



Consultation Document: Additional Licensing scheme proposal

December 2022

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1. Introduction

A 2020 report from the Local Government Association indicated that Tower Hamlets has one of the fastest growing, youngest, and diverse populations in the country. Its population has doubled in 30 years to 308,000 in 2017 and is expected to reach 365,000 by 2027. Over 45 per cent of residents are aged 20-39 years of age and 43 per cent were born outside of the UK. Link: [Improving the private rented sector: London Borough of Tower Hamlets | Local Government Association](#)

The private rented sector in the London Borough of Tower Hamlets continues to grow along with its population. It is estimated that that over 40% of all property in the borough is in the private rented sector equating to 53,000 households which has doubled since 2003. This compares to an estimated 26% of all properties in the private rented sector across London and 19% nationally.

The Housing Act 2004 provides for an adoptive power that the Council can require smaller Houses and Flats in Multiple Occupation (HMOs) to be licensed. This is known as additional licensing. The Council has been licensing these smaller HMOs since the designation of an additional licensing scheme in April 2019 in all areas except Weavers, Whitechapel and Spitalfields and Banglatown. This designation is due to end on the 31st March 2024.

Tower Hamlets Council wishes to consult and seek the views of tenants, landlords, residents, and all other interested parties and stakeholders in relation to a proposed new five-year borough-wide additional licensing scheme. If, after consultation, it is found to be the best option by the Council, we anticipate that the new scheme would commence at the end of the current scheme i.e., April 2024. This proposal would include the areas of Weavers, Whitechapel, Spitalfields and Banglatown, which are currently excluded from the existing scheme.

The Council recognises that many landlords manage their properties responsibly. However, we do have concerns about those who rent out smaller HMOs and flats that are in multiple occupation that fail to provide acceptable conditions. This gives rise to concerns about poorly managed HMOs and poor tenancy arrangements.

The Council currently operates three licensing schemes:

- Selective licensing which requires all privately rented properties to be licensed in the pre-2014 ward boundaries of Weavers, Whitechapel and Spitalfields & Banglatown. This scheme was recently renewed for a further five years in October 2021. The evidence that supported this designation is at: <https://democracy.towerhamlets.gov.uk/mglIssueHistoryHome.aspx?Id=113054>
- An additional licensing scheme that covers smaller HMOs within the whole borough (excluding the selective licensing wards). This designation has been in place since April 2019
- A mandatory HMO licensing scheme for larger HMOs with five or more occupiers. This is a statutory scheme and has been in place since 2006.

It is recognised that poorly managed HMOs can have severe detrimental impacts on local neighbourhoods such as anti-social behaviour, noise nuisance, fly-tipping, poor waste management, pest infestations and tenant intimidation.

The Council considers that these issues can be addressed most effectively with an additional licensing scheme. We are proposing to continue with the current additional licensing scheme for a further five years from April 2024 but propose that the designation covers the whole borough i.e., including relevant properties within the selective licensing area.

The Council is commencing a 14-week consultation from **12th December 2022** to seek stakeholders' views. This will help inform the Council's decision-making process on whether to continue the scheme for a further five years and to expand it across the whole borough.

The following documents are provided to support the consultation:

- Mayhew's and Harpers Review of Additional Licensing in Tower Hamlets
- Licence conditions
- Amenity Standards
- Fit and Proper Person Protocol.

2. Background

In 2019 it was estimated that there could be in the region of 9,000 HMOs in the borough. To date, we have identified and licensed 680 mandatory HMO's and 6000 smaller additional HMO's and approximately 8000 properties licensed in the selective licensing designation.

Many households in Tower Hamlets are experiencing financial hardship. The enormous pressures relating to housing affordability is unlikely to be unabated.

It is recognised that private rented properties are important because they can provide people with flexibility and affordable good quality homes, but at a higher rent than social housing. As the private rented sector continues to grow so do the problems associated with poorly managed properties. Poor housing conditions, subletting and damp/mould issues have not gone away but with the powers and licence conditions imposed under the housing licensing schemes, we have been able to deal with these issues effectively and quickly when they are brought to our attention.

Due to the high number of households living in the private sector, the Council must continue to remain proactive in inspecting privately rented homes, supporting private tenants, and supporting and ensuring that landlords comply with their legal duty.

3. What are the key benefits of an additional licensing scheme to residents and landlords

By introducing a borough-wide additional licensing scheme, the Council has additional powers to manage the private rented sector which it otherwise would not have, namely:

- The ability to refuse to licence an HMO where the landlord has a history of criminal convictions or who are otherwise found not to be fit and proper.
- Provides a level playing field for all landlords/licence holder in the borough running legitimate businesses and enables support and dialogue between the landlord and Council. This enables the long-term improvement of HMOs and drives up standards.
- Protection for private tenants to ensure that they have proper tenancies with legal tenancy agreements. This will assist with improved neighbourhoods and should lead to a positive impact on property values and rental yields.
- It can help reduce the high level of “churn” that can be the result of illegal tenancy arrangements.
- Provides protections for vulnerable households, who are disproportionately represented in the private rented sector.
- The ability to ensure rented homes are safe by requiring current gas and electrical safety certificates to be submitted.
- A requirement that a landlord/licence holder provides 24/7 contact details to ensure consistent property management to assist both tenants and the Council to solve problems.
- Sets occupation limits to control overcrowding in all licensed rented homes.
- Tackles anti-social behaviour by imposing a requirement on the property licence for landlords/licence holder to investigate problems in their properties, such as noise nuisance and bad behaviour. This has a positive impact on the area as a whole and ensures that HMOs are managed more effectively.
- Provides a more effective way of using the existing range of enforcement powers for Environmental Health Officers to use to tackle rented housing conditions, which includes Financial Penalty Notices and prosecutions and Rent Repayment Orders. This allows us to have targeted measures to improve the management and tenancy arrangements of HMOs
- Imposes specific obligations on the licence holder requiring the landlord/licence holder to prevent fly tipping and illegal dumping, which landlords can be held to account if proved.
- Enables the Council to know where the private rented properties are and supports Tower Hamlets Homes in managing sub-let properties.

- The licensing framework with its enforcement powers can assist in resolving disrepair issues and landlord and tenant disputes.

4. What we have achieved with the current scheme

The powers that a licensing scheme provides the Council with, enables it to keep a check on landlords, agents and tenants without having to resort to the rather cumbersome powers within the Housing Act 2004 to deal with single issues.

The licence conditions set the regulatory landscape for those that rent out homes and those that live in those homes. Licensing has made it easier for enforcement officers to contact the relevant party to address the problems and take the appropriate action necessary. The improvements include addressing a range of general disrepair issues and hazards which contribute to the overall improvement to the property conditions and for holding tenants to account for anti-social behaviour.

This is in addition to ensuring landlords or licence holders are compelled to have in place:

- Annual Gas Safe check and certificate
- Electrical Installation Conditions Report - checked on a timely basis
- Required Energy Performance Certificate
- Required level of fire detection and alarm system including installation and servicing certificates
- Proper and appropriate tenancy agreement including deposit certificate

This has resulted in improving the sector which provides homes to some of the most vulnerable in society. Improvement of the sector has wider benefits to the community and residents of areas across all tenures.

Below is an example of the activities we have carried out within the current additional licensing designation from April 2019 to September 2022.

It must also be noted that due to the Covid lockdowns in 2020 and 2021 we did not carry out inspections due to the risk that tenants and staff faced.

Applications Received	5897
Additional Licences revoked	115
Interventions carried out	1907
Enforcement notices issued	179
Warning letters issued	2517
Property Surveys undertaken	1437
Service Requests received	542
Noise complaints received	485
Rent Repayment claims assisted	105

Ward level data is provided in the appendices; as this is real live data there is variance in the specific numbers.

Rent Repayment Orders: The Council supports tenants in claiming rent repayment orders from landlords where they should be licensed but are not. The tenants are able to secure up to 12 months' rent repayment if they are successful at the first-tier property tribunal.

To date we have secured £812,940 in rent repayment orders across all unlicensed properties, with £527,793 coming from unlicensed additional HMO properties.

In addition, we work in partnership with Justice for Tenants, and they have independently carried out 40 Rent Repayment Orders for Tower Hamlets residents and have achieved £409,750 in payments to tenants.

Letting Agents: The various housing licensing schemes allow us to have greater access to landlord and tenants who then subsequently highlight concerns that they have with their letting agent. The Council is able to issue monetary penalties on letting agents whereby the agent has charged an illegal fee or is not within a tenancy redress scheme.

In total £431,851 in financial penalties have been issued since the selective licensing scheme in October 2016 in relation to the following areas:

Illegal letting fees - £308,101

Agent not in a redress scheme: £123,750

Civil Penalty Notices: The Housing Act 2004 permits the Council to issue a civil penalty on an agent or landlord where the property is unlicensed and should be, or on the conditions within the property. The Council has only recently started to use this for the additional licensing scheme, primarily for unlicensed properties. This was not used at the commencement of the current designation due to the pandemic.

We have either issued or are in the process of issuing civil penalty notices under the additional licensing scheme. We have recently been using this enforcement instrument on those landlords and agents that do not engage with us to licence their properties. The total income expected from this action is £29,500.

Prosecutions: Unfortunately, there are times when we are left no option to commence a prosecution due to the conditions that the landlord has left the property in, and they have decided not to engage with us. Our current prosecutions that have been concluded or remain under consideration pending are:

- One case due to the failure to provide documents when requested
- A case where there was a fire within the property
- Four letting agents – Consumer Protection Regulations
- Two cases for a licence to occupy instead of a secure tenancy

Noise Complaints: The Council recognise that noise disturbance can drastically affect a resident's wellbeing and home life. The Council recognises that tenants in

the private rented sector are good neighbours. However, sometimes this may not be the case and we use the licence conditions to ensure that the landlord or managing agent are clear that we will not permit their tenants to cause a disturbance in the neighbourhood. We have received over 500 complaints from residents being disturbed from additional HMOs and we have used the licence conditions to ensure that the landlord and agent manage their tenants.

5. Evidence and reasons for proposal of boroughwide scheme

The council commissioned an independent evaluation of the current Additional Licensing Scheme that reported in 2022. This evaluation takes place against the general background of the wider Tower Hamlets housing strategy, whose aims include raising private rented housing standards. With social housing declining as a proportion of all housing, private landlords now provide most homes in the rented sector and surpassed owner occupation.

The current Additional Licensing scheme started in April 2019 and is due to end in April 2024. The review looked at how successful the scheme has been to date and whether there is evidence to suggest it needs to be extended beyond its current timeline and in which areas.

The review found that the significant task of improving standards has made progress, but the size of that task continues to grow and remains challenging. For example, the evidence shows that compared with private ownership and social tenure, the PRS continues to generate more call centre housing complaints, more domestic noise complaints, notifications of housing hazards, and the need for more improvement notices served.

The information provided in section 4, demonstrates that sufficient intervention is needed by the Council to maintain the minimum standards within the smaller HMO sector. The actions outlined in section 4 would give the Council the view that the relevant properties are being ineffectively managed.

The key private rented sector indicators, as outlined in the Mayhew Harper and Associates report, demonstrate that management failings and issues are noticeably more frequent in licensed rather than unlicensed premises with Mandatory licensed premises being the most culpable, followed by Additional licensed, and then Selective licensed premises. These patterns are replicated at ward level where the research found a strong positive correlation between the size of the PRS.

The Mayhew Harper and Associates analysis of the current additional licensing scheme reviewed data that we held in the following key private sector management indicators:

- Energy Performance Certificates

- Service requests to the enforcement officers
- Warning letters regarding environmental issues
- Noise complaints
- Pest infestations
- Housing complaints
- Enforcement Notices.

This data was examined and considered, placing each ward area in ranked order. The current selective licensing wards were ranked Whitechapel 1, Spitalfields and Banglatown 5, and Weavers 7. It is the assessment of this data that supports the fact that HMOs are being ineffectively managed and the proposal that the Council is considering, to extend the current additional licensing scheme to a borough-wide scheme. In addition, the risk ladder shown in table 3 of the report demonstrates the percentage chance that a property suffering from a poor management indicator is likely to be an additional HMO property. This gives the Council an indication that such properties are being ineffectively managed.

The analysis has shown 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. This suggests the scheme is capturing a majority of the at risk properties with the greatest number of problems.

The full report is provided as **Appendix 1**.

6. The Tower Hamlets Proposal

It is proposed that the additional licensing designation will cover the whole geographical area of the London Borough of Tower Hamlets.

The proposal seeks views on the licence fees, updated amenity standards, the fit and proper person protocol and licence conditions which will affect smaller HMOs in the borough, i.e., not covered by mandatory licencing.

The Additional Licensing scheme would ensure that the responsibility for the HMO property management lies with the landlord. The licensing process should require the landlord to:

- a) Complete and submit an application form to the Council together with an application fee. The form would seek to understand 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.
- b) In order to demonstrate competent property management, the landlord will need to provide evidence on application of the following:
 - Annual gas safety certificate (where applicable)

- Electrical installation condition certificate in the last 5 years and a portable appliance test certificate
- An automated alarm system in the event of fire, and if appropriate emergency lighting
- Evidence of arrangements which demonstrate competent property management – management records and copies of tenancy agreements
- The suitability of management structures and adequacy of management structures
- Floor plan with room sizes and uses clearly shown
- Copy of the Energy Performance Certificate where this applies
- Current occupancy details
- The proposed licence holder or manager of the property will be required to make a declaration that they are fit and proper persons.

The completed application will be reviewed, and a licence may be granted with conditions prior to an inspection taking place.

Properties currently licensed under the 2019 additional licensing designation will be required to licence at the expiry of their current licence if the proposed extension is implemented.

For properties with licences already in place, where applications are received within the first month of the expiry of the current licence or within three months of the extended area (Weavers, Whitechapel, Spitalfields and Banglatown areas) this will be considered an indication of professional property management and a five-year licence may be granted commencing the day after the current license expired and if all documents and property conditions are satisfactory. The property will then be risk-assessed for inspection within five years of the licence issue date.

If the property still requires a licence and no applications are made and the property is deemed unlicensed, the landlord and/or agent may be subject to possible enforcement action.

Licence Fees

The proposed licence fee has been set to ensure that the fee does not exceed the actual and direct costs of processing an application and the cost of monitoring compliance by landlords with terms of the licence (per the Provision of Services Regulations 2009).

The fee structure is also required to be reasonable and proportionate and cannot include set up charges for the scheme nor overheads or the general running costs of the organisation.

The fee is to cover the administration and enforcement costs of the licensing scheme and fees will be reviewed annually to reflect changes in costs (for new applicants applying throughout the five-year scheme term).

The council will provide an online system to manage applications. Where the council incurs extra costs by having to manually process licences, an additional fee will be imposed. These fees are shown in the table below.

The current fee structure 2022/23 is below. This is likely to increase in line with Council annual reviews. The 23/24 fee is proposed to be £600.50 per licence. Payment in two instalments relates to administration and the licence fee. Inflation may have a further impact on the fees for 24/25 – the year the new scheme will be introduced if adopted. The applicant will still be able to pay a split fee which demonstrates the cost between administration and enforcement of the scheme. This is a voluntary decision by the applicant, as they can still pay the full fee but at a reduced rate due to our administration costs. If the licence is refused, then the enforcement costs will be refunded.

23/24 Proposed Fees

Application type	Fee
Full online application	£600.50
Online part one payment	£280
Online part two payment	£357
Postal application	£703.50
Postal part one payment	£320.50
Postal part two payment	£420
Missing documents follow up	£70
Application withdrawn by applicant, revocation, refusal by Council to licence, property ceases to require a licence	Part two element is refundable only

Licence holder

The proposed licence holder must have a UK address.

The Council will also consider if the proposed licence holder is a 'fit and proper person' within the meaning of the legislation. This is provided in **Appendix 2**.

The licence holder must also ensure that they have any relevant permissions for the HMO from the Planning Service.

If the licence holder is found not to be a fit and proper person, then they must find someone else who can act as the licence holder and who is a fit and proper person to do so.

The Council will publish an on-line list of all HMOs under the scheme. Members of the public and tenants or prospective tenants will be able to check the database and be confident of knowing that an HMO has a licence.

If the scheme is approved and having become operative, it will be an offence to operate an HMO falling within the scope of the scheme without a licence. The consequences of not licensing could be prosecution, a civil penalty or rent repayment order.

Scheme Exemptions

The following are statutorily exempt for the Additional Licensing Scheme

- Buildings controlled or managed by public sector bodies etc.
- A building where the person managing or having control of it is
 - a) a local housing authority,
 - b) a non-profit registered provider of social housing,
 - c) body which is registered as a social landlord under Part 1 of the Housing Act
 - d) a police and crime commissioner,
 - e) the Mayor's Office for Policing and Crime,
 - f) a fire and rescue authority, or
 - g) a health service body within the meaning of section 9 of the National Health Service Act 2006.
- Buildings controlled or managed by a co-operative society
- Buildings occupied by students, where:
 - they are occupied solely or principally by persons who occupy it for the purpose of undertaking a full-time course of further or higher education at a specified educational establishment or at an educational establishment of a specified description, and
 - the person managing or having control of it is the educational establishment in question or a specified person or a person of a specified description
- Buildings occupied by religious communities:
 - Any building which is occupied principally for the purposes of a religious community whose principal occupation is prayer, contemplation, education, or the relief of suffering
- This paragraph does not apply in the case of a converted block of flats to which section 257 applies.
- Buildings occupied by two persons

- Any building which is occupied only by two persons who form two households.

Definition of an HMO

It is proposed that the scheme would cover the whole borough.

The definition of an HMO is within the Housing Act 2004 at sections 254 to 259.

An HMO means a building or part of a building, such as a flat which:

- Is occupied by more than one household, who share or lack one or more basic amenities such as a bathroom, toilet or cooking facilities; or
- Is a converted building occupied by more than one household, but does not consist entirely of self-contained flats (whether or not one or more of the basic amenities are shared or lacking); or
- Is a building converted into self-contained flats, but does not meet as a minimum standard, the requirements of the Building regulations 1991 and where less than two thirds of the flats are owner occupied (section 257 of the Housing Act 2004) *see note*.

And where;

- The building is occupied by more than one household as their only or main residence
- Rents are payable or other consideration provided by at least one of the occupiers
- The occupation of the living accommodation is the only use of that accommodation.

Note

For these purposes, a flat is 'owner occupied' if it is occupied:

- a) By a person who has a lease of the flat which has been granted for a term of more than 21 years,
- b) By a person who has the freehold estate in the converted block of flats, or,
- c) By a member of the household of a person within paragraph a) or b)

There are exemptions to these definitions, and these are contained in schedule 14 of the Housing Act 2004. This includes any building which is occupied only by two persons who form two households.

7. Objectives of the new proposed scheme

The objectives of the proposed licensing schemes are detailed below:

- to support and ensure landlords continue to improve the conditions and management of privately rented properties 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 smaller 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,
- to complement other housing initiatives that the Council undertakes, such as – fuel poverty, cost of living, 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 their 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.

8. Alternative Options

There are several alternative options that we have considered that could be alternatives to licensing - we would welcome your views on these or any others that you consider are viable to ensuring a safe and well managed sector.

There is always the option of doing nothing and allowing the scheme to lapse. However, it is considered that any alternative needs to be able to ensure that housing in the private rented sector is well managed, tenants are protected and not burdened with problems caused by absentee landlords and irresponsible letting practices.

Other options we have considered include:

- **Voluntary landlord accreditation to seek improvements in private rented management.** There are currently just 1450 landlords accredited with the London Landlord Accreditation Scheme at the end of July 2022.

• **Use Housing Act 2004 powers to regulate landlords:** The ability to deal with hazards in the home under Part 1 of the Housing Act 2004 (known as Category 1 & 2 hazards depending on severity) is a complex and time-consuming process. Only a very small proportion of rented homes can be regulated with this option. Where formal action is taken, the Council prosecution costs are often not fully recovered. This would also require additional staffing resources to cover the additional processing time for using Part 1 of the Housing Act as an enforcement tool.

By adopting an additional licensing borough-wide scheme, the council will have the power to streamline, locate and manage the private rented sector more efficiently and proactively. Evidence in the Mayhew Harper and Associates report demonstrates that a large proportion of the PRS are operating as HMOs and the majority have been licensed with one of the three current schemes. However, there is still a significant proportion that have not. These tend to come through our reactive complaints system, which gives us an alternative way of locating them. Reactive complaints will only deal with the complaint around the isolated deficiency in the property and does not always deal with the whole property. This is the traditional route, and how the council would remedy poor property conditions, and it gives power to use the Housing Act Part 1 Housing Health and Rating System.

• **Use Anti-social behaviour legislation:** Action would be taken against the tenant in occupation but does not place any obligation on landlords/licence holders to be proactive in managing their properties to prevent or reduce the likelihood of ASB occurring. The management of behaviours would become the responsibility of the Council.

ASB on its own will only be dealt with on an isolated case by case basis and does not necessarily deal with the holistic element of the issues in relation to the rented accommodation. HMOs offers cheaper alternatives accommodations and often can have transients tenants. By having an additional licensing, the conditions in the licence will hold licence holders/landlords/managers to account to the behaviour and the conditions of the property and individuals, transferring the responsibility back to the landlords to manage their tenants. Example of this is what we do with working with noise team on noise issues from any licence property, we will immediately take action by notifying the licence holder as this will breach their licence conditions.

• **Government planned housing reforms:** A white paper (A Fairer Private Rented Sector) has now been released to review current reforms that the Government is considering, namely.

- abolish Section 21 'no-fault' evictions and introduce a simpler tenancy structure
- apply the Decent Homes Standard to the Private Rented Sector (PRS) for the first time
- introduce a new Property Portal to help landlords understand their obligations
- introduce a housing ombudsman covering all PRS landlords and providing redress for tenants.

It is not yet known if and when the government reforms will become law.

The above options are costly to administer and are mainly reactive to complaints and not managing the sector as a whole. Licensing schemes are self-funding with the income being ring fenced for the administration and enforcement of the scheme. We have found that licensing schemes have enabled landlords, agents and renters to engage with us, setting a level playing field and being able to intervene before formal action becomes necessary (in the majority of cases) The use of powers under the Housing Act and Anti-social behaviour legislation is often confrontational and expensive for all parties.

Therefore, considering the limitations of the above, the Council considers that there is a need to continue with a borough-wide additional licensing scheme to supplement our other regulatory and enforcement powers.

This will allow the council to achieve its strategic plan objectives, namely improving:

- Our commitment to equality and community cohesion
- Tackling the cost-of-living crisis
- Homes for the future
- Empower Communities and Fight Crime
- A clean and green future.

9. Looking Forward

The majority of landlords and agents have licenced their properties and fully engaged with us, but we still have some way to go to bring on board all of the landlords and agents, particularly those who are still avoiding their responsibilities to licence their properties. We have until March 2024 of the current scheme left to undertake various investigative works and inspections in relation to unlicensed properties as well as compliance inspections of licensed properties. As the pandemic is being brought under control, we are visiting more properties to ensure compliance of our scheme.

Given the size of the sector in Tower Hamlets, this is the only way the Council believes it can ensure a large number of often vulnerable people live in safe homes and where landlords are not hiding or deliberately avoiding detection by the Local Authority.

We have further developed our GIS mapping and intelligence-led approach to target the rogue, criminal and non-compliant landlords and agents efficiently. This is to build on the success of what we have achieved so far.

Given the success of dealing with nearly 6000 applications within the first 3.5 years of the scheme, we are now putting together a programme of publicity and intelligence-led, targeted approaches including proactive street surveys to identify and give those landlords or agents who have yet to come forward a final chance to do so. This will identify the real rogue and criminal elements who try to remain under

the radar. We will be targeting those who are deliberately avoiding coming forward to make the required application, with appropriate and robust enforcement action.

Some Flats/Houses in multiple occupation are still being managed ineffectively and giving rise to problems for the tenants or neighbourhood

In considering extending the additional licensing scheme in term of duration and across the whole borough, the activity that that we have carried out to date within the current scheme indicates that there is still a lot for us to do to support some landlords and improve conditions for tenants and residents. From the estimates provided by Mayhew and Harper in their original review in 2017 and currently in 2022, not all property owners have licensed their properties.

We have shown that unlicensed properties continue to be managed ineffectively through the number of rent repayment orders that have been successful, the warning letters sent out and interventions undertaken. Landlords operating HMOs subject to additional licensing need to ensure that they are managing their properties effectively to ensure that enforcement is not taken against them.

We have recently started to use our most harsh powers on issuing Civil Penalty Notices and prosecutions on those that are unwilling to meet the statutory requirements.

How will a borough-wide additional licensing scheme affect the current selective licensing scheme?

As the proposal is for additional licensing to cover geographically the same areas that the current selective licensing scheme covers i.e., Weavers, Whitechapel and Spitalfields & Banglatown, there may be some confusion on what licence the landlord should apply for.

We are of the view that we could have both schemes in operation at the same time. However, where a property could be licensed under both schemes, the HMO licence will take priority.

If additional licensing is introduced in the selective licensing wards, then any property within scope of Part 2 or Part 3 of the Housing Act 2004 that is not licensed under additional or selective licensing must be licensed. If it falls within mandatory or additional HMO licensing then it must be licensed as an additional licensed property, even if it could also be licensed under selective licensing.

If an additional licence designation is approved within the current selective licensing area, it is our intention that any properties that may fall under both criteria will only have one licence – it is not our intention that a property would hold two licences.

However, we are required by legislation to take all reasonable steps to secure applications from those landlords who properties will require an additional licence.

We would seek your views as part of the consultation on how to achieve this. Some possible options are set out below:

- Holder of current selective licences who now require an additional HMO licence can apply for an additional licence at no charge. In such a case, the expiry date will match that of the selective licence
- If a selective licence has six months before expiry, we will not require an additional licence unless requested by the landlord or in circumstances that require action to be taken under the Housing Act 2004.

10. Matters that need to be considered for additional licensing

Under section 56 of the Housing Act 2004, the Council is permitted to designate areas, or the whole of the area within their district, as subject to Additional HMO Licensing. In April 2019, the Council designated the whole borough an additional licensing area but exempted the current selective licensing wards of Weavers, Whitechapel, Spitalfields & Banglatown (pre 2014 ward boundaries). The Council is now considering making the whole borough an additional licensing area, where all houses and flats in multiple occupation (three or more renters from two different households) will require a licence.

Before making a designation, the Council must consider the following:

- 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 problem either for those occupying the HMOs or for members of the public
- Have regard to any information regarding the extent to which any codes of practice under section 233 have been complied with by persons managing HMOs in the relevant area
- Consider 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 or problems in question; and that making the designation will significantly assist dealing with them
- Take reasonable steps to consult persons who are likely to be affected by the designation, for a period of not less than ten weeks, and consider any representations made in accordance with the consultation
- Ensure that any exercise of the power is consistent with the Council's overall strategic approach to housing
- Seek to adopt a co-ordinated 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.

The current Government guidance gives examples of properties being managed sufficiently ineffectively, and as a result having a detrimental effect on a local area:

- Those whose external condition and curtilage (including yards and gardens) adversely impact upon the general character and amenity of the area in which they are located
- Those whose internal condition, such as poor amenities, overcrowding etc., adversely impact upon the health, safety and welfare of the occupiers and the landlords of these properties are failing to take appropriate steps to address the issues
- Those where there is a significant and persistent problem of anti-social behaviour affecting other residents and/or the local community and the landlords of the HMOs are not taking reasonable and lawful steps to eliminate or reduce the problems
- Those where the lack of management or poor management skills or practices are otherwise adversely impacting upon the welfare, health, or safety of residents and/or impacting upon the wider community.

The power to apply a local designation is within the Housing Act 2004: Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2015 which grants a general consent to the Council to designate an Additional HMO Licensing scheme if the authority has consulted persons likely to be affected by the proposal for a period of not less than ten weeks.

11. Consideration of continuing the additional licensing scheme

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.

In order for an Additional Licensing designation to be made, the authority must consider that a significant proportion of HMOs of that description that we intend to licence in the borough are being 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

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.

The continuation and extension of the 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.

The amenity standards that are currently used in relation to HMOs and licence conditions have been reviewed and updated and are part of this consultation process to redesignate the additional licensing scheme.

It is also proposed that poorly converted blocks of self-contained flats would form part of the scheme as they 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.

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.

The conditions outlined above would not necessarily 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.

12. Criteria to Consider before introducing an additional scheme

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.

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.

This evidence is outlined in the report by Mayhew Harper Associates in **Appendix 1**.

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:

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.

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.

Consideration of this is contained in Section 8 '**Alternative Options**'.

The Authority must consider that making the designation will significantly assist them in dealing with the problems highlighted.

The issues created by the HMOs within the borough are highlighted in the Mayhew and Harper Associates report.

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.

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.

If a borough-wide Additional Licensing designation 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.

It is proposed that the continuation of the current scheme and to extend it to a borough-wide 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 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.

If an Additional Licensing scheme is introduced borough-wide, 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.

The Authority must consult persons who are likely to be affected by the designation and consider any representations.

A full consultation exercise will be undertaken to obtain stakeholders' views.

The Authority must consider that the exercise of this power is consistent with the Authority's overall Housing Strategy.

This is considered in the Section 13 '**Consideration of Additional licensing scheme within the overall housing strategy**'

The London Borough of Tower Hamlets is led by an Executive Mayor from the Aspire Party. In the May 2022 manifesto, the Aspire Party supported improving conditions in the private rented housing sector and the following commitments were made:

- Work closely with the Tower Hamlets' Renters Union to achieve all their policy goals.
- Empower local Tenants and Residents Associations (or set them up where they do not exist) to work with the Council to tackle the housing emergency, while encouraging social and private landlords to work with us to effect change.
- Work with social and private landlords to encourage them to improve the condition of the homes they let and the service they provide to their tenants.
- Fix the landlord registration scheme to ensure it delivers on its purpose of driving up standards in the private sector, including landlord rent disclosure.
- Fully fund and resource housing enforcement officers to hold landlords to account.
- Work with private and social landlords to improve insulation standards in our homes.

The Mayor of London, Sadiq Khan, came to power in 2016 and included the following manifesto commitments to improve the private rented housing offer in London, namely:

- Setting up a London-wide not-for-profit lettings agency for good landlords, building on the work that councils have started, and ending rip-off fees for renters.
- Working alongside boroughs to promote landlord licensing schemes to drive up standards and make the case to government for London-wide landlord licensing.
- Naming and shaming rogue landlords and ensure tenants have access to this information online.

These London wide commitments reflect and support the strategic housing direction of the London Borough of Tower Hamlets in tackling sub-standard and poorly managed PRS accommodation.

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.

These matters are considered in the overall [housing strategy](#) but we will also continue our engagement in the following areas:

Landlord Accreditation: 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. We actively support this process as it may avoid intervention from the Environmental Health and Trading Standards Service.

Landlords Forum: 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: 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 with 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.

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 evictions and contribute positively to tenancy sustainment work.

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 on the areas in which they are located.

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.

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.

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.

Where the Environmental Health and Trading Standards Service 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 confidently market dangerous and overcrowded accommodation in the knowledge that rental income is high with minimal risk of discovery by the local authority.

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 continuation 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.

Monitoring: The scheme will be monitored part way through to ensure that the improvements to HMOs are being achieved.

13. Consideration of Additional licensing scheme within the overall housing strategy

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, but now provides just 36 per cent of the housing in the borough. The private rented sector is now the largest single tenure, with 40 per cent of the borough's homes rented from a private landlord.

To reflect this, for the first time the Council's Housing Strategy ([TH Housing Strategy document v5.pdf \(towerhamlets.gov.uk\)](#)) details our approach to private renting: the Private Sector Housing Strategy. The Council's Housing Strategy 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".

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.”*

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 extension of this right (Right to Acquire) 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.

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.

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.”

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.

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, that we wish to bring into the Additional Licensing scheme.

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

Part of the strategic commitment to improve and professionalise the private rented sector, is our adoption of a [Tower Hamlets Private Renters' Charter](#). 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.

14. Consultation Process

If the Council is to designate an additional licensing scheme, a formal consultation needs to be carried out. The consultation includes:

- Online questionnaire
- Engagement with local residents/renters
- Use of social media
- Mailshots to letting agents, managing agents, landlords and tenants' groups
- Landlord workshops
- Newspaper adverts.

The consultation will inform interest groups of the main key points of the scheme.

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.

The proposal outlined, along with the proposed fee structure, fit and proper person protocol, amenity standards and licence conditions will be consulted on with 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.

The consultation findings will inform the final decision-making process. The consultation opens on Monday 12th December 2022 and will close on Friday 31st March 2023, exceeding the statutory requirements for the length of consultation.

At the end of the consultation period, the views of all those that have had an input will be reviewed and a report will be produced for the Mayor and Cabinet to determine the potential outcome on whether to confirm a further designation, in an extended/reduced area or not or to allow the designation to end. It is expected that the decision will be made in Autumn 2023.

Appendices (external links)

[Appendix 1: Mayhew and Harper Associates report on additional licencing](#)

[Appendix 2: Fit and Proper Protocol](#)

[Appendix 3: Accommodation and Amenity Standards](#)

[Appendix 4: Additional licence conditions](#)

[Appendix 5: Ward Data](#)