properties that are subject to a licence.
- Letters to known managing agents.
- Notification to neighbouring Councils
- Notification to London Councils
- Landlord and Letting agent's groups/organisations.
- Inclusion in the Members Bulletin
- Renter's groups and organisations
- Evening Standards newspaper article
- The Metro newspaper article
- Docklands and East London Advertiser article
- Tower Hamlets twitter
- Tower Hamlets Facebook
- Tower Hamlets LinkedIn
- Internal Council Teams
- Online survey
- 4 online public meetings
- Written responses
- Stakeholder interviews
- Face to face survey across the borough

3.13 The consultation responses are found in Appendix Seven, where the summary of the responses is outlined. There were 166 responses to the online survey, 296 responses from the face-to-face interviews, 51 participants in the public meetings, 6 formal written responses and 8 stakeholder interviews.

3.14 The headline results from the consultation demonstrated that:

- 72% agree with the renewal of an additional licensing scheme.
- 70% agree that the scheme should be boroughwide.
- 78% agree that the space standards are reasonable.
- 76% agree the kitchen facility standards are reasonable.
- 75% agree that the washing facilities/toilet facilities are reasonable.
- 43% agree with the proposed licensing fee structure – 32% felt it was unreasonable with 20% with no view.

3.15 In order to introduce additional licensing, the Council must consider that a significant proportion of the HMOs falling within the a description in the designation in the designated area are being managed sufficiently ineffectively

so as to give rise or to be likely to give rise to one or more particular problems either for those occupying the properties or for members of the public.

- 3.16 The independent evidence collected by Mayhew Harper Associates states that their main recommendation is that *'the scheme be extended Boroughwide and for a further five years from 2024 but that the scheme is adequately resourced'*. The report also notes within its conclusion *' the evidence shows that Additional Licensing has been effective in establishing take-up among the high-risk HMOs. For example, we saw that properties are much more likely to have an Additional licence if they have been reported for call centre or noise complaint, housing hazards or if an improvement notice has been served.'* The analysis of the indicator data provided to Mayhew and Harper (Energy Performance Certificates, Service Requests, Warning letters, noise complaints pest infestations, housing complaints and notices) *that properties are 2.9 times more likely to have an additional licence if they are the subject of a call centre complaint, 2.3 times if a noise complaint, 1.4 times for housing hazards and 1.1 times if a notice has been served . Again, suggesting the scheme is capturing a majority of the at-risk properties with the greatest number of problems.*
- 3.17 In relation to extending the additional scheme boroughwide, Mayhew and Harper carried out an analysis of the wider PRS at ward level using the indicators analysed above – whether being part of the PRS can be correlated with more reports of hazards, warning letters etc. The overall results showed that those wards that are high in PRS properties are more likely to suffer management problems. The proposal to extend the additional licensing scheme to Weavers, Whitechapel and Spitalfields & Banglatown areas has a good foundation as it was demonstrated that these areas are in the top 7 problematic wards for the PRS.
- 3.18 The MEL consultation identified in the online survey that 91% of responders agreed that landlords have a responsibility to manage their properties effectively, with more than half 58% agreeing that poorly-managed privately-let properties are contributing to the decline in some areas of Tower Hamlets. However, less than half 45% feel that flats/privately let HMOs are contributing to the decline of some areas of Tower Hamlets, with 40% disagreeing.
- 3.19 There were several in-depth responses and suggestions from external agencies that were consulted. Officers have reviewed these comments and have provided a response summary within Appendix Eight. In general summary the Council Teams were in favour of additional licensing and, the Police were also in support of any form of regulating the private rented sector to improve conditions. Tenancy groups such as Justice for Tenants and Shelter were also in favour. Landlords/agent groups such as Safeagent and the NRLA were more

concerned about the scope of the scheme and both suggested it would be more beneficial and practical for the Council to take a more targeted approach rather than a broad-brush approach.

- 3.20 During the consultation comments were made on the pool of standard licence conditions that were consulted upon. These comments have been reflected upon and the conditions refreshed and update to reflect some of the comments made. The new revised conditions are at Appendix Five.
- 3.21 It is proposed to continue with the fee structure detailed within the consultation and outlined in Appendix Nine, whereby the fee is set annually through the fees and charges setting process, additional fees are applicable for postal applications and where the applicant fails to submit all relevant documentation.
- 3.22 The fee structure has been calculated to ensure cost recovery and considering our experience for running adoptive licensing schemes since 2016. The fee must only cover the work to manage the scheme and is ring fenced to the scheme. It is recognised that those landlords that must be chased to apply or are non-compliant will tightly have to pay more due to the additional costs in dealing with them. The current fee structure is progressive and is a deliberate policy to try to ensure the licensing of rented property is made in a timely way, thereby avoiding additional costs to the Council. It is also recognised that the sector provides a valuable service to the residents and we would not want to see additional costs passed onto the renters.
- 3.23 The fit and proper person protocol and the property amenity standards detailed the set standards and facilities that need to apply to those managing a rented property and to the property itself. During the consultation the property amenity standards were in general agreement and there is no expectation to change these.
- 3.24 Section 57 and 81 of the Housing Act 2004 require the Council to identify how an Additional Licensing Scheme will improve an area and how the designation will work alongside other existing policies or measures already being taken. The Council will have to show how such a designation will be part of the overall strategic boroughwide approach and how it fits with the existing policies on:
- Homelessness
  - Empty Homes
  - Regeneration
  - Anti-social Behaviour
  - Role of Partners

- 3.25 The Council must consider whether there are any other courses of action available that may provide an effective method of achieving the objectives that the designation is intended to achieve and how the designation will significantly assist the Council in achieving the objectives.
- 3.26 The evidence has been provided with the Mayhew and Harper Associates Review, along with the M.E.L Research consultation and the considerations within paragraphs 3.24 and 3.25 were considered within the consultation document.

#### **4 EQUALITIES IMPLICATIONS**

- 4.1 The equalities Impact assessment has been reviewed considering the proposal at Appendix Ten and no adverse issues have been identified.
- 4.2 Through a 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 multi-occupied premises.
- 4.3 It is expected that the improvement of the housing standards may help meet the Public Sector Equality Duty for the council, i.e. eliminate discrimination, harassment and victimisation, advance equality of opportunity, and foster good relations between the residents.

#### **5 OTHER STATUTORY IMPLICATIONS**

- 5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:
- Best Value Implications,
  - Consultations,
  - Environmental (including air quality),
  - Risk Management,
  - Crime Reduction,
  - Safeguarding.
  - Data Protection / Privacy Impact Assessment.
- 5.2 Best Value: The Council is fulfilling its best value duty by considering that those landlords that impose a cost on managing the private rented sector contribute financially to its regulation.
- 5.3 Risk Management: If the scheme is not introduced legally, following the steps laid down in guidance, there is a risk of challenge from third parties.

- 5.4 Crime Reduction: The scheme , through the licence conditions and additional powers that is provides has a downward pressure on the number of anti-social behaviour incidents and complaints.
- 5.5 Safeguarding: A potential 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 can be signposted to other agencies.
- 5.6 Environmental: The scheme assists with tackling damp and mould in properties thus increasing insulation, this will mean that the amount of energy to heat homes will be reduced, thus reducing the overall carbon footprint of the property.
- 5.7 Consultation: A broad statutory consultation has been undertaken reaching all stakeholders involved with the private rented sector to garner their views on the continuation and extension on the Additional Licensing scheme for a further five years.
- 5.8 Data Protection: The legislation setting out the provisions of the Additional Licensing scheme required a public register of all landlords that hold and Additional Licence to be compiled. A public register will be disclosed on request with a shorter redacted register published online.

## **6 COMMENTS OF THE CHIEF FINANCE OFFICER**

- 6.1 This report is seeking approval to designate the whole Borough as an Additional Licensing scheme including those previous excluded areas of Weavers, Whitechapel, and Spitalfields and Banglatown where a 'selective' housing licensing scheme is currently in operation following a consultation exercise.
- 6.2 All costs associated with conducting the consultation process will be met from within existing Environment & Regulatory services budget provision.
- 6.3 License fees for HMO's form part of the fees & charges which are approved as part of the annual budget setting process. The fees are designed to cover the cost of administering the HMO scheme (full cost recovery). As a result, there will be no impact on the general fund budget from designating the whole Borough as an Additional Licensing Scheme.

## **7 COMMENTS OF LEGAL SERVICES**

- 7.1 The Housing Act 2004 provides for Houses in Multiple Occupation (HMOs) to be licensed in certain circumstances. HMOs falling within a prescribed description must be licensed (mandatory licensing). So too must all HMOs in an area designated by the authority as subject to additional licensing if they fall within a description prescribed by the authority. This allows an authority to

exercise greater oversight of and control over smaller HMOs that would not otherwise be licensed.

- 7.2 S.56(1) allows a housing authority to designate all or part(s) of their area as subject to additional licensing. Where such a designation applies, all HMOs falling within the descriptions of HMOs in the designation must be licensed (subject to any applicable exemption). In order to make such a designation the authority must be satisfied that a significant proportion of the HMOs falling within that description are being managed sufficiently ineffectively as to give rise to, or be likely to give rise to, problems for the occupiers of those premises or to members of the public. S.56(5) requires the authority, in forming this opinion, to have regard to any information regarding the extent to which codes of practice under s.233 have been complied with by persons managing HMOs in area.
- 7.3 S.56(3) requires the authority to take reasonable steps to consult those who are likely to be affected by the proposed designation and to consider any representation made as a result of that consultation and which have not been withdrawn.
- 7.4 The exercise of the power must be consistent with the authority's overall housing strategy. The authority must also seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector. This applies with respect to combining Part 2 licensing with other courses of action open to the authority and to combining Part 2 licensing with measures taken by other persons.
- 7.5 The authority can only make a designation if it has considered whether there are any other courses of action available to them (of whatever nature) that might provide an effective method of dealing with the problem(s) in question and that making the designation will significantly assist them to deal with the problem(s) (whether or not they take any other course of action as well).
- 7.6 The authority's designation requires approval by the Secretary of State. The Housing Act 2004: Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2015 gives general approval to any additional licensing scheme where the s.56 consultation has lasted at least ten weeks.
- 7.7 When a designation has been made, it must be publicised in accordance with the requirements of s.59 and Regulation 9 of the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006. The designation comes into force on the date specified in the designation, which cannot be earlier than three months after the date of the designation.
- 7.8 The designation will end on the date specified in the designation, which cannot be later than five years after the date on which the designation came into force. Whilst the designation is in force, the authority must review its

operation from time to time. If, having done so, the authority considers it appropriate to revoke the designation, it must do so. Any such revocation must also be published in the prescribed manner.

7.9 There is no statutory appeal against a decision of a local authority to designate some or all of its area as subject to additional licensing. However, such a decision can be challenged by way of a judicial review. Any such challenge would need to be made promptly and, in event, within three months of the date of the decision.

7.10 The proposed scheme extends into three wards which are already covered by a selective licensing scheme under Part 3 of the Housing Act 2004 (which expires on 30<sup>th</sup> September 2026). Part 3 is concerned with houses rather than HMOs specifically and it is permissible to have both schemes operating concurrently at any one time. A property that falls into both schemes will only need to be licensed under one and, in effect, the Part 2 scheme takes priority. However, it has been recognised that the introduction of the scheme could require existing Part 3 licensed properties to nonetheless be licensed under Part 2 as well. The proposed scheme therefore addresses that possibility and these are addressed in the options outlined in Appendix 2.

7.11 The principles of effective consultation require that: consultation be carried out when proposals are at formative stage; the consultees must be given sufficient and accurate information and reasons so as to allow for proper consideration; adequate time be given for responding; the fruits of the consultation must be conscientiously taken into account when making the decision.

7.12 Section 149 of the Equality Act 2010 requires the authority, in the exercise of its functions, to have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the 2010 Act, to advance equality of opportunity between persons who share a relevant protected characteristic and those who do not, and to foster good relations between those who share a relevant protected characteristic and those who do not. The relevant protected characteristics are age; disability gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation. The duty must be complied with at the time that the decision under consideration is taken. It is not a duty to achieve a particular result.

7.13 The decision is an executive decision and has been identified as a key decision. The requirements of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 being satisfied, the decision is one for the Mayor in Cabinet.

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**Linked Reports, Appendices and Background Documents**

### **Linked Report**

- None.

### **Appendices**

Appendix One – Mayhew Harper Associated Ltd Review of Additional Licensing Scheme.

Appendix Two- Additional Licensing Consultation Document

Appendix Three – Fit and Proper Person Protocol

Appendix Four – Private Rental Accommodation and Amenity Standards

Appendix Five – Draft Additional Licensing Conditions

Appendix Six – Consulted Ward Data

Appendix Seven – M.E.L Research Additional Licensing Consultation Report

Appendix Eight – Responses to Written Comments from Consultation

Appendix Nine – Fee Structure

Appendix Ten – Equality Impact Screening Tool

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

- NONE.

### **Officer contact details for documents:**

N/A