

**OXFORD CITY COUNCIL
HOUSING SCRUTINY – 25th January 2006
EXECUTIVE BOARD – 20th February 2006**

Report of: Business Manager, Environmental Health

Title: Housing Act 2004 - Delegated Powers

Ward: All

**Report author: Gail Siddall
Contact Tel No: 01865 252563
E-mail address: gsiddall@oxford.gov.uk**

Key Decision: Yes

Lead Member: Councillor Turner

Scrutiny responsibility: Housing

RECOMMENDATIONS

That the Executive Board agrees to:

1. Delegate powers to the Environmental Health Business Manager to carry out relevant functions under the Housing Act 2004
2. Ask Council to amend the scheme of delegation contained within the Constitution.
3. Note that further reports will be presented regarding the financial implications of interim and final management orders when more information is available.

1 Summary

This report outlines the powers within the Housing Act 2004 in relation to private sector accommodation.

2. Council's Vision and strategic aims

The Council is committed to improve the environment in which we live and work. The provisions of the Housing Act 2004 support this aim by raising living standards in private accommodation within the City.

3. Background

- a. The Housing Act 2004 received royal assent on the 18th November 2004. The Act is a major piece of legislation that changes the approach in England and Wales to improving the quality of homes in the private sector, whether owner occupied, tenanted or leased. The Act will replace the current provisions in relation to unfit homes, and provisions in relation to houses in multiple occupation (HMOs) including control orders and HMO registration.
- b. The timetable for the implementation of the Act is attached at Appendix 2 and it is clear that it is the intention of the Government to introduce the provisions relating to the new Housing, Health and Safety Rating System (HHSRS) and HMO licensing in April 2006, with the enforcement powers being introduced in July 2006.
- c. The following changes affecting private accommodation have been introduced by the Act:
 - A new definition of a HMO – this will mean in general that properties occupied by more than 2 unrelated persons will be classed as a HMO
 - A mandatory HMO licensing scheme to cover specific HMOs – currently this scheme will cover HMOs of 3 storeys with 5 or more persons. Landlords will be charged a fee for licensing which is the subject of a separate report.
 - The Act also allows for local authorities to introduce additional HMO licensing schemes to cover other classes of HMO. Such schemes will need Secretary of State approval. (The Council has already decided to request such approval to ensure that some problematic HMOs in the City, which are outside the threshold of mandatory licensing, are covered.)
 - A new method of assessing hazards and conditions within all residential accommodation and a new method of enforcement in relation to identified hazards – (the Health and Safety Rating System (HHSRS)).
 - New enforcement duties in relation to HMOs whereby an Interim Management Order (IMO) can be made in relation to an unlicensed HMO. An IMO means that the Council takes over the day-to-day management of a HMO which is done in consultation with the owner. If that action fails to deal with the problem a Final Management Order (FMO) may be made. A FMO lasts up to 5 years and during that time the Council will manage the house including accommodating tenants without the landlord's permission. A management scheme setting out the way the property will be managed by

the Local Authority will have to be drawn up before such an order is served.

- Changes in relation to empty homes – this will include the power to lease empty properties from landlords.

4 Delegated Powers

To enable provisions of the Housing Act 2004 to be enforced, the Executive Board is asked to delegate powers to the Business Unit Manager of Environmental Health in order that the functions listed in Appendix 1 can be carried out as necessary.

5 Financial Implications

The majority of this new work will be absorbed within existing budgets. However, costs arising from the service of interim and final management orders are currently un-budgeted. Whilst the Council is under a duty to make such orders where qualifying circumstances exist, it is expected that this will not be a frequent occurrence, however the response to licensing is not known at this stage. It is clear that once financial implications are known in relation to individual HMOs further reports will be required.

6 Appendices

- a) Appendix 1 – Functions to be delegated to Environmental Health Business Manager
- b) Appendix 2 – The Government timetable for the implementation of the Act

THIS REPORT HAS BEEN SEEN AND APPROVED BY:
Portfolio Holder: (Cllr Turner - Housing)
Legal and Democratic Services: (Jeremy Thomas)
Financial Management: (Andy Collett)

Appendix 1

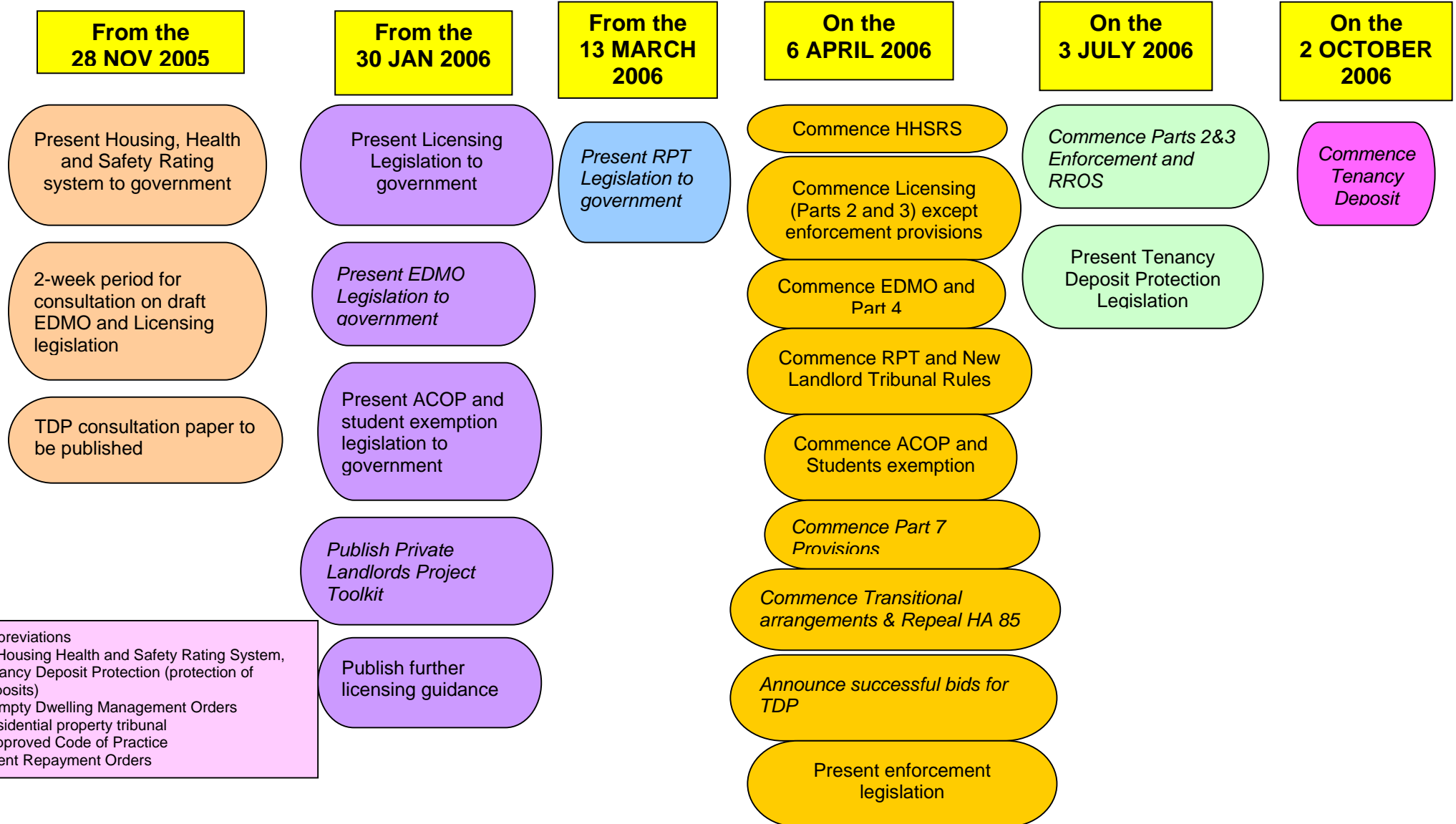
1. To exercise the powers conferred on District Councils under the Housing Act 2004 – Part 1
2. To carry out inspections of any residential premises to see if a category 1 or category 2 hazard exists.
3. To take appropriate enforcement action where a category 1 or category 2 hazard exists, this includes
 - a. Serving an improvement notice (Housing Act 2004 s11 – s12)
 - b. Making a prohibition order (Housing Act 2004 s20 - s21)
 - c. Serving a hazard awareness notice (Housing Act 2004 s28 - 29)
 - d. Taking emergency remedial action (Housing Act 2004 s40)
 - e. Making an emergency prohibition order (Housing Act 2004 s43)
4. To suspend improvement notices and to review such improvement notices (Housing Act 2004 s14)
5. To revoke or vary improvement notices and to suspend and review suspended improvement notices. (Housing Act 2004 s16)
6. To suspend prohibition orders and to review such prohibition orders (Housing Act 2004 s23)
7. To revoke or vary prohibition orders and to suspend and review suspended prohibition orders. (Housing Act 2004 s25)
8. To serve an overcrowding notice (Housing Act 2004 s139)
9. To revoke or vary overcrowding notice (Housing Act 2004 s144)
10. To take enforcement action under Schedule 3 (works in default)
11. To exercise the powers conferred on District Councils under the Housing Act 2004 – Part 2
12. To operate and manage any HMO licensing scheme
13. To compile and maintain a public register of licensed HMOs (Housing Act 2004 s232)
14. To impose conditions relating to the management of a HMO (Housing Act 2004 s67)
15. To serve or decide not to serve a temporary exemption notice (Housing Act 2004 s62)

16. To require a fee for HMO licensing
17. To grant or refuse a HMO licence (Housing Act 2004 s64)
18. To vary or revoke a HMO licence (Housing Act 2004 s69 -70)
19. To apply to a residential property tribunal to make a rent repayment order and to serve a notice of intended proceedings (Housing Act 2004 s73)
20. To make an interim and final management order (Housing Act 2004 s 102 and s113)
21. To authorise officers to enter premises to carry out work under Housing Act 2004 sec 131, Schedule 3 para. 3(4) and Schedule 7 para.25
22. To require the production of documents under section 235
23. To enter premises for the purposes of survey and examination under section 239
24. To apply to a justice of the peace for a warrant to authorise entry
25. To authorise officers for enforcement purposes (Housing Act 2004 section 243)

HOUSING ACT 2004

Appendix 2

Government Time table for implementation of HHSRS, Licensing, EDMO and TDS



KEY to abbreviations

- HHSRS - Housing Health and Safety Rating System,
- TDP - Tenancy Deposit Protection (protection of tenant's deposits)
- EDMO - Empty Dwelling Management Orders
- RPT - Residential property tribunal
- ACOP - Approved Code of Practice
- RROS - Rent Repayment Orders