

**Executive**

15 March 2018

Report of the Assistant Director Of Housing and  
Community Safety

## **Review of the Evidence Base supporting the case for the Extension of Licensing of Houses in Multiple Occupation (HMO) across the City**

### **Summary**

1. This report provides an update to the Executive following the Council motion on the 26<sup>th</sup> October 2017. The motion stated  
“To request that the Executive undertakes a review of the evidence supporting the case for extended licensing across a proportion of the city (where the density of HMOs is the greatest) to assess the case for the introduction of additional discretionary HMO licensing”

The report provides the latest Government thinking on the subject and seeks to ask the Executive to consider the recommendation to focus on the extension of the national HMO licensing scheme and to ask Officers to report back within three years whether there is a case to locally extend licensing through an additional discretionary HMO licensing scheme.

### **Recommendations**

2. Members are asked to note the update and to recommend the approach outlined in option 3

Reason: To ensure that we raise standards in the worst performing sector but in a programmed way focussing on the larger HMOs first but keeping under review whether there is a need to extend licensing through the introduction of a local additional scheme for smaller HMOs.

### **Background**

#### **Current position**

3. City Of York Council operates the national mandatory licensing scheme for Houses in Multiple Occupation (HMO). All HMOs which are 3 storeys with 5 or more occupants who form more than 1 household are required

to be licensed. We currently license 480 HMOs. Most are within the central wards of the city.

4. HMO licensing seeks to improve the condition and the management of the properties. Critically it doesn't seek to control the number and distribution of HMOs this is through Planning and specifically the Article 4 direction
5. For landlords who rent HMOs outside of the mandatory licensing scheme either because of they are too small (either lacking the number storeys or smaller numbers occupants or both) we do have also have an Accreditation Scheme called YorProperty. The scheme has an excellent website which aims to promote properties and landlords who meet certain criteria. We do have some landlords who are both licenced and accredited.
6. In 2015 we commissioned the Building Research Establishment to carry out a desk top analysis of data and they identified that generally housing conditions in York were better than the national average.
7. However the research found that a third of all hazards <sup>1</sup> in the city were found in the Private Rented Sector (PRS). The research was used to refresh our Private Sector Housing Strategy 2016- 2021 which was agreed by Executive in June 2016<sup>2</sup>.
8. One of the Strategy's five aims was to tackle poorer conditions in the PRS.

***“Encourage, support and regulate private landlords and agents to provide safe and well managed properties, free from category 1 hazards. Inform and support tenants around what they can expect”.***

9. As part of that aim we agreed to that we would review the case and specifically evidence base to introduce Additional Licensing of HMOs in the city.
10. However at the same time of writing the strategy we became aware of the Government intention to extend the national scheme to include smaller HMOs in mandatory licensing. The Government published in October a consultation paper Houses in Multiple Occupation and

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<sup>1</sup> Housing Health and Safety Rating System

<sup>2</sup> Item 11 <http://democracy.york.gov.uk/ieListDocuments.aspx?CIId=733&MIId=9191&Ver=4>

residential property licensing reforms .They asked for views on how to implement through secondary legislation the decision to

- Remove reference to storeys from the prescribed description of HMOs so that most HMOs, occupied by five or more people from two or more separate households are subject to mandatory licensing
- Include flats above and below business premises, occupied by five or more people from two or more separate households within the scope of mandatory licencing and
- Clarify the minimum size to be applied to rooms used for sleeping accommodation in HMOs

10. The City of York Council formally responded before the deadline in December 2016, since then we have been waiting for the Government response. This was released on December 28th 2017. A full copy of the response can be found:

<https://www.gov.uk/government/consultations/houses-in-multiple-occupation-and-residential-property-licensing-reforms>

In short, it is proposed in England, subject to parliamentary approval to:

- Extend mandatory licensing to all HMOs (other than section 257 HMOs and flats in larger purpose built blocks) that are occupied by 5 or more persons in two or more separate households;
- Introduce mandatory conditions in all licensed HMOs concerning minimum sleeping room sizes and maximum number of occupants;
- Introduce a mandatory condition in all licensed HMOs concerning the provision of refuse storage facilities.

11. Since then the Government has on the 23<sup>rd</sup> February 2018 laid an order advising that the law will be implemented on the 1<sup>st</sup> October 2018 <http://www.legislation.gov.uk/uksi/2018/221/made> . We are still waiting for the accompanying regulations to be laid.

We are currently working through the implications which according to the order, become effective from the 1<sup>st</sup> October 2018 and will bring a further report forward to the Executive Member for Housing and Safer Communities about how we will be implementing the scheme in York.

## Consultation

12. There is no formal consultation period for extending the national mandatory HMO licensing scheme. However before the regulations become effective on the 1<sup>st</sup> October 2018 the council would work with a range of partners and the sector to ensure that they are aware of the changes that have been proposed.
13. Should the council seek to consider a scheme outside of the mandatory one then the Housing Act 2004 states requires the Council to complete a formal 10 week consultation before the introduction of Additional Licensing can be considered

## Options

14. In summary the options are:

- **Option 1: Statutory action**
  - Extend the current mandatory licensing scheme for HMOs in line with the Government proposals
- **Option 2: Introduction of an Additional Licensing Scheme for HMOs occupied by five or more unrelated people across the area designated for Article 4 Planning Directive**
  - Simultaneously implement both the provisions outline in the Government proposals and build the evidence base/ consult on the case as to whether we can introduce a local Additional Licensing Scheme relating to smaller HMOs which are occupied by four or less unrelated people who share basic facilities such as a kitchen or bathroom.
- **Option 3: Focus on extension of the current mandatory scheme in line with the proposals but consider whether there is sufficient evidence to come back to members within three years to consider the need for a local scheme.**
  - To allow the council to focus on the mandatory extension of the licensing and critically ensure that two key new licence conditions relating to room sizes and refuse storage are implemented smoothly. However to use information gathered through licensing regime coupled with evidence from others including statutory agencies (Police, Immigration services, North Yorkshire Fire and Rescue ) and other stakeholders ( Landlord associations, Universities etc ) to determine whether there is evidence to adopt a local scheme.

## Analysis

15. **Option 3 is the preferred option.** This will enable the council to fully focus on the reforms. We will use the six month grace period outlined in the reforms to concentrate on ensuring that the sector (tenants, landlords and agents) and others full understand the reforms. However it will signal to the sector that we are determined to tackle the housing with the poorest conditions, in a programmed way starting with the larger HMOs It should be noted that the Integrated Planning team are considering a piece of work around article 4. No fixed timetable has been set but if we are able to we would seek to compliment this piece of work. When we have more detail we will be able to advise members if there are any cost implications.

**Option 2:** Would mean that the council would be stretching resources thinly as we would need to both implement the mandatory national provisions and at the same time carry out a significant consultation process. The council is committed through its enforcement policy to ensuring that we have effective and well- targeted regulation by helping and encouraging businesses and individuals to understand and comply with the law. The council would be at significant risk of not being able to support effectively those in the sector to have the necessary information to be compliant

**Option 1:** Would mean that we were implementing the mandatory scheme and the council would be fulfilling its statutory requirements. However it doesn't signal to those in the sector that we are willing to keep under review all options to tackle poor standards and poor practises.

## Council Plan

- 16 The Private Sector housing Strategy aligned to the three key priorities for the council
- **a prosperous city for all** - where local businesses can thrive and residents have good quality jobs, housing and opportunities
  - **a focus on frontline services** - to ensure all residents, particularly the least advantaged, can access reliable services and community facilities

- **a council that listens to residents** - to ensure it delivers the services they want and works in partnership with local communities

## Implications

17. The report is for information only and there are no other implications at this stage for the following:
- **Financial.** Any income generated from the licensing scheme must be used to cover costs incurred by the council to carry out the licensing function.
  - **Human Resources (HR).** Currently we are considering the resource implications. These would be fully funded from the fee income
  - **Equalities.** Attached is the One Planet York Assessment (Appendix A)
  - **Legal.** We will have a statutory duty to implement the extension of any Mandatory HMO licensing scheme. If we consider extending the scheme to include HMOs outside of any national scheme i.e. additional licensing then we must follow the procedure outlined in Part 2 of the Housing Act 2004.
  - **Crime and Disorder.** The government is clear that this is part of their strategy to tackle poor landlord practises which has led to overcrowding, poor management of tenant behaviour, failure to meet the required health and safety standards, housing of illegal immigrants and intimidation of tenants when legitimate complaints are made. Although only a minority of landlords the impacts of their practises are disproportionate putting safety and welfare of tenants and risk and adversely affecting local communities
  - **Information Technology (IT) –** We are working with ICT to develop a simple solution
  - **Property –** Additional desk space will be required in West Offices to accommodate additional staffing
  - **Other – None**

## Risk Management

18. There are no risks associated with this report

## Contact Details

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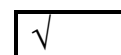
**Report  
Approved**



**Date**

**Wards Affected:**

**All**



**For further information please contact the author of the report**

**Background Papers:**

Proposals Regarding the Introduction of a Voluntary Landlord Accreditation Scheme in York – report to Cabinet 4<sup>th</sup> December 2012

“YorProperty” – The Introduction of a Voluntary Landlord Accreditation Scheme in York – report to Cabinet Member 13<sup>th</sup> June 2013

Approval steps for additional and selective licensing designations in England – DCLG Guidance Document

Relevant research documents and details relating to specific schemes – details available from the author on request

Private Sector Stock Condition Survey 2008

Findings of York Private Rented Sector Consultation Oct/Nov 2014

Controlling the Concentration of Houses in Multiple Occupation Supplementary Planning Document Review – report to Cabinet 7<sup>th</sup> January 2014

**Annexes**

Annex A – Better Decision Making Tool