

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO HEALTH & HOUSING COMMITTEE

Agenda Item No. 9

meeting date: THURSDAY, 7 JUNE 2018
title: HOUSING AND PLANNING ACT 2016 – INTRODUCTION OF CHANGES TO MANDATORY LICENSING OF HOUSES IN MULTIPLE OCCUPATION (HOUSING)
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1 PURPOSE

1.1 To advise Members of the proposed extension of Houses in Multiple Occupation (HMO) licensing coming into force on 1 October 2018.

1.2 Relevance to the Council's ambitions and priorities:

- Community Objectives – To sustain strong and prosperous Ribble Valley.
- Corporate Priorities – To match the supply of homes in our area with the identified housing need.
- Other Considerations – None.

2 BACKGROUND

2.1 This report highlights the powers and obligations introduced by the Housing and Planning Act 2016 that relate to the Government's response to tackling rogue landlords and improving the private rented sector. These measures include:

- the power to issue civil financial penalties of up to a maximum of £30,000 as an alternative to prosecuting landlords for relevant offences under the Housing Act 2004;
- the power to apply for a rent repayment order for certain offences to seek recovery of rent paid by Universal Credit or Housing Benefit;
- the enablement for applications to be made seeking a banning order preventing a person from being a landlord, engaging in letting agency work, and/or property management work. It also creates a 'Rogue Landlord and Property Agent' database that local authorities must update following the making of a Banning Order, and may update following a conviction for a banning order offence.

1.2 Further to parliamentary approval on 1 October 2018, the Government proposes to:

- extend mandatory licensing to all HMOs regardless of the number of storeys that are occupied by 5 or more persons in two or more separate households;

1.3 This report seeks the Committee's agreement for these new powers to be adopted as a means of enforcement and requests approval to procure an alteration to our licensing software, Civica, to provide HMO licensing tool application to manage the administrative increase in HMO licence applications.

3 ISSUES

- 3.1 The Housing and Planning Act 2016 (the 2016 Act) contains a number of important measures affecting the Private Rented Sector to improve conditions, prevent criminal landlords from operating in the sector and provide better resources and tools for enforcement purposes. The 2016 Act also contains a number of measures that directly impact upon HMO licensing in the Housing Act 2004 as previously discussed at (date) Health and Housing Committee.

Extension of Mandatory HMO licensing

- 3.2 Mandatory licensing of HMOs came into force in 2006 and applies to those HMOs of three storeys or more, lived in by five or more people, in two or more separate households. To date, the Council has no licensed HMOs and continues to actively identify licensable HMOs.
- 3.3 The Government proposes to extend the scope of mandatory HMO licensing on 1 October 2018.
- It will apply where certain HMOs are occupied by five persons or more in two or more households, regardless of the number of storeys.
 - This includes any HMO which is a building or a converted flat where such householders lack or share basic amenities such as a toilet, personal washing facilities or cooking facilities.
 - It also applies to purpose built flats where there are up to two flats in the block and one or both are occupied as an HMO.

HMO licensing process

- 3.4 The Private Sector Housing team consists of one Officer is responsible for HMO licensing along with private sector housing enforcement and assisted by a Technical Officer.
- 3.5 HMO licence fees are designed to cover administrative costs. With the basic HMO licence fee being for a year.
- 3.6 Any work arising from the implementation of the legislation is likely to have some impact on existing staff resources and additional IT software may be required dependent on the requirement to the service. Another report in future regarding further staffing resources and other direct costs once the scheme has commenced and a review of the implications has been carried out.
- 3.7 The Council has a statutory duty as a Local Housing Authority to enforce relevant Housing legislation. The Scheme of Delegation must be revised in order to properly authorise Officers to carry out their functions and it is recommended that this Committee approves the Constitution to be amended to allow for these new powers.
- 3.8 The Council must have regard to any Statutory Guidance issued in relation to determining the level of any civil penalty. Should the changes require anything other than administrative amendments to the relevant enforcement policies, a report will be brought back to a future meeting of this Committee once amendments to that policy have been made to reflect the imposition of Civil Penalties in accordance with Schedule 13A of the Housing Act 2004 and any other statutory guidance issued by the Secretary of State.

- 3.9 The Government has indicated that the income from Civil Penalties can be retained by the Local Authority and must be used to further its statutory functions in relation to the private rented sector.
- 3.10 It is difficult to be precise as to our ability to levy civil penalties as this will obviously be dependent on the level of compliance by landlords. However, most landlords are likely to comply upon being given the first notice of intention to issue a penalty.
- 3.11 There may be additional costs in processing the civil penalty paperwork, responding to any representations and then defending appeals. It is anticipated that any additional costs will be met through the income generated through levying civil penalties as an alternative to prosecution proceedings.
- 3.12 HMO licence fees are designed to cover the costs of implementing a licensing scheme. A further report will be brought to this Committee to confirm fees, once there has been liaison with neighbouring authorities.
- 3.13 Section 126 of The Housing and Planning Act 2016 allows financial penalties to be imposed as an alternative to prosecution for certain offences as set in Schedule 9 of the Act. Schedule 9 in turn amends the Housing Act 2004 including providing a new Section 249A which has the financial penalties as an alternative to prosecution. The Act also introduces a number of other steps that may be taken by the Council to tackle landlords who do not comply with the law and improving the private rental sector.
- 3.14 The explanatory memorandum to the 2016 Act advises this instrument comes into force on 1 October 2018. Before that date Local Housing Authorities (LHAs) must promote the changes this instrument makes and the extension of mandatory licensing in their respective areas. During this period, LHAs must also process applications for licences relating to those HMOs prescribed by this instrument. However, any licences issued in advance by virtue of this instrument cannot come into force before 1 October 2018. Landlords of HMOs falling within the prescribed description who fail to apply for licences by 1 October 2018 commit a criminal offence from that date.
- 3.15 Due regard has been given to the implications of the Human Rights Act, the Equalities Act, the Crime and Disorder Reduction Act and to the Private Sector Housing Enforcement Policy (Under the overall Environmental Health Enforcement Policy).

4 RISK ASSESSMENT

- 4.1 The approval of this report may have the following implications:
- Resources – Possible increase in HMO Inspections to the Housing EHO.
 - Technical, Environmental and Legal – None.
 - Political – None.
 - Reputation – None.
 - Equality & Diversity – None.

5 RECOMMENDED THAT COMMITTEE

- 5.1 Adopt the new enforcement powers under the Housing and Planning Act 2016 that are available to deal with private sector housing and promote the change in mandatory HMO licensing.
- 5.2 Delegate authority to the Head of Environmental Health Services and the Scheme of Delegation be amended accordingly.

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