

Decision Pathway – Report



PURPOSE: Key decision

MEETING: Cabinet

DATE: 02 April 2019

TITLE	Houses in Multiple Occupation Licensing Scheme Extension	
Ward(s)	Central, Cotham, Clifton, Clifton Down, Hotwells & Harbourside, Redland, Ashley, Bishopston & Ashley Down, Easton, Lawrence Hill, Southville and Windmill Hill	
Author: Tom Gilchrist	Job title: Service Manager – Private Housing & Adaptations Service	
Cabinet lead: Cllr Paul Smith	Executive Director lead: Colin Molton	
Proposal origin: Councillor		
Decision maker: Cabinet Member Decision forum: Cabinet		
Purpose of Report:		
<ol style="list-style-type: none"> In consultation with the Cabinet Member for Housing, to seek approval to introduce a new additional licensing scheme and the fee structure. 		
Evidence Base:		
<ol style="list-style-type: none"> Bristol’s privately rented housing accounts for 28.9% (58,093) of the city’s housing stock, - a growth of 4% since the 2011 and 9% above the national average of 20%. Most of Houses in Multiple Occupation (HMOs) in the city, approximately 12,607 can be found in the 12 wards in the central Bristol area (the majority not covered by mandatory licensing). Although many landlords provide a good standard of accommodation and service to their tenants a significant number of HMOs are not. These are substandard and poorly managed, with a significant number let to vulnerable tenants who are exploited as they are unaware of their rights or the standards they should expect from their accommodation. Using powers under Part 2 Housing Act 2004, it is proposed to declare an Additional Licensing scheme in the 12 wards listed above to tackle the substandard conditions and poor management of the HMO’s not covered by mandatory licensing (see appendix A). Licensing gives the local authority resources and the power to proactively inspect the accommodation that meets the designation criteria to ensure property standards and good management practises are met. Property licensing enables us to proactively find and deal with issues that would not otherwise come to our attention. The evidence used to declare an Additional licensing area is based on the findings from a commissioned Bristol Housing Stock Modelling Survey of the private rented sector (August 2017) undertaken by Building Research Establishment (BRE), using a range of data sources, including the council’s own data relating to poor management and substandard conditions. The BRE reported that “HMOs in the private rented sector in Bristol are generally in poorer condition than non-HMOs. The levels of category 1 hazards are notably higher for HMOs (22% compared to 13% for non-HMOs), especially for fall hazards (15% compared to 5%). Levels of disrepair are also higher for HMOs (9% compared to 6% for non-HMOs)”. The report also highlighted the wards with the highest concentration of HMOs and levels of disrepair and/or poor management. 		
Cabinet Member / Officer Recommendations:		
That Cabinet:		
<ol style="list-style-type: none"> Approve the additional licensing scheme in the 12 wards specified in the report Approve the fee structure and discounts as set out in scheme. 		
Corporate Strategy alignment:		

1. The Fair and Inclusive theme highlights issues in the private rented sector. “The Private Rented Sector continues to grow, bringing issues such as the insecurity of short term tenancies and, for some, poor conditions or tenancy management.” It could also come under the Wellbeing theme. It is well documented that a healthy home environment contributes to the occupant’s health and well-being.

City Benefits:

1. Demand for housing in Bristol is high resulting in the rapid growth of the private rented sector. This proposal will ensure that some of the worse housing conditions and the unsatisfactory management of properties are identified and improved to meet minimum housing standards and licensing conditions and ensure good management practises are followed. This will improve living conditions for those residing in this sector, which often houses some of the most vulnerable residents in the City.
2. Closer working relationship will be developed between housing and planning officers to ensure effective action is taken for offenses covered under housing and planning legislation’.

Consultation Details:

1. A 12 week consultation was undertaken, from 19th February 2018 to 13th May 2018. Full details of the consultation and full details of the responses can be found in Appendix B1 – Consultation Report. The key result from this consultation was that of the 2,746 responses received, 69% agreed or strongly agreed that our proposal would improve property condition and poor conditions of HMOs in the area.
2. As a result of a High Court ruling in July 2018, (R Gaskin v Richmond-upon-Thames LBC [2018]), the property licence fee had to be reviewed and a second shorter consultation took place between 8th November and 20th December 2018 just asking for views on whether the revised fee structure was a fair way to split the fee. Of the 242 respondents who expressed a view 113 (47%) agreed or strongly agreed, 75 (31%) disagreed or strongly disagreed, the rest neither agreed not disagreed. See full details of the consultation responses in Appendix B2

Revenue Cost	£4.9m approx.	Source of Revenue Funding	The entire cost of the scheme is funding through licence fee income.
Capital Cost	£ n/a	Source of Capital Funding	n/a
One off cost <input type="checkbox"/>	Ongoing cost <input type="checkbox"/>	Saving Proposal <input type="checkbox"/>	Income generation proposal <input checked="" type="checkbox"/>

Required information to be completed by Financial/Legal/ICT/ HR partners:

1. Finance Advice: The report proposes to extend the houses of multiple occupation license scheme to a further 12 wards, of which it is estimated there are some 4,400 dwellings. The total income generated by the scheme is required by legislation to match (over its 5-year duration) the total cost of processing applications and operating the scheme. The greater part of scheme income will be received in the early years, so an appropriate accounting treatment will be required to match income with the costs entailed. There are provisions under the legislation for the Council to recover some additional costs where these are necessary for higher levels of enforcement. The fees and estimated costs have been modelled so that the scheme should not result in any additional cost to the Council.

Finance Business Partner: Paul Cook 28 January 2019

Legal Advice:

1. Appendix A sets out the statutory tests that must be met in order for the Council to have discretion to make the proposed designation. In summary the decision maker must be satisfied:
 - a That a significant proportion of the HMO’s are being managed to give rise to the particular problems identified;
 - b That the proposal seeks to adopt a co-ordinated approach
 - c That there is consistency with the Council’s overall current housing strategy
 - d whether there are any other courses of action available to the council of whatever nature that might provide an effective method of dealing with the problems
 - d That the designation will significantly assist the council in dealing with the problems identified
2. The nature of the decision is discretionary and as such the decision maker must direct themselves only to

factors that are relevant, disregard the irrelevant and , striving to achieve the purpose of the legislation make a decision that is rational and reasonable in law.

3. The decision maker should have regard to the regulators code insofar as the decisions they are asked to make would set standards that private landlords would have to comply with. The code can be found at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf
4. The decision maker is asked to set fees at certain levels and the report is clear that they do not exceed the amount that is allowed under statutory provisions. Any other level of fee would need further detailed financial information and may require further consultation with those likely to be affected by the decision.
5. Consultation has taken place in relation to the decision to be taken. The Responses to the consultation must be taken into account by Cabinet when taking the decision. Cabinet should be satisfied that proper consultation has taken place in that (i) proposals were consulted on are at a formative stage (ii) sufficient reasons have been given for the proposals and (iii) adequate time has been allowed for consideration and response. Appendices B1 and B2 of this report clearly sets out the process that was undertaken and how responses have been taken in to consideration by officers when developing their proposals for final decision.(Appendix L)
6. The Council must comply with the requirements of the Public Sector Equality duty when making any decisions. The duty requires the decision maker to consider the need to promote equality for persons with “protected characteristics” and to have due regard to the need to i) eliminate discrimination, harassment, and victimisation; ii) advance equality of opportunity; and iii) foster good relations between persons who share a relevant protected characteristic and those who do not share it. In order to do this the decision maker must have sufficient information about the effects of the proposed decision on the aims of the Duty. The Equalities Impact Assessment is designed to assist with compliance with this duty.

Legal Team Leader: Anne Nugent 05 February 2019

3. Implications on IT: There will need to be modifications to the on-line application forms as a result of the changes proposed in this report, thus IT Digital Services will need to be engaged and this work scheduled, with sufficient notice, into their work-plan.

ICT Team Leader: Ian Gale, Head of IT 29 January 2019

4. HR Advice: No HR implications evident

HR Partner: Celia Williams, HR Business Partner, 30 January 2019

Background Documents:

Building Research Establishment (BRE) Integrated Dwelling Level Housing Stock Modelling and Database for Bristol City Council, August 2017 found at <https://www.bristol.gov.uk/documents/20182/2870395/Bristol+Intergrated+Housing+Stock+Modelling+Database+Report.pdf/422e4bd6-56d1-ff8b-640c-6a0f6698873e>

EDM Sign-off	Colin Molton	6.2.19
Cabinet Member sign-off	Cllr. Paul Smith	11.2.19
For Key Decisions - Mayor's Office sign-off	Mayor's Office	4.3.19

Appendix A – Further essential background / detail on the proposal - Proposal to introduce a new property licensing scheme	YES
Appendix B – Details of consultation carried out - internal and external - Reports B1 and B2	YES
Appendix C – Summary of any engagement with scrutiny	NO
Appendix D – Risk assessment	YES
Appendix E – Equalities screening / impact assessment of proposal	YES
Appendix F – Eco-impact screening/ impact assessment of proposal	YES
Appendix G – Financial Advice	NO
Appendix H – Legal Advice	YES
Appendix I – Exempt Information	NO
Appendix J – HR advice	NO
Appendix K – ICT	NO
Appendix L – Response and comments to consultation	YES