

Housing Select Committee			
Title	Update on Additional Licensing Scheme		
Key decision	No	Item no	7
Wards	All		
Contributors	Executive Director for Customer Services		
Class	Part 1	7 March 2017	

1 Purpose of report

- 1.1 The purpose of this report is to update Housing Select Committee on the implementation of the additional licensing scheme which was approved by Mayor and Cabinet on 2 March 2016.

2 Recommendations

- 2.1 It is recommended that Housing Select Committee note the contents of the report.

3 Background

- 3.1 The Additional Licensing Scheme was first discussed, on a formal basis, in a paper to Mayor and Cabinet on 3 February 2014. During the subsequent two years the details of the scheme were explored and various pieces of research were reviewed, and the final proposals were set before Mayor and Cabinet on 2 March 2016. The scheme was subsequently approved and the fees set by the Licensing Supplementary Committee on 22 March 2016.
- 3.2 On 29 June 2016 the public notice for the scheme was printed in the local press. This notice was due to expire on 22 September 2016 and the scheme commence on 23 September 2016. At the beginning of September we received a challenge to the publication of the public notice. Following investigations and clarification with our legal department it was felt prudent to clarify with Mayor and Cabinet the exact designation for the scheme.
- 3.3 On 9 November 2016 publication of the scheme then proceeded as per the requirements of the statutory instrument applicable to this specific piece of legislation. The scheme went live on 11 February 2017.

4 Summary

- 4.1 Lewisham currently has 220 mandatory licences for those properties that are three storeys or more, with two or more lettings where 5 or more non-related

people share facilities such as bathrooms or kitchens. It is estimated that there are over 500 of these types of dwellings known as mandatory Houses in Multiple Occupation (HMOs) in the borough.

- 4.2 Housing Select Committee were made aware that the potential for finding the poorest standards of accommodation in the borough would be found in smaller HMOs located above commercial properties where there are two or more lettings with 3 or more unrelated people sharing facilities such as kitchens or bathrooms. The estimate of numbers put forward for this type of small HMO is 1400.
- 4.3 As at 22 February 2017, 29 landlords have completed the additional licence application.

5 Operations

- 5.1 During the implementation stage of the new additional licensing scheme a number of activities have taken place in order to ensure as many licences as possible are applied for and these are briefly noted below.

6 Communications and Advertising

- 6.1 Throughout the period of preparation and publication of notice an extensive communications campaign was undertaken to promote the new scheme to Landlords, Tenants, Local Letting Agents and other interested parties in the Borough. This involved a series of nearly 9,000 e-mails and letters being sent out between August 2016 and February 2017.
- 6.2 In addition, a bus stop advertising campaign was run in October 2017 and a till receipt campaign with Argos and Poundland was run from November to date.
- 6.3 A simple enquiry form has been added to the website enabling landlords to register their details with us if they are unsure if they need a licence for their property. To date 210 landlords have registered with us via this mechanism.

7 On-Line application process

- 7.1 In preparation for the launch of the new scheme development of an on-line application form was designed to speed up the process of applying for a licence for both the applicant and the council. The previous paper version process was cumbersome with landlords often citing forms being sent but lost in transit. The original profiling of the scheme anticipated that some 500 applications would likely be made in the first year of operation and as such a more streamlined procedure would be needed to cater for this increase in demand.
- 7.2 The on-line application process was completed ahead of schedule and has been fully operational since October 2016.

8 Procedural changes

- 8.1 Operational procedures were changed following benchmark visits to other authorities. The most significant change in operational procedure was in relation

to when the required information about the licensable property was collected.

- 8.2 Visits are required on each application to establish that the required conditions have been met.
- 8.3 Prior to the online application process, information such as gas certificates or electrical and fire safety certificates was collected at the time of the visit and prior to issue of the licence. This requirement has changed whereby the applicant now confirms on line that they have the necessary certificates, the licence is issued at this point and a visit is then scheduled to inspect the property to inspect that the property is in good order and to verify that the necessary certificates are in place. This change streamlines the process for applications and helps inform the onward process of enforcement for failure to licence correctly.

9 System improvements

- 9.1 The current system, M3, has been reviewed to ensure new processes are embedded, modules have been developed that will improve information collation and historical information will be correctly recoded. These changes will ensure that activity levels and outcomes will be more accurately reflected. Further enhancements to modules to record enforcement activity are underway and due for completion by the end of March 2017.

10 Data

- 10.1 Much of the data relied upon to target landlords of HMOs is provided through HB and Council Tax records. We have used this information to send letters to landlords however these landlords may not be landlords of HMOs so it has been necessary to undertake on-site inspections to verify that properties are in fact HMOs and are not single dwellings.
- 10.2 We are also reviewing a list of 900 self-declared HMOs from the council tax list and sending formal notices to these landlords to confirm the status of these properties.
- 10.3 The team have also knocked on over 700 doors within the identified hotspots to find possible HMOs.

11 Outcomes

- 11.1 The team has knocked on over 700 doors within the identified hotspot areas. This has resulted in 13 properties that require an HMO licence being identified along with several properties where breaches of conditions of current licences have taken place and action is currently being taken against these landlords.
- 11.2 A recent raid was carried out where overcrowding and poor living conditions were found. Officers have also successfully negotiated with two other landlords resulting in landlord compliance avoiding costly legal proceedings. There are currently two more raids being planned.

- 11.3 To date 29 landlords have completed the online application form for the additional scheme along with 17 for the mandatory scheme.
- 11.4 We are currently engaged with 100 landlords regarding applications for the scheme and will be commencing formal enforcement action against those landlords that have stated they require a licence but have yet to apply
- 11.5 There has been significant progress in investigating rogue landlords. 15 landlords were originally identified. These landlords have been further investigated to establish current ownership, management and any financial irregularities. Following inspections to individual lettings relevant documentation required to meet licence conditions was obtained. Officers carried out full Housing Health and Safety Rating System (HHSRS) assessments on all 57 properties associated with these landlords/lettings agents which resulted in repairs being carried out immediately or the service of enforcement notices to improve conditions of the properties. If landlords fail to cooperate we will prosecute. Because of the increased enforcement action that has taken place over recent months the number on the list has been reduced. Further investigations are in progress on the 5 remaining landlords. We are currently investigating new landlords that have come to our attention through complaints or our door knocking exercise where similar behaviour has been identified. We aim to work with these landlords in the spirit of cooperation however will take formal enforcement action when necessary using all legal remedies that are available under the Housing Act 2004 and we are exploring further our obligations under the Housing and Planning Act 2016.

12 Associated activities

- 12.1 Lewisham is taking part in the London Office of Data Analytics pilot (LODA) which has been commissioned by the GLA to help build a predictive model designed to help with the early identification of HMOs. This involves reviewing data from the council on issues such as the current list of licensed land lords, complaints, notices and inspections.
- 12.2 The team has participated in two recent consultations from DCLG: The first was in relation to extending the regulations of the current mandatory HMO licensing scheme which was sent to Housing Select Committee in December 2016. The implication of this extension the regulation would result in small HMOs throughout the borough having to be licensed which would impact on those small HMOs such as those that are found in the Bellingham and Downham areas. The second was a much simpler and shorter consultation with the focus on what constituted a banning offence which is already covered within the Housing and Planning Act 2016 and would mean landlords and lettings agents would be banned in certain circumstance to hold or manage HMOs. Other change that will be brought about by this act is the need for the authority to provide central government with information on rogue landlords. Also enhancements have been made in relation to rent repayment orders with authorities expected to apply for these whenever an offence under the Criminal Law Act 1977; Protection from Eviction Act 1997; Housing Act 2004 and Housing & Planning act 2016 is committed. Work is currently underway to ensure that these changes are

captured in our policy and procedures to enable the team to act using the new powers conferred upon them.

- 12.3 To further raise awareness of the boroughs' licensing schemes, the team have a landlord event planned for the early part of the next financial year this will also help to build meaningful working relationships with landlords, landlord associations and letting agents in the area.

13 Financial implications

- 13.1 On the 13 January 2016 the Mayor approved the additional licensing scheme at a cost of £1.0m over five years.
- 13.2 The funding in the current financial year has been used to fund the setting up costs and the appointment of staff in readiness for the scheme going live in February of this year.
- 13.3 It is too early to assess the financial impact of the scheme. This will be monitored and reported as a part of the Council's financial monitoring processes.

14 Legal implications

- 14.1 In addition to the legal points noted within the body of the Report, reference is being made above to the recent Housing and Planning Act 2016 ("HPA").
- 14.2 The HPA received royal assent on 12th May 2016. Whilst a number of provisions within the Act are now in force, the parts of the Act, which are pertinent to the context of this report, in so far as they cover powers available to Local Authorities to address issues under the given statutory heading of 'Rogue Landlords and Property Agents in London', (and are specifically within Parts 2 & 3 of the HPA,) are not in fact yet in force.
- 14.3 The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 14.4 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - advance equality of opportunity between people who share a protected characteristic and those who do not.
 - foster good relations between people who share a protected characteristic and those who do not.
- 14.5 It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of

opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed above.

14.6 The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. The Mayor must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.

14.7 The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice>

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>

14.8 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

[The essential guide to the public sector equality duty](#)

[Meeting the equality duty in policy and decision-making](#)

[Engagement and the equality duty: A guide for public authorities](#)

[Objectives and the equality duty. A guide for public authorities](#)

[Equality Information and the Equality Duty: A Guide for Public Authorities](#)

14.9 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance#h1>

15 Crime and disorder implications

15.1 There are no specific crime and disorder implications

16 Equalities implications

16.1 An Equalities Analysis Assessment has been carried out for the March 2016 report and there are no significant changes

17 Environmental implications

17.1 There are no environmental implications.

18 Conclusion

18.1 Whilst the scheme has not received the anticipated number of applications and as a result the finances have had to be adjusted to rephrase the scheme it is hoped that as enforcement action increases so landlords will become more compliant with the new requirements and apply for an additional licence.

19 Background documents and originator

19.1 If you require further information about this report please contact Antoinette Stasaitis on 0208 314 9340 or Andy Grant on 0208 314 9248.