

SLOUGH BOROUGH COUNCIL

REPORT TO: Neighbourhoods and Community Services Scrutiny Panel

DATE: Thursday 28th February 2019

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PART I
FOR COMMENT AND CONSIDERATION

ROGUE LANDLORDS DATABASE AND BANNING ORDERS UNDER PLANNING AND HOUSING ACT 2016

1. **Purpose of Report**

1.1 To provide the Panel with an update and overview of the Legislation that came into force on 1st April 2018 and how it could/may be implemented.

2. **Recommendation(s)/ Proposed Action**

2.1 The Panel is requested to resolve:-

2.1.1 to note the overview of the above legislation and how it will be implemented and

2.1.2 to support the proposals and forthcoming recommendations in relation to Property Licensing Schemes that will be submitted to the Cabinet in March 2019.

3. **The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan**

3a **Slough Joint Wellbeing Strategy Priorities**

The thorough and effective licensing of HMOs directly supports the following priority:

- Housing

3b **Five Year Plan outcomes**

The licensing of HMOs is also a key element of the following outcomes of the Five Year Plan:

- Slough will be an attractive place where people choose to live, work and stay
- Our residents will live in good quality homes

4. **Other Implications**

a) Financial

The financial implications of the licensing regime are discussed in the report. There are no implications to the compilation of this report.

b) Risk Management

There are no risks in addition to the ones, which will be listed within the Cabinet report. After completion of the Statutory Consultation, the results of the consultation and options will be submitted to Cabinet to make the final decision.

c) Human Rights Act and Other Legal Implications

Any action or policy developed will be in line with primary legislation that will have regard to Human Rights and be subject to legal scrutiny.

d) Equalities Impact Assessment

The policy under the proposed Licensing Scheme will be subject to an Equality Impact Assessment as required during its compilation. No assessment has been necessitated by the commissioning of this report.

5. **Supporting Information**

5.1 The Housing and Planning Act 2016 is the primary legislation, in relation to the Rogue Landlords Database and Banning Order that came into effect in April 2018. As far as officers can establish, no Local Authority has placed a 'rogue landlord' on this database so far.

5.2 In addition, so far as we can establish, there is no legal definition for 'Rogue Landlord'. Since the introduction of the Rogue Landlords Database under the above act, this term is often mistaken as a legal definition. In essence, if a Landlord is put on the Rogue Landlord Database, they could realistically be considered a Rogue Landlord, but as stated there is no specific legal definition of 'Rogue Landlord'.

5.2 If a landlord is convicted of one of the specified offences or has been subject to two or more housing Civil Penalty Notices within 12 months, they could receive a banning order and therefore be added to the Rogue Landlord Database. The Rogue Landlord Database is the name given to the database, which holds details of those who have met the specific requirements as explained above

5.3 The Parliamentary Under-Secretary of State for Communities and Local Government, Baroness Williams of Trafford, in response to the Liberal Democrat Peer, Lord Greaves; gave the following explanation:-

'The term 'rogue landlord' is widely understood in the lettings industry to describe a landlord who knowingly flouts their obligations by renting out unsafe and substandard accommodation to tenants, many of whom may be vulnerable. The Housing and Planning Bill contains a number of measures to help local authorities crack down on rogue landlords and force them to either improve or leave the sector.'

5.4 To place a landlord or agent on the Rogue Landlord database, The Council must follow due process, which requires long and protracted legal proceedings. For example, to prosecute a landlord, officers are required to meet the Public Interest Test as well as rigorously following the requirements of the 2004 Housing Act. These procedures are not only time consuming and resource intensive, but rightly subject to appeals and scrutiny at various tribunals; therefore the lead time for positive outcomes is often long and protracted. Considering the fact that the tenant involved in such cases will continue to live in substandard properties, whilst legal issues are being dealt with, making a decision to prosecute is not to be taken lightly. The key and main objectives for officers are to improve housing conditions and sustain tenancies, thus giving families in private rented sector stability whilst at the same time targeting criminal elements in this sector. To this extent, in line with the 5 Year Plan and the current Housing Strategy, officers have been developing policies and approaches to achieve the right balance that improves housing conditions, whilst simultaneously allowing the Council to target the rogue and criminal element effectively without adverse effects on limited resources. This includes:-

1. Proposals for Licensing of all HMOs across the Borough, which are not covered by Mandatory HMO Licensing and introducing Licensing for all rented properties in Chalvey & Central Wards under Selective Licensing. As per the Cabinet Decision of 17th September 2018, officers have completed the required statutory consultation and are in the process of preparing the final report, which is due to be considered at the 18th March 2019 Cabinet. Officers believe that if the licensing proposals are approved by Cabinet, it will give the Council the best chance of effectively and efficiently using the new powers to identify and deal with landlords who float the law;
2. Increasing the size of the Housing Regulation Team from 3 officers to 7, plus an additional administration officer;
3. Develop policies and procedures to help to consistently and effectively enforce the law. It should be noted that two Slough landlords have been issued with the Council's first Civil Penalty Notices, totalling over £52,000. This is in the place of a prosecution.

5.5 In general, although officers agree that Banning Orders and the Rogue Landlords Database are useful tools recently added to the Council's enforcement options, officers are aiming to develop a holistic and all-encompassing approach to improving the sector. Officers aim to employ the most effective tools for a given situation, e.g. civil penalties, prosecution or informally by working closely with the landlords, tenants and agencies.

5.6 Issues around the private rented sector have been presented to the Scrutiny Panel twice in the last 12 months. In the last meeting on the 1st November 2018, the Panel debated in detail the licensing proposals. The Scrutiny Panel requested for this item to be put in their forward plan in 12 months time in order to review the outcome and its impact, should the proposal be agreed.

6. **Comments of Other Committees**

6.1 The policy for the licensing of private rented property was an agenda item for Cabinet on 17th September 2018

6.2 This report has not been taken by other committees.

7. **Conclusion**

7.1 Officers believe that the most effective and efficient way to deal with landlords/ agents who break the law is to utilise the powers under Part 2 & 3 of the Housing Act 2004. The proposals, which after completion of the statutory consultation, will be submitted to Cabinet on 18th March 2019.

7.2 Property licensing can be an effective tool for tackling some of these key priority areas; preventing or controlling overcrowding, improving conditions and reducing anti-social behaviour. It is well documented that overcrowding has a serious and lasting impact on health and the psychological well-being of families, especially young people, which negatively affects their life chances. Licensing can improve the overall condition of properties and controls the number of permitted persons allowed to occupy a licensed property. This will also help the Council to concentrate its efforts on rogue and criminal landlords / agents who give the sector a bad name.

8. **Appendices**

8.1 None.

9. **Background Papers**

9.1 Agenda Papers and Minutes, Cabinet (17th September 2018).