

Report of the Assistant Director – Legal & Governance

Extension of HMO Licensing the First Year

Summary and Recommendation

1. This is an information paper only advising what has happened during the first year of the extension of Houses in Multiple Occupation (HMO) licensing to properties with 5 or more occupants forming more than one household irrespective of the number of storeys. This report doesn't cover the limitations of the current laws.

Background

2. City Of York Council operates the national mandatory licensing scheme for HMOs.
3. HMO mandatory licensing seeks to improve the condition and the management of these properties. Critically, licensing cannot control the number and distribution of HMOs. This is achieved through Planning and specifically the Article 4 Planning Directive put in place in April 2012.
4. From the 1st October, 2018, all HMOs which with 5 or more occupants who form more than one household were required to be licensed. Under the previous regime we licensed 479 HMOs these were HMOs over 3 storeys with 5 or more occupants.
5. The new regime also introduce two new mandatory licence conditions for all licensed HMOs:
 - minimum sleeping accommodation room sizes and the maximum number of occupants these rooms can house;
 - a mandatory condition in all licensed HMOs concerning the provision of refuse storage facilities

6. The above duty and provisions became effective from the 1st October 2018. However, there were transition arrangements to give landlords time to comply with the new room size requirements and to rectify overcrowding. Councils must allow up to 18 months before they consider prosecuting the landlord for breach of the new licence conditions relating to room sizes.
7. HMOs that were already licensed will have to comply with the condition when their current licence expires and at the first renewal after 1st October this year.
- 9 We developed an implementation policy including reviewing our existing licensing conditions (see attached implementation Policy). Due to the anticipated increase in the volume of work involving licensing, we advised that we were going to risk assess application forms received to determine when we will inspect the property within the 5 year licence period. We prioritised visits having regard to safety and the new condition relating to room sizes. Where the application is deemed to have met the requirements we issued the licence with conditions, if necessary
- 10 The following table outlines what has happened in the first year:

	Number
Number of new applications submitted:	584
Total number of new HMOs licensed	561
Number of Licences under the new regime issued without a visit:	484
Number of HMOs visited prior to a licence being issued in the first six months	58
Number of licenses under the old regime including those which have been renewed (48)	479
Total number of Temporary Exemption Notices served through the period	6
Current number of Temporary Exemption Notices	4
Total number of properties licensed including Temporary exemption Notices	1044

Number of new applications still being processed:	8
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11. The following table outlines the type and number of conditions imposed. All HMOs are issued with standard licence conditions but where the Licence holder, or property or management fails to meet a required standard then a specific licence condition is imposed.

	New HMOs and Existing HMOs which have been renewed
Standard licence conditions	609
The number of properties failing the room size and a condition imposed. NB this could relate to more than one room in the property	58
The number of properties failing to meet the required level of kitchen facilities for the number of occupants and households	192
The number of properties failing to meet the required level of bathroom facilities for the number of occupants and households	12
The number of properties failing to meet the required level of toilet facilities for the number of occupants and households	82
The number of properties failing to provide the level of controllable heating facilities for the number of occupants and households	25
The number of properties failing to meet the required minimum energy efficiency levels and licence conditions imposed	78

The number of properties failing to meet the required level of carbon monoxide detection in the house	205
The number of licence holders who fail to meet the required level of training by attending and passing a recognised training course	312

12. Where the desk top analysis of the application revealed that there was a need to visit the property before the licence was issued then the enforcement officer would both assess the property to ensure that the licence could be issued and carry out a full Housing Health and Safety Risk assessment. This fulfils the council's legal requirement to ensure that within 5 years of licencing that all HMOs are free of category 1 Hazards. Where such hazards are found the officer will determine what is the most appropriate course of action to remove that hazard having regard to the Council's Enforcement Policy, this could be either in the form of:

- 1) Verbal or written Advice
- 2) Hazard Awareness Notice
- 3) Suspended Improvement Notice
- 4) Improvement Notice
- 5) Suspended Prohibition Notice
- 6) Prohibition Notice

13. The following table outlines the outcome of those inspections:

	Numbers
Total number of inspections within period	117
Total number of category 1 Hazards	4
Total number of category 2 Hazards (significant enough to warrant formal action)	86
Category 1 Hazards – Broken down by type	
• Lighting – lack of natural lighting	1

<ul style="list-style-type: none"> • Excess Cold 	3
Category 2 Hazards – Broken down by type	
<ul style="list-style-type: none"> • Fire 	74
<ul style="list-style-type: none"> • Falls 	8
<ul style="list-style-type: none"> • Structural Collapse 	2
<ul style="list-style-type: none"> • Crowding and Space 	1
<ul style="list-style-type: none"> • Collision and Entrapment 	1
Number of Hazard Awareness Notices served	18
Number of Improvement Notices served	0
Number of suspended Improvement Notices served	0
Number of suspended Prohibition Notices Served	1
Number of Prohibition Notices served	0

14. 16 visits carried out during the initial process of licensing the properties found that applicants had incorrectly measured small rooms and were below the legal minimum of 6.51m². License conditions were amended as part of the licensing process to ensure that landlords took the appropriate action including ceasing to use the room within 18 months, reduce the numbers in the room or increasing the room size.
15. Officers are now visiting properties which have been fully licensed, their application suggested that the property did not appear to require an immediate visit. However officers have identified a two properties in this batch where the rooms have been smaller than that which was stated on the application. The licences have been varied to reflect this and the Licence-holders still need to comply with the license condition by the statutory deadline of the 1st April 2020.
16. At the same time that properties meeting the new criteria were being licensed for the first time, existing licensed HMO properties were also being visited to ensure that their licences could be renewed. A similar desk-top approach was adopted. It should be noted that these properties were also subject to the new licence conditions relating to room sizes and waste management.

17. The following table outlines the outcome of those inspections

	Numbers
Total number of inspections	12
Total number of category 1 Hazards	2
Total number of category 2 Hazards (significant enough to warrant action)	4
Category 1 Hazards – Broken down by type	
Falls on Stairs	2
Category 2 Hazards – Broken down by type	
• Fire	41
Number of Hazard Awareness Notices served	1
Number of Improvement Notices served	2
Number of suspended Improvement Notices served	0
Number of suspended Prohibition Notices Served	0
Number of Prohibition Notices served	0

18. Other effective action includes:

- a) 138 landlords have been trained since the 1st October by attending a recognised training course.
- b) Serving a Civil Penalty Notice on a landlord who should have licensed his property in 2015. A CPN for £30k was issued and in line with our early payment policy a £20k fine was received. The property has also been licensed and brought up to standard.
- c) Our First Criminal Behaviour Order applied for and successfully issued by the Court. The court requested that the landlord find someone else, a fit and proper person, to manage his portfolio of 7 properties. This follows three successful prosecutions of the same landlord for failing to apply for a HMO license (x2) and for non-compliance of an improvement notice and breaches of management regulations at another property.

- d) Responding to an appeal to the First Tier Tribunal (FTT). A Landlord submitted a licence application that all rooms met the minimum room size standards but having visited the property the officer found one of the rooms to be too small and varied the licence accordingly. The landlord appealed the variation to the first tier tribunal on the grounds that whilst the room did not meet the minimum size that was inexpensive to rent and therefore the council should not enforce the law. The Council response to the tribunal confirmed and gave reasons that we would contest the appeal. This led the applicant to withdraw his appeal.
 - e) Working in Partnership with the North Yorkshire Police and other stakeholders the council has supported the partnership to tackle cases of Modern Slavery and exploitation. In particularly related to workers linked to the hidden economy which often includes car washes, nail bars and food businesses.
19. In Appendix A there are a number of cases including photographs which demonstrate the effectiveness of HMO licensing in raising the standards and management of Houses in Multiple Occupation.

What have we learnt as a result of implementing the extension of HMO licensing?

20. Preparedness of Landlords/agents through including Marketing and Communications

Significant work was carried out to ensure that landlords and agents were made aware of the changes to the law. This has meant that many landlords and agents have made successful applications. However we realise through discussions, not only with new applicants, that there is a lack of knowledge within the sector about Private Sector, especially letting agents, laws pertaining to HMOs especially in relation to planning and Fire Safety.

Action: We have arranged a specific free training event co-hosted with North Yorkshire Fire Safety Service on Fire Safety for license holders to attend on the 12th November 2020. 120 landlords/agents have registered interest and we are holding a waiting list. We will be looking at ways how we can improve information regarding the planning/HMO licence process

21. Preparedness of the Technical Support Team

The time table we were given to implement HMO licensing was insufficient. We needed to increase the numbers of technical support officers by 1.8

FTE. We had the staff fully in place by the beginning of September and started processing applications on the 6th September using a new system. The processing of HMOs has been successful and Landlords have been able to apply online. The technical support officers have been pivotal in enabling 609 landlords to make new/renewal applications processed promptly and licences issued. The technical support officers provided this dedicated support:

- a) Via our new Online System
- b) Over the phone
- c) Morning duty cover up until the 31st Jan 2019 in West Offices

Action: **Should additional HMO licensing be considered a minimum 3 month period before going live should be built in to ensure that there is time to provide training to new staff.**

IT systems

22. Key to our implementation plans was to introduce a new online application process.

Although the online system “Rocktime VERSO” has enabled the council to process over 600 applications promptly there have been many lessons learnt about purchasing a system which does not directly link in to other parts of the process in particular the inspection process which includes the statutory Housing Health and Safety Rating System (HHSRS). The timetable between purchasing and using the system meant that there was insufficient time to fully test the system. This led to significant amount of testing of the system leading to changes whilst we actively processing applications. The IT system chosen although on a Government Procurement Website has been developed by a company based on the south coast. Web based training and meetings have been held with the company has helped but there is a need for

- dedicated support after implementation
- a training plan which includes onsite training and
- which includes access to a user group which includes other users of the system. If it wasn't for the dedication of the Technical Support Officers more issues could have arisen

Action: **Should an alternative online system be provided through the wider IT project that there should be a minimum of 6 months**

configuration and testing before implementation, with dedicated support. The system should ensure that the full licensing programme is covered including the inspection/HHSRS process. A full Training programme to be developed which includes onsite training and access to an internal and external user group to ensure that development takes place

Preparedness of the Enforcement team

23. To ensure that landlords and agents are making active applications it is key that they understand that the council will take robust enforcement action where applications are not made or where HMOs are not being managed in line with their licence. The Enforcement team expanded to deal with the increase in the number of licensed HMOs. Changes to roles to provide a generic enforcement role has enabled the team to be more flexible and work together to investigate and tackle the issues found. Since the implementation period Central Government has introduced a raft of other legislation/consultations. To maximise use of these duties and powers will mean that we need to review roles within the team. A successful bid to government for funding enabled enforcement officers both from York and across the region to achieve a qualification B TEC level 7 in **Advanced Professional Certificate in Investigative Practice (APCIP)** <https://www.bondsolon.com/investigations/qualifications/>

Action: Should additional HMO licensing be considered a minimum 3 month period before going live should be built in to ensure that there is time to provide the necessary training to new staff. Roles within the team to be considered to ensure that all offences are investigated in line with the legislative requirements. All new enforcement staff to achieve the APCIP qualification within 1 year of starting the role. Further bids will be made as funding becomes available.

Preparedness of Partners

24. A considerable amount of work was carried out with a range of internal and external partners to ensure that they were aware of the extension of HMO licensing. This has help to ensure that HMOs which are required to be licensed are being identified by other teams e.g. the Neighbourhood Enforcement Officers (NEOs) and Planning. It also helped to ensure that the new conditions regarding minimum room sizes and management and storage of waste were developed with teams who also had involvement in these issues e.g.

1) Planning and Building Control re minimum room sizes

- 2) Planning, NEOs and Waste Management re refuse storage and management

Action: **To review the changes with partners since implementation of Licensing and make any necessary amendments to the process**

Consultation

- 22 Views of both technical/enforcement staff and internal partners have informed this paper.

Council Plan

- 23 The provision of the HMO licensing service contributes directly towards the council plan outcomes of
- a) Creating Homes and World class infrastructure
 - b) Open and Effective Council Effective
 - c) A better start for Children and Young People
 - d) Good health and Wellbeing

Implications

- 24 The report is for information only and there are no other implications at this stage for the following:

Financial.

Human Resources (HR).

Equalities-

Legal-

Crime and Disorder –

Information Technology (IT) –

Property –

Other –

Risk Management

- 25 The risks are low at the moment however should Additional HMO licensing be introduced then the learning points need to be considered.

Recommendations

26. Members are asked to note and comments on this information only report.

Reason: Members have asked for a report to be brought to Scrutiny to determine the findings of the first year and whether there is a case to implement an Additional HMO licensing scheme. The findings of the extension of HMO licensing scheme will form a significant part of the evidence base.

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report:**

Tom Brittain
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Report **Date** 12.11.19
Approved

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report

Annex A –Case Studies

Abbreviations

CPN- Civil Penalty Notice
FTE – Full Time Equivalent
FTT - First Tier Tribunal
HHSRS - Health and Safety Rating
HMO - Houses in Multiple Occupation

