

<b>LONDON BOROUGH OF CAMDEN</b>	<b>WARDS:</b> All
<b>REPORT TITLE</b> Review of the Council's additional Houses in Multiple Occupation licensing scheme and proposal to consult on renewal of scheme (SC/2025/08)	
<b>REPORT OF</b> Cabinet Member for Better Homes	
<b>FOR SUBMISSION TO</b> Housing Scrutiny Committee Cabinet	<b>DATE</b> 13 January 2025 15 January 2025
<b>STRATEGIC CONTEXT</b>  We Make Camden is our joint vision for the borough, developed in partnership with our community. A key ambition is that everyone should have a place they call home, and that Camden has enough decent, safe, warm and family-friendly housing to support our communities. The Way We Work is the Council's response to We Make Camden and confirms the Councils commitment to addressing this housing challenge.  The pandemic highlighted the importance of housing on nearly every aspect of people's lives. Many people had to use their home to work, study, exercise, socialise and build a family. With the cost of housing, and home ownership in particular being an unachievable goal, there is an increasing demand for property within the private rented sector and the need alternative housing options. With 36% of households in Camden now living in the private rented sector, it is more important than ever to ensure properties provide good quality accomodation to all residents who chose to make Camden their home.  The current additional Houses in Multiple Occupation licensing scheme has been in operation since December 2015, recognising that such schemes contribute towards longer-term strategies to effectively improve standards and conditions within their boroughs. The regulatory oversight an additional licensing scheme brings, with its focus on improving the safety standards, conditions and management of these homes within the private rented sector, clearly aligns with meeting the housing challenge set out in the Councils vision.	
<b>SUMMARY OF REPORT</b>  This report details the review into the current Houses in Multiple Occupation licensing scheme designation and seeks agreement to a statutory consultation on proposals to introduce a new designation for 5-years, upon the expiry of the current scheme on 8 December 2025. Whilst there has been improvements in conditions as a result of the current scheme, more work is needed, due to non-compliance with licence conditions and those seeking to avoid licensing.  <b>Local Government Act 1972 – Access to Information</b>	

No documents that require listing were used in the preparation of this report.

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**RECOMMENDATIONS**

The Housing Scrutiny Committee is asked to consider the report and make any recommendation to Cabinet.

The Cabinet is asked to:

- (i) note the findings of the review into the operation of the current boroughwide additional Houses in Multiple Occupation (HMO) licensing scheme designation set out at paragraphs 2.0 to 2.9 and Appendix 1, and agree that it is appropriate for the designation to continue until its expiry on 8 December 2025 and not be revoked.
- (ii) agree to commence a formal statutory consultation on a proposed new designation of a boroughwide additional HMO licensing scheme, proposed to take effect on the expiry of the current designation, with most of the same terms as the current additional licensing designation as set out in paragraph 2.10.
- (iii) delegate authority to the the Executive Director Supporting Communities to take all necessary steps to put (ii) above into effect.

The Leader is asked to:

delegate authority to the Cabinet Member for Better Homes to make the final decision on the new designation of the additional HMO licensing scheme (to include the setting of any new or revised fees or charges), following the close of the formal consultation.

Signed:



Date: 2<sup>nd</sup> January 2025

## **1. CONTEXT AND BACKGROUND**

- 1.1. The proportion of Camden residents renting in the private rented sector has grown significantly over the last 20 years, increasing by a third to 36%, which is now the boroughs largest tenure. The sector plays a crucial role in delivering a range of housing options for private sector tenants within Camden. Despite there being many good landlords operating in the borough, there are a minority that seek to exploit vulnerable tenants by providing sub-standard accommodation.
- 1.2. The Council renewed a borough-wide “additional licensing scheme” for houses in multiple occupation (HMOs) on 8 December 2020, to build on the success of the initial scheme to improve management standards and conditions and target the worst housing in the borough. A HMO is a rental property where multiple individuals or households live together and share common facilities, such as kitchens and bathrooms.
- 1.3. The Council has a statutory duty to undertake a review of the operation of any discretionary licensing scheme it has designated, to determine whether it is achieving its objectives. If following the review, it considers it appropriate to do so, the authority may revoke the designation. The Councils current scheme is due to expire on 8 December 2025. A review has been undertaken to inform a decision on whether to revoke the current scheme or not and has also been used to inform the recommendation to consult on a proposed new designation for a further 5-years on the expiry of the existing scheme. (The review report can be found at Appendix 1).
- 1.4. The Council held a themed debate on the Private Rented Sector on 14 November 2024, which recognised the increase in size of this important sector. With average monthly rents at £2,000, the sector is increasingly being seen to be unaffordable alongside sub-standard living conditions. The Council considers housing a fundamental right and wants to champion the cause of private renters, recognising that the proposals under the Renters’ Rights Bill to end no fault evictions and improve standards is a critical first step. The Council is ready to collaborate with the newly elected Labour Government as they introduce the bill and to ensure the reforms translate into real change for Camden residents. The Council’s goal is to work with responsible landlords to create a sustainable rental market that prioritises the welfare of Camden’s communities.

## **2. PROPOSAL AND REASONS**

- 2.1. The current “additional HMO licensing scheme” requires that landlords licence the following types of properties:
  - Small HMOs occupied by three or more persons who form more than one household (“section 254 HMOs”); and
  - Certain buildings converted wholly into self-contained flats (known as “section 257” HMOs after the section of the Housing Act 2004).

- 2.2. The additional licensing scheme runs alongside mandatory HMO licensing, which all local authorities must implement, and applies to properties that are occupied by five or more persons forming more than one household. In the absence of an additional licensing scheme, the HMOs noted above would not be subject to the same regulatory oversight as mandatory HMOs and would operate with no licence in place.
- 2.3. Data modelling by the Building Research Establishment indicates that Camden has five times the number of properties which meet the requirement for an additional HMO licence (6,200), compared to the properties covered by the mandatory scheme alone (1,250). These properties therefore make up a significant proportion of the private rented sector within the Borough.
- 2.4. Where a licence is issued, it places a legal obligation on the licence holder to comply with the conditions. These can relate to carrying out improvement works to the property, ensuring the HMO is not overcrowded, ensuring good management arrangements are in place, and a range of requirements relating conditions to improve the health and safety of the occupying tenants.
- 2.5. The recent review of the current scheme has found it is resulting in clear improvements to these privately rented properties. These relate to the safety and condition of the HMOs, as well as their general management. Of licences issued to date, 94% have required works to bring the property up to standard, with the most common improvements relating to fire safety. The range of other works have included electrical safety improvements, measures to help prevent damp and mould conditions, installing carbon monoxide detectors, ensuring tenants have adequate controls for their own heating, and more general improvements to cooking and washing facilities.
- 2.6. Compliance inspections carried out during the scheme have found that in approximately 80% of cases the licence holder had either commenced or completed the works required to bring their property up to the required standards. Whilst these compliance rates are encouraging, the remaining 20% of properties have urgent works to improve the safety and conditions for tenants which have not been started. Appropriate enforcement action is being taken in those cases in accordance with the enforcement policy.
- 2.7. Where the physical improvements are carried out, it will have a positive impact on tenant's health, safety and wellbeing, and where good management is in place, it ensures complaints relating to issues such as antisocial behaviour, refuse or noise, should be responded to and dealt with effectively and efficiently.
- 2.8. A licence is typically issued for 5 years. The current designation introduced a policy of issuing 1-year licences for applications where there is a concern regarding management or condition and standard of the property. The aim of this policy was to focus the attention of the landlord or managing agent towards matters that had been neglected or overlooked regarding their obligations from the previous licence, or in their preparation for applying for a renewal. This also introduced a degree of fairness to those submitting timely applications and completing works required as part of their licence conditions, as they receive the maximum 5-year licence, providing there are no other causes for concern. At the time of the review, 331 (17%) of licences issued had been for 1-year,

indicating a significant portion of HMOs in the borough were found to be operating with ineffective or poor management, or had not been brought up to standard.

- 2.9. Despite it being a legal requirement for landlords to apply for a licence under the scheme, the number of unlicensed HMOs being found, via a combination of complaints and intelligence leads, remains high. The effectiveness of the scheme relies on it being enforced robustly, and the Council actively pursues these landlords, with over 100 Civil Penalty Notices (CPNs) having been issued for the offence of failing to licence, or breaching licence conditions (where a licence is in place). In the most serious cases, where the property conditions or management arrangements are so poor, the Council has taken several prosecutions with over £300,000 of fines having been handed down by the Courts to landlords or managing agents found guilty of licensing offences.
- 2.10. The current scheme has been shown to be effective in terms of improving conditions in standards and management and is being enforced thoroughly. Subject to consultation, any new scheme would be introduced on the same terms as the current one, with no significant proposed changes. It would continue to apply to all HMOs that are not subject to mandatory licencing, it would include s257 HMOs and would apply borough wide. The policy of issuing reduced term (1-year) licences where there is cause for concern, would remain, as this has proved to be an effective way to highlight properties where standards or management need to improve. To provide consistency in approach and reassurance for landlords, there are currently no proposed changes to Camden's HMO standards: they would continue to apply in the same form as they do now (i.e.: minimum room sizes, the ratios of tenants to shared bathrooms, WCs, and kitchens etc).
- 2.11 **Fees:** The fee charged should cover the cost of administering the scheme as well as enforcement. A discount was introduced under the current scheme with the expectation that the processing of renewals would require less officer time to process. Unfortunately, experience to date has been that licence renewals are taking as long to complete as new applications. It is therefore proposed to remove the alternative fee for renewals, with just one fee for all application types moving forward. The licence for the proposed additional scheme will be:
- Part 1 Application fee – £1,318.00
  - Part 2 Enforcement fee - £252.00

Further details of the proposed fees can be found in appendix 2.

### **3. OPTIONS APPRAISAL**

#### **3.1. Option 1: Consultation on the renewal of the additional HMO licensing scheme**

- 3.2. The process of renewing the additional HMO licensing scheme is identical to that of bringing a new designation for the first time. The factors that a local authority must consider before renewing an additional scheme are:

- That any exercise of the power is consistent with the authority's overall housing strategy.
  - Seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector.
  - Consider whether there are any other courses of action available to them (of whatever nature) that might provide an effective method of dealing with the problem or problems in question,
  - That making the designation will significantly assist them to deal with the problem or problems (whether or not they take any other course of action as well).
- 3.3 The reasons and evidence for renewing the additional HMO licensing scheme are detailed within the review report, but in summary, and with reference to the wider considerations required by the Act:
- 3.4 The current scheme is being implemented effectively with high rates of compliance and improving standards across the sector. But there remain a significant proportion of HMOs being managed ineffectively, both in terms of some licence holders failing to comply with their licence conditions, and those properties which remain unlicensed.
- 3.5 Housing is identified as a key challenge in the Councils mission and associated strategies. It recognises that Housing is vital to nearly every aspect of people's lives and, since the pandemic, many people are spending more time in their home to work, study, exercise or socialise, which can create additional pressures, particularly for those living in shared accommodation. It highlights the fact that where you live can make or break your physical or mental health, and also recognises the high costs of housing mean people are needing to adapt to their circumstances but this might result in living in overcrowded conditions or poor-quality homes, or are cutting back on essential like heating, so may end up living in cold and damp conditions.
- 3.6 Camden's current Homelessness and Rough Sleeping Strategy acknowledges the role the licensing scheme plays in reducing homelessness, particularly those in less secure or temporary accommodation, by improving conditions without the tenant needing to request improvements. For HMO tenants who may be at risk of homelessness or illegal eviction, or who might be vulnerable or being exploited, the HMO team also provides tenancy relations support and advice via Safer Renting who provide specialist advice, support and advocacy to help protect tenants who are often victimised by criminal landlords. They have been a vital extra resource for tenants of HMOs in dealing with cases of harassment, illegal eviction (and threatened illegal eviction), rent deposit protection penalties, financial scams and many more.
- 3.7 Camden is committed to increasing the availability of housing supply by bringing long term empty properties back into use. The Empty Homes function is being incorporated into the Private Sector Housing team to allow for more effective targeting in dealing with long term empty properties. The Council offers Housing Supply Grants to help pay for refurbishments, with various lease agreements, guaranteed rents and other incentives offered to help bring these properties

back into use. Grant conditions can include ensuring the property meets the HMO standards where applicable, therefore ensuring a high standard of accommodation is provided for any future tenants.

- 3.8 The current “Camden Community Safety Partnership Plan” aims to create a safer borough for people to live, work, and visit. A key priority is to decrease antisocial behaviour and reduce its impact on individuals and communities. The licensing scheme can contribute to achieving this as it offers increased level of oversight and powers to tackle ASB via licence conditions. There is also a duty on the Council to ensure the licence is issued to someone who is both “fit and proper”, and is the most appropriate person to hold the licence, which ensures there is someone accountable for dealing with ASB should it occur at a licensed property.

### **3.9 Option 2: Revoke the scheme and rely on enforcement action only**

- 3.10 If the scheme were to be revoked, the Council would be reduced to relying on Part 1 of The Housing Act 2004. This contains provisions to inspect properties and use enforcement powers to serve notices where poor conditions or hazards are found. This approach relies on private sector tenants complaining to the Council in order to request an inspection. By its nature, many tenants are often hesitant to do this, fearing retaliatory action from their landlord. This reactive approach to housing conditions means tenants living in poor housing until conditions deteriorate to such an extent, they have no option other than to complain. After an inspection, there follows a process of assessing the hazards, serving an enforcement notice (which can be subject to a lengthy appeals process during which time no improvement works can be carried out) and deals with one complaint at a time. This way of working also doesn't enable the Council to regulate the management of the property in the way that a licensing scheme does.
- 3.11 HMO licensing is a proactive tool used to raise standards without the need to take legal/enforcement action against a landlord or managing agent. Standards are published on the Council website to enable landlords to be proactive and bring their properties up to standard. All new licence applications receive an inspection, which enables officers to prepare a licence to ensure the standards are met. This inspection is also used to highlight any general disrepair or management issues and is seen as more effective approach than by relying on reactive complaints alone.

## **4 WHAT ARE THE KEY IMPACTS / RISKS? HOW WILL THEY BE ADDRESSED?**

### **4.1. The key risks are set out below:**

- A delay in starting the consultation process could delay the renewal of the additional scheme. A gap between the expiry of the current scheme and a new scheme beginning should be avoided to prevent significant administrative complications.

- A timetable with key milestones has been prepared to mitigate this risk.
- In the current scheme, it was noted there is a delay between an application being validated and the inspection being carried out, followed by the licence being issued. This is due to the volume of applications being received and Camden's commitment to inspect all properties to ensure that licence conditions are tailored to each property and mitigate landlords interpreting standards incorrectly (compared to an approach of issuing the licence based purely on the information provided in the application with no inspection to confirm details like room sizes, the fire safety precautions, the number of occupants etc). A number of factors have been identified to mitigate this, including:
  - A new workflow for desktop licences: where the licence is a renewal (so has been inspected previously), there are no causes for concern, the works to bring it up to standard have been evidenced, and there have been no complaints, could receive a renewed licence with no need for a repeat inspection.
  - A new IT system is being introduced with the aim of streamlining all processes which will include the drafting and issuing of the licences.
- There is a high demand for experienced environmental health professionals (EHPs) regionally and nationally, with London boroughs competing for a limited pool of staff. To help mitigate against this, we have created a graduate level post to recruit those enrolled on a PRS course and have a number of students who are on the pathway towards (or have achieved) their EHP status. The Council is also sponsoring suitable candidates to complete a new private sector housing focused diploma to enable us to grow our own new staff. So far 4 officers have successfully completed the course and joined the service. A further three candidates are being sponsored for the 2024/25 academic year.
- The increase in fees could be challenged by landlords. To mitigate, there will be open and clear messaging about how the fee is calculated and used (See Appendix 2). Whilst landlords have previously stated the increased cost of licensing will be passed to tenants, there is little evidence that this has been occurring.
- The consultation could fail to reach a representative sample of the population in Camden and surrounding areas. A detailed communications plan has been formulated to ensure the consultation is well publicised and secures a representative sample of key stake. An initial Equalities Impact Assessment is attached in appendix 3.

## **5 CONSULTATION/ENGAGEMENT**

- 5.1 The Secretary of State's general approval to designate an area as subject to additional licensing is given where the local housing authority has consulted persons who are likely to be affected by it for not less than 10 weeks. The consultation methods have therefore been devised with a view to coming to the attention of groups likely to be affected, specifically tenants and landlords but also businesses and other residents, as well as those groups in neighbouring areas.
- 5.2 The proposal is to carry out the consultation for 10 weeks, with the aim to obtain at least 1,000 responses across all stakeholders. The consultation



communications plan is included in appendix 3. The response rate will be closely monitored, and the length of the consultation can be extended for a short time if necessary.

- 5.3 The formal consultation questions are attached in appendix 4.
- 5.4 An Equalities Impact Assessment has been completed, which can be found in appendix 3. The borough wide additional HMO licensing scheme has been in operation for just under 9-years, with no negative impacts for Camden residents as a result of the scheme. The assessment will be reviewed following the consultation exercise.

## **6 LEGAL IMPLICATIONS**

- 6.1 Under the Housing Act 2004 (the Act), local housing authorities may designate the area of their district or an area in their district as subject to additional licensing in relation to a description of HMO's specified in the designation. The authority must consider that a significant proportion of the HMOs of that description in the area are being managed sufficiently ineffectively as to give rise, or to be likely to give rise, to one or more problems either for those occupying the HMOs or for members of the public. In forming this opinion, the authority must have regard to any information regarding the extent to which any codes of practice approved under section 233 have been complied with by persons managing HMOs in the area in question. Before making a designation, the authority must -
  - (a) take reasonable steps to consult persons who are likely to be affected by the designation; and
  - (b) consider any representations made in accordance with the consultation and not withdrawn.
- 6.2 Consultation must be wide ranging and should include persons who are likely to be affected not only within the proposed designated area but also in the surrounding areas. Given that the scheme applies borough-wide, the consultation should include relevant persons in neighbouring boroughs. The authority must ensure that any exercise of the power is consistent with the authority's overall housing strategy. The authority must also seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector, both—
  - (a) as regards combining licensing under this Part with other courses of action available to them, and
  - (b) as regards combining such licensing with measures taken by other persons (see paragraphs 3.2-3.8).
- 6.3 The authority must not make a particular designation unless—
  - (a) they have considered whether there are any other courses of action available to them (of whatever nature) that might provide an effective method of dealing with the problem or problems in question, and
  - (b) they consider that making the designation will significantly assist them to deal with the problem or problems (whether or not they take any other course of action as well).

- 6.14 The alternative course of action (to not renew the scheme) and rely on an entirely reactive, complaint-based approach for private sector tenants, would not achieve the same level of outcomes. The scheme assists the Council in dealing with high numbers of properties by publishing minimum standards to be met relating to the property condition and management and ensures these improvements are made through compliance visits and targeted enforcement.
- 6.4 A designation of an area subject to additional licensing cannot come into force unless it has been confirmed by the Secretary of State or falls within a description of designations for which the Secretary of State has granted general approval. In exercising powers under section 58(6) of the Housing Act 2004, the Secretary of State for Communities and Local Government has given general approval to all local housing authorities in England that designates an area of their district or the area of their district as subject to additional licensing in relation to description of HMOs specified in a designation made under section 56(1). This general approval, provided through the 2015 General Approval, is contingent upon consultation taking place for a minimum of 10 weeks.
- 6.5 A designation comes into force no earlier than 3 months after the date on which the designation is made. Following confirmation, the scheme must be publicised as per Regulation 9 of the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006/373. A designation lasts for a maximum of 5 years. Camden made a designation in 2020 using the above legislation that all HMO's in the borough require licensing and this designation ends in December 2025. The same legal requirements outlined above apply to any new designation which must from time to time be reviewed.
- 6.6 When making their decisions Cabinet Members must take into account the Council's equality duties. In summary, these legal obligations require the Council, when exercising its functions, to have 'due regard' to the need to: eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act; to advance equality of opportunity between people who share a relevant protected characteristic and those who do not; and foster good relations between people who share a relevant protected characteristic and those who do not (which involves tackling prejudice and promoting understanding). Under the Duty the relevant statutory protected characteristics are: Age, Disability, Gender reassignment, Pregnancy and maternity, Race, Religion, Sex, Sexual orientation. In respect of the first aim, the protected characteristic of marriage and civil partnership is also relevant. In discharging the Duty the Council has also given a public commitment to give due weight to evidence in relation to the Key Local Characteristics relating to the groups of people referred to page 9 of the attached Equalities Impact Assessment (EIA) ( given the strong probability that many people within those groups will have protected characteristics) . The relevant groups are Foster carers, Looked after children/care leavers, Low-income households, Refugees and asylum seekers, Parents (of any gender, with children aged under 18), People who are homeless, Private rental tenants in deprived areas, Single parent households and Social housing tenants.

## **7 RESOURCE IMPLICATIONS**

- 7.1 This report recommends consulting on a new designation for HMO licenses to run from when the current scheme ends in December 2025. All fees charged as part of the designation are on a cost recovery basis with licensing fees used to cover the costs of processing applications, issuing licenses, inspecting properties and related enforcement activities.
- 7.2 Before the details of any new scheme are finalised, the financials will be reviewed to ensure full cost recovery. The scheme fee structure will need to include the consultation feedback.
- 7.3 The proposal to perform a consultation on the renewal of the scheme is not expected to incur any additional costs except for the market research and the placing of adverts promoting the consultation. The market research is estimated at approximately £14,950, and we are liaising with the communications team regarding advertising costs. Though there is no specific budget for this expenditure, these costs are expected to be recovered as part of the overall scheme set up i.e. all costs are expected to be recovered by the licence fees over the course of the scheme.

## **8 ENVIRONMENTAL IMPLICATIONS**

- 8.1 The proposals have no environmental impacts.

## **9 TIMETABLE FOR IMPLEMENTATION**

- 9.1 The table below details the indicative timetable for next steps in renewing the current additional HMO licensing scheme and proposed street survey.

### **Key milestone Indicate date (range)**

Formal consultation process commences 27 January 2025

Formal consultation process ends 8 April 2025

Final decision on Additional HMO licensing June 2025

Additional HMO Licensing goes live 8 December 2025

## **10 APPENDICES**

Appendix 1. Review report of current scheme

Appendix 2. Fees

Appendix 3. Equalities Impact Assessment

Appendix 4. Consultation questions (proposed/draft as of Nov 24)

**REPORT ENDS.**