

To: Regulatory Functions Board

On: 15 June 2017

Report by: Director of Finance and Resources

Heading: Proposed revocation of HMO Licence

1. Summary

- 1.1 On 25 May 2017, the Licensing Section within Finance and Resources received a report from Community Resources detailing investigations into complaints made by neighbours of a property which is licensed as a House in Multiple Occupation (HMO).
- 1.2 It is alleged by the complainers that the property has been over occupied which would be a breach of the HMO licensing conditions. It is also alleged that the complainers have been subjected to anti-social behaviour by the occupants of the property.
- 1.3 It is proposed that officers are authorised to issue a notice to initiate a revocation hearing of the HMO Licence. This will allow both the complainers and the licence holder to appear before for the Board and make submissions on whether the HMO Licence should be revoked.
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2. Recommendations

- 2.1 To determine to hold a revocation hearing under section 139 of the Housing (Scotland) Act 2006 and to authorise officers to serve notices under section 139(2) of the Housing (Scotland) Act 2006 on:

- a. the licence holder of the HMO licence;
- b. any person who has made a written representation which officers consider relevant to the proposed revocation;
- c. the Scottish Fire and Rescue Service; and
- d. the chief constable.

Otherwise

2.2 To note the contents of this Report and take no action.

3. Background

- 3.1 This report relates to a property within the licensing area of Renfrewshire Council. An HMO licence was granted in 2016 permitting property to be used to accommodate six persons. The property has been leased to a construction contractor who used the property to accommodate staff. It appears that there has been a turnover of workers staying within the property for short periods.
- 3.2 Since August 2016, occupants of other properties within the building have made numerous complaints in relation to the HMO. The complainers allege that the property has been over occupied which would be a breach of the HMO licensing conditions. They also allege that they have been subject to anti-social behaviour by occupants of the HMO property.
- 3.3 HMO licences are governed by the Housing (Scotland) Act 2006 (the "Act"). Under the Act, a local authority has the power to revoke a HMO licence at any time if it considers that a person is no longer fit and proper to hold a licence; that the accommodation is no longer suitable for use as an HMO property; or that a condition of the HMO licence has been breached. A local authority must consider oral representations at a hearing before deciding whether to revoke the licence. A hearing is initiated by serving a notice of a proposed revocation on the licence holder; persons who have made written representations; the Scottish Fire and Rescue Service and the chief constable.
- 3.4 As stated, the over occupation of a HMO property would constitute a breach of HMO conditions. Moreover, failure to properly manage anti-social behaviour of occupants is a relevant factor when considering whether an HMO licence holder is a fit and proper person.
- 3.5 While the investigations by Community Resources have not substantiated the complaints, it is noted that concerns have been raised by investigating officers in relation to the short time nature of different occupants of the HMO property. This makes it difficult for

officers to take enforcement action against anti-social behaviour caused by individuals.

- 3.6 A meeting was held between officers, the licence holder and some of the complainers on 24 April 2017. No resolution was reached between the parties at this meeting. Given the volume of complaints, the number of complainers and the findings of officers, it is appropriate for the matter to come before the Board so that all parties can make submissions on the matter. The Board will be best placed to decide what action to take following submissions.
- 3.7 Being subjected to anti-social behaviour and living within a building with an HMO property which is non-compliant with licensing conditions could potentially impact on an individual's rights to private life in their home. Similarly, the licence holder will likely receive an income from the HMO property so a revocation would impact the licence holder's right to make a living. The holding of a revocation hearing allows the Board to consider the most appropriate and proportionate action taking into account the submissions, information available and the interest of all parties.

Implications of the Report

1. **Financial - Nil**
2. **HR & Organisational Development - Nil**
3. **Community Planning –**
Empowering our Communities – listening to concerns of the local residents is integral to the concept of community empowerment.
Safer and Stronger – the continued monitoring and enforcement of licensing conditions improves the quality of life for the local community.
4. **Legal** – The Regulatory Functions Board has a duty under the Housing (Scotland) Act 2006 for monitoring HMO licences to ensure that licence holders are fit and proper persons and to take appropriate action against any breach of licensing conditions.
5. **Property/Assets – nil**

6. **Information Technology - nil**

7. **Equality & Human Rights**

The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. Some negative impacts on equality groups or potential for infringement if individuals' human rights have been identified and not all can be fully mitigated. Despite the potential for adverse impact it is believed that it is reasonable and proportionate to take the action recommended in the report and a full explanation for this decision is contained within section 3.7 of this report.

8. **Health & Safety - nil**

9. **Procurement- nil**

10. **Risk** – the decision to hold a revocation hearing itself carries minimal risk. However, the decision of the Board at the revocation hearing may be appealed by interested parties to the Sheriff court.

11. **Privacy Impact – nil**

List of Background Papers

(a) Background Paper 1 – Report from Community Resources dated 25 May 2017

The foregoing background papers will be retained within legal services for inspection by the public for the prescribed period of four years from the date of the meeting. The contact officer within the service is Andrew McLaughlin, Senior Solicitor, 0141 618 7585, and andrew.mclaughlin@renfrewshire.gov.uk

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