

## **Review of Westminster City Council's Additional HMO Licensing scheme**

September 2021

### **1.0 Summary**

- 1.1 Full Council resolved to approve that the Council adopt an HMO Additional Licensing Scheme to improve safety and management standards. The Designation was made on 21 April 2021 and the scheme came into effect on 30 August 2021. The Designation comes to an end on 30 August 2026.
- 1.2 The Council has a duty to undertake a review of any discretionary licensing scheme it has implemented to determine whether it is achieving the schemes' objectives.
- 1.3 Since the policy was first developed, the City and its economy has changed, with the Covid19 pandemic fundamentally changing the way people are choosing to live and work, it is necessary for the Council to undertake a review to inform a decision on whether the scheme will continue to achieve its objectives in its current framework.
- 1.4 Therefore a review of Westminster's additional Houses in Multiple Occupation (HMO) licensing scheme designation was conducted in September 2021.
- 1.5 The review concludes that whilst there are predicted to be 9,539 HMOs across City, research has previously shown that s.254 HMOs (shared amenity/flat shares) are more likely to:
- have Category 1 hazards
  - require enforcement intervention
  - be at increased risk of landlord's exploiting vulnerable communities
- 1.6 The Council is concerned that rented accommodation may fall into further disrepair and place our most vulnerable tenants at further risk. With an estimated c4,800 s.254 HMOs that would require a licence under the scheme, it is the Council's view that resources are prioritised for identification, licensing, and inspection of these properties.
- 1.7 s.257s are therefore recommended to be removed from the designation at this time. The Council will continue to improve standards and conditions of the communal parts within s.257 HMOs through existing housing and environmental health regulatory frameworks.

### **2.0 Background Legislative context**

- 2.1 Additional HMO licensing is intended to help the Council tackle poor management, improve safety, poor housing conditions and overcrowding in HMOs not subject to mandatory licensing by providing additional powers to regulate them.
- 2.2 Under section 56(2), part 2 of the Housing Act 2004, a local authority can introduce an additional HMO licensing scheme where there is evidence that a significant proportion of the HMOs in its area are being managed sufficiently ineffectively as to give rise, or to be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public.
- 2.3 In Westminster, the additional HMO licensing scheme has extended the requirement to license to smaller HMOs occupied by 3 or more persons who form more than one household (section 254 of the HA 2004) and certain buildings converted wholly into self-contained flats (section 257 of the HA 2004). Section 257 HMOs are those where the standard of conversion does not meet the 1991 building regulation standard and where fewer than two-thirds of the flats are owner-occupied.
- 2.4 This is in addition to mandatory HMO licensing which all local authorities must implement, which, put simply, applies to properties that are occupied by five or more persons forming more than one household.
- 2.5 Under s:60(3) local authorities must “from time to time review the operation of any designation made by them”. A decision to renew or revoke a discretionary HMO licensing scheme cannot be made until the existing scheme is evaluated. This report fulfils this statutory requirement.

### **3.0 HMO Licensing in Westminster: Introduction and implementation of the scheme**

3.1 The initial research carried out by Metastreet in 2019 found:

- there were approximately 9,539 HMOs dispersed across all wards within the borough. 4758 of these are s.254 HMOs and a further 4781 are s.257 HMOs.
- s.254 HMOs are typically the cheapest accommodation type in our borough, but also house the most vulnerable tenants and generate the most service requests and complaints to the Council about housing standards and conditions. They are most likely to provide sub-standard living conditions exposing people to cold rooms, damp and severe overcrowding and require the most enforcement action to be taken under Housing and Public Health legislation. Of the estimated 4,758 shared amenities HMOs (s.254) across the borough, 83% are expected to have at least one Category One Hazard defined under the Housing Health and Safety Rating System (HHSRS).
- s.257 HMOs contain any number of different occupants including leaseholders, freeholders, and tenants. Ownership and control of such properties can be complex with

right to manage companies, letting agents, managing agents and absentee owners all of whom may have some interest in how a building is run and may not always agree on the best way forward. The requirement that less than two thirds of the flats are owner occupied means that a block's status as a s.257 HMO may vary periodically according to its occupation. The other significant feature of these HMOs is that the fire precautions are lacking or not up to the standards of the average new building because all were converted prior to the 1991 building regulations (or subsequently but were never made compliant) which required structural fire safety precautions to a higher standard. Hence retrospective smoke detectors, fire alarms and emergency lighting may be required.

- 3.2 Following this research, it was considered that to complement existing enforcement tools<sup>1</sup> to tackle poor standards and safety risks that come to our attention, licensing would enable pro-active identification of HMOs and therefore target resources at properties most in need of intervention. It would also enable officers to set consistent standards, utilise enforcement powers more effectively, ensure management and the safety and wellbeing of occupants is prioritised, and ensure that a single party takes responsibility for the communal parts of a building conversion.
- 3.3 Since the scheme went live on 30 August 2021, 825 HMO applications have been made. 85% of this total are s.254 HMOs and the remaining are s.257 HMOs.
- 3.4 Applications are made online. As part of the processing procedure an application must be verified. This involves carrying out essential background checks which include validating the submitted documentation, ensuring suitable management and funding arrangements are in place, ensuring the most appropriate person is the proposed licence holder, obtaining/checking details of all relevant persons and carrying out all 'fit and proper' checks.
- 3.5 Once validated, the HMO is inspected by an environmental health officer. Inspecting ensures that all necessary works are addressed during the licensing period and that the permitted number is an accurate reflection of the room sizes and facilities provided. It also allows an opportunity for occupants to be involved in the process as they are always notified of the visit. All licences are subject to a mandatory consultation period, which gives all interested parties the opportunity to make comments, before the final licence is issued.

#### **4.0 Covid19 Impact and Implications for HMOs**

- 4.1 Since the policy was first developed, the City and its economy has changed, with the Covid19 pandemic fundamentally changing the way people are choosing to live and work. The Council is concerned that this may have an undue effect on living standards in the

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<sup>1</sup> The range of enforcement options include (not exhaustive) Prosecution under Housing Act 2004 (and associated regulations); Civil penalty notices (CPNs); Rent Repayment Orders (RROs); Management Orders; Banning Orders

private rented sector. It is considered that s.254 HMO standards are at greater risk of this effect (outlined in section three above) and there is an increased risk of landlords who exploit vulnerable residents in poor and dangerous housing conditions, fall further into disrepair.

4.4 The Council has therefore considered that whilst the living and safety standards of s.257 HMOs are a significant priority, this will continue to be successfully managed through existing enforcement powers.

4.5 This will then free up resources to have greater focus, and take targeted and pro-active interventions against the highest risk s.254 HMOs.

## **6.0 Conclusion**

- It is clear that additional HMO licensing will have a positive impact on improving property and management standards within Westminster - ultimately improving the safety, comfort and well-being of residents.
- However, there is concern that the impact of Covid19 will disproportionately affect private rented housing standards, and in particular s.254 HMOs are more likely to be impacted by this effect, and resources need to be prepared to manage this.
- To enable the Council to focus its resources on s.254 HMOs, it is recommended that s.257 HMOs are removed from the designation at this time.
- Those who have already applied for a licence through the Council, will receive an automatic refund of their paid licence fee.
- The Council will therefore continue to improve standards and conditions of the communal parts within s.257 HMOs through existing housing and environmental health regulatory frameworks.
- HMO licensing is acknowledged to be a long-term strategy to drive up standards. It is an evolving scheme and we want to learn from our experiences as well as the ongoing feedback we will receive from landlords and tenants. Westminster's Additional HMO Licensing scheme and its impact will be kept under close review alongside a wider review of PRS conditions to help shape and inform decisions.