

Consultation on proposals for an Additional Licensing Scheme for HMOs in Brighton & Hove

Summary

The council is currently consulting on two proposed licensing schemes for private rented housing in the city. These are:

- A citywide Additional Licensing Scheme for smaller houses in multiple occupation (HMOs)¹ which are not covered by mandatory licensing
- A Selective Licensing Scheme for other private rented homes in 12 wards in the city

This document is designed to inform you about the council's proposal to introduce a citywide Additional Licensing Scheme for smaller HMOs. The scheme is proposed to run for up to five years. The full background to the decision to pursue a scheme is given in the PRS discretionary licensing scheme report which was considered at the Housing & New Homes Committee on 16 November 2016.

The report and a further report to committee on 14 June 2017 can be found in the committee meeting section of the council's website at www.brighton-hove.gov.uk/committees. The reports summarise the information councillors considered at the meetings, namely:

- How the scheme would fit with the council's overall Housing Strategy for the city
- Why the council believes the scheme is necessary
- The evidence to show that the scheme is necessary
- How the scheme would operate, and how it would be funded
- The outcomes sought from the scheme

¹ A house in multiple occupation is a property rented out by at least 3 people who are not from 1 'household' (eg a family) but share facilities like the bathroom and kitchen.

What is additional licensing?

The Housing Act 2004 requires local authorities to licence HMOs if they have three or more storeys and accommodate more than five people who form two or more households. This is called **mandatory licensing**. The act also gives authorities the power to introduce licensing schemes for other HMOs if certain conditions are met. This is called **additional licensing** and the council has been operating schemes in parts of the city since 2012. The other form of licensing within the act is called **selective licensing**. This enables authorities to also licence privately rented accommodation other than HMOs if certain conditions are met.

By requiring landlords to licence their properties, the council aims to ensure they are a 'fit and proper' person and through compliance with the licence conditions, are providing well managed homes. Further information on this can be found in Part 2 of the Housing Act 2004.

The proposal

The proposal is to implement a citywide Additional Licensing Scheme which would apply to HMOs smaller than those to which the mandatory scheme applies. These would be properties of two or more storeys occupied by three or more people who are not from the same family and who share a kitchen, bathroom or toilet.

Failure to license a property would be a criminal offence and could result in prosecution and an unlimited fine.

Existing Additional Licensing Schemes

At present the council has two Additional Licensing Schemes running in the following wards in the city:

Lewes Road Area: Moulsecoomb & Bevendean, Hollingdean & Stanmer, Hanover & Elm Grove, St Peter's & North Laine and Queens Park. This scheme has been running since November 2012 and is due to end in November 2017.

City Centre: Preston Park, Regency, East Brighton, Goldsmid, Westbourne, Central Hove, and Brunswick & Adelaide. This scheme has been running since November 2015 and is due to end in November 2020, if not superseded by a city-wide scheme.

Why does the council think licensing is necessary?

A key theme of the city's Housing Strategy has been the significant growth in the private rented sector (PRS) in Brighton & Hove. In 2011, the census reported that the PRS stood at 37,518 homes, which is 31% of all housing stock in the city and the ninth largest in England and Wales. The sector increased by 46%, an extra 10,691 homes, between 2001 and 2011. In 2011, 17 of the city's 21 wards exceeded the regional and national average of 15% of households living in private rented homes; and the sector is expected to have grown in the six years since 2011.

The increase shows how important the sector is as a source of accommodation in Brighton & Hove. It can provide people with flexible, accessible and good quality homes and the council believes that all tenants should live in a good quality home.

The quality of management and maintenance of the city's PRS homes is inconsistent. The high demand for rented housing means that the market alone will not drive up standards. Poor quality or overcrowded housing can impact on people's health and their personal development, particularly for younger people and families. Concerns about housing quality were supported by respondents to the consultation for the Housing Strategy 2015, the Private Sector Housing Scrutiny Panel 2015 and, more recently, the Fairness Commission Report 2016 which calls on the council to take more action to improve the quality of homes and management across the PRS.

Five possible alternative options for tackling

problem housing in the city were identified and considered at Housing & New Homes Committee in November 2016. These were:

- A Do nothing**
- B Use existing reactive powers**
- C Targeted use of Management Orders**
- D Area based voluntary accreditation**
- E Informal area action**

The strengths and weaknesses of each option highlighted that none is expected to bring about the scale of improvement that the evidence suggests is required.

How does additional licensing fit with the council's overall approach to Housing in Brighton & Hove?

The Housing Strategy 2015 is a key chapter of the Sustainable Community Strategy and a fundamental piece of evidence to support the City Plan and our Local Housing Investment Plan, enabling us to continue our drive to help address the housing needs of the city.

The proposal for a citywide Additional Licensing Scheme forms part of the council's ambition to deliver good quality housing in the city. Priority 2 of the Housing Strategy 2015 is to improve housing quality. Themes within this priority include the PRS and HMOs. A large majority of respondents to the Housing Strategy consultation wanted the introduction of a register of all private sector landlords and for the council to take action to improve quality and standards.

The Homeless Strategy 2014 identified that homelessness from the PRS is consistently the single biggest cause of homelessness in the city. Improving the standards of accommodation and management in the PRS is seen as one of a number of tools to help reduce homelessness from this sector.

The council therefore recognises the importance of the PRS within the housing market, and indeed makes use of it as a positive housing option. Well-managed private rented housing in the city helps the council meet some of its housing objectives and, is part of an overall, well balanced housing market.

Additional licensing fits with this approach. A city-wide Additional Licensing Scheme which sets out a clear set of conditions and expectations would, it is believed, bring consistency in the way in HMOs are managed and would tackle the problems which are currently in evidence in parts of the sector.

What evidence is there to support the proposal?

The law states that to introduce an Additional Licensing Scheme the council must identify that a significant proportion of HMO properties are being managed ineffectively so that they are causing problems, or have the potential to cause particular problems, either for the occupants or the general public.

Evidence from mandatory licensing and additional licensing of HMOs in Brighton & Hove has highlighted that in almost nine in 10 (88%) cases the properties required improvements to ensure they are fit and safe for occupation.

The council has traditionally made use of its housing powers to improve housing conditions. With the current HMO licensing schemes, housing quality issues identified during property inspections have led to 12,619 special conditions being attached to licences that have resulted in improvements to 2,629 homes, benefitting an estimated 13,000 tenants.

The council commissioned independent research² to collect the evidence and used a number of sources, such as anti-social behaviour (ASB) and noise complaints, police data, requests for assistance to the council's Private Sector Housing Team regarding property disrepair, public health issues, waste complaints and safety concerns such as dwelling/HMO fires.

The research found that:

- An average of 80 requests for assistance are made each month relating to disrepair issues, safety concerns, public health issues and waste complaints
- Requests for assistance and noise complaints are several times more likely in relation to HMOs than to other properties

The rate of requests for assistance related to already licensed HMOs could be due to a number of reasons, which all demonstrate the need for ongoing licensing of these properties:

- Tenants having more confidence to report issues once the property is licenced and having knowledge of where to report such issues
- Higher tenant turnover impacting on dwelling quality
- Low level of proactive property management

Despite the work done to date, ASB and poor property conditions in relation to HMOs continue to cause concern.

The council believes that the evidence supports a scheme of additional licensing citywide. It considers that it is a proportionate, reasonable and strategic

response to the issues with management, property conditions and ASB affecting HMOs in the city that existing interventions have not been able to resolve.

Additional licensing is not, however, a stand-alone response. It works alongside the other powers available to the council and the other initiatives that the council has supported to improve the PRS, such as promoting opportunities for energy efficiency improvements in homes; attendance and ongoing dialogue through community meetings, landlord/agent meetings and student fairs; and through responding to service requests.

How would the scheme operate, and how much would it cost

Under an Additional Licensing Scheme, anyone who owns and manages an HMO (which is not covered by the mandatory scheme or which is statutorily exempt) would have to apply to the council for a licence.

The council would issue a licence if it is satisfied that the proposed licence holder is a 'fit and proper' person and that there are suitable management arrangements in place.

If the council is not satisfied it may decide to refuse the licence, reduce the term of the licence and/or impose further conditions on the licence holder.

Following the application, the property would be inspected and the applicant sent a draft licence together with the conditions that must be met. There would be compliance checks carried out once a licence has been granted to ensure they fulfil all of the conditions of the licence.

The proposed licence fees per property are:

Additional Licensing Scheme – Shared house HMOs occupied under a single tenancy				
No of occupiers	3-5	6-8	9-11	10-12
Standard initial fee	£670	£710	£750	£790*
Prompted initial fee	£810	£850	£890	£930*
Standard renewal fee	£430	£450	£470	£490**
Prompted renewal fee	£570	£590	£610	£630**
* For HMOs larger than this, add £40 for up to 3 additional occupiers over 12				
** For HMOs larger than this, add £20 for up to 3 additional occupiers over 12				

² The case for an extension to discretionary property licensing in Brighton & Hove - Report by Mayhew Harper Associates Ltd September 2016

Additional Licensing Scheme – HMOs occupied under multiple tenancies

No of lettings	2-5	6-8	9-11	10-12
Standard initial fee	£850	£1,010	£1,170	£1,330*
Prompted initial fee	£990	£1,150	£1,310	£1470*
Standard renewal fee	£520	£600	£680	£760**
Prompted renewal fee	£660	£740	£820	£900**

* For HMOs larger than this, add £160 for each additional letting over 12

** For HMOs larger than this, add £80 for each additional letting over 12

- Improvement of the image and desirability of the area
- Enhancement of the reputation of the PRS as a tenure of choice

How you can have your say on this consultation

You can do this by completing the online questionnaire at www.brighton-hove.gov.uk/prs-licensing-consultation.

Printed copies of the questionnaire are also available from council public offices and at the city libraries. If you require this information in an alternative format, such as large print, email PrsLicensingConsultation@brighton-hove.gov.uk or call 01273 293156.

Further details and a list of frequently asked questions can be found at www.brighton-hove.gov.uk/prs-licensing-consultation.

The consultation closes at midnight on Sunday 10 September 2017. All responses must be received by this time.

What happens next?

At the end of the consultation, responses will be considered and a further report will be presented to Housing & New Homes Committee in November 2017 for members to decide whether to proceed with a citywide Additional Licensing Scheme.

The council effectively has three options:

- To do nothing and not implement a scheme of additional licensing citywide. The Lewes Road scheme covering five wards ends in November 2017 and therefore only the city centre scheme covering seven wards will remain in operation until 2020
- To amend the proposal after consideration of the consultation responses before serving a statutory designation notice, or
- If the proposal remains unamended after consideration of the consultation responses, proceed to serving a statutory designation notice.

It is proposed that the prompted fee would apply where a licence application has not been made proactively and the council has to carry out investigation and/or chase up work to ensure that an application is made.

The licence fee can only be used for the administration of the scheme. Further information on the proposed fee structure is available in the Housing & New Homes Committee report dated 14 June 2017.

Licence conditions

The licence conditions are the key to improving property conditions and management, which is the outcome sought. The proposed licence conditions can be found on the council's website at www.brighton-hove.gov.uk/prs-licensing-consultation.

The Housing Act 2004 requires that every licence has certain mandatory conditions included. The council can also apply other discretionary conditions. The proposed conditions have been developed to ensure improved housing standards, and to reduce anti social behaviour.

Outcomes being sought

The following benefits are expected:

- Proactive and consistent council led approach towards identifying, and tackling complex issues of management, standards and ASB across the area to the benefit of tenants, responsible landlords and the local community.
- Support for landlords in dealing with ASB