

INTERNAL AUDIT REPORT

FROM: Audit and Risk Manager **SUBJECT:** Private Sector Housing Regulation (Houses in Multiple Occupation)

TO: Deputy Chief Executive (BH) **DATE:** 6 September 2017

C.C. Chief Executive
Head of Finance
Housing Strategy & Development Manager
Private Sector Housing Manager
Portfolio Holder (Cllr PP)

1 Introduction

- 1.1 In accordance with the Audit Plan for 2017/18, an examination of the above subject area has been undertaken and this report presents the findings and conclusions drawn from the audit for information and action where appropriate. This topic was last audited in March 2014.
- 1.2 Wherever possible, findings have been discussed with the staff involved in the procedures examined and their views are incorporated, where appropriate, into the report. My thanks are extended to all concerned for the help and cooperation received during the audit.

2 Background

- 2.1 A House in Multiple Occupation (HMO) is created where three or more people share accommodation and facilities and form two or more separate households. A household can be a family, a couple or a single person.
- 2.2 Properties of three or more storeys which house five or more people, in two or more households, must have a licence to operate legally, although the Government proposes to remove the number of storeys from the licensing criteria. There are currently in the region of 1500 known HMOs within the district of which roughly 340 are licensed.
- 2.3 A Task & Finish Group had been set up by the Overview & Scrutiny Committee to look into HMOs in response to a number of concerns raised. The group has recently reported their findings to the committee and made a number of recommendations.
- 2.4 Some of these relate to the work of the Private Sector Housing team with others covering planning issues and anti-social behaviour (e.g. waste and noise nuisance).

3 **Scope and Objectives of the Audit**

3.1 The audit was undertaken to test the management and financial controls in place within Private Sector Housing in respect of HMOs. Issues not under the remit of Private Sector Housing were not included in the scope.

3.2 In terms of scope, the audit covered the following areas:

- Policies and procedures
- Licensing and registration
- Inspection
- Information and guidance
- Performance management
- Financial planning and management
- Risk management.

3.3 The control objectives examined were:

- The Council complies with legislation relating to HMOs
- The Council can be seen to be taking resident's concerns seriously
- Staff are aware of how to deal with HMOs
- The Council is aware of the HMOs that are operating in the district
- All relevant HMOs are licensed
- The Council is able to ensure, as far as possible, that HMOs are operated in line with applicable standards
- License holders, tenants, and others are aware of what is to be expected in relation to HMOs
- Management are aware of how the Council is performing in relation to HMO licensing and compliance issues
- The costs of licensing HMOs and associated works can be recovered
- Budgets are effectively managed
- The Council is aware of the risks in relation to the services undertaken by the section and has taken steps to address them.

4 **Findings**

4.1 **Recommendations from Previous Report**

4.1.1 The current position in respect of the recommendations from the audit reported in March 2014 is as follows:

Recommendation	Management Response	Current Status
1 Forecasts of future resource demands for HMO licensing should be incorporated in the service plans and appropriate budget provisions made to enable early preparation for upsurges of licence renewals due.	Recommendation accepted.	The bulk of the license renewals are due this year. In preparation for the additional works required, two new staff have been taken on until March 2018. Licensing packs have been sent and inspections have also started early to smooth the workflow.

4.2 Policies & Procedures

- 4.2.1 The policy in place in relation to HMOs, which is available on the Council's website, deals with the planning aspects of HMOs as opposed to the licensing and inspection process that are relevant to this audit.
- 4.2.2 Process notes and process flowcharts are in place for HMO licensing and registration. The notes include appropriate references to Flare and the spreadsheet register in place (see below) and had been updated in June 2017.
- 4.2.3 As suggested above, the report of the Task & Finish Group makes a number of recommendations relevant to the HMO licensing processes. The Private Sector Housing Manager (PSHM) advised that the Deputy Chief Executive (AJ) (DCE) was coordinating the response to the recommendations and a meeting has been held between the DCE, the PSHM and representatives from Neighbourhood Services, Health & Community Protection, and Development Services to initiate matters.
- 4.2.4 The recommendations relevant to Private Sector Housing will generally have to wait until the new licensing and detailed Rogue Landlord regulations come into force before they can be actioned.

4.3 Licensing & Registration

- 4.3.1 The Senior Environmental Health Officer (SEHO) advised that there are a number of different ways that new HMOs are identified.
- 4.3.2 A weekly list of planning applications, provided by Development Services, is reviewed to identify any relevant properties, whilst others may be identified following calls from members of the public. There has also been a large number identified following the change in law that allowed councils to access the tenancy deposit scheme data.
- 4.3.3 All licensed HMOs are recorded on Flare, with a list also being available via the Council's website. A register of all known HMOs, included those that do not require a license, is maintained on a spreadsheet.
- 4.3.4 The spreadsheet also includes a number of suspected HMOs and those for which planning applications have been received, but they may not necessarily have been occupied as such. These will be periodically reviewed to ascertain whether the HMOs are up and running.
- 4.3.5 As suggested above, there is a proposal from the Government that would expand the number of HMOs that require licensing (removes the number of storeys from the licensing criteria) and, in preparation for this, an exercise has been undertaken to identify HMOs that would require licensing should this proposal move forward with these being annotated as such on the register.
- 4.3.6 Sample testing was undertaken to ensure that license applications were being processed appropriately, with checks being undertaken to ensure that relevant documentation was held and issued, records were being maintained on Flare and the correct fees had been paid.

- 4.3.7 The test proved largely satisfactory with documents confirming that the applications were being processed appropriately, although in three of the ten cases sampled the occupancy number assessment had not been evidenced, as the relevant row had been removed from the Flare template. Whilst this is not ideal, the SEHO advised that he would only expect specific evidence to be recorded if any issues were identified (e.g. a room being under the required size to be used as a bedroom). As such, no recommendation is thought to be warranted.

4.4 **Inspection**

- 4.4.1 The SEHO advised that there is not a formal programme of inspections. This has mainly been due to a lack of (staff) resources, although there may now be more scope for undertaking 'mid-term' inspections as new staff are in place.
- 4.4.2 He also highlighted that 'risk based' inspections had been considered in the past and this may be taken forward. Internal Audit agree that this is a sensible solution and suggest that be undertaken.
- 4.4.3 Monthly reports are produced which show all HMOs and these are sorted by their license expiry date. These will then be checked to see if any that are due for license renewals have not been inspected within the last five years.
- 4.4.4 The last monthly report only showed one case where the last inspection had taken place more than five years ago and the Housing Standards Officer advised that this had now been undertaken.
- 4.4.5 A large number of licenses are due for renewal this year and, as part of the license renewal programme, the SEHO advised that Private Sector Housing are trying to do inspections in advance of the renewal dates.
- 4.4.6 The SEHO advised that, if inspections reveal any non-compliance, a schedule of works will be drawn up and the landlord will be given an opportunity to correct the issues within a set timeframe.
- 4.4.7 At the application stage, these may be detailed in works schedules issued alongside the draft and full licenses if the works required are considered minor.
- 4.4.8 All works detailed on these schedules should be followed up, although in one case from the sample testing undertaken there was no evidence to suggest that this had been performed.

Risk

HMO tenants may be residing in substandard accommodation.

Recommendation

Staff should be reminded of the need to ensure that all items included in works schedules are followed up to ensure that they have been completed.

- 4.4.9 Where inspections reveal major issues enforcement action can be considered, with prohibition orders possible at the far end of the scale. The SEHO provided a list of all cases where prosecutions have been undertaken although he highlighted that there were issues with the range of fines being handed down, with the most recent being seen as lenient given that the landlord maintained a number of different, licensed, HMOs and should have known the correct processes to follow.

4.5 **Information & Guidance**

- 4.5.1 The HMO pages on the Council's website were reviewed and it was confirmed that they provide an appropriate level of detail to tenants and landlords as to the standards required in HMOs.
- 4.5.2 The pages cover various topics including the need for planning permission in certain circumstances, the safety and management requirements that are in place, the licensing requirements and process and payment options. The pages also include various links to relevant internal and external sites as well as further guidance documentation.

4.6 **Performance Management**

- 4.6.1 One specific operational measure is included in the Housing Services Service Area Plan (SAP) for 2017/18 in relation to HMOs (number of HMO licenses which were relicensed), although another customer measure is also relevant (percentage of private sector housing service requests resolved within target).
- 4.6.2 The PSHM advised that there are further measures included in the new Team Operational Plan (TOP) that has been in place since April 2017. Again, this includes some HMO specific measures along with others that are indirectly relevant where HMOs form part of a larger team measure.
- 4.6.3 The SEHO highlighted that one particular measure on the TOP (average time to process HMO license applications) can be hard to manage as the time taken to process the application can be affected by the amount of work required for the application to be properly completed (e.g. missing documentation submitted etc.).
- 4.6.4 The Housing Strategy & Development Manager (HSDM) advised that the performance against the TOP is discussed during one-to-one meetings with the PSHM, with the TOP also including the relevant SAP indicators.
- 4.6.5 The HSDM also advised that SAP updates are provided to the Portfolio Holder so they can provide updates to the Overview & Scrutiny Committee on general performance issues.

4.7 **Financial Planning & Management**

- 4.7.1 The PSHM advised that HMO licensing fees had previously been based on costs and had been benchmarked before he came into post. Since then, they have tended to increase with inflation.

- 4.7.2 Upon review of TOTAL it was ascertained that roughly £35,500 had been received in fees during 2016/17, but the total cost of providing the work during the year was almost £51,700. However, a balance of roughly £66,700 had been held in the reserve at the start of the year as HMO fees can only be used for HMO related work and cannot be used to offset other general fund expenditure.
- 4.7.3 The PSHM highlighted that the licensing process (and the associated income) is cyclical and a favourable balance is expected this year due to the number of license renewals that will be processed.
- 4.7.4 The HMO licensing fees are covered in main fees and charges report that was presented to Executive on 28 September 2016. Executive approved the proposed fees and recommended that Council adopted them which was duly undertaken on 16 November 2016 when Council approved the Executive minutes.
- 4.7.5 The expenditure relating to HMOs largely comes from the main Private Sector Housing budget before being recharged to the HMO Fee Funded Work budget at year end. The PSHM advised that monthly meetings are held and emails are exchanged with the relevant Accountancy staff to monitor the budget situation.
- 4.7.6 The current budget position and the 2016/17 outturn position for the relevant budget codes were discussed with the PSHM and he was able to provide explanations for the variances identified.
- 4.7.7 One issue that is worth noting is the budget that remains on the main budget code in respect of the contribution to a joint post. The PSHM advised that this funding is no longer required (as the post is no longer funded by the Council) and nothing was spent against the code in 2016/17 either. As this post did not relate to HMOs there is no recommendation included in this report, but it should be noted to ensure that the budget is amended when the next budgets are set.
- 4.8 Risk Management**
- 4.8.1 A Housing Services risk register is now in place (following the split from 'Property Services'). The HSDM advised that this is currently being reviewed by himself and the Sustaining Tenancies Manager.
- 4.8.2 The register includes a specific reference to HMOs which covers the 'failure to meet (the) statutory licensing scheme for (HMOs)', along with relevant risk mitigation measures and controls and actions required.
- 4.8.3 A number of the generic risks detailed within the register are also relevant to the team. One such risk is 'inadequate staffing resources' and the PSHM advised that two new (fixed term) contracts have been filled to address the staffing resource issue within the team, specifically in relation to the license renewal processing.
- 4.8.4 An additional query was raised in relation to any fire risks to HMOs that may have been become apparent following the Grenfell Tower fire. The PSHM

advised that none of the HMOs fall into the building categories that Warwickshire Fire & Rescue have deemed to require specific inspections (six or more storeys) but fire risks are covered as a matter of course as part the inspection process for HMO licensing.

5 **Conclusions**

5.1 Following our review, in overall terms we are able to give a SUBSTANTIAL degree of assurance that the systems and controls in place in respect of Private Sector Housing Regulation (HMOs) are appropriate and are working effectively.

5.2 The assurance bands are shown below:

Level of Assurance	Definition
Substantial Assurance	There is a sound system of control in place and compliance with the key controls.
Moderate Assurance	Whilst the system of control is broadly satisfactory, some controls are weak or non-existent and there is non-compliance with several controls.
Limited Assurance	The system of control is generally weak and there is non-compliance with controls that do exist.

5.3 A number of minor issues were, however, identified:

- Occupancy number assessments were not always evidenced on Flare.
- There was no evidence of works required in relation to a licensing application being followed up.
- A (non-HMO) budget on the Private Sector Housing cost centre is no longer required and should be removed.

6 **Management Action**

6.1 The recommendation arising above is reproduced in the attached Action Plan (Appendix A) for management attention.

Richard Barr
Audit and Risk Manager

Action Plan

Internal Audit of Private Sector Housing Regulation (HMOs) – September 2017

Report Ref.	Recommendation	Risk	Risk Rating*	Responsible Officer(s)	Management Response	Target Date
4.4.8	Staff should be reminded of the need to ensure that all items included in works schedules are followed up to ensure that they have been completed.	HMO tenants may be residing in substandard accommodation.	Medium	Private Sector Housing Manager	A reminder has already been given to the team to diarise checks for the works in the HMO license schedules. A small amendment to Civica APP is also being proposed that will allow management reports to be generated to be able to monitor and progress the completion of these works although this requires some work to Civica before it can be implemented.	Completed. November 2017.

* Risk Ratings are defined as follows:

High Risk: Issue of significant importance requiring urgent attention.

Medium Risk: Issue of moderate importance requiring prompt attention.

Low Risk: Issue of minor importance requiring attention.