

Report No.  
ES20252

## London Borough of Bromley

### PART ONE - PUBLIC

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**Decision Maker:** PUBLIC PROTECTION AND ENFORCEMENT POLICY  
DEVELOPMENT & SCRUTINY COMMITTEE

**Date:** Tuesday 31 January 2023

**Decision Type:** Non-Urgent                      Non-Executive                      Non-Key

**Title:** HOUSES OF MULTIPLE OCCUPATION - MEMBER UPDATE

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**Chief Officer:** Director of Environment and Public Protection

**Ward:** (All Wards);

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1. Reason for decision/report and options

1.1 The prime purpose of this report is to update the Committee on the current status of the regulation of houses of multiple occupation (HMOs) within the borough.

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2. RECOMMENDATION(S)

2.1 Note the content of the report.

## Impact on Vulnerable Adults and Children

1. Summary of Impact
    - 1.1 Ensuring minimum safety and amenity standards are met in the HMOs that require mandatory licensing in the private rented sector leading to better quality rented accommodation for all Bromley residents living in this sector.
    - 1.2 Ensuring minimum development standards are applied through the planning application process protecting all Bromley residents living in this sector.
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## Transformation Policy

1. Policy Status: Not Applicable
  2. Making Bromley Even Better Priority
    - (1) For children and young people to grow up, thrive and have the best life chances in families who flourish and are happy to call Bromley home.
    - (2) For adults and older people to enjoy fulfilled and successful lives in Bromley, ageing well, retaining independence and making choices.
    - (3) For people to make their homes in Bromley and for business, enterprise and the third sector to prosper.
    - (4) For residents to live responsibly and prosper in a safe, clean and green environment great for today and a sustainable future.
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## Financial

1. Cost of proposal: Not Applicable
  2. Ongoing costs: Not Applicable
  3. Budget head/performance centre: Not Applicable
  4. Total current budget for this head: Not Applicable
  5. Source of funding: Service Revenue Budgets
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## Personnel

1. Number of staff (current and additional):  
4.0 FTE for all Housing Enforcement functions, Public Protection  
4.5 FTE for Planning Enforcement, Development Control
  2. If from existing staff resources, number of staff hours: Not Applicable
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## Legal

1. Legal Requirement: Statutory Requirement
  2. Call-in: Not Applicable
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## Procurement

1. Summary of Procurement Implications: Not Applicable
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#### Property

1. Summary of Property Implications: Not Applicable
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#### Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications:

Where an HMO is required in law to have a current Energy Performance Certificate (i.e., no older than 10 years) the property must meet a minimum standard of an E and the licence holder or manager must present this to the tenant.

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#### Customer Impact

1. Estimated number of users or customers (current and projected):

Estimate is between 1,800 and 2,200 residents currently living in HMOs that require a mandatory license. Many more live in HMOs that do not currently require a mandatory license.

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#### Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

### 3. COMMENTARY

#### 3.1 Background

##### 3.1.1 The Law

3.1.2 The term “house in multiple occupation” (HMO) is defined in Section 254 of the Housing Act 2004 as “a property occupied by 3 or more unrelated people in 2 or more households”. Its definition covers bedsits, studio flats, shared houses, hostels, and refuges. There are two types of licensing for HMO’s as below.

Mandatory HMO Licence (MHMO)	This type of licence is for 5 years and applied nationally. It is required if it is: <ul style="list-style-type: none"><li>• Occupied by 5 or more tenants, 4 or more if there is a live-in landlord, in 2 or more households (a household can be an individual, couple or family).</li><li>• There is at least 1 kitchen, bathroom or toilet shared by the tenants.</li></ul> There are various organisations which are exempt when they manage or control an HMO i.e. public sector bodies, educational establishments and religious organisations.
Additional HMO Licence	This type of licence is discretionary for local authorities to adopt. If adopted, it applies to any property occupied by three or more individuals, not from the same family, that is not captured by MHMO licensing.  Currently this has not been adopted within the London Borough of Bromley.

3.1.3 The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018 introduced a new definition for licensable HMOs, removing the previous requirement for the property to be 3 storeys. This change led to an increase in the number of properties requiring a licence.

3.1.4 Prior to September 2022 the deregulation of planning control, by the Government, meant that many smaller HMOs could be developed under permitted development rights and therefore did not require planning permission. Since the whole Borough Article 4 Direction was approved on 1st September 2022 removing permitted development rights for properties to change to HMOs, they now require planning permission under the Town & Country Planning Act. This enables proposed HMOs to be assessed with regard to planning policies prior to their development. It should be noted however that planning policies may support the granting of permission even where there are local objections and at this time there are no specific local policies relating to HMOs.

3.1.5 Planning permission is now required in Bromley for a property to become an HMO. This is an addition for those properties that require a licence under the mandatory HMO criteria. The planning process ensures cross boundary issues such as parking stress and detrimental impacts on amenity are addressed. Building Control approval is also required, however that may be via a third party Approved Inspector rather than the Council’s Building Control. The HMO Licensing process ensures that the Borough’s safety and amenity standards are met, and that the properties meet the mandatory standards for their state of repair as prescribed by the Housing Acts.

- 3.1.6 There are controls on construction impacts which can be enforced by Public Protection under the Control of Pollution Act 1974 and the Environmental Protection Act 1990. There are behaviour controls under anti-social behaviour legislation, as enforced by the Police, that apply to all residents in the borough.
- 3.1.7 Tenancy conditions can be enforced by the property owners/managing agents under civil and property law, and there are some controls on adequate waste storage capacity under the Licence Holders management responsibilities that can be enforced by Housing Enforcement. Wider issues relating to waste may be enforceable by the Public Protection Nuisance Team and/or Neighbourhood Management.

## **3.2 The Local Situation in Bromley**

- 3.2.1 There is an increasing in demand for HMOs in LB Bromley prior to September 2022. As a result, a significant number of semi-detached properties, predominantly in Orpington and Biggin Hill, were purchased by developers to be extended and converted into HMOs. Investigations suggest that there were 2 organisations actively working to acquire HMO accommodation in Bromley, Clear Springs Ready Homes, working predominantly for the Home Office, and Steph & Philips, a private sector company well established in the emergency nightly paid and the private rented accommodation markets. As previously stated, anecdotally, the pace of conversion has slowed post September 2022.

## **3.3 Mandatory HMO Licensing in Bromley**

- 3.3.1 There are currently 234 licenced HMOs in Bromley, with a further 150 applications submitted awaiting assessment and processing, 8 of those are applications to renew an HMO licence. This brings the total number of licenced HMOs in Bromley to 358 at the time of preparing this report.
- 3.3.2 HMOs found without an appropriate license are encouraged to make an application as a first step. If there is a refusal to attain a license, a landlord can be prosecuted for operating a HMO without a licence. There has been 1 successful prosecution in the courts for operating an HMO without a license since September 2022.
- 3.3.3 LBB recently improved the space and amenity standards for HMOs to ensure a better quality of accommodation for residents who live in HMOs. This has resulted in some HMO developers now only fitting 5 units into each HMO property rather than the previous 6.

## **3.4 HMO Licensing Income**

- 3.4.1 As can be seen in Table 1 below there was a dramatic rise in HMO Licensing income in 2018. This was due to the number of HMOs requiring licensing under the Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018 increasing due to the change to the legal definition of a mandatory HMO.
- 3.4.2 It must be noted that an HMO license is granted for 5 years before the owner has to then re-apply. There is an application fee and a licence fee which is apportioned out over the 5 years, so the income totals also ebb and flow in accordance with this 5-year cycle. The demand for smaller and cheaper accommodation, such as that provided for by HMOs, is also impacted by demand in the housing market and societal trends such as the rise in single person households.
- 3.4.3 There was a marked increase in income in 2020 – 2021 and in each subsequent year. It is anticipated that the pace of development, and thus pace of increase in receipts, will now slow, due to the need for planning permission before conversion, but this will not be seen until next year's figures become available.

### 3.4.4 Table 1 – Annual income from HMO License receipts from 2012

Year	Income (£)
2012 - 2013	3,105
2013 - 2014	8,795
2014 - 2015	4,025
2015 - 2016	1,475
2016 - 2017	4,875
2017 - 2018	13,775
2018 - 2019	17,780
2019 - 2020	18,340
2020 - 2021	64,509
2021 - 2022	119,085
2022 – 2023 (up to 18/12/2022)	208,922

## 3.5 Tenure Intelligence

3.5.1 In 2021 a tenure intelligence exercise was undertaken to identify if there were any potential HMOs in Bromley that required a mandatory licence that had not applied. A data warehouse was created using open-source data and other data sets including the property gazetteer, council tax, housing benefit, electoral roll, parking permit processing, properties where enforcement notices had been previously served, and the tenancy deposit scheme.

3.5.2 Analysis of the above data gave each property a score for the likelihood of it being a HMO between 0 and 1, with 1 being the highest confidence level and 0 the lowest. On review of the data, properties could be eliminated based on officer knowledge and from cross referencing with Public Protection records. Properties that are currently exempt from mandatory HMO Licencing were then excluded. It was found that a significant number of properties had been flagged due to them having a large floor area or footprint, however, this feature is not uncommon in Bromley and these properties were indeed found to be large single-family homes.

3.5.3 The Algorithm used was designed to pick up the characteristics of an HMO, however, in doing so it failed to consider the following:

- Properties with multiple surnames on council tax records – whilst these can be attributed to HMOs, they can also occur because of co-habitation, blended, multi-generational and extended family groups living at the same address.

- Properties with large floor areas – these were identified, however consideration was not given to high value properties in single family occupation. Most of the properties identified fell into this category with several streets of high value homes being included in the results.
- Properties that had been previously served with enforcement notices – the algorithm did not consider the type of notice served. Some properties had been served with a S16 Local Government (Miscellaneous Provisions) Act 1972 notice which is a ‘Request for Information’ regarding property ownership and occupation, or had received a Food Safety or Health & Safety enforcement notice. None of these notices increase the likelihood of there being an HMO at that location.

3.5.4 Following the ‘weeding out’ process 20 properties remained identified as potential HMOs. These properties were visited by officers to determine their residential status of the property and follow up letters were posted.

3.5.5 The Tenure Intelligence Exercise led to no additional properties being identified as HMOs requiring mandatory licensing. However, the exercise did add value as a ‘due diligence’ exercise and illustrated that the property owners and managing agents of HMOs in Bromley are largely compliant with HMO licencing requirements.

### **3.6 Planning Activity and HMOs**

3.6.1 Since 1<sup>st</sup> December 2019 the Planning Service has received:

- 24 applications for Lawful Development Certificates (LDCs) using permitted development rights.
- 27 planning applications to become an HMO.

The majority of these have been received in the last six months in the lead up to, and since, the implementation of the Article 4 Direction. Of these:

- 7 LDCs have been granted and 17 are pending a decision.
- 13 planning applications to become an HMO have been permitted, 8 refused, and 6 remain pending.

3.6.2 25 HMO planning enforcement complaints have been received since 1<sup>st</sup> September 2022 of which:

- 7 have been investigated and closed.
- 7 remain pending.
- 1 enforcement notice has been issued, as the Planning Service only move to prosecution if there is non-compliance with the enforcement notice.

## **4 IMPACT ON VULNERABLE ADULTS AND CHILDREN**

4.1 HMOs tend to accommodate many lower income households, vulnerable adults, and families with children. Traditionally, the most disenfranchised sectors of the community are accommodated within this sector. However, this type of accommodation also houses young professionals, and many other groups including single person households.

## **5 TRANSFORMATION/POLICY IMPLICATIONS**

Not Applicable

## 6 FINANCIAL IMPLICATIONS

Not Applicable

## 7 PERSONNEL IMPLICATIONS

No personnel implications.

## 8 LEGAL IMPLICATIONS

It is a legal requirement to gain planning permission for an HMO and then appropriately licence any HMO that meets the mandatory HMO licencing criteria under the Housing Act 2004.

## 9 PROCUREMENT IMPLICATIONS

Not Applicable

## 10 PROPERTY IMPLICATIONS

Not Applicable

## 11 CARBON REDUCTION/SOCIAL VALUE IMPLICATIONS

Where an HMO is required in law to have a current EPC (i.e., no older than 10 years) the property must meet a minimum standard of an E and the licence holder or manager must present this to the tenant.

## 12 CUSTOMER IMPACT

Ensuring minimum safety and amenity standards are met in the HMOs that require mandatory licensing housing in the private rented sector leads to better quality rented accommodation for all Bromley residents living in this sector.

Ensuring minimum development standards are applied through the planning application process also protects all Bromley residents living in this sector.

## 13 WARD COUNCILLOR VIEWS

N/a

<b>Non-Applicable Headings:</b>	5, 6, 9, 10 & 13
Background Documents: (Access via Contact Officer)	London Borough of Bromley - Adopted Housing Standards 2021