

**Consultation on Additional House in Multiple Occupation (HMO)
licensing in York**

Summary

1. City Of York Council operates the national mandatory licensing scheme for HMOs. This licensing scheme seeks to improve the condition and the management of these properties. Licensing does not 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.
2. Since 1st October, 2018, all HMOs with 5 or more occupants who form more than one household are required to be licensed. In York there are approximately 3000¹ HMOs with around one third of these subject to regulation through mandatory licencing, leaving two thirds of HMO's not subject to this proactive approach. The mandatory licensing of larger HMOs in York has been effective in regulating and improving the standard of accommodation offered to let within this sector. Licensing has encouraged a positive interaction with landlords and allowed for any problems presented by each house to be managed on an individual basis through a bespoke set of licence conditions.
3. A HMO licence seeks to ensure that the property meets minimum standards by ensuring that the:
 - 1) Property is reasonably suitable for occupation as a HMO (**physical standards**)
 - 2) Management arrangements are satisfactory (**management standards**) including having passed a recognised training qualification or to do so within a 18 month period of issuing the licence
 - 3) Licensee and manager are fit and proper persons (**Fit and Proper**)

¹ Number of private sector HMOs excluding University owned and Privately owned Halls of Residences which are regulated by Approved Codes of Practises

test). The applicant must be the most appropriate person to hold the licence. Attached is a copy of our current implementation policy (Annex A).

4. In March, Executive will be asked to consider whether to support the undertaking of a statutory consultation on additional HMO licensing based on existing evidence. This additional licensing would cover HMO's occupied by 3 or 4 individuals from two or more households. This paper is brought before Housing and Safer Neighbourhoods Scrutiny as an opportunity to consider the evidence base, make a recommendation regarding the five options to improve standards within our HMO's, and provide any comments on the proposed HMO licensing process.
5. This work responds to the Council Plan 2019-23 which states that we will 'Investigate the case to extend HMO licensing to smaller HMOs and work with partners to maximise energy efficiency in private sector housing.' An attached report (Annex B) outlines the work undertaken by officers to date and sets the context for this report as well as providing the existing evidence base to support this ambition.
6. The five options available to improve standards within the city's HMO's are:
 - 1) Voluntary accreditation
 - 2) Informal Area Action
 - 3) Management Orders
 - 4) Additional Licensing in targeted wards
 - 5) Additional Licensing citywide

Option 1: Voluntary Accreditation

7. The Council initially supported the Universities in running a Voluntary Code of Practice for landlords to sign up to a set of standards up until 2013. The weakness in this approach was that there was no supporting inspection programme alongside the set of standards. As such, some landlords signed up but didn't meet the standards. In 2012, the universities brought this scheme to a close and the council stepped forward to operate its own voluntary accreditation scheme, called YorProperty. This was initially successful with 150 Landlords/Agents and around 600 properties, including some of the larger student private halls of residence being advertised through the website. However, once HMO

licensing was brought in this replaced the need for voluntary accreditation for a number of properties. As such numbers dwindled, the programme became unsustainable and was brought to a close in 2018. So whilst we could re-introduce a voluntary accreditation, it is not likely that landlords who chose not to be part of this programme previously will engage in it now and therefore it is unlikely that there will be a meaningful change in the quality and standards we are seeking to achieve.

Options 2: Informal Area Action

- 8 The Council could consider creating a non-statutory informal action area where there are high concentrations of poorly managed or maintained properties. The driver for the housing improvement would come from a combination of council activity through advice and support. However, as with option 1 this would not be enforceable and therefore would not support residents who live in the houses of landlords who do not wish to engage.

Options 3: Management Orders

9. Alternatively the Council could use other powers in the Housing Act 2004. Specifically Management Orders where there are comprehensive and serious management failures. The use of Management Orders (MOs) is resource intensive working on individual properties and therefore on individual properties does not provide value for money. We would not be able to tackle a large number of HMO's utilising MO's. The use of MO's can also be considered to be heavy handed and can cause problems for the Council when attempting to work collaboratively with landlords.
10. Both option 2 and 3 are expensive and do not generate an income to support the activity. Such works would therefore likely be funded from Council Tax. This seems unfair when many of the problems are due to poor management practices by landlords or agents operating in a buoyant market place. Options 4 and 5 (Additional licensing) are self financing with the fee covering the cost of licensing; the fee will be paid by the applicants and not by the wider community.

Option 4: Additional Licensing in targeted wards

11. The attached report provides clear evidence that there are a significant proportion of HMOs in certain wards which are being managed ineffectively so as to give rise, or be likely to give rise, to one or more

particular problems either for those occupying the HMOs or for members of the public. The wards being:

- a) Hull Road;
- b) Guildhall;
- c) Fishergate;
- d) Heworth;
- e) Micklegate;
- f) Osbaldwick and Derwent; and
- g) Fulford and Heslington

12. Specifically the report highlights key issues around both poor housing conditions and poor management issues both in terms of properties which have recently been licensed following the extension of mandatory HMO licensing and also the wider evidence base gathered from the Office for National Statistics (ONS), Building Research Establishment evidence, Energy Performance Certificate data and complaints data (pages 13-31).

Option 5: Additional Licensing citywide

13. Alternatively licensing could be extended to all HMOs in the city across all wards and would include all smaller multi-occupied properties not currently subjected to Mandatory HMO Licensing. However, there isn't a strong evidence base that HMO's are poorly managed outside of the wards named in option 4.
14. Critically when the Council is considering to introduce any additional licensing scheme (option 4 or 5) it must be able to demonstrate that it does so in line with the provisions of the Housing Act 2004. The Council can evidence that it has tried different approaches to improve the sector including initially thorough the voluntary code of practice run in partnership with the Universities and then the Council operated voluntary accreditation scheme. Clearly both these schemes have not been effective with dealing with the problems and that poor conditions and management of HMOs have continued to be identified.

Recommendation and Scrutiny Steer

15. Our recommended proposal is therefore that we introduce a targeted HMO licensing scheme in the wards with the highest concentrations and poorest conditions. Our proposal seeks to consult about this approach to help tackle the problems we identified in the evidence base.

16. Should the Executive in March determine that there is sufficient evidence to consider an additional licensing scheme there is a statutory requirement to consult for a minimum period of 10 weeks on any proposals to designate an area as being subject to additional licensing. Covid presents a challenge in terms of undertaking consultation. Should the Executive decide to undertake a consultation on additional HMO licensing, the following process is proposed:

- Online questionnaire tailored to gauge a cross section of views on the proposals from our residents promoted through ward and communities groups ;
- Online focus groups with key stakeholder groups such as the universities and student bodies;
- Other key organisations such as the Police, HMRC, and Border Agency
- Drop in sessions in various parts of the City (subject to Covid restrictions at the time);
- E-communications through social media and the Council`s website; and
- Online Workshops with Landlords and Letting Agents.

Upon completion of the consultation, a report detailing the results would be referred back to the Executive for consideration at a future meeting. This would include a range of options which respond to the consultation results.

17. This report is brought before Scrutiny to gain insight from the committee in respect of the general proposals and to help shape any recommendations presented to Executive in March. Specifically Scrutiny are asked to comment on the following issues:

- i. Does Scrutiny support the creation of an additional licensing regime based on the evidence provided here and subject to the results of a 10 week consultation?
- ii. Are Scrutiny supportive of a proposal for a targeted licensing regime (Option 4) which seeks to tackle the HMO's in the wards where evidence suggests standards are poorest?
- iii. Are Scrutiny supportive of the proposed consultation approach outlined within this report in respect to additional HMO licensing?

18. Comments made by Scrutiny Committee will be summarised and presented to Executive in order to inform their decision in March.

19. Financial Implications

For options 1, 4 and 5 above, a fee income would be generated to fund the resources required to operate these schemes. However, options 2 and 3 could not be funded from existing budget or resources and would require additional funding.

20. Legal Implications

Comments from the legal team have been incorporated into the main contents of the report.

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