

Council - 6th December 2021

Questions from Members of the Public for Written Reply

1. From Dermot Mckibbin to the Portfolio Holder for Renewal, Recreation and Housing

When will the Council implement the licensing of all houses in multiple occupation as recommended in the Council's housing strategy? What are the implications of rent repayment orders for unlicensed houses in multiple occupation?

Reply:

The Housing Act 2004 currently requires local housing authorities to license houses in multiple occupation (HMOs) if they accommodate more than five tenants in two or more households; this is called mandatory licensing, and is already in place. With regards to HMOs, in addition to the mandatory scheme, the Council has a discretionary power to introduce additional licensing for HMOs that fall outside the scope of the mandatory licensing scheme. The scope of an additional scheme varies between Councils, some schemes cover the whole borough whereas others cover smaller geographical areas. However, the Council may only make a discretionary designation for additional licensing if the area has a high proportion of property in the private rented sector (e.g. more than 19%). As this is not the case in Bromley, additional licensing could not be applied borough wide.

In addition to the above, before any discretionary scheme can be introduced, the Council must be able to evidence that a significant proportion of the proposed HMOs are being poorly managed and are giving rise (or likely to give rise), to problems affecting the occupiers or members of the public. In addition, a Council must evidence that:

- any decision to implement an additional licensing scheme is consistent with the council's housing strategy,
- part of a coordinated approach for dealing with homelessness, empty homes and anti-social behaviour,
- there are no other courses of action available that might provide an effective remedy, and
- that the introduction of additional licensing will significantly assist in dealing with identified problems.

As such, a Council must have significant evidence at hand before it can introduce such a scheme, or it can face legal challenge. Additionally, should the council wish to introduce such a scheme, it must consult with everyone affected by the designation for a minimum of 10 weeks.

A Rent Repayment Order forces a landlord to refund up to 12 months' rent.

Rent Repayment Orders are awarded if:

- The property you are renting does not have a license
- The landlord has not complied with a council notice
- The tenant has been harassed or evicted without the correct court paperwork.

2. From Dermot Mckibbin to the Portfolio Holder for Resources, Commissioning and Contract Management

How much money is the Council losing through not implementing the empty homes premium? Will the Council review the effectiveness of its empty homes strategy and consult with the public?

Reply:

The Executive approved the introduction of the Empty Homes Premium (EHP) at their meeting on 27 November 2019 and the premium was introduced from 1 April 2020. For properties empty longer than two years a 50% is being levied, increasing to 100% once the property has been empty for five years. A copy of the report is available on the Council website.

On 13th January 2021 the Executive considered proposals to increase the Empty Homes Premium from April 2021 to the maximum premium permitted under the Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018. A public consultation exercise had been carried out, the results of which were set out in the report. Although Members considered that there was a strong case for increasing the premium it was considered that, given the impact of the pandemic, now was not the right time to do so. Details of the impact on income were also included in that report.

The reports and minutes are available on the Council website.

As part of the Transforming Bromley Agenda, we are reviewing the alignment of the service with the Council's Regeneration Team and are currently in the process of going to advert for staff to work specifically upon empty homes services. This work will also include reviewing the strategic approach to empty homes which will be consulted and reported on in due course.

3. From Peter Barnett to the Portfolio Holder for Public Protection and Enforcement

How many criminal prosecutions and civil payment fines have been issued by the Council in the last two years and for what offences?

Reply:

The exact scope of your question is unclear, but information about prosecutions and fines is set out in [Appendix 1](#).

4. From Peter Barnett to the Portfolio Holder for Renewal, Recreation and Housing

What are the resource implications of licencing all houses in multiple occupation in Bromley and what legal decisions would be required?

Reply:

The Housing Act 2004 currently requires local housing authorities to license houses in multiple occupation (HMOs) if they accommodate more than five tenants in two or more households; this is called mandatory licensing, and is already in place. With regards to HMOs, in addition to the mandatory scheme, the Council has a discretionary power to introduce additional licensing for HMOs that fall outside the scope of the mandatory licensing scheme. The scope of an additional scheme varies between Councils, some schemes cover the whole borough whereas others cover smaller geographical areas. However, the Council may only make a discretionary designation for additional licensing if the area has a high proportion of property in the private rented sector (e.g. more than 19%). As this is not the case in Bromley, additional licensing could not be applied borough wide.

In addition to the above, before any discretionary scheme can be introduced, the Council must be able to evidence that a significant proportion of the proposed HMOs are being poorly managed and are giving rise (or likely to give rise), to problems affecting the occupiers or members of the public. In addition, a Council must evidence that:

- any decision to implement an additional licensing scheme is consistent with the council's housing strategy,
- part of a coordinated approach for dealing with homelessness, empty homes and anti-social behaviour,
- there are no other courses of action available that might provide an effective remedy, and
- that the introduction of additional licensing will significantly assist in dealing with identified problems.

As such, a Council must have significant evidence at hand before it can introduce such a scheme, or it can face legal challenge. Additionally, should the council wish to introduce such a scheme, it must consult with everyone affected by the designation for a minimum of 10 weeks.

Prior to consideration, a feasibility study undertaken by consultants would be required to:

- fully establish the current number of homes that would fall within scope,

- evidence whether the evidence exists to support the support the introduction of an additional scheme,
- the full extent of the additional scheme (as the variables are numerous),
- the number of officers required to furnish the scheme, and
- whether the income generated would cover costs.

Authorities that have implemented discretionary schemes and which have undertaken the feasibility studies have indicated that the expense is considerable, and without the feasibility study it is not possible to state the resources needed.

5. From Angela Barnett to the Portfolio Holder for Renewal, Recreation and Housing

How do article 4 restrictions on houses in multiple occupation help the tenants of such properties? Please publish a list by ward of all houses in multiple occupation that are licensable but are not.

Reply:

HMOs that are operating with a mandatory license can be found here:

<https://searchapplications.bromley.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

Those houses that are licensable and are not covered by a license would be subject to possible legal action, as such, the provision of a list by ward would not be appropriate. Once made aware of an unlicensed HMO, the Council would seek to progress the license, or enforce accordingly.

6. From Angela Barnett to the Portfolio Holder for Environment and Community Services

What is the Council's plan to reduce carbon emissions in residential housing whether it is rented or privately owned?

Reply:

The Carbon Management Team are delivering a variety of projects to help mitigate carbon emissions in the borough. Every project also seeks to realise as many co-benefits as possible (i.e. policies, or initiatives, which have a simultaneous positive impact on other objectives e.g. energy efficiency upgrades reducing bills, preventing carbon emissions and combatting fuel poverty.)

Over 50% of Bromley's borough wide emissions are attributed to the domestic sector, specifically through heating systems. Bromley is part of the South London Energy Efficiency Partnership (SLEEP) - which consists of all South London boroughs. The consortia collectively bids for regional and national funding on behalf of members to

facilitate advice and referrals. Working with our partners South East London Community Energy (SELCE), outreach works include the following -

Services for individual household include but are not limited to:

- advice on how to make your home energy efficient
- a telephone advice session (in person visits when permitted due to COVID-19)
- energy and water saving devices delivered to your home
- impartial advice and help on how to pay less for your electricity or gas
- provide support and debt advice
- support with national and regional home improvement grants and schemes
- referral to other sources of help

For community/voluntary groups, SELCE also offers:

- a 30-minute remote workshop providing groups with energy/water saving advice
- a socially-distant 5-minute shout out at a meeting or event (including regular attendance at meetings or events to give a short announcement about the free energy advice service and collect the details of those interested in benefiting.)

Although SELCE are happy to provide advice to anybody seeking it, fuel poverty affects the most vulnerable in society and therefore focus is particularly provided to the following groups:

- the elderly
- low-income families
- families with children under the age of 5
- people with a long-term health condition
- people with a disability (long or short-term)
- people with a cardiovascular disease
- people with a respiratory disease

The Council has also established a Green Recovery Working Group – a cross council group representing all relevant service areas which focuses on tackling sustainability issues to enable us to build back better as we emerge from the COVID-19 pandemic.

Working with Housing, Regeneration, Planning and Public Health, the Carbon Management Team will develop and promote initiatives to enable: 1) the retrofitting of domestic properties to ensure increased energy efficiency, 2) the securing of low carbon buildings and infrastructure 3) opportunities for access to 100% renewable energy for the public and 4) building a Green Economy ensuring there is sufficient infrastructure to help deliver these initiatives.

7. From Richard E. Hart to the Portfolio Holder for Renewal, Recreation and Housing

What are the implications of covid prevention in an overcrowded house in multiple occupation? Is this not a valid reason to extend the licensing of all houses in multiple occupation in the borough?

Reply:

The key implications are -

1. All residents should follow the general guidelines as to how to stay safe (link below)

Coronavirus: how to stay safe and help prevent the spread - GOV.UK (www.gov.uk)

1. If one resident develops Covid 19 symptoms, the whole house in multiple occupation should behave as a single household (link below)

<https://www.nhs.uk/conditions/coronavirus-covid-19/self-isolation-and-treatment/>

2. All shared areas should be cleaned regularly and ventilated. Below are a couple of links with further information:

Private renting: Houses in multiple occupation - GOV.UK (www.gov.uk)

Household overcrowding and the covid-19 outbreak - House of Commons Library (parliament.uk)

See question 1 above.

8. From Richard E. Hart to the Portfolio Holder for Renewal, Recreation and Housing

Will the Council introduce an HMO licence checker scheme similar to what Westminster Council are running?

(Ref: propertyindustryeye.com/Westminster-launches-hmo-checker-to-help-combat-rogue-landlords/)

Reply:

Westminster operate both a selective licensing scheme and the mandatory licensing scheme. The scheme (HMO checker) simply allows the person searching to determine whether the dwelling in question should be licenced under the relevant scheme, or whether it requires licensing at all.

Bromley operates the mandatory scheme alone; as such a checker to determine the distinction between the 2 schemes is not relevant. The Council provides advice on the mandatory scheme here -

https://www.bromley.gov.uk/info/200069/houses_in_multiple_occupancy/1213/apply_for_an_hmo_licence

9. From Helen Brookfield to the Portfolio Holder for Renewal, Recreation and Housing

What advice has the Council given to private tenants who have suffered harassment or unlawful eviction about rent repayment orders? When will the Council publish on its website information for the public about rent repayment orders?

Reply:

The Council's Housing Options team will take action to investigate allegations of harassment and unlawful eviction and take into consideration the individual circumstances presented in order to best advise the effected tenant.

The website is being updated to provide a link to guidance published by Shelter as this gives comprehensive and up to date advice on this matter.

10. From Helen Brookfield to the Portfolio Holder for Resources, Commissioning and Contract Management

When will the Council use its legal powers via a rent repayment order to reclaim any housing benefit paid to the owner of an unlicensed house in multiple occupation?

Reply:

The Council's Private Rented Enforcement Policy sets out that it will vigorously pursue anyone who is controlling or managing a licensable HMO without a license and, where appropriate, it will prosecute them or impose a civil penalty such as a rent repayment order to reclaim any housing benefit paid.

Each case will be determined on its individual merits and circumstances and the Council may decide not to prosecute the landlord or impose a civil penalty where the threat of such action results in the landlord fully cooperating with the Council to ensure the HMO is licensed as soon as practicable.

11. From Helen Alsworth to the Portfolio Holder for Renewal, Recreation and Housing

Please can the Council list by ward all Houses in Multiple Occupation that do not have planning permission and should be licensed by the Council but are not? Will the owners be prosecuted for failing to obtain a license?

Reply:

From a Planning perspective the conversion of a residential dwelling into an HMO of 6 or less residents does not require planning permission and is 'permitted development' set down by the government in legislation. The Planning team do not hold a register or

list of HMOs which need but do not have planning permission but investigate these on a case-by-case basis as and when complaints are received about them.

The Council has recently considered an Article 4 Direction in respect of this particular permitted development. Such a Direction, where properly justified, can be used to remove specific permitted development rights. In respect of change of use to HMOs, Officers recommended a Borough wide non-immediate Direction with a 12-month delay. This was recently agreed by the Council and will therefore take effect across the Borough on 1st September 2022, however the committee also decided to impose an immediate Direction on Biggin Hill and Darwin wards, where they perceived that there was a more immediate threat to amenity. See item 277 at <https://cds.bromley.gov.uk/ieListDocuments.aspx?CId=121&MId=7231&Ver=4>

The majority of HMOs in the Borough have 6 or less residents and therefore apart from in the Wards mentioned above do not currently require planning permission. Licensing is a separate matter from whether planning permission is required. Enforcement is a stepped approach and all decisions in respect of HMO licensing are taken in accordance with the Council's published policy and the appropriate legislation and guidance. In the past 4 years it has not been necessary to progress any cases to prosecution.

12. From Helen Alsworth to the Portfolio Holder for Renewal, Recreation and Housing

In the last 4 years, how many owners of HMOs have been prosecuted by the Council for failing to register their properties with the Council?

Reply:

Enforcement is a stepped approach and all decisions in respect of HMO licensing are taken in accordance with the Council's published policy and the appropriate legislation and guidance. In the past 4 years it has not been necessary to progress any cases to prosecution.

13. From Ruth McGregor to the Portfolio Holder for Renewal, Recreation and Housing

What help will the Council give to private tenants and leaseholders at Lait House, Albemarle Road BR3 where all the flats have been served with a fire safety notice by the London Fire Brigade?

(See www.london-fire.gov.uk/community/public-notice/public-notice-detail/?id=6953)

Reply:

The Council has a protocol with the LFB, which determines the enforcement remit regarding the enforcement of fire safety between the two lead authorities. The LFB are responsible for the enforcement of fire safety within the common parts of purpose-built blocks of flats, and the associated notice is commensurate with the agreement. As such, from the perspective of the Public Protection service within the Directorate of Environment and Public Protection, there is no remit to provide assistance, and it will be the responsibility of the property management company to comply with the requirements stipulated within the notice.

14. From Ruth McGregor to the Portfolio Holder for Renewal, Recreation and Housing

Will the flat owners of Lait House in Albemarle Road (which appear to include Cllr David Jeffreys) be able to let their properties to the Council to provide temporary accommodation, notwithstanding the fire safety notices?

Reply:

If someone wished to provide accommodation to the Council then due diligence would be carried out at the time of approach to ensure that the property met all current safety requirements prior to be taken on.

15. From Carole Dewar to the Portfolio Holder for Renewal, Recreation and Housing

What savings in the cost of temporary accommodation would be achieved if an owner of an empty property in the borough leased the property to the Council to provide temporary accommodation for a homeless household?

Reply:

If an owner wished to lease the property for use as temporary accommodation, then this would only present a saving to the Council if the rental level charged by the owner, together with any associated administrative and grant funding costs, was less than the rental charge set by alternative providers of temporary accommodation.

16. From Carole Dewar to the Portfolio Holder for Resources, Commissioning and Contract Management

How many owners of empty properties owe the Council money, and will the Council apply for an order for sale to repay these debts and to make sure that such properties are brought back into use?

Reply:

The number of owners of empty properties with an outstanding balance on their Council Tax account is currently 2,262 however only 238 of these are classed as long-term empty and are therefore liable for the Empty Homes Premium; 36 of which are subject to recovery action.

The Council takes legal action in respect of all Council Tax debt where appropriate. We also consider on a case-by-case basis the appropriateness of obtaining a charging order and order for sale taking into account matters such as the value of the debt and amount of equity in the property. Empty properties where there is a debt due are included in this overall review.

17. From Richard Seabrook to the Portfolio Holder for Renewal, Recreation and Housing

How is the Council enforcing the requirement that privately rented properties must have an EPC rating of at least Band E?

Reply:

There are approximately 21000 privately rented homes within Bromley, there are currently insufficient council resources to enforce the minimum energy efficiency standards (MEES) in all PR properties across the borough. The Carbon Management Team works with our domestic energy efficiency and advice partners to assist residents in saving money on their fuel bills, how they can improve their EPC and even provide an assumed EPC assessment if none exists. The Council also has access to housing stock software for assumed EPCs across the borough for a targeted outreach approach. The Council was successful in a tri-borough application for a 6-month MEES intelligence gathering officer which will eventually inform a business case for additional resources for enforcement. Consultation on the recruitment process is on-going. In addition, insulations standards are also considered when assessing HMO license applications.

18. From Richard Seabrook to the Portfolio Holder for Renewal, Recreation and Housing

How many exemption notices (with regard to EPC rating) of all types has the Council issued to landlords whose properties do not reach this standard, in the three financial years April 2018 to April 2021?

Reply:

The Council does not issue exemption notices under the Domestic Minimum Energy Efficiency Standard (MEES) Regulations. The regulations allow for landlords to register exemptions via the Government portal:

<https://prsregister.beis.gov.uk/NdsBeisUi/used-service-before>

Those premises registered are not automatically forwarded to the Private Rented Sector Housing Team or Trading Standards. There is no expectation for Councils to proactively check the validity of any exemptions applied for. Having said that, if a local authority believes a landlord has failed to fulfil their obligations under the MEES Regulations, they can serve the landlord with a compliance notice. No such notices have been issued.

19. From Jamie Devine to the Portfolio Holder for Environment and Community Services

The Environment Committee wrote recently that it 'does not consider it appropriate to declare a climate emergency'. Does the Council not acknowledge that words from elected representatives on climate change have a role to play in communicating the seriousness of the matter to the public?

Reply:

This Council has declared its seriousness on this matter by setting its target on carbon neutrality for Council Activities by 2029 one of the most ambitious in London. This Council has always believed in actions not words.

20. From Jamie Devine to the Portfolio Holder for Environment and Community Services

Baroness Thatcher (a chemist) said 'We have come to realise that man's activities and numbers threaten to upset the biological balance which we have taken for granted and on which human life depends.' Does the Council acknowledge that climate change poses an existential threat to humanity?

Reply:

In terms of an existential threat to humanity, with humans successfully living across a wider range of climates, it depends on the degree of global warming. The impact on our lifestyles will occur sooner and should be our focus in-line with the ambitions of COP26.

Appendix 1 (Question 3)

Prosecution instructions were as follows for the period from 5th December 2019 to date:

Type of Prosecution	Number
Section 21 CSOPA 1970 misuse of blue badge (Badge declared lost or stolen)	28
Section 17 Greater London Council (GP) 1972 (Blue badge – none return of information driver of the vehicle)	25
Section 217 Town and Country Planning Act 1990 (Breach of untidy site notice)	7
Section 210 Town and Country Planning Act 1990 (Breach of tree preservation order)	1
Section 1 Fraud Act 2006 (Consumer protection – fraud)	2
Section 179 Town and Country Planning Act 1990 (Breach of enforcement notice)	7
CSDPA 1970 Consumer Protection (Trading Standards)	1
Section 80 Environmental Protection Act 1990 (Statutory Nuisance)	2
Section 117 Road Traffic Regulation Act 1984 (Wrongful Use of Disabled badge)	42
Section 33 Environmental Protection Act 1990 (Waste)	2
Section 75 Anti-Social Behaviour Act 2003 (Breach of high hedge order)	1

Parking Fines issued on behalf of LB Bromley 2020 - 2022:

	Issues 2020	Issues 2021	Issues 2022
On Street	69,332	51,956	50,025
01: Parked in a Restricted Street during prescribed hours	11,563	10,599	8,788
02: Parked loading or unloading in restricted street	3,334	1,887	2,067
12: Parked in residents or shared use parking place	11,007	8,443	7,738
14: Parked in electric vehicle charging place	20	21	22
16: In permit space without valid permit	129	209	127
21: In a suspended bay/space	397	252	837
23: Designated class of vehicle restricted	566	452	462
25: In loading place in restricted hours no loading	3,715	2,796	2,868
26: Double parked not in a parking place	298	180	142
27: Parked adjacent to a dropped footway	1,187	894	809
31: Box Junction	0	2	1,957
32: Ignore Blue Sign Arrow	0	1	0
34J: Being in a Bus Lane	13,796	8,025	6,773
40: In disabled bay without clearly displayed valid badge	1,635	1,423	1,199
45: Stopped on a taxi rank	530	451	501
47: Parked on a restricted bus stop/stand	301	344	174
48: Stopped where prohibited (school)	1,010	690	658
49: Parked wholly or partly on a cycle track	2	2	0
55: Commercial vehicle contravention overnight ban	18	10	6
61: Heavy vehicle parked on footway (>7.5 TONS 1 W)	29	21	22
62: Parked with wheels not on carriageway	4,803	3,882	2,946
99: Stopped on pedestrian crossing and/or zig-zags	171	96	113
05: Parked after the expiry of paid-for time	2,539	1,250	1,602

06: Without clearly displayed P&D ticket (pay and display)	8,541	4,950	5,573
11: Parked without payment of the parking charge	1,339	3,725	3,118
19: Parked in a residents or shared use parking place	389	237	274
22: Re-parked within the restricted time period	3	1	1
24: Not within marking of bay or space	1,077	819	1,024
30: Parked for longer than permitted	933	292	221
63: Parked with engine running where prohibited	0	2	3
Off Street	9,910	5,554	6,448
70: Parked in a loading area during restricted hour	47	29	37
71: Parked in electric vehicle bay not charging	19	1	4
81: Parked in a restricted area in a car park	40	31	27
85: In permit bay without displaying valid permit	19	14	17
87: In disabled bay without disabled badge	232	207	227
91: In area not designated for class of vehicle	85	31	70
92: Parked causing an obstruction	4	9	6
73: Parked without payment of the parking charge	6,813	3,907	4,815
80: Parked for longer than maximum period permitted	4	6	0
82: Parked after expiry of time paid for	1,735	582	745
83: In P&D car park without displaying P&D ticket	567	543	172
84: Parked beyond time first purchased	2	0	0
86: Parked beyond the bay markings	342	194	326
93: Parked in a car park when closed	1	0	2

Trading Standards fines 2020-22:

The Redress Schemes for Lettings Agency Work and Property Management Work
Requirement to Belong to a Scheme etc) Order 2014: Redress membership £7,500

The Consumer Rights Act 2015, sections 83-88: Relating to fees £9,500

The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019: Relating to membership £17,500; transparency £8,000