



EAST STAFFORDSHIRE BOROUGH COUNCIL

REPORT COVER SHEET

Title of Report:	Evaluation of the Selective Licensing Scheme
Meeting of:	LAG
Date:	31 October 2018
Is this an Executive Decision:	YES
Is this a Key Decision:	NO
Is the Report Confidential:	NO
If so, please state relevant paragraph from Schedule 12A LGA 1972:	NA
<p>Essential Signatories:</p> <p>ALL REPORTS MUST BE IN THE NAME OF A HEAD OF SERVICE</p> <p>Monitoring Officer: Angela Wakefield</p> <p>Date Signature</p> <p>Chief Finance Officer: Sal Khan</p> <p>Date Signature</p>	

EAST STAFFORDSHIRE BOROUGH COUNCIL

Report to Cabinet

Date: 12 November 2018

REPORT TITLE: Selective Licensing Evaluation

PORTFOLIO: Regulatory Services

HEAD OF SERVICE: Mark Rizk

CONTACT OFFICER: Rachel Liddle Ext. No. x1838

WARD(S) AFFECTED: Anglesey

1. Purpose of the Report

- 1.1. To provide an update to members on the first year of operations of the Selective Licensing Scheme Pilot.
- 1.2. To provide an annual review of the Selective Licensing Fees.

2. Executive Summary

- 2.1. Selective Licensing was designated in September 2017 following Cabinet approval in June 2017. It aims to improve housing conditions and management of privately rented accommodation in the eastern area of Anglesey.
- 2.2. The Selective Licensing Policy 2017 sets out requirements for the monitoring and review of the scheme which includes an annual review to establish whether it is having the desired effect and achieving its aims and objectives.
- 2.3. Within the first year of operation the scheme has been monitored on a monthly basis and regularly reported to Head of Service and Deputy Leader. Internal Audit has also reviewed the Council's arrangements regarding the administration of the Selective Licensing Scheme for which recommendations have been implemented.
- 2.4. This report aims to provide an update to members on the operation and implementation of the scheme. To date the inspection of properties has identified numerous hazards which has resulted in improvements to the living

conditions and the management of properties within the selective licensing area. The review of the scheme has not identified an increase in homelessness which is one of the main concerns raised by stakeholders and the average fee has also remained low due to a high take-up of the discounts for early compliance with the scheme.

- 2.5. The implementation and enforcement of the selective licensing scheme is still within its early stages and it is therefore recommended that the selective licensing designation remains in place and a further annual review is undertaken in 2019 in accordance with the Selective Licensing Policy. It is also recommended that the licensing fees be revised to incorporate inflation to ensure full cost recovery for the implementation of the scheme.

3. Background

- 3.1. The selective licensing pilot scheme was approved by Cabinet in June 2017 to improve housing conditions and management of privately rented accommodation in the eastern area of Anglesey. Following a mandatory three month standstill period the designation became active on 12 September 2017 and is effective until 11 September 2022.
- 3.2. Selective licensing was introduced to protect the welfare of tenants, provide confidence in the rented sector, and ensure that standards are met. It will be more conducive to good landlords but provide an environment that is less opportunistic and attractive for poor and criminal landlords. It will also assist landlords in dealing with tenants that choose to cause anti-social behaviour.
- 3.3. A Selective Licensing Policy was adopted setting out how the scheme will be delivered to ensure that the Council effectively:
- Implements the selective licensing scheme, ensuring that all licensing functions are carried out in accordance with the provisions of the Housing Act;
 - Monitors and enforces any licences granted during the selective licensing scheme;
 - Ensures any future proposals for introducing licensing designations are given due consideration in accordance with the statutory requirements;
 - Implements and delivers existing and future schemes in cohesion with other related strategies and initiatives: particularly those in place to tackle issues of empty properties, flytipping and anti-social behaviour.
- 3.4. The policy set out an annual review of the operation of the selective licensing scheme along with a review of the licence fees to measure whether it is having the desired effect and achieving its aims and objectives. Should the review indicate that the designation has worked and the issues that it intended to resolve have been resolved then the local authority may consider that the designation is no longer needed and may be revised or revoked. Alternatively if the designation is failing to tackle the issues then the designation may be revised or revoked and alternative measures may be considered to address the issues.

- 3.5. The delivery of the scheme has been monitored on a monthly basis and regularly reported to the Head of Service and Deputy Leader. A briefing on the Selective Licensing Scheme was also presented to members on 21st June 2018 which gave an overview of the delivery and implementation of the scheme. This information has also been fed back to landlords through the landlord forum.
- 3.6. The Council's arrangements regarding the administration of the Selective Licensing Scheme were also reviewed by Internal Audit in 2017/18 which identified a number of recommendations which have since been implemented.

4. Contribution to Corporate Priorities

- 4.1. Protecting and Strengthening Communities- Love Where You Live: The improvement of housing conditions will contribute to the provision of a strong, healthy and vibrant private sector housing market that offers security, stability and decency to tenants and landlords.

5. Selective Licensing Evaluation

- 5.1. The designation of the Selective Licensing Scheme was publicised in the local media and correspondence was sent to all properties within the designated area, letting and managing agents in East Staffordshire and all respondents and stakeholders from the consultation exercise detailing the requirements of the scheme.
- 5.2. To control the amount of applications received, the designated area was split into three phases to stagger the dates at which landlords were required to submit licence applications. The following phases were identified:

	Streets Affected:	Date for applications:
Phase 1	Broadway Street, Queen Street & Wood street	12 th September 2017
Phase 2	King Street, Branston Road, All Saints Croft	12 th November 2017
Phase 3	Watson Street, Bailey Street, Trent Street, Blackpool Street, Rose Cottage Gardens & Close	12 th January 2018

- 5.3. Letters detailing how landlords can apply and the dates from which applications shall be submitted and received by were sent to each property within each of the phases detailed in para.5.2. Each phase was granted the 6 week introductory offer for a reduction of licence fees to encourage early compliance with the scheme.
- 5.4. The phased implementation ended on 6th April 2018 by which date all applications for selective licensing should have been received. At this time 179 applications had been received, of which only 97 were deemed as valid applications. This represents a 54% compliance rate based on 280 anticipated licensable properties.
- 5.5. Internal Audit was engaged to review the administration of the Selective Licensing Scheme which took an overview approach, to evaluate the project

implementation, review the process devised and assess governance arrangements. Procedures in place to assess prospective licensed landlords were evaluated to ensure they complied with guidance and performance information was considered. Given the early stage of the service and evolution of the computer system to better match issues identified by officers as they use it, Internal Audit have not sought to provide a specific assurance opinion at this point. The recommendations that have since been implemented are detailed in Appendix 1.

- 5.6. During the initial implementation of the scheme it also became apparent that there was a discrepancy between the postal addresses listed on the designation and the map that identified the designated area for selective licensing. As a result several properties originally understood to be included in the area were not valid as the highlighted area had excluded them. These properties were written to without delay to advise that they were not subject to selective licensing. Further properties were inadvertently written to during our recent enforcement initiative to identify properties on Branston Road that had failed to submit applications. Due to an administrative error, properties were written to that are not included in the selective licensing area. This issue has since been rectified and properties assured that they fall outside the selective licensing designation. To prevent a reoccurrence the database of properties is being revised to restrict it to the selective licensing area only.
- 5.7. The Selective Licensing Policy requires ongoing monitoring and review of the scheme. The following statistics have been collated to provide an annual update of the selective licensing scheme:

Monitored Activity for Selective Licensing	
Number of licence applications received	258
Number of valid licence applications received	203
Number of invalid applications	55
Number of licenses granted	107 ¹
Number of licenses revoked	0
Number of temporary exemptions	1
Number of licenses varied	0
Number of Cat 1 hazards identified-	4 properties
Number of high Cat 2 hazards identified-	10 properties
Number of lower Cat 2 hazards identified-	57 properties
Review of anti-social behaviour incidences	TBC
Review of number of vacant properties	1 property vacant due to service of a prohibition order
Review of complaints regarding overgrown gardens/rubbish	21 complaints. (Increased reporting)

¹ An additional 96 applications are in the process of being assessed for a licence. This is a result of late take up and delays in gaining access to the properties.

	from 7 complaints in previous period)
Review of enforcement action taken including: <ul style="list-style-type: none"> ○ Number of notices served ○ Number of management orders implemented ○ Number of prosecutions 	1 Prohibition Order 0 Ongoing enforcement action

- 5.8. The average licence fee paid is currently £345, which ranges from £250 as the minimum fee to £450 as the maximum dependent on the type of property and the type of discounts applicable. To date, the following discounts have been granted:
- 143 Introductory discounts
 - 108 Multiple property discounts
 - 39 Accredited landlord discounts (12 individual accredited landlords)
- 5.9. Homelessness figures provided by Housing Options have not demonstrated an increase in homelessness applications since the introduction of selective licensing at the end of quarter 2 in 2017. A total of 9 homelessness applications have been completed since July 2017 which is representative of figures for previous years. The housing options team have indicated that there have been no significant pressures from the selective licensing area to indicate that selective licensing has been a causal factor in homelessness applications.
- 5.10. Housing inspections have revealed a number of hazards within properties. These are considered by the inspecting officer to determine the most appropriate course of enforcement action to be taken depending on the risk associated with the identified hazard in accordance with the Housing Enforcement Policy.
- 5.11. 64% of properties inspected have identified hazards that affect the health and safety of the occupants. The most common hazards identified include:
- Fire (44 properties)
 - Damp & Mould (32 properties)
 - Falls between the level (28 properties)
 - Electrical Hazards (18 properties)
 - Structural Collapse (12 properties)
 - Excess Cold (12 properties)
 - Falls on stairs (10 properties)
- 5.12. 1 property has been served with a prohibition order as the hazards identified were so high that it was not suitable for habitation. Until remedial works have been undertaken the property is not suitable for a selective licence as it is not habitable.
- 5.13. An additional 3 properties have been identified with category 1 hazards and 10 properties have identified high category 2 hazards which require remedial action to remove the hazards.

- 5.14. In total 67 properties have received schedules of work detailing the hazards identified and the remedial action that is required to remove the hazards. These will be checked during revisits to the properties concerned to determine compliance and to consider any further enforcement action that is required.
- 5.15. During inspections officers have also identified the following management issues which selective licensing has addressed:
- Poor conditions where landlord is not present at the inspection
 - Poor communication between the landlord and the tenant
 - Poor communication between letting agent and landlord whereby letting agents have failed to notify landlords about the scheme
 - Issues whereby landlord has an incorrect mortgage type for the property and landlords unaware of how the property is being let
 - A number of tenants have reported that repair works that they have previously raised with the landlords have been completed prior to the inspection.
- 5.16. Despite having a relatively positive uptake of the selective licensing scheme a number of properties that are believed to be rented have still not yet applied for a licence. These properties are being investigated further to ensure compliance with the selective licensing scheme. Inspections are also continuing to be undertaken in properties that were late to submit applications and the outcome of these will be reviewed during the next annual review in 2019.
- 5.17. Considering the findings of the inspections it is apparent that the scheme is working to improve the living conditions and the management of properties within the selective licensing area. The review of the scheme has not identified an increase in homelessness which is one of the main concerns raised by stakeholders and the average fee has also remained low due to a high take-up of the discounts for early compliance with the scheme.
- 5.18. The implementation and enforcement of the selective licensing scheme is still within its early stages. Whilst this review demonstrates that the designation is tackling the poor housing conditions within the selective licensing area it is not possible to determine whether the designation has worked and the issues that it intended to resolve have been fully resolved until all properties within the selective licensing area are licensed. It is therefore recommended that the selective licensing designation remains in place and a further annual review is undertaken in 2019 in accordance with the Selective Licensing Policy.

6. Financial Considerations

This section has been approved by the following member of the Financial Management Unit: Anya Murray

- 6.1. The main financial issues arising from this Report are as follows:
- 6.2. The selective licensing scheme identified fees to recoup the total costs of the scheme adopted over the schemes 5 year duration.

- 6.3. To date the following income has been received through Selective Licensing Fees.

Selective Licensing Income	2017/18	2018/19
Selective Licensing Fee Income	£36,662	£39,949

- 6.4. The costs have been reviewed and continue to reflect the time taken to complete all the identified aspects of the work required for the licensing scheme profiled over the 5 year duration of the scheme and recover associated costs. However it is recommended that fees be revised from 1 April 2019 based on the September Retail Price Index Figure (RPI):

Type of Application	Current Fee	Revised Fee
Application for a new licence for a single property	£450	£466 tbc
Application for a licence for a HMO not subject to mandatory licensing	£550	£569 tbc

(RPI not available until 17 October; this figure is based on August RPI of 3.5%)

7. Risk Assessment and Management

- 7.1. The main hypothetical risks to this Report and the Council achieving its objectives are as follows:

7.2. Positive (Opportunities/Benefits):

- Improved housing conditions and a reduction in overcrowding
- Improved image and perception of the area making it a more desirable place to live
- Improved ability and assistance for landlords to deal with rogue tenants
- Reduction in crime and anti-social behaviour
- Improved waste management/reduction in overgrown gardens
- Increased number of compliant landlords
- Higher standards of management by ensuring landlords and agents are clear about their responsibilities
- Identification of non-compliant/rogue landlords

7.3. Negative (Threats):

- Impact on neighbouring areas due to unprofessional landlords or challenging tenants moving into surrounding areas
- Increase in rented properties sold to avoid licence fee
- Increase in rent due to fee being passed onto the tenant
- Insufficient fee to cover costs.
- Lack of compliance from landlords
- Insufficient management and monitoring of the scheme
- Large numbers of appeals are made to the Residential Property Tribunal Service

7.4. The risks do not need to be entered in the Risk Register. Any financial implications to mitigate against these risks are considered above.

8. Legal Considerations

*This section has been approved by the following member of the Legal Team:
Angela Wakefield*

8.1. The main legal issues arising from this Report are as follows.

8.2. Enforcement initiatives are underway to identify unlicensed properties within the selective licensing area. A combination of land registry data, council tax information and tenancy deposit scheme data is being used to identify the location of owners and a proportionate enforcement approach is being followed to ensure landlords comply with the scheme. Where this is unsuccessful further investigations are being undertaken with a view to taking enforcement against those that flout the law in relation to selective licensing.

8.3. It is a criminal offence to let a privately rented property in a designated area without a licence and failure to apply for one could lead to an unlimited fine. Failure to comply with any of the conditions of the licence could lead to a fine of up to £5,000. It is also a criminal offence to make a false statement in an application for a licence or fail to comply with any condition of a licence.

8.4. Additional enforcement powers are in place through the Housing and Planning Act which aims to continue to drive up safety and standards in the private rented sector, and drive out rogue landlords. Additional powers include the introduction of banning orders to remove the worst landlords or agents from operating, a rogue landlord database and the introduction of civil penalties that can be issued by Councils to landlords as an alternative to prosecution. These powers do not assist with proactive enforcement but will assist in the enforcement of the scheme, further reducing the costs of any required legal action due to non-compliance following the introduction of civil penalties and banning orders for those that persistently fail to comply with housing legislation.

8.5. A recent amendment to the Housing Act 2004 affects the definition of HMOs that require a licence. This may affect properties that are in the selective licensing area, however transitional arrangements are available for properties that hold a selective licence that fall under the amended HMO legislation from 1st October 2018.

9. Equalities and Health

9.1. **Equality impacts:** The subject of this Report is not a policy, strategy, function or service that is new or being revised. An equality and health impact assessment is not required.

9.2. **Health impacts:** The Health Impact Assessment was completed prior to the approval of the scheme which identified positive health impacts due to the

improvement of housing conditions. Para. 5.11 details the types of hazards that are being reduced to improve the health and wellbeing for tenants.

10. Human Rights

10.1. There are no Human Rights issues arising from this Report.

11. Sustainability (including climate change and change adaptation measures)

11.1. Does the proposal result in an overall positive effect in terms of sustainability (including climate change and change adaptation measures) No

12. Recommendation(s)

12.1. To approve the ongoing designation of the selective licensing pilot scheme for the remaining 4 years until 11 September 2022 and annual review to be undertaken in 2019 in accordance with the Selective Licensing Policy.

12.2. To approve the revised Selective Licence Fees from the 1 April 2019 to take into account inflation and provide full cost recovery.

13. Background Papers

13.1. Cabinet report- June 2017

13.2. Selective Licensing Policy 2017

13.3. Selective Licensing Briefing & associated questions raised.

14. Appendices

14.1. Appendix 1- Internal Audit report