

Edinburgh City Council 'aided and abetted' unlicensed HMOs

Edinburgh City Council 'aided and abetted' crime by paying unlicensed landlords to house families for two years without action, it has been claimed.

An investigation into the decision to continue using unlicensed Homes of Multiple Occupancy (HMOs) to house people post Covid is set to be launched after it was claimed officers missed opportunities to bring it to attention of elected councillors.

Councillor Joanna Mowat said the council had done 'diddly squat' for two years despite what is now being described as a 'misuse of public funds'.

A meeting of the council's governance, risk and best value committee heard a report to the local authority's housing committee in September 2022 had outlined the problem.

However it was only when the council's monitoring officer brought a report to full council in November last year outlining the criminality of actions that a decision to stop using the unlicensed accommodation was taken.

At the time it meant more than 700 households had to be moved and the council had to suspend its housing application list.

The governance committee agreed to call for a full audit of the decisions leading up to the report and timeline of events saying questioned had to be answered.

Councillor Mowat said: "There is a report in 2022 telling the housing committee there is a risk about HMO accommodation and absolutely diddly squat is done about it until we get this monitoring officer's report.

"Why wasn't anything done in those two years to mitigate the risk."

Councillors were told there were plans in place to manage the situation from 2022 from encouraging HMO operators without a licence to apply for them and finding alternative accommodation.

Derek McGowan, service head of housing, said: "We could have taken a draconian approach to this matter but there was a recognition of coming out of Covid and there being real difficulties in terms of housing on a practical level, we wanted to give officers an opportunity and reasonable time frame to amend the position."

He said matters came to a head when funding ran out and a request for more had to be made, raising the issue of paying the unlicensed landlords.

He said: "When advice was sought over whether they could provide more funding to unlicensed HMOs the answer was no."

Nick Smith the council's head of legal and risk, said it also became clear some of the property operators were not intending to apply for licences adding "That is when it really turned for me. The legal conflict became too much. We ran out of runway."

And Gareth Barwell, the council's executive director of place, said it was the unlicensed HMOs who broke the law not the council, adding: "At that point we were paying (unlicensed)HMO providers and now it is fully known we would be, broadly speaking, aiding and abetting, which is not the proper way to use public funds."

Councillor Simita Kumar, who was on the housing committee in 2022, said the report did not make the situation clear because its title was 'no recourse to public fund' adding it had a line in it describing the situation as an 'escalating risk'.

She said: "We had a lot of discussion about this paper which was all in the context of the title of the report.

"We did have procedures in place during Covid which was the right thing to do but when that emergency period ended we had annual legal assurances brought to committee in 2022, followed by August 2023 and August 2024.

"These were opportunities to highlight again and again that we were using unlicensed HMOs but we failed to do that."

Gareth Barwell told the meeting if councillors felt they had not been clear in earlier reports then it was something they would have to look into further.

He said: "I think officers have been transparent but if councillors are saying it was not clear in the report in 2022 then we need to take that away and look at it."

The committee agreed to an audit of the decisions made and timeline which could start in April this year.

By Marie Sharp Local Democracy Reporter