

REPORT OF CABINET		
<b>Executive response to Living in Hackney Scrutiny Commission review – Licensing the Private Rented Sector</b>  Cabinet: 24 <sup>th</sup> March 2014 Council: 26 <sup>th</sup> March 2014	<b>Classification</b> <b>Public</b>	<b>Enclosures</b>
	<b>Ward(s) affected</b> <b>All</b>	

## 1. INTRODUCTION

- 1.1 Nearly one in three households in Hackney now privately rent their home, well ahead of owner-occupation levels in the Borough. This proportion is likely to keep growing quickly on current trends. However, despite major ongoing boosts to the Borough's housing supply, competition for private lettings is such that rent rises locally have recently far outstripped inflation, especially for homes with three or more bedrooms.
- 1.2 Of particular concern is the impact of the Government's Housing Benefit (HB) restrictions, which have been accompanied by tenancy terminations, a doubling of statutory homelessness cases from the sector, large shortfalls of HB against rent, as well as increased overcrowding.
- 1.3 These rapid changes provide the context for the Commission's review, as growing numbers of private tenants locally struggle to afford or meet their rent. Increased numbers, especially those most at risk, are also exposed to the possibility of poor management and/or property standards. There are also concerns that some landlords may not be taking appropriate action to address some tenants' anti-social behaviour such as loud music and noisy parties.
- 1.4 To this end, the Council is looking closely at whether the grounds currently exist for using its statutory discretionary licensing powers to ensure that high standards of private landlordism are secured across the sector as a whole, with the worst landlords driven out if they are not prepared to meet those standards.
- 1.5 The Commission's investigation has been particularly helpful as it has:
  - initiated a significant, wider engagement and supplementary evidence-gathering process with landlords, tenants, and other residents
  - carefully considered a number of pertinent issues that will need to be taken into account as part of the Council's final decision-making process
- 1.6 I welcome its conclusions and the thrust of its recommendations, and commend this report to Cabinet.

## 2. RECOMMENDATION

- 2.1 Cabinet are asked to approve the content of this response.

### 3. EXECUTIVE RESPONSE TO SCRUTINY COMMISSION RECOMMENDATIONS

**Lead Councillor:** Cllr Karen Alcock, Cabinet Member for Property and Housing Policy

Recommendation 1	Executive Response to recommendation 1
<p><b><u>The Housing Directorate should continue to collect responses to our survey and the findings should be considered when a final view on licensing is reached.</u></b></p> <p>We feel that the survey findings offer a useful insight into attitudes towards wider licensing, and the experiences of private renting tenants and the wider community. A sample of 169 is a reasonable one and we again thank all respondents completing it and those who helped us reach out to them. We would also like to thank the Council's Housing Strategy Manager John Hall, whose insight and suggestions were invaluable to the final product.</p> <p>However, the time constraints of this review meant that it considers survey responses received over a limited period time period (a little over 5 weeks).</p> <p>At the point of writing, the assessment of the quantitative evidence base for licensing is still ongoing.</p> <p>The Commission are keen that residents of Hackney and landlords operating here continue to be given full opportunity to give their views around possible wider licensing of the private rented sector.</p> <p>We have made the full datasets from the survey available to Housing Directorate. Officers should build on the responses already received and continue to market the survey throughout its evidence gathering. They should analyse the survey at a given point to produce a more representative insight into views and experiences of residents and landlords and this should be used to help inform the final decision on licensing.</p>	<p>We fully accept this recommendation. Arrangements are being put in hand to ensure that the survey is re-started as soon as possible as part of ongoing monitoring of conditions and circumstances in the sector and views in relation to it. This will also include a review of whether there is scope to further maximise response rates, especially from tenants on HB. Consideration will also be given to the benefits of holding focus groups with tenants and landlords to drill down into local experiences and views.</p> <p>It should also be noted that in the event that the Authority decides there are sufficient grounds to justify use of its discretionary licensing powers, then any proposals will be subject to a major public consultation exercise prior to a final decision.</p>

Recommendation 2	Executive Response to recommendation 2
<p data-bbox="102 203 794 389"><b><u>Investigating all complaints of poor conditions through to completion where a tenant has reported an issue but vacated at the point of the complaint being considered.</u></b></p> <p data-bbox="102 427 794 613">The Commission was concerned to hear of cases of retaliatory eviction, including in cases where evictions resulted from tenants reporting issues to the Council. It wants to do everything that is possible to tackle this.</p> <p data-bbox="102 651 794 1122">In response to a question raised, the Commission was advised by the Private Sector Housing Service that if a tenant making a complaint of poor conditions in a single family dwelling had vacated a property before an inspection occurred, it was likely that no further action would be taken. The Commission is concerned that this approach could encourage retaliatory eviction; if a landlord evicts a tenant before their complaint is fully investigated by the local authority, then there may be a delay in them being forced into remedial action.</p> <p data-bbox="102 1160 794 1451">The Council should adapt their approach and ensure that when a complaining tenant vacates a property before an inspection takes place, that they continue to progress the case through to a conclusion. Equal attention should be given to cases where complainants have since vacated as cases where they have not.</p>	<p data-bbox="802 203 1492 389">Where poor conditions/hazards are identified by officers through an inspection, then action to remedy the defects is pursued until it has been remedied, regardless of whether and when the tenant subsequently leaves.</p> <p data-bbox="802 427 1492 680">However, if a tenant leaves the property <i>prior to a council inspection taking place</i> to view a reported defect/hazard, it would have a significant detrimental impact on staff caseloads and response times to pursue access to the property to enable an inspection to take place.</p> <p data-bbox="802 719 1492 1122">In practice, it is very rare for an inspection to not take place whilst the reporting tenant is still in the property. Tenants are made aware from their initial contact with the Council's Private Sector Housing Unit (PSHU) to seek advice from the Council's Housing Advice and Options Service in the event that the landlord attempts retaliatory action. Tenants are advised and informed of their rights under the law, especially if an illegal eviction is attempted.</p> <p data-bbox="802 1160 1492 1637">However, it is also acknowledged that for the purposes of monitoring conditions in the private rented sector, it would be helpful to establish the extent to which landlord intimidation, including retaliatory threats to terminate the tenancy, may lay behind any unexpected vacation of accommodation by a tenant who has reported a defect/hazard. To this end, PSHU will endeavour to follow-up all such cases to capture the reasons for a tenant's departure, and, if appropriate, remind the tenant of where further advice can be obtained.</p>

Recommendation 3	Executive Response to recommendation 3
<p data-bbox="102 1823 794 2009"><b><u>The Commission should be given an assessment of the likely impact of an Additional Licensing scheme, in the event of this being identified as the way forward.</u></b></p> <p data-bbox="102 2047 794 2112">The Commission is concerned about any decision being taken which may have an</p>	<p data-bbox="802 1823 1492 2047">We fully accept this recommendation. Liaison will take place with Authorities that have implemented Additional-only Licensing schemes, as well as those currently considering their introduction or extension.</p> <p data-bbox="802 2085 1492 2112">In addition, a full risk assessment is currently</p>

Recommendation 3	Executive Response to recommendation 3
<p>impact on the ability of particular members the community to continue living here. Any proposal to introduce licensing (through an Additional scheme) to those Homes in Multiple Occupation not currently subject to mandatory licensing, but not to single family dwellings (through a Selective scheme), should be made only after consultation with other councils which have implemented Additional-only licensing schemes.</p> <p>This consultation should be used to gauge any detrimental effect that an Additional Licensing Scheme (when implemented in isolation) could have on the availability of units at the cheaper ends of the market.</p>	<p>being prepared on the potential licensing (and other) options available to the Authority for addressing poor landlordism.</p> <p>It should also be noted that the strength of the Borough's private housing market, exacerbated by the Government's Housing Benefit (HB) restrictions, is such that the number of private tenants on HB is already starting to fall - particularly quickly as a proportion of all private rented tenants in the Borough.</p>

Recommendation 4	Executive Response to recommendation 4
<p><b>The implementation of any wider licensing of the private rented sector would benefit from effective use of predictive analysis techniques. Part A and B assume that the Council will not be able to inspect every property that is subject of a license application.</b></p> <p>A. For properties subject of a license application, an inspections model should be developed which is informed by an assessed level of risk of particular property types and of particular areas. This will schedule inspections based on the likelihood of finding poor management and conditions. Relevant data to feed into this model should be wide ranging and could include complaints data of the Private Sector Housing Service, noise complaints information and waste data (fly tipping etc).</p> <p>B. This model should be updated regularly (formally every 6 months) to reflect learning through license scheme administration of where problem properties are located and or what their typical characteristics are.</p> <p>C. The Council should develop a model to help it identify unlicensed properties. This should be used to help</p>	<p>We fully accept this recommendation. Prior to any scheme that we may seek to implement, we plan to consider the use of predictive analysis techniques in confirming whether there are justifiable grounds for seeking to introduce any scheme.</p>

Recommendation 4	Executive Response to recommendation 4
<p>investigation work to move more properties into a licensing framework.</p> <p>D. This model should be updated regularly (formally every 6 months) to reflect learning of where eligible unlicensed properties are in the borough.</p>	

Recommendation 5	Executive Response to recommendation 5
<p><b>The ability to recover costs incurred from implementing wider licensing may rest on the ability to encompass all areas of activity within a definition of the ‘administration’ of the scheme.</b></p> <p><b>Aided by legal advice, the Council should (in the event of wider licensing being introduced) produce as broad a definition as possible of the administration of a scheme. The Council should look to include as many of the following into the administration of a scheme as is possible from a legal view:</b></p> <ul style="list-style-type: none"> <li>• Officer time to check paper or online applications.</li> <li>• ICT Case Management System to store information</li> <li>• Intelligent system to: <ul style="list-style-type: none"> <li>○ Identify the properties which should be inspected as part of the license application – see recommendation under Alternative 4.</li> <li>○ Help inform targeting of unlicensed privately rented properties.</li> </ul> </li> <li>• Inspections of relevant properties that are subject of a license application with inspection schedules based on risk.</li> <li>• The informal tackling of poor conditions and management which come to light through the administration of the scheme. As mentioned earlier, the Council resolves an estimated 90% of complaints regarding conditions via informal action. The administration of the scheme should include this work</li> </ul>	<p>We fully accept this recommendation. We have already been liaising with other authorities on this issue. It is also envisaged that Counsel’s Opinion will be sought shortly on what can be legitimately charged against any license fee income.</p>

Recommendation 5	Executive Response to recommendation 5
<p>when the need for it is identified as a result of the administration of licensing.</p> <ul style="list-style-type: none"> <li>• Enforcement against poor conditions identified as part of the licensing exercise where landlords do not agree to remedy problems informally.</li> <li>• Informal and formal action against landlords not initially coming forward for a license and identified as part of Intelligent System work, to get them licensed.</li> <li>• The informal tackling of poor conditions and management identified as part of the work to identify unlicensed landlords.</li> </ul> <p>Enforcement against poor conditions identified as part of the exercise to identify unlicensed properties where landlords do not agree to remedy problems informally.</p>	

**Lead Director:** Charlotte Graves