

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

ADMINISTRATION COMMITTEE – 21 June 2006

REPORT OF THE DIRECTOR OF LAW AND ADMINISTRATION

HMO LICENSING

**To inform the Committee that the Leader has delegated the power to issue licenses to houses in multiple occupation under the Housing Act 2004 to the Director of Environmental Health.
FOR INFORMATION**

1. Introduction

1.1 On April 2006 The Leader delegated powers to issue licenses to certain categories of houses in multiple occupation (HMO) under Parts 2 and 3 of the Housing Act 2004 (the Act) to the Director of Environmental Health.

2. Background

2.1 The provisions in the Act dealing with houses in multiple occupation and other private residential accommodation came into effect on 6 April 2006. These are executive side functions. The Act places a duty on local authorities to license HMO's of three or more storeys, with five or more occupiers and it sets out conditions that must be met by the license holder.

2.2 The Act provides a new definition of HMO. It does not include:

- Buildings occupied by a resident land lord with up to 2 tenants.
- Buildings managed or owned by a public body (such as the police or the NHS) or an LHA or a Registered Social Landlord.
- Buildings entirely occupied by freeholders or long leaseholders.
- Buildings regulated otherwise than under the Act, such as care homes or bail hostels.

- 2.3 The Act also allows local authorities to implement 'Additional Licensing Schemes' and 'Selective Licensing Schemes' to licence HMOs that do not fall under the provisions of the mandatory scheme, such as converted blocks of flats. Any such discretionary scheme will require the consent of the Secretary of State. At the moment the Council has decided to concentrate its resources on the requirements of mandatory licensing.
- 2.4 Officer's research indicates that 450 properties will be subject to mandatory licensing. To provide for the efficient use of resources it was proposed that the mandatory licensing function be delegated to the Director.

3. HMO Licensing

- 3.1 Part 2 of the Act introduces a new mandatory licensing regime for private sector HMOs and requires the Council to make arrangements to ensure all applications for licenses are decided within a reasonable time and to determine as soon as reasonably practicable whether action under Part 1 of the Act is required to enforce housing standards.
- 3.2 The Council will need to satisfy itself that the house is deemed reasonably suitable for occupation as a HMO, that management arrangements are satisfactory and the licensee and manager are fit and proper persons. Further more that the applicant is the most appropriate person to hold the licence. The Act sets out conditions that must be met by the licence holder and it also allows the Council to set discretionary conditions. All conditions will need to be checked for compliance. Having regard to the above the officer will then determine the duration of the license, apply appropriate discounts and additional conditions if necessary.
- 3.3 In certain cases where the person having control of the property or person managing an HMO can demonstrate that steps will be taken to securing the house no longer requires a license, the Council may, if it sees fit, serve a Temporary Exemption Notice.
- 3.4 An owner or manager of an HMO may apply to the Council for a Temporary Exemption Notice (TEN). If a TEN is granted the HMO is exempt from licensing and accordingly the manager/ owner does not commit the offence of operating an HMO without a licence. The Council may only grant a TEN if it is satisfied that the applicant is, or will shortly be, taking steps to ensure the HMO ceases to be subject to licensing. For example, if planning permission has been obtained for the conversion of the HMO to single family occupation. A TEN can only be granted for a maximum period of three months, but in exceptional circumstances the Council may issue a second TEN to

last a further three months following the expiry of the original. No more than two consecutive TENs may be granted in succession for a given property. Appeal against the Council's decisions on a TEN lies with the Residential Property Tribunal

- 3.5 Part 3 of the Act provides powers for the Council to selectively licence privately rented properties in designated areas suffering from low housing demand or significant and persistent anti-social behaviour.
- 3.5 Part 4 of the Act is concerned with the Council's duties and powers to make interim and final management orders.
- 3.6 Where there is no prospect of an HMO being licensed, the Act requires the Council to use its interim management powers. This enables the Council to take over the management of an HMO and become responsible for running the property and collecting rent for up to a year. In extreme cases this can be extended to five years through a final management order, with the Council also having the power to grant tenancies.
- 3.7 The Act sets out the considerations which the Council must take into account before granting, refusing, varying or revoking a license. It also sets out matters to consider when issuing a temporary exemption notice and making an interim or final management order

4. Financial, Legal Personnel and/or Diversity Implications

- 4.1 The Group Finance Manager confirms that there are no financial implications
- 4.2 The Director of Law and Administration confirms that the action proposed is within the Council's powers.
- 4.3 The Director of Personnel and General Services confirms that there are no personnel or diversity implications.

5. Constitution

- 5.1 The Director of Law and Administration will amend the description of the Director of Environmental Health's portfolio in Part Three C of the constitution to insert into paragraph 6 a new sub-paragraph entitled "licensing of houses in multiple occupation".

Gifty Edila
Director of Law and Administration

**Local Government Access to Information Act 1985 –
Background papers used: None**

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