

## INTERNAL AUDIT REPORT

**FROM:** Audit and Risk Manager

**SUBJECT:** Private Sector Housing Regulation

**TO:** Head of Housing

**DATE:** 31 March 2022

**C.C.** Chief Executive  
Deputy Chief Executive  
Private Sector Housing Manager  
Head of Finance  
Portfolio Holder (Cllr Matecki)

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### 1 Introduction

- 1.1 In accordance with the Audit Plan for 2021/22, an examination of the above subject area has recently been completed by Jemma Butler, Internal Auditor, and this report presents the findings and conclusions for information and, where appropriate, action.
- 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 a dwelling containing three or more persons from two or more separate households. A household can be a family, a couple or a single person. It nearly always involves sharing of facilities but not always. The exception is a 'converted building' that may contain a number of flats which are not all self-contained, i.e. not all amenities are located behind the front door of each flat.
- 2.2 Properties that house five or more people, in two or more households, must have a licence to operate legally. There are currently in the region of 1400 known HMOs within the district of which roughly 600 are licensed.

### 3 Objectives of the Audit and Coverage of Risks

- 3.1 The audit was undertaken to test the management and financial controls in place. This was achieved through a 'risk-based audit' approach whereby key risks are identified and then processes are assessed to provide assurance that the risks are being managed effectively. This approach has been in place by WDC Internal Audit since only the start of this financial year following an external review of the function.
- 3.2 In terms of scope, the audit covered the following risks:
- Licensing fees are insufficient to cover the associated work.

- Fees and charges are incorrectly published or/and invoiced.
- Fees and charges are challenged by applicants or lobbying organisation e.g. NRLA.
- Failure to comply with applicable legislation.
- The Council is not seen to be taking action against private landlords / HMOs that are acting unlawfully.
- The Council is being inconsistent in its approach to enforcing standards.
- Officers may be approached to not report breaches of legislation.
- Staff undertaking inspections of HMOs are at risk of physical and verbal attacks or could be exposed to harmful substances.
- Poor systems and record management.
- Recruitment / remuneration issues resulting in insufficient resources available.

3.3 Potential risks were also identified in the Significant Business Risk Register, the departmental risk register, and discussion between the Internal Auditor and the Business Manager.

3.4 These risks, if realised, would be detrimental to the Council with regards to meeting the following corporate objectives, as set out in the Fit for the Future Strategy:

- The overall vision of the Council is to make the district 'a great place to live work and visit' and the work of the Public Sector Housing Regulation (PSH) Team helps to address the first aspect of this vision.

## 4 Findings

### 4.1 Recommendations from Previous Reports

4.1.1 The current position in respect of the recommendations from the audit reported in September 2017 was also reviewed. The current position is as follows:

Recommendation		Management Response 2017	Current Status
1	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.	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.	There is a comprehensive spreadsheet with colour coding to show the status of work that needs completing and where follow ups are required. The spreadsheet is dated enabling the follow up to be completed in a timely manner. Reports can also be run from Civica allowing monitoring of the progress where works are required.

## 4.2 **Financial Risk**

### 4.2.1 **Licensing fees are insufficient to cover the associated work.**

Licences fees were originally set in 2006, costed according to each part of the licensing process. This included a time element and officer involvement in each stage of the process. Benchmarking against other authorities would have been undertaken at that time. Since this point there has been little change in the time needed to complete the various processes. The costing calculation has remained the same, with a small increase to account of inflation and is largely dictated by finance.

Fees are agreed at cabinet annually as part of the fees and charges review. This was last completed on the fourth of November 2021. The increase agreed was approximately 5% effective from the first of January 2022.

When reviewing the fees charged, the team check them against the costs incurred to ensure that the Council is not making a loss when providing HMO services.

### 4.2.2 **Fees and charges are incorrectly published or/and invoiced**

Fees for HMO services are published online on the Council's website along with miscellaneous charges. They reflect the current fees as agreed at committee. The fees can be paid through the website using an online payment system.

All fees received for HMO services and licences since the start of 2022 were checked. In all cases the correct fee had been paid. Where fees had been overpaid a refund had promptly been issued. The PSH Team check the payments received to ensure the correct fee has been paid.

There have been 61 licences issued since 1-4-2021, this consists of new licences and re-licences. 5 new licences from within the last six months were reviewed. Three of the five have been completed. It can take a few months to issue a final licence dependant on any work that needs to be carried out before completion.

Logs are kept showing communications and correspondence between the PSH Team and the licensee. The folders are stored under the address of the property rather than the applicants name to allow change of ownership to happen whilst maintaining an historic licence record for the property.

### 4.2.3 **Fees and charges are challenged by applicants or lobbying organisation e.g. NRLA.**

The PSH Team review the fees and compare them against other local authorities' fees and charges to ensure they are competitive. There is quite a large variation nationally with fees. The Council have generally increased the fees and charges, at the request of Finance, to factor in inflation. There has been pressure to increase beyond inflation, which has been resisted due to the risk of legal challenge.

A review is currently being undertaken to align the Council's fees with those of Stratford District Council.

There are no specific procedures in place to defend any challenges that might occur. This is not a significant concern as the risk of challenge is minimal with the fees remaining competitive compared to other local authorities.

### 4.3 **Legal and Regulatory Risks**

#### 4.3.1 **Failure to comply with applicable legislation.**

There is an HMO policy in place which is published on the Council's website. The policy does not reference any legislation but links HMO licencing with planning permission.

The Council's website does reference compliance with the Housing Act 2004, Civil Penalty Notices under Housing and Planning Act 2016 and The Management of Houses in Multiple Occupation (England) Regulations 2006. The Regulatory Reform (Fire safety) Order 2005. The National Fire Safety Guidance LACORS fire safety standards.

The website also has two versions of the HMO Licence conditions available online. One for licences issued before 1/1/18 and one for after. The conditions reference relevant legislation and standards that the landlord is required to follow. The conditions were updated in 2018 in line with changes to standards and legislation. The earlier version remains valid for licences issued before the changes. When renewing a licence, the newer conditions will be used.

The risk register was last updated in November 2021. It identifies failure to respond to new legislation as a risk. Appropriate actions are in place to reduce the risk and there is a nominated officer identified as responsible for those actions.

### 4.4 **Reputational Risks**

#### 4.4.1 **The Council is not seen to be taking action against private landlords / HMOs that are acting unlawfully.**

HMOs are listed on Civica (the property management system). There is also an additional spreadsheet maintained allowing the PSH Team to review any works due to be completed, as well as licence issue and renewal dates. HMO's that don't qualify or require a licence are also noted as the PSH Team can provide a service giving advice or completing inspections as required. The spreadsheets form a complete register of the properties and is updated whenever there is a change, a status update or an inspection is carried out.

HMOs are identified through a range of sources. This includes complaints from the public or occupiers of HMO's, proactive landlords who want to comply. Information is also shared from other internal teams and external agencies such as: planning, building control, council tax, police, fire service.

As time allows, the PSH Team try to visit properties which are on the list for suspected HMOs and work closely with Planning Enforcement to identify potential properties.

Each year, the PSH Team request a list of 'N' exemptions from Council Tax to identify student properties. They also work with Benefits to find multiple claimants at a property. The Deposit Protection Organisations also provide information which identifies multiple deposit protections on a property.

#### 4.4.2 **The Council is being inconsistent in its approach to enforcing standards.**

The PSH Team have access to a shared drive which holds a number of templates and guidance notes on the various aspects of the role including issuing statutory notices. This helps the PSH Team to follow the same procedures when enforcing requirements. By following the same processes, procedures and by using the same templates the PSH Team demonstrates a consistent approach to enforcing the standards. In addition to the guides and templates there is a comprehensive protocol in place for HMO tasks. This sets out all of the tasks and stages involved when managing HMOs.

There are not written procedures in place for all of the processes the PSH Team follow. This is because for some of the roles e.g. environmental health officer, there is an expectation to have a certain level of knowledge to carry out the role. This includes the processes to follow when enforcing standards. The only training needed is for the systems used by the Council, which is provided by another team member face-to-face as needed along with the use of a training guide. The training guide talks the user through the tasks and provides screen shots to help ensure the correct process is being followed.

### 4.5 **Fraud Risks**

#### 4.5.1 **Officers may be approached to not report breaches of legislation.**

A spreadsheet is maintained that lists the inspections that need to be completed along with works to be carried out and renewal dates for licences within a twelve-month period. Reports are also run through Civica to review any licences due to expire within a set timeframe or any outstanding inspections of works. This report provides the information regarding the workload for the coming year enabling it to all be captured on the spreadsheet.

When an inspection identifies non-compliance with the standards the landlord is given a notice to carry out the required work by an agreed date. This information and accompanying documentation is recorded to the file for the property as well as an update to the spreadsheet including the expected completion date. The information is accessible by the whole of the PSH Team and would be very difficult to hide breaches of legislation.

The inspection programme lists the licence expiry date and identifies the officer responsible. The inspection report is uploaded onto Civica to the property allowing ease of finding for follow-up inspections - for example where an issue was found and the officer needs to return after works have been completed.

Inspections have begun for the current year, with only one identified so far where a return visit is required.

An inspection is vital in assessing the level of non-compliance and those properties that affect the health & safety of the occupiers. The track record of the landlord will also be considered when assessing and reviewing the properties. The PSH Team act in accordance with the Council's enforcement policy, which generally requires an informal approach, but where the situation is seriously sub-standard, or maybe includes failure to obtain an HMO licence, or disregard for the law; in such situations an alternative enforcement route is followed that includes a formal interview, collection of evidence and civil penalty or prosecution. This more formal approach follows the Crown Prosecutors Code.

Where the situation is less serious, the PSH Teamwork with the landlords, providing advice and informal schedules of work to bring properties to standard within set timescales. This helps to build good relationships with the landlords, especially those who want to be compliant.

#### 4.6 **Health and Safety**

##### 4.6.1 **Staff undertaking inspections of HMOs are at risk of physical and verbal attacks or could be exposed to harmful substances.**

There is a covid risk assessment checklist for staff to follow before visiting properties or carrying out inspections. This is available in the shared folder and easy to identify. There are a number of other risk assessments within the folders relevant to the role, e.g. inspection forms to complete which create an outline and an assessment of the risk.

The risk register was last updated in November 2021. It identifies a number of relevant risks to the service. These include: Failure to respond to new legislation, health and safety risks, accidents / health and safety of staff, potential violent customers and hazardous premises. There are appropriate mitigating measures in place including lone working arrangements and use of the staff alert list.

There may also be risk assessments available on AssessNet (the Council's Health and Safety system) but the search function is poor and doesn't bring up the relevant assessments for this service. This is something that the PSH Team have no control over. There is an upcoming audit which covers AssessNet so this concern will be raised separately with the responsible officer.

#### 4.7 **Other Risks**

##### 4.7.1 **Poor systems and record management.**

As mentioned in paragraph 4.4.2 there are a number of guides and templates on the shared folder. Many are password-protected so they can only be accessed by the PSH Team. The guides and templates are named clearly advising what they are used for. The guides, notes and templates cover relevant aspects of HMO licensing and registration. The last saved date gives an indication of the most recent update.

Although the shared folder contains a number of different folders and documents and may seem complicated to non PSH staff, the officers interviewed for this audit were all able to direct the auditor to any files and documents as requested.

Their systems are kept up to date and various features are utilised to help with the management of HMOS. All documentation had been saved appropriately with the relevant links added to Civica.

#### 4.7.2 **Recruitment / remuneration issues resulting in insufficient resources available.**

The service risk register available on request was last updated in November 2021. It picks up on a risk of inability to recruit or retain staff as well as more current risks such as: inadequate staffing resources due to Covid 19 positive results, staff leaving due to the upcoming merger and uncompetitive salaries.

Another risk identified relevant to staffing is insufficient financial resources. There are various mitigating actions suggested to reduce the likelihood of the risks. These include job and role re-evaluations where recruitment and retention is an issue.

There are currently no vacancies being advertised but the auditor was informed that there are currently two vacancies within the team. One of the posts was recently advertised (Housing Standards Officer) but unfortunately there were no suitable applicants. The other post (Environmental Health Officer) was last advertised before Christmas but there were no applicants. The salary offered for the role was low when benchmarked against similar Councils. The job has now been regraded but at present cannot be advertised as there is not enough in the budget to offer the job at the new rate. Whilst these vacancies exist the team may be unable to undertake some non-statutory aspects of their work and there are likely to be delays during busy periods.

There has been a restructure since the last audit. The new organisational structure shows definition between the various roles and a clear hierarchy in place. The new structure helps to define the roles of the staff members and (once vacancies have been filled) will provide the resource needed to carry out all aspects of the service.

## 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 Regulations are appropriate and are working effectively to help mitigate and control the identified risks.

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.

<b>Level of Assurance</b>	<b>Definition</b>
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 There are no recommendations arising from the review and therefore no action plan is included with this report.

Richard Barr  
Audit and Risk Manager