

17 November 2020		ITEM: 5
Housing Overview and Scrutiny Committee		
Licensing Houses of Multiple Occupation		
Wards and communities affected: All	Key Decision: N/A	
Report of: Dulal Ahmed – Housing Enforcement Manager		
Accountable Assistant Director: Carol Hinvest – Assistant Director of Housing		
Accountable Director: Roger Harris – Corporate Director of Adults, Housing and Health		
This report is Public		

Executive Summary

This report provides an update of Houses of Multiple Occupation [HMO] controlled under Mandatory and Additional licensing. Planning is not required for all HMOs.

HMOs represent a growing sector within the private rented sector and likely to increase in the future. Shared renting is regarded as higher risk than single occupancy homes, the conditions, facilities and management are regulated by Private Housing.

Licensing improves housing standards in the private sector and landlords must pass a fit and proper test before being granted a licence. The council helps landlords to manage HMOs more effectively with advice, information and controlled guidelines.

Some HMOs are subject to licensing and pay a fee to the council:

- Mandatory HMO Licensing
- Additional HMO Licensing
- Other HMOs which do not currently require a license are subject to Management of Houses of Multiple Occupations Regulations 2006.

Over the last three years, the council has granted 147 HMO licences, collected £216,155 income fee and issued financial penalties of £100,965 for failure to comply with statutory obligations against HMO landlords and managing agents.

Licensed HMOs are largely concentrated within the Additional Licensing areas. The Private Housing Team have identified a further 2,738 homes requiring investigation as to whether they are operating without a licence.

1. Recommendation

1.1 Housing Overview and Scrutiny Committee to note and comment on the report.

2. Introduction and Background

2.1 HMOs present significantly greater risks to tenants' health, safety and wellbeing than comparable single occupancy homes. Risks such as dangerous gas appliances, faulty electrical systems and inadequate means of escape and other fire precautions are just some of the hazards that Private Housing investigate on a regular basis.

2.2 Cabinet approved Additional Licensing to deal with small HMOs, let to three and four tenants in the borough on the 16 January 2019. The Additional Licensing scheme came into force on June 1 2019 for a period of five years, to run alongside Mandatory Licensing as required under the Housing Act 2004, before the council must review it.

2.3 The Additional Licensing areas are : Grays Riverside, Grays Thurrock, Little Thurrock Blackshots, Stifford Clays, Aveley and Uplands, Belhus, Ockendon, Wet Thurrock and South Stifford, Chadwell St Mary, Tilbury Riverside and Thurrock Park, Tilbury St Chads

2.4 Some buildings are exempt from HMO licensing where the person managing or having control is

- A Local Authority
- A Registered Social Landlord
- The Police
- Fire and Rescue Authority
- National Health Service
- Specified education establishments eg halls of residence
- Religious buildings

2.5 Any other landlord failing to apply for a HMO licence could be prosecuted or face a civil penalty notice of up to £30k, under the Housing and Planning Act 2016.

2.6 Licensing is consistent with the Council's Housing Strategy 2015/20 to improve private rented accommodation. The council is exploring the introduction of a Selective Licensing Scheme to license all privately rented homes that are let to a single family household or two unrelated sharers.

3. Local Housing Context

3.1 The Valuation Office, April 2019 estimates there are 68, 266 homes in Thurrock. The borough has a target to build 30,000 new homes by 2037 to meet demand expected from people wanting to live here.

- 3.2 Table 1 shows a breakdown of the housing status from the national census of 2011

Table 1 Thurrock Housing Status

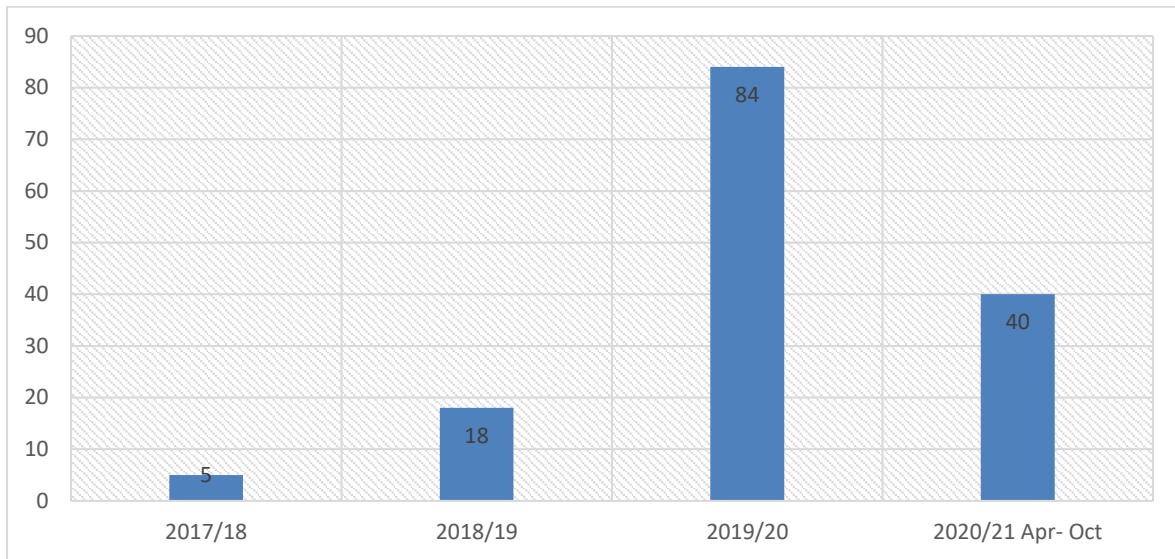
Housing status	Thurrock
Owner –occupier	66.2%
Rented from the council or housing association	18.4%
Rented privately	14.1%

- 3.3 The number of households living in HMOs has significantly increased over the last 9 years. The private rented sector and HMOs have an important role as housing provision in Thurrock. All residents living in the borough must have access to good quality housing.
- 3.4 The supply of HMOs support single households unable to enter the social housing market. This includes professionals, migrant workers, low skilled workers, benefit recipients, vulnerable adults, ex-offenders, care leavers, asylum seekers, and students.
- 3.5 HMOs are likely to increase in the future as the population increases and there remains a lack of affordable housing.

4. HMO Licensing

- 4.1 The council maintains a public register of licensed HMOs under section 232 of the Housing Act 2004. This contains 147 properties with licences granted.
- 4.2 Table 2 shows an increase of 1940% of licensed HMOs from 2017/18 to 2019/20. However, in 2020/21, new applications have temporarily fallen due to Covid19.

Table 2 HMO Licences Granted

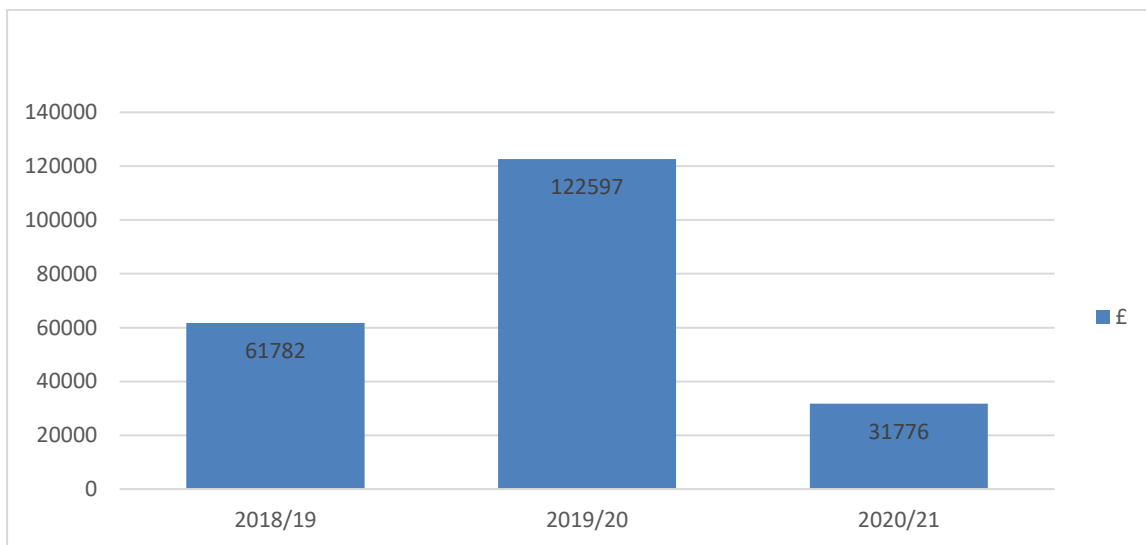


Source; Thurrock Council

4.3 HMO landlords must pay a licensing fee to the council to rent out their property. The HMO license fee is regulated under Section 63[3] of the Housing Act 2004. Fees are reviewed annually by the Private Housing Team and they cover the cost incurred in carrying out the licensing function.

4.4 Table 3 shows the HMO licensing income fee over the last two and half years totalled £216,155 to September 2020. All licensing income must be ring fenced to administer the licensing scheme in line with the regulatory guidance on HMO licence fees.

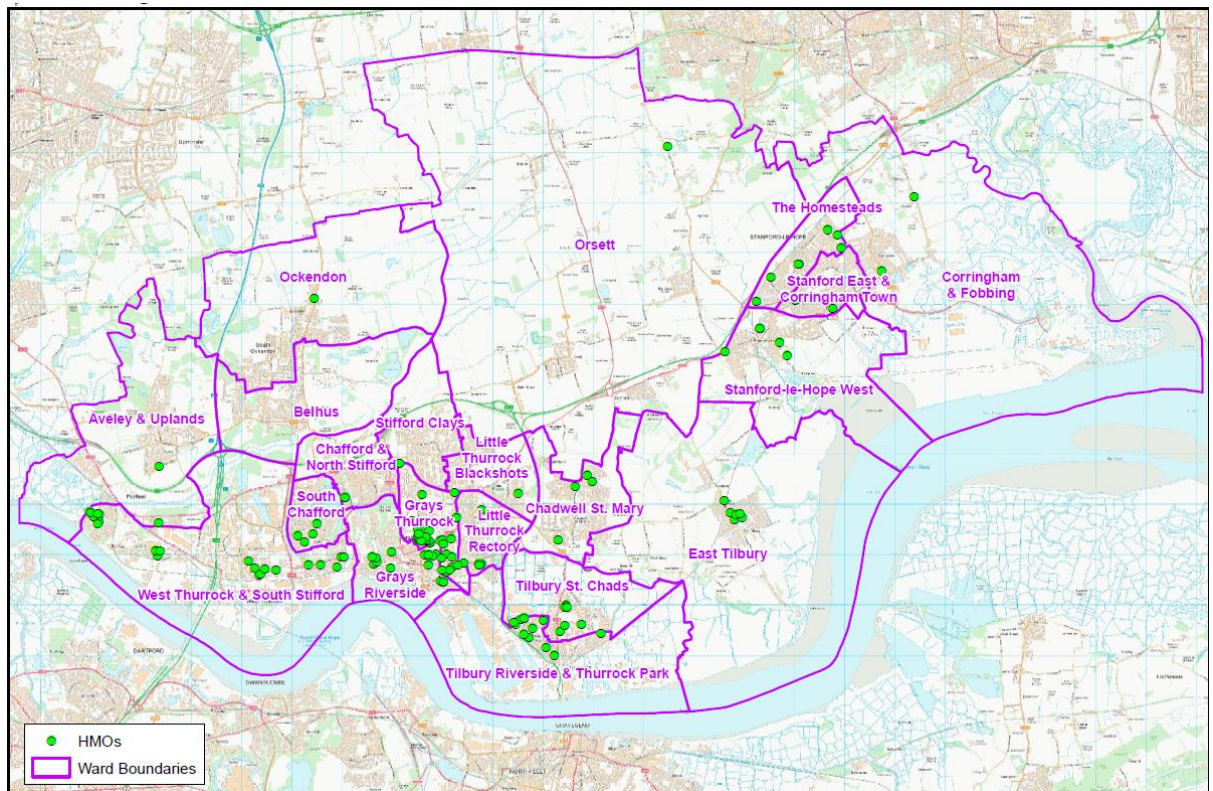
Table 3 HMO Licensing Fee Income



Source: Thurrock Council

- 4.5 The Private Housing Team inspects all properties to ensure they are up to minimum housing standards, suitable for the number of occupiers and the team carries out a fit and proper test that the proposed license holder is suitable to be a manager of the house before granting a license. This includes:
- Competence of the proposed licence holder/manager to manage the building
 - Suitability of the management structures to comply with day to day operations
 - And adequacy of the financial arrangements to carry out his/her obligations under the license and his/her general management functions
- 4.6 The provisions relating to management arrangements are identical for both Mandatory and Additional Licensing.
- 4.7 Map 1 shows the concentration of licensed HMOs in the borough. Licensed HMOs are largely located in certain wards eg Grays, South Chafford, West Thurrock & South Stifford and Tilbury Riverside & Thurrock Park.
- 4.8 The mapping exercise shows only a proportion of the estimated number of HMOs in the borough. The Private Housing Team estimates a further 2738 unlicensed HMOs operating without a licence based on investigate research. An audit programme is underway to inspect unlicensed properties so that landlords can take corrective action or face enforcement action.

Map 1 Licensed Mandatory and Additional HMOs



Source: Thurrock Council

- 4.9 Mandatory and Additional Licensing play a vital role in controlling and regulating HMOs and ensuring that legal standards are in place for fire safety, housing-related health and safety, space standards, amenities, management and the provision of good quality rental accommodation within Thurrock's housing stock
- 4.10 Community concerns arise regarding poorly managed HMOs that cause social and environmental problems.
- 5. Licensing Enforcement Performance**
- 5.1 Although Thurrock has some excellent landlords and letting agents, the Private Housing Team has a vital role in improving housing standards and tackling irresponsible landlords and preventing them from profiting from their non-compliance.
- 5.2 Table 4 shows housing's enforcement performance requiring the landlord to meet the minimum standards of amenities as well as managing their HMO property.

Table 4 Housing Enforcement Measures

Enforcement Measure	2018/19 No.	2019/20 No.	2020/21 Apr- Sept
Improvement Notice	17	36	13
Prohibition Order	8	3	3
Emergency Prohibition Order	0	0	0
Emergency Remedial Action	1	3	2
Environmental Protection Act S80	21	10	2
Hazard Awareness Notice	2	15	1
Suspended Prohibition Order	3	2	1
Suspended Improvement Notice	2	6	1
Building Act 1984/Public Health Act 1936 Drainage	4	8	2
Public Health Act 1936 Notice	4	3	3
Works In Default	6	10	1
Prosecutions	4	5	0
Civil Penalty Notice	0	15	3
Rent Repayment Order	1	0	0
No of HMOs improved under HMO licensing [mandatory & additional	113	568	185

Source: Thurrock Council

5.3 The council try to educate and work with landlords to secure compliance. However, the Private Housing Team has imposed civil penalties for a range of offences under the Housing Act 2004 as alternative to prosecution against HMO landlords. This has totalled £100,963 for failure to comply with statutory obligations.

5.4 Licensing is an important tool in driving out irresponsible landlords and protecting the reputation of those landlords and letting agents who take their legal responsibility seriously and run successful complainant businesses.

6. Planning

6.1 Planning permission is not required for all HMOs. The Town and Country Planning (Use Classes) Order 1987 (as amended) puts uses of land and buildings into various categories known as 'Use Classes'.

6.2 Use Class "C" relates to residential uses. Of relevance to this report are the following subsections:

C3 Dwellinghouses –

This class is formed of three parts:

C3(a) covers use by a single person or a family (a couple whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child

C3(b) N / A

C3(c) allows for groups of people (up to six) living together as a single household. This allows for those groupings that do not fall within the C4 HMO definition, but which fell within the previous C3 use class, to be provided for i.e. a small religious community may fall into this section as could a homeowner who is living with a lodger

C4 Houses in multiple occupation - Small shared houses occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom.

Other relevant use classes

Sui Generis Uses

HMOs of more than 6 people fall outside the C uses, and are in the sui generis use class as “Larger HMOs”

- 6.3 Planning permission is not required for movement between the C uses identified above. Planning permission will be required for **all** HMOs with more than 6 residents, which are classified in planning terms as “Larger HMOs”. Some Local Authorities have Article 4 Directions in place which remove permitted development rights for changes to HMOs, of any size. Thurrock does not have any Article 4 Directions in place.
- 6.4 The Local Planning Authority (LPA) has determined 5 planning applications for changes of use to larger HMOs in the 2020 calendar year so far (all were refused), compared to 1 in 2019 (also refused). The LPA refused an application for a purpose built building to be used as a larger HMO in 2019, the developer appealed to the Planning Inspectorate who allowed the appeal.
- 6.5 Whilst the use of residential properties as HMOs is usually acceptable in principle the main concerns identified by the LPA as reasons for refusal relate to intensification of use, loss of amenity to neighbours and most often lack of suitable parking facilities which leads to on street parking compromising highways safety.

6.6 HMOs remain a frequent concern to residents and the Planning Enforcement team are often required to investigate potential breaches. Where cases of larger HMOs are identified the LPA will work to secure a planning application so that the matters can be formally considered.

7. Reasons for Recommendation

7.1 Planning and Private Housing regulate HMOs to have a positive impact on the local community.

7.2 HMOs are an important part of housing supply and the trend is likely to continue as the population increases and an acute lack of affordable accommodation limits housing options for large numbers in the borough.

7.3 Better managed and maintained HMOs improves the health and wellbeing of the tenants and have a positive impact on their local community.

8. Consultation (including Overview and Scrutiny, if applicable)

8.1 The Community Safety Partnership, including Essex Police, and Essex Fire Authority were consulted on the HMO Licensing Policy of how the Private Housing Team administers the licencing of HMOs.

9. Impact on corporate policies, priorities, performance and community impact

9.1 This report contributes to the council fulfilling its priorities to People and Prosperity in relation to improving the health and wellbeing of residents and building a strong working relationship with the private rented sector to enhance its reputation.

10. Implications

10.1 Financial

Implications verified by: **Hannah Katakwe**
Housing Accountant, Finance & IT

The licensing fee and existing budget provision fund the Private Housing Team. HMO licences issued are valid for five years; which means income profiles annually can vary significantly. The council is accessing the local government income compensation scheme for loss of HMO licence fees because of COVID19 in 2020/21.

10.2 Legal

Implications verified by: **Tim Hallam**

Deputy Head of Law & Deputy Monitoring Officer, Law and Governance

The council has a statutory duty to mandatory licence certain types of HMOs under the Housing Act 2004. Additional licensing is a discretionary scheme the council adopted to deal with the problems associated with HMOs that are not already covered by mandatory licensing.

The Licence fee is not fixed by legislation but must be reasonable and proportionate to the service costs incurred.

There are no additional legal implications associated with this report.

10.3 Diversity and Equality

Implications verified by: **Becky Lee**
Team Manager, Community Development & Equalities

There are no diversity or equality implications associated with this report. A Community and Equality Impact Assessment was carried out previously as part of the review of the Additional Licensing Scheme.

The Council is committed to ensuring good housing conditions for our residents. Licensing improves the standards for tenants in HMO regardless of whether they belong to a protected group[s] or not. It has a positive effect on a wide range of HMO residents. HMO licensing is only undertaken by authorised officers of the council.

10.4 Other implications (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

HMOs are classified as high risk accommodation settings in relation to Covid19. The Private Housing Team works closely with Public Health to raise awareness of landlords and tenants of their duties and responsibilities to stay alert to coronavirus.

11. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

Additional Licensing of Housing in Multiple Occupation, 16th January 2019

<https://www.thurrock.gov.uk/houses-in-multiple-occupation/register-of-licensed-hmos>

<https://www.gov.uk/government/publications/covid-19-and-renting-guidance-for-landlords-tenants-and-local-authorities/guidance-for-local-authorities>

12. Appendices to the report

- None

Report Author:

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