

**Additional Licensing of Houses in Multiple Occupation in Harlow: Response to adverse comments made by consultees**

The Council in giving consideration to whether to adopt an additional licensing scheme under the Housing Act 2004 for HMOs in Harlow, consulted stakeholders as set out in the report to the Council's Community Citizenship Regeneration and Environment Working Group on 5<sup>th</sup> September 2013.

With positive comments about the proposals a number of concerns were raised in responses and it appears appropriate to send to all of the consultees that provided contact details a response to all such matters raised.

The Council's Cabinet will give further consideration to adopting a scheme in Harlow at its meeting on 16 October 2014. The Cabinet will consider all of the matters raised by consultees, and the text of this letter will be appended to the report for Cabinet's consideration.

Each of the matters raised is dealt with in turn below.

**Licensing will deter landlords from operating HMOs in Harlow which will reduce the availability of low cost housing.**

Multiply occupied homes are not generally considered to be an ideal form of tenure but the Council recognises that under current circumstances they can reasonably meet the needs of some tenants, and so can make a legitimate contribution to the housing stock. However to offer satisfactory housing, HMOs must be properly managed by decent landlords, must be properly adapted particularly in respect of fire prevention and means of escape in case of fire, and must have a reasonable number of tenants. It is clear that there are good landlords and bad landlords, and that good landlords will invest in their property and will see the benefits of adhering to suitable standards. Licensing will deter bad landlords to the benefit of good landlords removing competition from the market.

**The consultation document states that HMOs are associated with complaints of antisocial behaviour and similar concerns without giving evidence.**

**It would be relevant to have numbers and type of complaint and following on the action taken by the council, including figures for enforcement and prosecutions, if any.**

**Police records would show antisocial behaviour.**

**Records of complaints about HMOs should be compared with records for the rest of the district and especially where there are areas of social housing**

**Licensing will not address nuisance and antisocial behaviour at HMOs.**

The Harlow District Council Private Sector House Condition Survey statistical sampling methodology to give information about the housing stock in Harlow, and estimated that there were 300 HMOs in Harlow, of a total stock including social housing of 34,900.

In the period 01/04/07 to 31/03/12 the Council recorded 4922 complaints about noise, bonfires, pests, and refuse. Of these complaints, 443 were associated with addresses known by the Council to be HMOs, and 4479 were associated with other residential addresses. If the estimate of HMOs given by the stock condition survey is used, this equates to 1.477 complaints per HMO, and 0.130 complaints per other residential address. The number of complaints about HMOs calculated in this way is 11.4 times the number about other housing types.

It may be suggested that the number of HMOs has grown since 2007/08. While the Council does not have evidence of this, to allow for the possibility the Council used a figure of 550 HMOs to repeat the calculation given above and the number of complaints about HMOs calculated in this way is over six times the number made about other housing types.

The Council has not analysed the number of abatement notices and equivalent actions or prosecutions taken, however in common with enforcement authorities nationally the Council seeks to resolve complaints informally where possible and takes a proportionate and progressive approach to enforcement, so such actions are always likely to be infrequent in relation to complaints and are not necessarily a guide to the extent of disturbance. The Council's intent in raising the issue is to demonstrate that HMOs are disproportionately a source of concern for residents.

Police records are very unlikely to give an accurate picture of the impact of antisocial behaviour as the police will become involved in only the most aggravated cases.

Harlow is a new town in which the vast majority of housing was built to be rented by the Development Corporation. Social housing is evenly interspersed with other tenures, most privately owned property being the result of "Right to Buy" legislation. Areas developed more recently have lower proportions of social housing, but also do not contain HMOs known to the Council. It would not be practicable to attempt to compare areas with HMOs to areas with social housing in Harlow, as these are for practical purposes, the same.

**The consultation document states that 92% of HMOs were in need of works. A breakdown of this statistic would be very welcome.**

A case records relating to HMOs that the Council had cause to visit in the period 2008 to 2010 were examined. It was noted that there had been significant deficiencies against the Council's adopted standards for amenity management and means of escape in case of fire which would have warranted service of an enforcement notice in 92% of the cases reviewed. Such deficiencies typically relate to the lack of fire doors and or automatic fire detection systems, and less frequently, to inadequate sanitary accommodation in relation to the number of residents. The Council will not usually serve an enforcement notice where it is satisfied that the

necessary improvements will otherwise be made: nonetheless this is an illustration of the extent to which HMOs occupied without proper reference to the Council fail to meet reasonable housing standards.

**Under present legislation the council already has adequate powers to impose the same standards that it would require under licensing and so licensing is not necessary.**

There is at present no legal restraint on landlords converting property into houses in multiple occupation without reference to the Council's standards. It is not an offence to let an HMO that does not meet the Council's standards. Under a licensing scheme HMOs will have to be licensed before they can be occupied. A licensing scheme also allows for the exclusion of landlords who do not satisfy the "fit and proper person" test.

**The Council has adequate staff within existing budgets to visit HMOs and take the necessary enforcement action.**

The Council in common with other local authorities has experienced substantial reductions in funding from central Government. The Council does not have adequate staff within existing budgets to carry out the work that would be done to implement a licensing scheme.

**If a landlord has been declared as a fit and proper person by another local authority, whether for an HMO Licence under the 2006 act, or by means of an additional or selective licensing system, can this be transported?**

If the Council can reasonably satisfy itself that the "Fit and Proper Person" test is met by reference to another local authority it would do so.

**An annual licence is not economic for the Council or landlords. On a five year licence the property can be inspected every year.**

**The proposed fees are higher than the current fee for mandatory HMO licences.**

**Licensing fees represent a burden which will affect landlord's profit or will be passed on to tenants. Charging licensing fees will be a revenue raising exercise for the Council.**

The Council in setting fees has aimed to recover the full cost of administering the scheme and in doing so has been mindful of the principles established in relation to the EU Services Directive (Directive 2006/123/EC of 12 December 2006 on services in the internal market). Thus it undertakes to review its costs annually, and ensure that no surplus is generated over time. It is intended that the scheme will be self-supporting but it will not raise revenue for other Council functions.

It is the case that the scheme is novel to the Council, and the Council in proposing fees has relied in part on the experience of other authorities in making estimates of its costs. Should the scheme be implemented fees may need to be adjusted in the

light of experience in Harlow, to ensure that no surplus is generated. Annual licensing is more likely to allow for any such adjustment and will provide a steady income stream to support enforcement work. It also provides greater flexibility for landlords to respond to change by moving into an out of the HMO market. The proposed fees and charges structure does favour low risk HMOs which consequently will require less work to inspect and re-licence.

**What is so special about landlords in Harlow who happen to have a property in Oxford?**

**Could you explain the NLA scheme – they do not issue HMO licences, we assume you mean accreditation.**

The Council wishes to recognise and support participation in legitimate accreditation schemes. The consultation document mentions the NLA scheme as one such. The Council in drafting the proposals was aware of the scheme in Oxford and the intention was to cite it as an example of a suitable local scheme. It is accepted that this was not at all clear. The Council will consider recognition of any relevant appropriate accreditation scheme, national or local.

**Licensing is unlikely to speed up remedial works and tenant complaints are unlikely to be altered.**

The intention of the licencing scheme is that remedial works will not be required. HMOs will be licensed before they are occupied. Tenant complaints are rare for a number of well recognised reasons, but the likelihood of legitimate complaint will be minimised under a successful licensing scheme.

**Bad landlords are just as unlikely to declare their ownership of an HMO to the Council under a licensing arrangement.**

Without a licensing scheme a landlord has no obligation to declare ownership of an HMO. Under a licensing scheme it will be an offense to fail to licence an HMO.

**An annual inspection is an expensive bureaucratic overkill.**

The scheme proposes risk-rating of HMOs. Low risk HMOs will not be subject to annual inspection and relicensing fees will be reduced to reflect that.

**Your proposed penalty for not declaring your HMO to the Council at £200 is ludicrously low. Given the high cost of compliance for the good landlords, surely a penalty of the order of around £5,000 per HMO would be needed to make non-declaration unattractive.**

The maximum penalty on conviction for operating an unlicensed HMO under an additional licensing scheme is a fine of £20,000. Landlords might also have control of unlicensed HMOs taken away from them, and be ordered to repay up to 12 months' rent to the Council or their tenants. This is the principal disincentive. The Council however does not receive fines paid in to courts, and the proposed fee is intended to

reflect the Council's administrative costs outside the considerations of any court action.

**The licence proposal appears to be a result of a Council meeting that did not fairly represent Landlord's interests in relation HMOs.**

Landlords were invited to attend the meeting of the Council's Community Citizenship Regeneration and Environment Overview Working Group on 29 November 2012 and those attending were given a reasonable opportunity to address the meeting. That meeting did not determine on implementation of an Additional Licensing scheme. Landlords have been consulted on proposals to implement a scheme. No decision has yet been made on whether to adopt a scheme: matters raised on consultation will be properly considered before a decision is reached.