

**To:** Value and Performance Scrutiny Committee

**Date:** 28 February 2012

**Report of:** Head of Environmental Development

**Title of Report:** An update on the licensing of HMOs

## Summary and Recommendations

**Purpose of report:** Provide an update on progress after the first year of the new licensing scheme for HMOs in Oxford

**Report Approved by:** Head of Environmental Development

**Policy Framework:** Meeting Housing Needs

**Recommendation(s):** To note the report and ask Councillors to publicise the scheme to local residents and ask them to report HMOs to the Environmental Development service

## **Introduction**

1. Houses in Multiple Occupation (HMOs) are a corporate priority for Oxford City Council because more than 20% of the city's residents live in an HMO yet surveys show a significant proportion provide the worst housing conditions in the city and generate problems for local residents through poor management.

2. National legislation has meant that from 2006 all HMOs of three or more storeys with five or more occupiers require a licence and this resulted in 551 properties being improved and licensed.

3. Using powers granted by the previous government, the Council approved a new licensing scheme for Houses in Multiple Occupation in October 2010. The first phase of the scheme came into force on the 24<sup>th</sup> January 2011 when all the remaining three or more storey HMOs and all the two storey HMOs with five or more occupiers became licensable. The second phase began on the 30<sup>th</sup> January 2012 when all the remaining HMOs in the City became licensable.

4. Oxford City Council is the only local authority in the country to have a scheme that requires all the HMOs across the whole of its district to be licensed. This approach is of great interest to many other local authorities and officers and councillors from larger cities such as Bristol, Southampton and Nottingham have visited Oxford to learn how we are tackling problem HMOs.

5. The licensing scheme is totally self funding so the council taxpayer is not funding the work and the Council is only allowed to cover its costs and will not be making a profit from those who pay licence fees.

### **The Licensing Process**

6. HMO licensing is a process where the dutyholders are reluctant to apply and see there being no financial gain from obtaining a licence, only a penalty for failing to not have one in the event of being caught.

7. The process includes submitting a lengthy application form and the required certification, making a payment, carrying out an inspection, writing a report and drafting a licence with conditions, consulting with all the interested parties for 2 weeks and then issuing the licence. It takes on average 17 weeks from making an application to issuing a licence and in more complicated cases e.g. where there are representations against conditions, payment delays, failure to provide required certificates, etc it can taken far longer.

8. Improvements have been made to the application system and an online application form and payment system has been developed to replace, as far as possible, paper applications. The process has gone totally paperless, with any paper forms being scanned into a database and correspondence, draft licences and consultation is all carried out by email. Even the licence is sent as an electronic version by email.

9. Over 90% of applications are being made online, which is a great achievement and it is the best performing online application system operated by the Council. Officers from the Business Improvement service have commented that the best performance in other local authorities for similar systems is only 65%.

10. The councillors have been insistent that a HMO licence is not issued without an inspection of the property being carried out. This means that the licensing process has teeth and that the licence conditions are based on what the officers found during their inspection.

### **The First Phase**

11. Following consultation with the letting agents and portfolio landlords it was agreed to introduce a phasing agreement whereby the agent or landlord provided the Council with a full list of all the addresses that required licensing and they signed an agreement that they would submit an agreed number of applications very month. This allowed them to manage the workload and

stagger payments for their clients and also helped us to manage the resources needed for the inspection process.

12. Where possible an individual inspector was assigned to a landlord or agent so that a rapport was developed.

13. By the end of December 2011 the figures were as follows:

Initial applications	Payments received	HMOs inspected	Licences issued
728	609	473	338

14. To put these figures into perspective, a total of 282 applications were made for HMOs in the first year of mandatory licensing and after nearly 5 years a total of 551 HMOs had been licensed. The productivity of the scheme has therefore been very high.

15. The first phase applications are near to completion, with a further 179 initial applications being received in January 2012 just as the start of the second phase approached.

16. The original estimate was that there would be approximately 800 HMOs requiring a license in the first phase so this has been proved to be an underestimate of 10%.

### **First Phase results**

17. Only 11 licences have been issued without the need to add conditions requiring additional work. This is good evidence of the need for the scheme. The commonest reason for additional conditions on licences is to improve fire safety, typically a heat detector in the kitchen and an upgrade or installation of a smoke detection system.

18. Only 30 draft licences have been subject to a representation from the landlord or another interested party who wish to challenge a condition being imposed on the licence. These are reviewed by a senior officer and if the landlord is still not satisfied they can appeal to the Residential Property Tribunal (RPT) to have the case heard independently. There has not been an appeal against an HMO licence to the RPT since licensing began in April 2006, which is an indication of the consistency and pragmatism of the officers carrying out the work.

19. There has been concern expressed that HMO licensing would result in a reduction of valuable accommodation space in Oxford, when there is already excessive demand for rented property. It was feared that this would be brought about by landlords leaving the market altogether, or choosing to only rent to families or that inspections would result in box rooms being prohibited or the numbers allowed to occupy properties being reduced. To date there have only been a small number of cases brought to our attention of sharers being evicted, which has been counter balanced by landlords contacting us

for advice on what is needed to turn their property into an HMO and others increasing their capacity as there is now no way to avoid licensing by reducing tenant numbers. Less than 10 undersized and uninhabitable rooms have been prohibited and the fears of a widespread loss of box room accommodation has proved unfounded.

20. There have also been some allegations from two very vocal landlords who have claimed that the Council have been gold plating the standards required for HMOs in Oxford. There are no national standards for HMOs and local authorities are required to develop their own standards. Our standards were compared to 14 other similar local authorities and no significant differences were found.

### **Enforcement Action**

21. The Environmental Development service has a strong reputation for enforcement action across all of its functions and according to CIPFA Oxford has been the toughest district council in the country with regards to enforcement action in the private rented sector for several years. An HMO Enforcement Team has been set up with the primary purpose of investigating unlicensed and poorly run HMOs.

22. Known addresses and properties owned by problem landlords were visited soon after the scheme started. This has resulted in further enforcement action and an outstanding prosecution. Landlords who are no longer considered fit and proper people to hold a licence because they have been prosecuted under the Housing Act 2004 have been forced to find someone else to be the licence holder. In one case where the landlord was unable to find anyone prepared to hold the licence an Interim Management Order was issued which meant that the Council took over the landlord function of the property, including collecting the rent.

23. All the letting agents in the City who had not submitted any licence applications after 6 months were visited and warned in a follow up letter that they should be getting their landlord clients to submit licence applications.

24. In December warning letters were sent to approximately 2000 properties that were suspected of being HMOs due to records on the database and these are being followed up by visits to properties that have not responded, following further checks on data and information sources.

25. In the first year of licensing one letting agent was prosecuted for managing an unsafe HMO and another accepted a formal caution for failing to licence a property. A total of seven successful prosecutions have been taken so far against landlords with a further three in the court process and over 40 cases are currently under formal investigation. Formal action for failing to licence HMOs began after a period of 6 months to allow landlords sufficient time to find out about the scheme and submit applications.

## **The Second Phase**

26. The second phase only commenced on the 30th January 2012, but the scale of the task ahead can be measured by the number of applications received already. By the 16th February we had received 583 applications, which is already 80% of the first phase total.

27. The Business Improvement service have carried out a business process improvement exercise in anticipation of the significant increase in licence applications. This indicated that improvements could be made, particularly with regard to the use of a new software package to speed up the process and cope with the workload, However, the exercise also showed that the team is under-resourced and that 11 further staff were needed even after the improvements had been implemented. The software has been ordered and is due to be implemented next month.

28. Residents and Students groups have been asked to report any HMOs to the Environmental Development service on [hmos@oxford.gov.uk](mailto:hmos@oxford.gov.uk) and it would be helpful if Councillors could help get this message out to their communities.

## **Staffing and Finance**

29. A total of 6 additional staff have been required to process the licence applications and at present there are 5 new officers carrying out inspection work. External contractors are also being used to cope with peaks and troughs. To date the number of inspections per officer is 3 times the national average.

30. Although the scheme is self financing, £180,000 was included in the budget for the first year on an invest to save basis which will be repaid over the following 5 years. The financial calculations for the scheme have been projected to the end of 2011/12 and they indicate that £30,000 of the £180,000 will be able to be rolled forward into the 2012/13 year.

## **Recommendations**

29. Members are recommended to:

- (a) Note the report,
- (b) Publicise the scheme to local residents and ask them to report HMOs to the Environmental Development service.

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**Background papers: None**

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