

Private Sector Housing – HMO licensing

Introduction

The Strategic Housing service took transfer of Private Sector Housing in January 2018 from Regulatory Services. This paper outlines new HMO regulations introduced on 1 October 2018 and the significant impact on the service. It is important to note that the new regulations were not accompanied by any additional new burdens funding from central government and the Housing Service has had to reform the service to deliver the additional requirements. Appendix 1 provides further details of the current service demand in relation to HMO activity.

National Context – The Private Rented Sector

On a national scale, the private rented sector is the fastest growing housing tenure type, having more than doubled in size over the last decade. This growth, alongside the gradual decline of social rented stock due to policies such as the 'Right to Buy', means that private renting is increasingly becoming the primary option for addressing housing need across the country.

The implementation of the Homelessness Reduction Act 2017, and more specifically the increased length of time that local authorities are now required to work with clients with a much greater concentration on the prevention of homelessness, means that housing staff will increasingly be looking to the private sector in order to provide suitable accommodation for those who are facing homelessness, it is therefore crucial that standards in the private sector are improved.

The MHCLG has this month launched the Private Rented Sector Access Fund competition. The fund makes available £20 million for schemes that will enable better access to, and sustainment of, tenancies for those who are, or at risk of becoming homeless and rough sleeping.

HMO licensing and the impact for Dacorum

A February 2017 the Building Research Establishment Integrated Stock Model Report has identified that there are 65,289 dwellings in Dacorum, 18% of which are privately rented properties. Of the privately rented properties in the borough, it is estimated that there is a total of 916 Houses in Multiple Occupation (HMOs). By contrast, under legislation which applied until October 2018 the Council's direct involvement was with around 40 HMOs plus general complaints regarding private landlords.

The April 2006 mandatory licence scheme, applied the following definitions for HMO's:

- An entire house or flat which is let to 3 or more tenants who form 2 or more households and who share a kitchen, bathroom or toilet
- A house which has been converted entirely into bedsits or other non-self-contained accommodation and which is let to 3 or more tenants who form two or more households and who share kitchen, bathroom or toilet facilities
- A converted house which contains one or more flats which are not wholly self-contained (i.e. the flat does not contain within it a kitchen, bathroom and toilet) and which is occupied by 3 or more tenants who form two or more households
- A building which is converted entirely into self-contained flats if the conversion did not meet the standards of the 1991 Building Regulations and more than one-third of the flats are let on short-term tenancies

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October 2018

With effect from 1 October 2018, the Government extended mandatory licensing to cover all relevant HMOs regardless of the number of storeys. The requirement for the HMO to be occupied for five or more persons in two or more households remains. To be classified as an HMO the property must be used as the tenants' only or main residence and it should be used solely or mainly to house tenants. Properties let to students and migrant workers will be treated as their only or main residence and the same will apply to properties, which are used as domestic refuges. The extension of mandatory licencing will apply to the following:

- It will apply where certain HMOs are occupied by five persons or more in two or more households, regardless of the number of storeys
- This includes any HMO which is a building or a converted flat where such householders lack or share basic amenities such as a toilet, personal washing facilities or cooking facilities
- It also applies to purpose built flats where there are up to two flats in the block and one or both are occupied as an HMO

At present, there are 41 licensed HMO's in Dacorum. Under the new definitions, the service is likely to see a significant increase in properties requiring licence, given the BRE report 916 potential properties requiring a licence.

Landlords with properties, which fall within the defines of the new legislation will have a period of six months from 1 October 2018 to apply for a license. During these six months, enforcement action cannot be taken. The council will also need to be proactive in identifying HMO's that now fall under the new definition and ensure landlords are aware of the new requirements. The service commenced proactive communications via a range of media during the summer of 2018 to raise awareness of the new requirements.

A licence fee can be charged for a five-year period but only for licences that are approved, this must be at reasonable cost, Dacorum's licence fee is £700. Going forward the service will need to ensure that the fee structure has a two-tiered approach, a fee for all applications considered and reflective of the cost of processing the application, plus a further fee for licences granted and relate to the ongoing monitoring of the licence over the 5-year period. It is therefore essential that the council spend sufficient time ensuring that all relevant and appropriate costs are accurately reflected within the fee, to ensure that the council can recover relevant costs associated with the activity and to support the running of the service. The current fee is under review with the support of Counsel and Finance as the fee structure is rendered unlawful following a recent Court ruling *R(Gaskin) v LB Richmond Upon Thames(2018)*.

The Council will have set up processes to administer the requirement, including an on line capacity for the initial application. We will also need to create a database of HMOs as experience indicates that many landlords will not apply and will have to be pursued. Each property will have to be inspected as part of the licensing process, which will often lead to arrange of improvement works, which will need to be monitored and re-inspected. Where landlords fail to comply then enforcement action will be necessary.

Prior to the transfer of the service into Housing very little priority was given to private housing and in particular HMOs and consequently very little action. Policies, procedures and service delivery have had to be radically transformed and some of this is still being resolved. Pressure to deliver a good service on PRS has increased considerably due to the increased focus at government level, the increase in the numbers now living in private renting, the reality that the main cause of homelessness is now eviction or non-renewal of tenancies

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and a general public awareness of private tenants' rights. This will inevitably lead to an increase in demand for Council action in this important statutory service.

Minimum room standards

The reform also introduced mandatory conditions to regulate the size and use of rooms in a licensed HMO, it defines that rooms used for sleeping by one adult will have to be no smaller than 6.51 square meters, and those slept in by two adults will have to be no smaller than 10.22 square meters. Rooms slept in by children of 10 years and younger will have to be no smaller than 4.64 square meters.

The licence must specify the maximum number of persons (if any) who may occupy any room and the total number across the different rooms must be the same as the number of persons for whom the property is suitable to live in.

Local authorities will now need to specify which rooms in a HMO are suitable for sleeping accommodations. This introduces specific requirements for both adults and children under 10. Where the room does not meet the requirements, local authorities must give landlords a reasonable period to rectify this (up to 18 months).

Throughout the initial six-month period, this suggests all new properties now requiring a license will need inspecting. Both environmental health officers and suitably trained staff are able to perform this function.

Conclusion

In light of the above information and due to further pressures on the Housing Service following the introduction of the 1 October 2018 legislation, the service has since January 2018 commenced a new and refreshed approach to engaging and working with the private sector be considered. Driving up standards and creating a private rented sector that is more accessible and stable for local people is important in reducing and preventing homelessness.

The Strategic Housing Service has since January 2018 been developing a targeted and proactive approach to improving Dacorum's Private Rented Sector, a summary of work undertaken or proposed is below:

Improving Property Standards

- The Private Sector Housing team has introduced a targeted and proactive approach to inspections of the local private rented sector.
- Implemented a HMO and Enforcement Policy in July 2018.
- Exploring funding opportunities to support our approach to enforcement.
- Collate and maintain a central database of rogue landlords as well as landlords who have been accredited by the National Landlord Association (NLA) and share this with relevant organisations locally.
- Commission a survey of the boroughs private sector stock.
- Consider an approach to tackle the 100+ empty homes within the Dacorum area, which have been empty for over 2 years without action.

Landlord and Tenant Engagement

- Look into creating a robust approach to tenant education; providing advice and guidance on their rights, private letting legislation, what they should expect from their landlord and what is expected of them as tenants.
- Consider developing an equally robust approach to engaging with landlords, offering advice and guidance on dealing with tenancy issues with the aim of preventing evictions where possible. Education around adhering to relevant legislation and regulations is also key to ensuring standards are met.
- Explore the possibility for regular drop-in sessions for landlords to attend where they can discuss and get advice on any tenancy issues they are facing.
- Continue to promote and facilitate the running of the National Landlord Association (NLA) landlord accreditation scheme in Dacorum.

Access and Affordability

- Explore a refreshed approach to working with the private rented sector that does not rely on landlord incentives.
- Work with landlords to dispel the negative stereotypes surrounding tenants in receipt of housing benefit and promote the benefits of longer-term tenancies.
- Collate a list of local landlords that will accept tenants on housing benefit.

Resources

- Undertake a review of the current resources within the team in view of the current and ongoing service demand.
- Develop a growth bid for a dedicated Team Leader role, which was deleted from the establishment in December 2018.