

OVERVIEW AND SCRUTINY COMMITTEE

HMO UPDATE

1.BACKGROUND

HMOs present the highest risk properties within the private rented sector of the Borough and are often occupied by some of the most vulnerable residents.

The Environment and Performance Committee last discussed the approach to HMOs in 2022, with the resulting report being considered at Cabinet in 2023. The conclusions were:

- To lobby Central Government to introduce a mandatory requirement for all privately rented accommodation to be registered with Local Authorities, including those rented through letting agents.
- To consider the introduction of a Selected Licensing Scheme for specific wards within the Borough of Boston. The specific wards would need to be identified by the gathering of further quantitative and qualitative evidence.
- As an alternative to Recommendation 2, to consider the reinvestment of income received through fixed penalty notices issued to private landlords to fund posts within the Housing Standards Team to carry out proactive inspection work within the private rented sector.
- For Corporate & Community Committee to consider the following as a future topic – An investigation in to the issues being faced by the migrant community of Boston, to include; housing, education, employment, access to public services and funding, translation services.

2.ENFORCEMENT

HHSRS

Part 1 of the Act provides local authorities with duties and powers to tackle poor housing conditions. The idea behind the Act is that local authorities will give priority to dealing with the greatest risks to health and safety in dwellings. When local authority officers inspect a dwelling, they will look for any risk of harm to an actual or potential occupier of a dwelling, which results from any deficiency that can give rise to a hazard. They will judge the severity of the risk by thinking about the likelihood of an occurrence that could cause harm over the next twelve months, and the range of harms that could result.

Officers will use the formal scoring system within HHSRS to demonstrate the seriousness of hazards that can cause harm in dwellings. If the officer finds a serious hazard (i.e. one in the higher scoring bands A – C, called a Category 1 hazard in the Act) the local authority will be under a duty to take one of the courses of action outlined in the section on enforcement in this Guidance. Category 2 hazards (i.e. those in scoring bands D - J) will be ones that the officer judges are not as serious. For these less severe hazards local authorities will still be able to take action if they think it necessary.

HMOs

The Housing Standards Team is responsible the investigation of complaints in relation to housing conditions across the private sector, which includes HMOs. Certain types of HMOs are also required to be licensed by the Council. A HMO will require a licence if all 3 of the following criteria are met.

- The property meets the standard test, the self-contained flat test, or the converted building test (Section 254 of the Housing Act 2004).
- The property is occupied by 5 or more people.
- The property is occupied by persons living in two or more separate households.

Additional Licensing

The Housing Act 2004 provides a power for Local Authorities to licence HMOs which are not covered by Mandatory Licensing. Part 2 of the Housing Act provides for Additional Licensing of HMOs for example, in a particular area or the whole borough for those not covered by Mandatory Licensing. An Additional HMO Licensing scheme would require all Houses in Multiple Occupation, irrespective of the number of stories that are occupied, by three or four persons to be licensed. The licence will be issued with licensing conditions, that must be adhered too.

Rationale for additional licensing:

- improve property conditions within these HMOs
- improve management standards
- ensure residents will be afforded the same protection as people in licensed HMOs

Selective Licensing

Part 3 of the Housing Act 2004 (the Act) sets out the scheme for licensing private rented properties¹ in a local housing authority area. Under section 80 of the Act a local housing authority can designate the whole or any part or parts of its area as subject to selective licensing. Where a selective licensing designation is made it applies to privately rented property in the area. Subject to certain exemptions specified in the Selective licensing of Houses (Specified Exemptions) (England) Order 2006², all properties in the private rented sector which are let or occupied under a licence, are required to be licensed by the local housing authority, unless the property is a House in Multiple Occupation and is required to be licensed under Part

2 of the Act³. There is now no longer a need to apply to the Secretary of State for confirmation of any scheme which would cover more than 20% of their geographical area or that would affect more than 20% of privately rented homes in the local authority area

A selective licensing designation may be made if the area to which it relates satisfies one or more of the following conditions. The area is one experiencing:

- low housing demand (or is likely to become such an area)
- a significant and persistent problem caused by anti-social behaviour
- poor property conditions
- high levels of migration
- high level of deprivation
- high levels of crime.

Renters Rights Bill

Within the upcoming Renters Rights Bill there are proposals to introduce a Private Rented Sector Database to help landlords understand their legal obligations and demonstrate compliance (giving good landlords confidence in their position), alongside providing better information to tenants to make informed decisions when entering into a tenancy agreement. It will also support local councils – helping them target enforcement activity where it is needed most. Landlords will need to be registered on the database in order to use certain possession grounds.

Councils are likely to be issued with a range of new investigatory powers.

There is also the proposal to increase the number of individual offences that can be enforced by financial (civil) penalties in hope of reducing time at Magistrates' with the statutory maximum increasing to £40,000 per offence and a proposed minimum penalty amount of £7,000 per offence.

Rent Repayment Orders are also proposed to change. Increasing the maximum amount of rent payable to tenants from 12 to 24 months.

Awaab's Law is to be extended to the private sector. This will set timescales within which landlords must make homes safe when they contain serious hazards, and empower tenants to challenge unsafe conditions.

There is to be a 12 month no re-let period for landlords and a measure to prohibit rental bidding with a potential £7,000 penalty per offence for failing to comply. This includes rental discrimination.

It is proposed that there will be over 20 new housing offences enforceable under financial penalties of which one includes 'unlawful eviction and harassment' carrying a statutory maximum of £40,000.

Appendix 1 – Housing Health and Safety Rating System: The 29 Hazards

The Housing Health and Safety Rating System (HHSRS) assesses 29 housing hazards and the effect that each may have on the health and safety of current or future occupants of the property. The HHSRS provides a way that hazards can be assessed and the best way of dealing with them identified. If a hazard is a serious and immediate risk to a person's health and safety, this is known as a Category 1 hazard. If a hazard is less serious or less urgent, this is known as a Category 2 hazard.

1 Damp and mould growth

Health threats due to dust mites, mould or fungal including mental and social wellbeing health threats associated with damp, humid and mouldy conditions Allergies, asthma, effects of toxins from mould and fungal infections

2 Excess cold

Threats to health from cold indoor temperatures. A healthy indoor temperature is 18oC to 21oC Respiratory conditions: flu, pneumonia and bronchitis Cardiovascular conditions: heart attacks and strokes

3 Excess heat

Threats due to high indoor temperatures Dehydration, trauma, stroke, cardiovascular and respiratory

4 Asbestos and MMF

Exposure to asbestos fibres and Manufactured Mineral Fibres (MMF) Asbestos: Damage to lungs

MMF: Damage to skin, eyes and lungs

5 Biocides

Threats to health from chemicals used to treat timber and mould growth Risk from breathing in, skin contact and swallowing of the chemical

6 Carbon Monoxide and fuel combustion products

Excess levels of carbon monoxide, nitrogen dioxide, sulphur dioxide and smoke Dizziness, nausea, headaches, disorientation, unconsciousness and breathing problems

7 Lead

Threats to health from lead ingestion from paint, water pipes, soil and fumes from leaded petrol Lead poisoning causing nervous disorders, mental health and blood production issues

8 Radiation

Health threats from radon gas and its daughters, primarily airborne but also radon dissolved in water Lung cancer caused by exposure, which increases amount and length of exposure

9 Uncombusted fuel gas

Threat from fuel gas escaping into the atmosphere within a property Suffocation

10 Volatile organic compounds

Threat to health from a diverse group of organic chemicals including formaldehyde that are gaseous at room temperature and can be found in a wide variety of materials in the home Allergies, irritation to the eyes, nose and skin, headaches, nausea, dizziness and drowsiness

11 Crowding and space

Hazards associated with lack of space for living, sleeping and normal household or family life Psychological distress and mental disorders, increased risk of hygiene issues, accidents and personal space and privacy compromised

12 Entry by intruders

Problems keeping a property secure against unauthorised entry and maintaining defensible space Fear of burglary occurring, stress and anguish caused by burglary and injuries caused by the intruder

13 Lighting

Threats to physical and mental health associated with inadequate natural or artificial light, including the psychological effects associated with the view from the property through glazing Depression and psychological effects due to lack of natural light. Eye strain from glare and inadequate light

14 Noise

Threats to physical and mental health due to exposure to noise within the property or within its curtilage Psychological and physiological changes resulting from lack of sleep, poor concentration, headaches and anxiety

15 Domestic hygiene, pests and refuse

Health hazards due to poor design, layout and construction making it hard to keep clean and hygienic, attracting pests and inadequate and unhygienic provision for storing household waste Stomach and intestinal disease, infection, asthma, allergies, disease from rats and physical hazards

16 Food safety

Threats of infection from poor provision and facilities to store, prepare and cook food Stomach and intestinal disease, diarrhoea, vomiting, stomach upset and dehydration

17 Personal hygiene, sanitation and drainage

Threats of infections and threat to mental health associated with personal hygiene, including personal and clothes washing facilities, sanitation and drainage Stomach and intestinal disease, skin infections and depression

18 Water supply

Threats to health from contamination by bacteria, parasites, viruses and chemical pollutants due to the quality of water supply for drinking household use such as cooking, washing and sanitation Dehydration, fatigue, headaches, dry skin, bladder infections and legionnaires disease

19 Falls associated with baths

Falls associated with a bath, shower or similar facility Physical injuries: cuts, lacerations, swellings and bruising.

20 Falls on the level surfaces

Falls on any level surface such as floor, yards and paths, including falls associated with trip steps, thresholds or ramps where the change in level is less than 300mm Physical injuries: bruising, fractures, head, brain and spinal injuries

21 Falls associated with stairs and steps

Falls associated with stairs and ramps where the change in level is greater than 300mm. It includes internal stairs or ramps within a property, external steps or ramps associated with the property, access to the property and to shared facilities or means of escape from fire and falls over stairs, ramp or step guarding Physical injuries: bruising, fractures, head, brain and spinal injuries

22 Falls between levels

Falls from one level to another, inside or outside a dwelling where the difference is more than 300mm. Including falls from balconies, landings or out of windows Physical injuries

23 Electrical hazards

Hazards from electric shock and electricity burns Electric shock and burns

24 Fire

Threats to health from exposure to uncontrolled fire and associated smoke. It includes injuries from clothing catching fire, a common injuring when trying to put a fire out. Burns, being overcome by smoke or death

25 Flames, hot surfaces and materials

Burns or injuries caused by contact with a hot flame or fire, hot objects and non-water based liquids. Scalds caused by contact with hot liquids and vapours. Burns, scalds, permanent scarring and death.

26 Collision and entrapment

Risks of physical injuries from trapping body parts in architectural features such as trapping fingers in doors and windows and colliding with objects such as windows, doors and low ceilings Physical injuries such as cuts and bruising to the body

27 Explosions

Threats from the blast of an explosion, from debris generated by the blast and from partial or total collapse of a building as a result of the explosion Physical injuries, crushing, bruising, puncture, fractures, head, brain and spinal injuries.

28 Ergonomics

Threats of physical strain associated with functional space and other features at the dwelling Strain and sprain injuries

29 Structural collapse and falling elements

The threat of the dwelling collapsing or part of the fabric being displaced or falling due to inadequate fixing or disrepair or as a result of adverse weather conditions. Physical injuries