



City of Westminster

Cabinet Member

Decision Maker:	Cabinet Member for Climate Action, Regeneration & Renters
Date:	25 November 2022
Classification:	Part Exempt
Title:	Use of Interim Management Orders to Tackle Rogue Landlords
Wards Affected:	All
Policy Context:	Contributes to ensuring that Private Sector Tenants are protected from rogue landlords.
Key Decision:	Key Decision
Financial Summary:	There are no significant financial implications associated with this proposal and the resulting arrangement.
Report of:	Nicky Crouch, Interim Director of Public Protection & Licensing

1. Executive Summary

This report highlights the use of Interim Management Orders (IMOs) as a tool for dealing with unlicensed House in Multiple Occupancy (HMO)s and protecting the tenants of those properties. It seeks approval to use IMOs and recommends approval for collaborative working with another London Borough to achieve those aims.

2. Recommendations

- To approve the use of Interim Management Orders
- To agree that Council enter into an agreement with LB of Waltham Forest to manage properties secured by means of an Interim Management Order.

3. Reasons for Decision

The Council are legally required to apply for an Interim Management Order to effectively manage a licensable house in multiple occupation where such a premises is found to be unlicensed, and no suitable licensee can be found.

4. Background, including Policy Context

4.1 What are Interim Management Orders?

Interim and Final Management Orders are to be used when the licensing regime fails. They allow the local authority to take over the management of a house in multiple occupation (HMO) where there is no fit and proper person available to manage it.

A local authority may make an Interim Management Order (IMO) to ensure that immediate steps are taken to protect the health, safety or welfare of occupiers and adjoining occupiers/owners and any other steps are taken to ensure the proper management of the house pending further action.

A local authority must make an IMO where the property is an HMO that should be licensed but is not, and either:

- there is no reasonable prospect of it being licensed or;
- the health and safety condition is satisfied

An IMO must also be made where the house or HMO is licensed, and either the:

- licence has been revoked but the revocation is not yet in force, and once revocation is in force there is no foreseeable prospect of a licence being granted or;
- the health and safety condition is satisfied

The legal powers to implement Interim management Orders are contained in Part 4 of the Housing Act 2004 and specifically sections 102 to 131. There is a duty on local authorities to serve Interim Management orders in some cases. In other cases the power is discretionary. The duty arises in all cases where there is an HMO which should be licensed but is not licensed and there is no reasonable prospect of it being licensed in the near future or the Health and Safety condition is satisfied.

The powers contained in the Act allow the local authority to Act as the landlord of the property and collect rent. We can undertake repairs to the property and maintain the property and the tenancies. After 12 months we must either return the property to the owner or seek a Final Management Order which puts the property in to the long term management of the local authority. Owners and landlords have a right of appeal to the First Tier Tribunal if they wish to challenge the Local Authority.

The local authority has discretion to make an IMO if the property is a non-licensable HMO, and the First-tier Tribunal (Property Chamber) authorises the making of the IMO, which it can only do if the health and safety condition is satisfied.

Our intention is to take action on unlicensed HMOs and therefore there is no need to prove the Health and Safety condition.

Interim Management Orders last a maximum of 12 months. The principle behind IMOs is that the local authority should look to find a suitable person to licence the HMO during that period. If it is not possible to grant a licence to an appropriate person the local authority can issue a final Management order taking control of the property for a further five years.

4.2 Which HMOS would be suitable for IMOs.

Whilst in principle any unlicensed HMOs would be suitable for IMOs the intention initially is to trial IMOs on the most severe cases and specifically those used by rogue landlord.

There may also be other HMO properties where we have been unable to issue a licence or have refused a licence because the property or the licence holder is unsuitable. A recent case where an IMO might be appropriate involves a landlord who has run into severe financial difficulties and may be unable to manage the property adequately. If this is the case we would be unable to issue a licence and the IMO would be a necessary step to protect the tenants. In most cases we need to act quickly and therefore having an approved procedure in place is necessary.

4.3 How would the IMO be managed

IMO's are managed in a similar way to any other tenancy and can be run by any suitably entity, be that a private management company or an in-house team. The management company must comply with the conditions of the IMO but are separate from the landlord and work with the local authority to ensure that the property is well managed.

4.4 Why use the Waltham Forest in house team?

Interim Management Orders are a little used power historically, even though they have been in existence since 2004. The principal reason for this is that local authorities have little in house experience of operating Houses in Multiple Occupation and most private sector agents do not want to put the effort into running what can be problematic premises.

- 4.5 Lettings Waltham Forest (LWF) was formed in 2012 as a social lettings agency managing properties for private landlords under the housing homelessness department. It transitioned to offering commercial services in 2016 when it also started managing IMO/FMO's as well as other private properties. Waltham Forest have been using IMOs for the last 8 years and have developed a proven service which meets our needs in managing HMOs. They are currently managing 10 IMOs for Waltham Forest consisting of 26 tenancies and 40 other properties. The advantages to us are as follows:

- Experienced management service which is repeatable across Boroughs
- Removes the need for WCC to have bespoke in-house service
- Fees are paid out of rent collected
- All minor repairs and day to day management are carried out by the lettings agency
- Protects residents from exploitation
- Enables the local authority to meet its statutory obligations and puts pressure on the landlord to find alternative manager
- Using an experienced manager will help refute any claims from the landlord over payments or rents.

- 4.6 The legal agreement between Westminster City Council and Waltham Forest Lettings will be subject to appropriate checks by the Council's contracts team to ensure that the contract protects the interests of the Council. The Legal Services have been involved in drafting a suitable agreement to use for IMO with LB Waltham Forest.

5. Financial Implications

There are no significant financial implications associated with this proposal and the resulting arrangement. The volume of IMOs which are estimated on an annual basis is below four and the work associated with processing them will be absorbed into the Housing Enforcement team's existing work streams. Any costs incurred by the team for work on IMOs will be recovered from rent from tenants on a cost recovery basis. Costs which are not recovered by rent received will be incorporated in a charge on the property.

6. Legal Implications

The report brings out the legal powers available to the Council to implement IMO under the Housing Act 2004.

The proposal is to enter into a services agreement with London Borough of Waltham Forest for them to use IMOs to manage the Council's properties. An appropriate services agreement has been negotiated with LB Waltham Forest and is available subject to the approval of the recommendation to be used.

This will be outside the Public Contracts Regulations purview as an exemption available for cooperation between two public authorities for provision of public functions.

7. Carbon Impact

The carbon impact is likely to be neutral given there is no material change in occupancy or the building. If however the house has significant excess cold issues then works to the property may include energy efficiency measures including insulation. This will have a net long term positive benefit.

8. Equalities Impact Assessment

As this is a legal duty the equalities impact assessment has already been undertaken by Parliament. The net overall effect of an interim management order should be positive as the Council is protecting tenants from hazardous properties and potential harassment and illegal eviction.

9. Consultation

There has been no ward consultation as these powers apply City wide and could affect any ward where there is a problematic HMO.

If you have any queries about this Report or wish to inspect any of the Background Papers, please contact:

Mark Pledger mpledger@westminster.gov.uk

APPENDICES

Appendix A: (Exempt from Publication) Draft service level agreement WCC and LWF for the management of properties subject to Interim Management Orders

Appendix B: Other Implications

BACKGROUND PAPERS

- None

NB: For individual Cabinet Member reports only

For completion by the **Cabinet Member for Climate Action, Regeneration & Renters**

Declaration of Interest

I have <no interest to declare / to declare an interest> in respect of this report

Signed: 

Date: 25/11/2022

NAME: **Matt Noble**

State nature of interest if any:

(N.B: If you have an interest, you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled

Use of Interim Management Orders to Tackle Rogue Landlords and reject any alternative options which are referred to but not recommended.

Signed:



Cabinet Member for Climate Action, Regeneration & Renters

25/11/2022

Date:

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:

If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Director of Law, City Treasurer and, if there are resources implications, the Director of People Services

(or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.

