

# Birmingham City Council

## Report to Cabinet

28 June 2022



**Subject:** Additional Licensing – Houses in Multiple Occupation

**Report of:** Robert James, Strategic Director of City Operations

**Relevant Cabinet Member:** Councillor Sharon Thompson, Housing and Homelessness

**Relevant O &S Chair(s):** Councillor Mohammed Idrees, Housing and Neighbourhoods  
Councillor Akhlaq Ahmed, Resources

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Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 010128/2022		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

### Executive Summary

- 1.1 The City has one of the largest privately rented housing sectors in the country, with 24.7% of its housing stock privately rented. Many privately rented properties are Houses in Multiple Occupation (HMO), typically shared dwellings, or properties converted into flats. It is estimated that approximately 12,000 privately rented homes are occupied by more than one household, and these multi occupied homes are found in all wards.
- 1.2 The Council seeks to ensure health and safety standards in the private rented sector, working with landlords to drive up compliance with appropriate legislation

and professionalism within the sector, whilst using the full range of our legal powers against those who choose not to respond to formal approaches.

- 1.3 Currently the Council responds to concerns raised by tenants in relation to their housing conditions, and, under the existing mandatory licensing scheme, licence approximately 2,500 properties, despite there being a further estimated 9,500 non-mandatory HMOs in the City (a small proportion of which may be illegally operating mandatory HMOs). This estimation is based on the analysis carried out by MetaStreet and shown in appendix 2 (Houses in Multiple Occupation: Stressors Report). An estimated 3515 of these falling within the proposed selective licensing designation (37% of wards). In reality, the number within the designation is likely to be higher due to the nature of the housing in those 25 wards.
- 1.3 The City Council seeks to target poor conditions in all HMOs through intelligence led interventions and enforcement. A key element of this approach will be to consider the introduction of an additional licensing scheme.
- 1.4 Additional licensing allows the Council to designate that the whole City, or part of its area, should be subject to additional controls. It may also choose to licence many different types of HMO including purpose-built flats and buildings which have been poorly converted in the past. Licensing enables the Council to set a common policy across all HMOs so that all landlords work to the same standards, it provides more protection for tenants, and ensures poorer properties are improved over the five year time frame, improving the health and wellbeing of tenants and creating more sustainable environments and communities.
- 1.5 If implemented, the designation would last for five years and would be implemented in April 2023 to mirror the proposed selective licensing scheme.

## **2. Recommendations**

- 2.1 Cabinet agrees that the conditions for additional licensing are met and that consultation should take place regarding the proposed introduction of an additional licensing scheme across all sixty-nine of the City's wards.
- 2.2 Following the outcome of the consultation a further report is to be submitted to Cabinet providing a detailed analysis of the feedback received during the consultation process and making further recommendations as appropriate.

### **3 Background**

- 3.1 The private rented sector is the second largest housing sector after owner occupation in the City. Within the Council's Private Rented Sector Strategy there is a commitment to tackle issues within this tenure. An additional licensing scheme is one of the tools available to improve standards and ensure that non-mandatory HMOs meet a minimum housing standard and appropriate management mechanisms are in place.
- 3.2 Licensing with the private rented sector is quite complicated with only larger mandatory HMOs with occupancy of 5 or more people living together as 2 or more households being subject to a mandatory licensing scheme. If a local authority can evidence that further categories of this tenure require licensing then this can be pursued through discretionary additional or selective licensing schemes.
- 3.3 On the 1 March 2022 Cabinet approved the pursuance of a selective licensing scheme covering 25 wards and the submission, to the Secretary of State for Levelling Up, Housing and Communities, of an application for a Selective Licensing Scheme in Birmingham covering these wards.

Feedback from the consultation for this proposed Selective Licensing Scheme indicated that residents in wards not included within the Scheme supported inclusion of their wards. Whilst that was not possible, the pursuance of a city-wide additional licensing scheme will provide appropriate regulation of non-mandatory HMOs across the city.

- 3.4 A selective licensing scheme requires all private rented properties in a designated area to be licensed. An additional licensing scheme only applies to non-mandatory HMOs and certain categories or self-contained flats (as described below). The mandatory licence conditions (set out in legislation) are different for both schemes to reflect the different categories. The approval of a city-wide additional licensing scheme would enable a consistent approach to be taken across the city in terms of the regulation and licensing of non-mandatory (smaller) HMOs. Where these HMOs are located within the proposed designated 25 wards covered by the selective licensing scheme the Council would direct landlords to the appropriate licence they would need for their type of premises. It would also enable progression with a licensing scheme in the event that there was any delay in approval of our submission to Government for the selective licensing scheme.
  - 3.5 The Council's Private Rented Sector Stock Condition and Stressors Report (appendix 1) considers issues like anti-social behaviour, housing conditions, deprivation and fuel poverty. Section 3 Housing Act 2004 ("the Act") requires local housing authorities to not only keep the housing conditions in their area
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under review (a stock condition survey), but also to identify any action that may need to be taken by them to respond to issues that are identified.

- 3.6 The Council's Houses in Multiple Occupation: Stressors Report (appendix 2) considers specific issues around the correlation between HMOs and certain stressors (e.g. waste, ASB).
- 3.7 Section 56 of the Act allows local authorities to designate the whole or any part or parts of their area as subject to additional licensing. The introduction of additional licensing relates to all Houses of Multiple Occupation that relate to a description of HMOs specified in the designation.
- 3.8 An additional licensing scheme would apply to HMOs that are not covered by the mandatory HMO licensing scheme. This includes properties occupied by 3 or 4 people living together as 2 or more separate households and which meets the standard, self-contained flat or converted building HMO test in Section 254 of the Housing Act 2004.
- 3.9 An additional licence would also be required for any purpose-built self-contained flat which meets the self-contained flat HMO test in Section 254 of the Housing Act 2004 and which is in a block of 3 or more self-contained flats. In these cases, it is the rented occupancy of the flat by unrelated households that drives any designation as an HMO.
- 3.10 An additional HMO licence would also be required for any building that has been converted into and which consists entirely of self-contained flats, less than two-thirds of which are owner-occupied, and where the building works to convert the property into self-contained flats did not meet and still does not meet appropriate building standards in force at the time. Such properties are known as Section 257 HMO's.

#### **4.0 Evidential Requirements**

- 4.1 There are specific conditions set out in the legislation that must be met before an additional licensing scheme can be considered (Section 56 and 57 of the Act). An additional licensing designation may be made if the authority considers 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 particular problems either for those occupying the HMOs or for members of the public.
- 4.2 The Council's 2022 Private Sector Housing Stock and Stressors Report identified that between 2016-2021 a total of 11,122 ASB incidents were reported to the Council linked to private sector properties.

The report identifies that 21% of private rented sector properties are likely to have serious home hazards compared to 12% nationally, a large number of which will be an HMO.

A proportion (circa 10%) of the private rented sector is made up of shared accommodation.

4.3 Data shown in the Houses in Multiple Occupation (HMO): Stressors Report (appendix 2) indicates that it is likely that:

- 11241 reported ASB incidents are associated with 4107 predicted HMO addresses (approximately a third of predicted HMOs).
- Repeat ASB incidents for a single property can be an indicator of properties that are poorly managed by the owners. Between 2016 and 2021, there were 1599 (14.2% of the total) repeat incidents of ASB linked to HMOs.
- There were 106,831 reported waste issues connected to an address over a five-year period between 2016 and 2021. 26.7% (28482) of these reports have been linked to predicted HMO addresses although they only make up 2.6% of all dwellings (452,754).
- 21% of all private rented properties in the City are predicted to have a serious home hazards compared with a national average of 12%. Within the City's HMO sector this is predicted to be 49.2% of properties (5866 of 11933 properties)

4.4 An Article 4 Direction requiring planning permission for all new smaller HMOs was implemented by the Council from 8 June 2020. It should be noted that Paragraph 53 of the National Planning Policy Framework (NPPF) states that "The use of Article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the well-being of the area". It is clear therefore that the evidence that supported this Direction demonstrated regulating density of HMOs was an action that needed to be taken to satisfy that paragraph. Although this was based on specific reasons related to planning legislation, reference was also made in the technical paper appended to the Cabinet report of 14 May 2019 at points 3.11

*"As part of the research for this paper, officers undertook field visits to the many areas of the city illustrated above where higher proportions of HMOs are evident. This has helped to identify the following impacts, which appear to be linked to a prevalence of HMOs in an area;*

- *More vehicles parked in front of properties and on streets*

- *Some HMOs were poorly maintained, resulting in a degradation of the quality of the local environment and raising questions about the quality of the living environment for the inhabitants*
- *Higher numbers of wheelie bins cluttering streets and pavements*
- *Property frontages cluttered with ‘rooms to let’ signs, multiple satellite dishes, electricity and gas meters, doorbells and occasionally multiple front doors.*

4.5 Further evidence of insufficient management of HMOs giving rise to problems was shown by the responses to the consultation on the Houses in Multiple Occupation Supplementary Planning Document (SPD). In the Cabinet report of 26 April 2022 “Adoption of Supplementary Planning Documents 1) Houses in Multiple Occupation 2) And Large-Scale Shared Accommodation” section 4.17 states that responses included:

*“General concerns about the issues caused by HMOs such as noise, antisocial behaviour, litter, parking and the enforcement of standards were raised. Some residents expressed a desire to see a complete moratorium on the licensing of and planning permission for further HMOs in the city”*

4.6 Furthermore feedback from the selective licensing consultation indicated that citizens outside the 25 wards where selective licensing is proposed would like a licensing scheme for private rented accommodation in their area or ward. An additional licensing scheme would be a proportionate response to these views as it would not cover all private rented housing but focus on a type of occupancy that potentially has higher risks of negative impacts on tenants and neighbourhoods.

An additional licensing scheme would mean that landlords would have to adhere to licence conditions. These could include ensuring that they take all reasonable and practical steps for preventing and dealing with anti-social behaviour, making properties secure, ensuring space standards are adequate, provision of adequate refuse storage and disposal arrangements, and maintaining in good order outbuildings and gardens. In addition, a landlord/managing agent would need to be a ‘fit and proper person’ and competent to manage the property.

4.7 The data shown in paragraphs 4.3 to 4.6 provides the evidence that support the view that a significant proportion of HMOs in Birmingham are being managed sufficiently ineffectively as to give rise, or to be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public.

4.8 During the period of a licence issued under an additional licensing scheme, there would be an inspection of the property to ensure that the licence conditions are being adhered to. Where it was identified that licence conditions were not being

adhered to, enforcement action could be taken in line with the appropriate enforcement policy.

## **5. Additional Licensing Scheme Process**

- 5.1 Unlike selective licensing schemes which require local housing authorities to request permission from the Department of Levelling Up, Housing and Communities 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, General Approval is given (subject to specific requirements being met) for additional licensing schemes to be approved by the local housing authority.
- 5.2 An additional licensing scheme in Birmingham would enable the City Council to introduce a city-wide licensing scheme for smaller HMOs that would be independent of the selective licensing scheme and not reliant on the outcome of the Department of Levelling Up, Housing and Communities assessment of the selective licensing submission.
- 5.3 When considering whether to make an additional licensing designation, a local housing authority must ensure that any exercise of the power is consistent with the authority's overall housing strategy. The authority must seek to adopt a coordinated approach in connection with dealing with homelessness, empty properties and anti-social behavior affecting the private rented sector. The authority must not make a designation unless 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 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 ) . (Section 57 Housing Act 2004).
- 5.4 A local housing authority may designate an area as subject to additional licensing in relation to a description of HMOs specified in the designation if the requirements of Section 56 and 57 of the Act are met. 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 particular problems either for those occupying the HMOs or for members of the public
  - 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 relevant area
  - 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; and consider that making the designation will significantly assist them to deal with the problem or problems.

5.5 Before making a designation the authority must take reasonable steps to consult persons who are likely to be affected by the designation, and consider any representations made in accordance with the consultation.

- The authority must ensure that any exercise of the power is consistent with the authority's overall housing strategy and must
- seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector as regards combining licensing with other action taken by the local authority or others.

5.6 The local housing authority must only make a designation if it is satisfied that the scheme will significantly assist it in achieving its objective or objectives, with other actions the local housing authority may be taking.

## 6.0 **Related Strategies and their consistency with an additional licensing scheme**

The guidance requires that any additional licensing scheme must be consistent with other related strategies. The following information evidences that an additional licensing scheme would be consistent with the Council's related strategies.

### 6.1 **Council Plan 2018 - 2022**

6.1.1 The Council Plan sets out six outcomes that the Council seeks to achieve;

- Birmingham, an entrepreneurial city to learn, work and invest in
- Birmingham, an aspirational city to grow up in
- Birmingham, a fulfilling city to age well in
- Birmingham, a great, clean and green city to live in
- Birmingham, a city whose residents gain the most from hosting the Commonwealth Games; and
- Birmingham a city that takes a leading role in tackling climate change.

An additional licensing scheme is a one of the tools available to improve standards in the non-mandatory HMO sector. Such a scheme would fit within the fourth outcome, 'Birmingham is a great, clean and green city to live in'. Specifically, the implementation of an additional licensing scheme will contribute to priority 2 and 3 of the 6 priorities to achieve this outcome, as follows:



**6.1.2 Priority 2** - We will have the appropriate housing to meet the needs of our citizens.

An additional licensing scheme would ensure that all non-mandatory HMOs not subject to a mandatory licensing scheme meet a minimum housing standard, which gives the tenant a stable home and helps with building stable communities. Tenants would be confident that homes meet the minimum energy efficiency standard, which would contribute to the green City aspiration.

An additional licensing scheme would also contribute to alleviating fuel poverty as measures to improve standards would ensure that heating appliances are properly checked, maintained and working efficiently. Improvements in the housing standards should also make properties more secure which should assist with minimising crime, particularly burglary.

**6.1.3 Priority 3** - We will work with partners to tackle rough sleeping and homelessness.

The availability of improved housing, and living in improved housing conditions, will contribute to a reduction in homelessness.

## **6.2 Homelessness Prevention Strategy**

6.2.1 Since March 2018, the number of customers being made homeless from the private rented sector has increased. There are a variety of reasons for this, including disrepair. By ensuring that landlords meet a set housing standard it would be expected that there would be a reduction in homeless applications for this reason.

## **6.3 Private Rented Sector Strategy 2022-2027**

6.3.1 An additional licensing scheme would support the priorities of the Council's Private Rented Sector Strategy, in particular:

6.3.2 Priority 2 – Identify and implement local initiatives to address local issues.

The conditions found within the private rented sector varies greatly across the city. In addition to the varying standard of accommodation, the proportion of private sector housing in each ward also varies greatly. To meet this priority the Council stated an aim to undertake a review of the city's Houses in Multiple Occupation (HMO) and to consider implementing Additional Licensing if required and appropriate.

6.3.3 Priority 6 - Operate a high-quality mandatory HMO licensing scheme.

A high-quality mandatory HMO licensing scheme will ensure shared accommodation is safe and provides appropriate facilities to occupiers. Houses in Multiple Occupation (HMOs) play a valuable role in the city's housing market as they provide accommodation for many low income, vulnerable people and those requiring short term housing. However, HMOs are not without their problems with the physical condition varying considerably and there are concerns from many residents and partners that the property and management standards are poor.

6.3.4 HMOs also create increased population density, leading to greater demand for infrastructure services, such as waste collections and on-street parking. They can also lead to a higher proportion of transient residents, potentially leading to less community cohesion and making the area less popular with local residents.

6.3.5 Many of the problems associated with HMOs subject to mandatory licensing are present in smaller, non-licensable HMOs and the implementation of additional licensing is likely to raise the standard of all HMOs through greater awareness and education.

#### **6.3.6 Development Management in Birmingham Development Plan Document (2021)**

The Development Management in Birmingham Development Plan Document was formally adopted in December 2021. This introduced a new policy (DM11 Houses in Multiple Occupation) which requires that new HMOs will not be permitted where 10% or more of the number of residential properties within a 100-metre radius of the application site are a HMO, or if it would result in a family dwelling house being sandwiched between two HMOs or other non-family residential uses; or if it would lead to a continuous frontage of three or more HMOs or non-family residential uses.

To support the implementation of Policy DM11, the Council's Cabinet adopted the Houses in Multiple Occupation SPD on 26<sup>th</sup> April 2022, which provides detailed planning guidance to help applicants and residents understand how the Council intends to apply its planning policy on HMOs.

## **7.0 Alternative Options**

7.1 Other courses of action to address the issues described in this report have been considered. However, the Council does not believe that either individually, or collectively, they would prove sufficiently effective, or be as an effective means of tackling anti-social behaviour and waste management as would an additional licensing scheme. Below are the alternative approaches that we have considered and why we do not believe they are sufficient to meet the city's objectives.

The Housing Act 2004 states that additional licensing must be consistent with the local authority's housing strategy and should be coordinated with the authority's approach on homelessness, empty properties and anti-social behaviour with other activities to resolve issues. Below are the existing activities that the Council currently undertakes to respond to issues in this sector.

## **7.2 HMO Licensing**

Prior to 2018, mandatory HMO licensing only applied to properties with three storeys or more. The removal of this condition saw an increase of approximately 500 licensable HMOs within Birmingham at the time of the change in legislation.

The Council currently enforces a statutory licensing scheme for certain types of House in Multiple Occupation where a property is;

- rented to 5 or more people who form two or more households and
- tenants share toilet, bathroom and/or kitchen facilities

There are approximately 2,500 licensed properties on the City's published HMO licensing register. This does not include exempt accommodation which is excluded from licensing under the legislation.

It is predicted that there are circa 4,000 mandatory licensable HMOs in the City. However, recent data referred to in section 1.3 indicates that total HMO numbers are likely to be approximately 12,000. Therefore, current enforcement powers that can be taken against licensable HMOs will not apply to the vast majority of HMOs in the city. However, an additional licensing scheme would mean all HMOs would require a licence, including those to which the mandatory licensing scheme does not apply.

## **7.3 Civil Penalties**

7.3.1 The Housing and Planning Act 2016 section 126 and Schedule 9 amended the Housing Act 2004 and introduced the ability for Local Housing Authorities to impose financial penalties (civil penalties) of up to £30,000 per offence.

7.3.2 Civil Penalties are an alternative to prosecution for the following offences under the Housing Act 2004:

- failure to comply with an Improvement Notice (Section 30);
- offences in relation to licensing of Houses in Multiple Occupation (Section 72);
- offences in relation to licensing of houses under Housing Act 2004 Part 3, (Section 95);

- contravention of an Overcrowding Notice, (Section 139(7));
- failure to comply with management regulations in respect of HMOs. (Section 234);

7.3.3 The Council utilises Civil Penalties in accordance with its Enforcement Policy for the Regulation of Housing Standards and the Licensing of Houses in Multiple Occupation.

#### **7.4 Private Tenancy Enforcement**

7.4.1 There is a specialist Private Tenancy Team that provides specialist advice on renting in the private rented sector. They will intervene to prevent unlawful eviction and harassment and pursue, in appropriate cases, criminal prosecutions for offences under the Protection from Eviction Act 1977 and other relevant legislation. The Team, through education and encouragement, promotes good practice.

#### **7.5 Article 4 Direction**

7.5.1 Planning legislation allows certain types of development to take place without planning approval; known as 'permitted development rights'. Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 allows local authorities to remove these permitted development rights.

7.5.2 The Council implemented a city wide Direction under Article 4 which means that planning permission will be required for the conversion of family homes to small HMOs. The direction took effect on 8 June 2020.

7.5.3 The Article 4 Direction is not retrospective and can only apply to newly proposed HMO's. With the introduction of Article 4 there are opportunities to address issues with new smaller, non-mandatory HMOs through the planning route.

### **8.0 Options Considered and Recommended Proposal**

8.1 The body of the report details the alternative options that are in place to improve standards in the non-mandatory licensable HMO sector and it shows that singularly or collectively they are insufficient to adequately improve standards within this sector.

8.2 Housing and related data has been reviewed against the criteria for additional licensing.

8.3 This report is seeking Cabinet's agreement that an additional licensing scheme may be appropriate on the basis that a significant proportion of HMOs are being poorly managed and are giving rise, or are likely to give rise, to problems

affecting the occupiers or members of the public e.g. anti-social behaviour , poor waste management, and that consultation should now take place regarding the pursuance of a city wide additional licensing scheme.

- 8.4 If Cabinet agrees that consultation in respect of such a scheme should be pursued, agreement should also be given to meet the requirements and financial implications as set out below.

## **9.0 Consultation**

- 9.1 Section 58 Housing Act 2004 states that a designation of an area as subject to additional licensing cannot come into force unless it has been confirmed by the appropriate national authority.

- 9.2 However, on 1 April 2015, the Housing Act 2004: Licensing of Houses in Multiple Occupation and Selective Licencing of Other Residential Accommodation (England) General Approval 2015 came into effect.

- 9.3 The General Approval provides as follows:

### **General Approval**

3. Subject to the condition contained in paragraph 5, every local housing authority in England that designates an area of their district or an area in their district as subject to additional licensing in relation to a description of HMOs specified in a designation made under section 56(1) of the Act has the Secretary of State's general approval of that designation for the purposes of section 58(1)(b) of the Act.

### **Conditions to be satisfied**

5. The general approval described in paragraphs 3 and 4 is not given in relation to a designation in respect of which the local housing authority has not consulted persons who are likely to be affected by it under section 56(3)(a) or section 80(9)(a) of the Act for not less than 10 weeks.

- 9.4 In compliance with the General Approval, it is intended that consultation will be undertaken for a period of no less than ten weeks.
- 9.5 Section 56(3) of the Housing Act 2004 states that, when considering designating an area as subject to additional licensing, the Council must take reasonable steps to consult persons who are likely to be affected by the designation e.g. local residents, landlords, businesses within the proposed designation etc. and all representation must be considered.

- 9.6 If the recommendation to consult on a possible additional licensing scheme is agreed, any consultation undertaken will be compliant with the requirements as set out in the Housing Act 2004 and General Approval. This will include promoting the consultation via the Council's website, Birmingham BeHeard, ward and landlord fora, and member briefings. In addition, practice from other councils who have undertaken consultations on additional licensing will be considered, so that best practice can be used in the process.
- 9.7 The consultation will include details of the evidence base that supports the proposal, the proposed fee structure and the proposed licence conditions (appendix 3).

## **10.0 Risk Management**

- 10.1 Implementing an additional licensing scheme is officer resource intensive. The cost of administering the scheme can be fully covered by resulting licence fees and be self-financing. However, costs related to enforcement against landlords who do not have a licence cannot be recovered via the additional licensing fee. If a scheme is implemented the main risk is that there is a low take up by landlords, which would increase the cost of compliance and recovery of enforcement costs, resulting in costs that are more than forecasted.
- 10.2 The scheme could also be susceptible to legal challenge if, for example, there was a challenge as to whether the criteria were met or whether consultation had been properly conducted.

## **11.0 Compliance Issues**

- 11.1 How are the recommended decisions consistent with the Council's policies, plans and strategies?

### **11.1.1 Council Plan**

- 11.1.2 The Council's vision is to be a City of growth where every child, citizen and place matters – It wants to make a positive difference, every day, to people's lives. This aim underpins everything we do, whether that's setting our priorities, making decisions or delivering services. There are eight outcomes to achieve that vision.

Outcome 4 - Birmingham is a great, clean and green city:

An additional licensing scheme is one of the tools available to improve standards in non-mandatory HMOs. Such a scheme would contribute to priority 2 of this outcome.

A scheme will also be consistent with the council's Homelessness Prevention, Empty Properties, and Private Sector Housing Strategies as it would bring about improvements in the private rented sector, help to sustain and stabilise communities, thereby contributing to the reduction in approaches to the council for homelessness assistance.

## **11.2 Legal Implications**

11.2.1 Section 56 (1) of the Housing Act 2004 enables a local authority to designate either the area of their district or an area in their district as subject to additional licensing in relation to HMOs specified in the designation, if specified requirements are met.

11.2.2 The Housing Act 2004 states that local authorities considering the introduction of an additional licensing scheme for HMOs specified in the designation 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 particular problems either for those occupying the HMOs or for members of the public (Section 56 (2))
- In forming an opinion in respect of section 56 (2) 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 relevant area (Section 56 (5))
- Not make a designation unless 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 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)
- Take reasonable steps to consult persons who are likely to be affected by the designation, for a period of not less than ten weeks, and consider any representations made in accordance with the consultation and not withdrawn.
- Ensure 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 as regards combining licensing with other action taken by the local authority or others.

11.2.3 If an additional licensing scheme is approved there are specific requirements to issue notices to publicise the scheme and ensure landlords are made aware of it.

11.2.4 Any additional licensing scheme may be subject to legal challenge if the above criteria are not met, or consultation is not found to be adequate.

### **11.3 Financial Implications**

11.3.1 The consultation will be undertaken by existing officer resource and no additional budget is required for this.

11.3.2 Any consultation exercise will be undertaken using Birmingham BeHeard. There are no additional costs associated with this consultation medium.

11.3.3 If a scheme is introduced, it is expected to be self-financing over the licence period and recover costs through the charging policy and fee setting mechanism.

11.3.4 Detailed financial modelling will be undertaken. Consideration will need to be given to the profile of income and expenditure over the licence period potentially managed through the use of a specific reserve. The proposed fee structure and level of fees will form part of the consultation.

11.3.5 Initial calculations indicate that the licence fee is likely to be in the order of £755.

### **11.4 Procurement Implications**

11.4.1 The introduction of a scheme will have implications for the IT used to administer the scheme. An assessment of current IT used will be made to find out if it can easily incorporate the additional processing and storage requirements. Any requirement for a new system will need to go through procurement.

### **11.5 Human Resources Implications**

11.5.1 Funding to employ a project lead to oversee the consultation process will be provided from vacant post salary savings.

11.5.2 It is anticipated that 35% of licence applications will be determined in Year 1, 30% in Year 2, 13% in Year 3, and 11% per year in years 4 and 5.

11.5.3 Indicative annual staff resourcing requirements based on the assumptions above would be 21 FTEs in Year One, 20 FTEs in Year Two, 19 FTEs in Year Three, and 17 FTEs in Years Four and Five.



11.5.4 If an additional licensing scheme is introduced it is expected that it will be self-financing through the fee charging mechanism. Any recruitment will be done in accordance with the Council's recruitment and selection procedure.

**11.6 Public Sector Equality Duty**

11.6.1 Prior to the consultation stage an equality assessment will be undertaken.

**Appendices**

Appendix 1 – Birmingham City Council – Private Rented Sector: Housing Stock Condition Survey and Stressors Report

Appendix 2 - Birmingham City Council – Houses in Multiple Occupation (HMO): Stressors Report

Appendix 3 - Proposed Additional Licence Conditions