

<b>Report to:</b>	Cabinet	<b>Date of Meeting:</b>	2 <sup>nd</sup> December 2021
<b>Subject:</b>	Selective and Additional (HMO) Licensing Schemes – Introduction of the Business Case		
<b>Report of:</b>	Head of Economic Growth & Housing	<b>Wards Affected:</b>	Linacre, Derby, Litherland, Cambridge, Dukes, Kew, Church, Blundellsands & Victoria
<b>Cabinet Portfolio:</b>	Cabinet Member – Communities & Housing		
<b>Is this a Key Decision?</b>	Yes	<b>Included in Forward Plan:</b>	Yes
<b>Exempt Confidential Report:</b>	/ No		

### Summary:

To consider the need to re-designate both the Selective licensing scheme and 2 x Additional HMO licensing schemes in designated areas of the borough and introduce the Business case to support the re-designation of the schemes.

To consider the implementation of a 12-week consultation in relation to the re-designation of the selective licensing scheme and 2 additional HMO licensing schemes.

### Recommendations

- (1) To approve in principle (subject to public consultation) the re-designation of the selective licensing scheme in the Bootle area and 2 Additional HMO licensing schemes in central Southport and areas of Waterloo/Seaforth.
- (2) To agree to a 12-week public consultation for the implementation of the schemes.
- (3) To give authority to the Head of Economic Growth & Housing, in consultation with the Cabinet Member for Communities and Housing to;
  - (i) Procure and appoint consultants to undertake the required public consultation on the 3 proposed schemes, and
  - (ii) Agree any minor/technical changes to the Business Case in advance of the formal consultation.
- (4) To approve in principle the draft licensing conditions including the associated fees

- (5) Approve in principle a supplementary revenue estimate of £2,268,565 which will be fully funded by licence fee income.
- (6) Cabinet notes that a further report will be submitted to Cabinet upon the conclusion of the consultations with recommendations to approve schemes as appropriate

### **Reasons for the Recommendations:**

Cabinet authority is required for the re-designation of a Selective and 2 Additional (HMO) Licensing schemes within the Borough. Authority is also required to procure and appoint consultants, carry out a public consultation and to approve in principle the draft licence conditions.

### **Alternative Options Considered and Rejected:** (including any Risk Implications)

#### 1. Do nothing

Sefton could choose not to consult on a proposed re-designation of the current housing licensing schemes and revert back to a solely reactive service, responding to complaints, linked with more aggressive promotion of the Landlord Accreditation scheme. This option is unlikely to have significant impact due to Landlord Accreditation being a voluntary scheme, with only the better landlords obtaining accreditation status.

#### 2. Expand the Enforcement Regime

The Council also has a continued reactive enforcement approach in relation to privately rented properties, dealing with cases as they present themselves, generally from complaints from tenants. A more proactive approach could be taken to target the worst landlords. This would develop an outward facing image of enforcement in relation to rogue landlords.

To practically do this would involve the need to increase the resourcing allocated to the Housing Standards Team by a minimum of 4 additional posts. This cost could be up to £210,161 per annum.

This is a more traditional enforcement approach and less of an enabling one than licensing has brought.

#### 3. Introduce a borough wide Selective Licensing Scheme

Officers also considered introducing a district-wide scheme but this was not taken forward because the evidence is not yet sufficient to introduce the whole district and therefore such an application is unlikely to be supported by the Secretary of State (who has to agree to the implementation of the scheme).

### **What will it cost and how will it be financed?**

#### **(A) Revenue Costs**

Staff resources will be required to operate the schemes. The resources that operate the current licensing schemes will be the same as those proposed to operate the new schemes. The schemes have been costed and the licence fees set to make the schemes self-financing. The gross expenditure will be £2,268,565 and the income will be £2,268,565. The expenditure will therefore be fully funded through licensing income.

**(B) Capital Costs**

There are no direct capital costs associated with the recommendations in this report.

**Implications of the Proposals:**

<p><b>Resource Implications (Financial, IT, Staffing and Assets):</b>          The schemes have been costed and proposed licence fees should cover the costs of the operation of the scheme over the 5 years. The schemes should be cost neutral and self-financing.          Staff resources will be required to operate the scheme over the 5-year period. The cost of these staff has been incorporated in the setting of licence fees.</p>									
<p><b>Legal Implications:</b>          Part 2 &amp; 3 of the Housing Act 2004 sets out the legislative framework for Selective and Additional (HMO) Licensing. Section 80 of the Housing Act 2004 allows the local authority to designate the area of their district or an area in their district as subject to selective licensing. Section 56 of the Housing Act 2004 allows the local authority to designate the area of their district or an area in their district as subject to additional licensing.</p>									
<p><b>Equality Implications:</b>           No equalities implications identified.</p>									
<p><b>Climate Emergency Implications:</b>           The recommendations within this report will</p> <table border="1"> <tr> <td>Have a positive impact</td> <td>Y</td> </tr> <tr> <td>Have a neutral impact</td> <td>N</td> </tr> <tr> <td>Have a negative impact</td> <td>N</td> </tr> <tr> <td>The Author has undertaken the Climate Emergency training for report authors</td> <td>Y</td> </tr> </table> <p>As part of the licensing process, the application requires the submission of an Energy Performance Certificate (EPC), so the team are able to monitor the energy performance of the private rented sector and instruct landlords to carry out energy performing improvements when required. Licensing helps the Council identify those properties that should not be used as private rented accommodation.</p> <p>The Licence Holder must provide the tenant of the licenced dwelling with an Energy</p>		Have a positive impact	Y	Have a neutral impact	N	Have a negative impact	N	The Author has undertaken the Climate Emergency training for report authors	Y
Have a positive impact	Y								
Have a neutral impact	N								
Have a negative impact	N								
The Author has undertaken the Climate Emergency training for report authors	Y								

Performance Certificate, so the tenant is able to make an informed choice. The Licence Holder must provide a copy of the EPC to the Council on demand. A property cannot be privately rented if the property has an EPC rating of F or G (38 or lower).

## **Contribution to the Council's Core Purpose:**

### **Protect the most vulnerable:**

During 2016 Sefton Council led on developing a new and exciting vision for the future of the borough. One pledge from the vision was to work together to ensure housing choice across all types and tenures across the Borough which will ensure Sefton people have housing choice.

Many vulnerable residents live in the private rented sector. Licensing ensures that the properties are well managed and of a good standard.

### **Facilitate confident and resilient communities:**

Tenants residing in the private rented sector should gain increased confidence in their landlords. The licence conditions will provide them with the knowledge of what is expected of the landlord and tenant, in order to maintain standards within their homes.

### **Commission, broker and provide core services:**

As Local Housing Authority Sefton has an obligation to ensure that housing quality in the borough is maintained. Licensing is a crucial to allowing the Council to discharge this duty.

### **Place – leadership and influencer:**

Licensing is an example of the Council providing leadership and influence on owners of properties in our communities to work towards a common goal of high quality housing.

### **Drivers of change and reform:**

The proposals in this paper will mean that the Council continues to play a key role in leading change and reform to improve outcomes for Sefton residents and continuously improve the borough.

### **Facilitate sustainable economic prosperity:**

Having a good place to live is essential for the future success and prosperity of our residents.

### **Greater income for social investment:**

Income from the Licensing scheme is reinvested back into the service to further ensure that good quality is available for our residents.

### **Cleaner Greener:**

Housing Licensing helps to improve the housing standards of the private rented sector. The properties have to be well managed which includes complying with minimum energy efficiency standards.

**What consultations have taken place on the proposals and when?****(A) Internal Consultation**

The Executive Director Corporate Resources and Customer Services (FD.6609/21) and the Chief Legal and Democratic Officer (LD.4810/21) have been consulted and any comments have been incorporated into the report.

**(B) External partners**

The proposals will be the subject of an extensive public consultation exercise in 2022.

**Implementation Date for the Decision**

Following the expiry of the “call-in” period for the Minutes of the Cabinet Meeting

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**Appendices:**

Appendix 1 - Business case – To view Appendix 1 please follow the link below.

Appendix 2 - 9 x Appendices to the Business Case – To view Appendix 2 please follow the link below

Appendix 1 <https://modgov.sefton.gov.uk/ecSDDisplay.aspx?NAME=Cabinet%20-%2021221%20-%20Appendix%201%20-%20Re-Designation%20of%20S&ID=2918&RPID=31518175>

Appendix 2

<https://modgov.sefton.gov.uk/ecSDDisplay.aspx?NAME=SD2921&ID=2921&RPID=31518243>

**Background Papers:**

There are no background papers available for inspection.

**1. Background**

1.1 Section 80 of the Housing Act 2004 allows local authorities to apply for selective licensing of privately rented properties in the whole of their district or in an area of their district. The main provisions in respect of selective licensing came into force in April 2006.

- 1.2 The Act provides a discretionary power, subject to carrying out consultation and to the approval of the appropriate national authority (Secretary of State for Communities and Local Government), for Local Housing Authorities to license all private landlords in a designated area with the intention of ensuring that a minimum standard of management is met.
- 1.3 Additional Licensing under section 56 of the Housing Act 2004 allows the local authority to designate either the whole of their district or an area within their district as subject to an additional (HMO) licensing scheme. A local authority must consider that a significant proportion of the HMOs of a defined description, in either a designated area or across the whole of the borough are being managed insufficiently enough to give rise to one or more particular problems either for those occupying the property or for members of the public.
- 1.4 **Appendix 1** of this report presents the Business Case to re-designate the Selective Licensing Scheme and 2 Additional (HMO) Licensing Schemes in Sefton.

## **2. Sefton Context**

- 2.1 As of 2011 it was estimated that around 13% of households live in the private rented sector – this compared with 15% for the region and 17% nationally at that time. The number of households living in the private rented sector has risen significantly in line with national increases – an estimated 15,804 households live in private rented accommodation (2011) which is 64% higher than the figure (of 9,616) recorded in the 2001 Census. Private Sector Stock Condition modelling commissioned by Sefton and undertaken by BRE in 2018, estimated that 2,750 dwellings in the Privately Rented Sector (PRS) have Category 1 hazards. Category 1 hazards are the most serious hazards as defined in the Housing Health & Safety Rating System (HHSRS). This equates to 14.3% of properties within the PRS as suffering from these health and safety issues.

The highest concentrations of all HHSRS Category one Hazards for all housing stock within Sefton are found in Dukes and Cambridge wards (Southport), Church ward (Waterloo) and Derby and Litherland wards (Bootle).

## **3. Selective licensing**

- 3.1 Selective Licensing will be compulsory and applies to all private rented properties in a designated selective licensing area with the exception of those already subject to Mandatory HMO Licensing or those exempt from licensing. In the areas where selective licensing would be applied, all landlords will be required to hold a license in order to rent out a property. The license lasts for the duration of the 5-year scheme.
- 3.2 To qualify for a license a landlord must be able to demonstrate that they are acting within the law and taking adequate steps to manage their properties and keep them safe. During the 5 year licence period a compliance inspection will be carried out on the majority of properties to ensure they meet the required standards for residential accommodation. In addition, a 'fit and proper' person test will be applied to test the landlord's suitability to manage a tenancy.

- 3.3 The council is satisfied that the area proposed for a selective licensing designation meets three of the six legal tests set out in the Housing Act 2004. The designation is proposed on the basis of anti-social behaviour, housing conditions and deprivation. A designation based on migration, low demand or crime is not proposed. Only one test needs to be proved to make a designation lawful.

#### **4. Additional (HMO) Licensing**

- 4.1 Additional (HMO) Licensing will operate in the same way and alongside the existing Mandatory HMO Licensing scheme that operates across the Borough. Mandatory licensing requires that a certain type of HMO must have a licence. These are those that house 5 or more people who form 2 or more households and do not have all facilities within a self-contained unit, i.e. bathroom or kitchen. The same process will be followed, with the same legal obligations and penalties for failing to comply with the requirements.
- 4.2 Additional Licensing will require **all** privately rented HMOs of any description, which are located within designated areas, to be licensed. Sefton proposes to implement Additional licensing in parts of Southport and Waterloo/Seaforth/Brighton Le Sands.
- 4.3 Before making an Additional HMO licensing designation for a particular area, a local authority must consider that a significant proportion of the HMOs of that description in the area are being managed sufficiently ineffectively as to give rise, or to be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public.
- 4.4 The Council is satisfied that the 2 proposed areas for an Additional (HMO) licensing designation do meet the criteria.

#### **5. Justification for the re-designation of the licensing schemes**

- 5.1 The business case evaluates and highlights the successes relating to the implementation of the current private sector licensing schemes in March 2018. However, it also outlines the requirements for the continuation of these schemes; to further improve the housing conditions and management for our residents in the private rented sector and to fully achieve Sefton's strategic housing vision. Already, improvements are showing across property conditions, crime and ASB. There is though clearly more to do, particularly around the management of privately rented properties and to improve the living conditions of its residents, and if the scheme was not extended it is likely that issues would re-emerge in these area over time. Therefore, the Council feels that by re-designating both the Selective and the Additional (HMO) licensing schemes for another 5 years, further improvements will continue to be made.
- 5.2 The positive impact of the current scheme is clear and since the commencement of the licencing schemes in March 2018 to end of August 2021, 288 licensable properties have had serious Category 1 hazards removed. The total number of hazards removed from all licensable properties is 1113, 370 of which have been the most serious Category 1 hazards. The main hazards that have been removed

from the properties are hazards relating to fire safety, electrical hazards, damp & mould, excess cold and falls between levels.

In the first 3 years of the schemes 570 compliance visits took place. Of those 570 inspections, 330 properties were non-compliant on first inspection, equating to 58%. However, following informal intervention by the Housing Standards Team, 98% of these properties became compliant. The main reasons for non-compliance was the failure to have a Gas Safe report for the property, failure to have an Electrical Installation Condition Report where required, and failure to have smoke alarms fitted.

- 5.3 To summarise, there is evidence to indicate that the licensing schemes are leading to improvements in housing conditions. Selective and Additional (HMO) licensing and the need to obtain a licence has helped Sefton Council identify high risk properties requiring intervention, often where tenants would not have risked complaining to their landlord. The application process has highlighted just how many properties do not have the minimum requirements such as a Gas Safe Certificate. Without licensing, it is fair to conclude that most of these properties would remain without one, leaving tenants at serious risk
- 5.4 Since the introduction of the Selective licensing within Bootle, there has been a significant overall reduction in the rate of anti-social behaviour in every single one of the individual Lower Super Output Areas (LSOA), that comprise the licensing boundary. Although the overall ASB rate and specifically the environmental ASB rates are falling in the Bootle Selective Licensing area, the ASB data still highlights that this area still has some way to go in terms of reducing the impacts of all ASB to a rate that is similar or equal to the overall Borough rates. Therefore, there is a strong argument presented, regarding the continuation of a selective licensing scheme in Bootle.
- 5.5 All of the LSOAs in the Bootle Selective Licensing area are ranked within the most deprived quintile (20%) nationally. Within this Selective Licensing boundary there are areas suffering from severe deprivation, seven are ranked within the most deprived 1% nationally and seven are ranked within the most deprived 5%. Therefore, this Selective Licensing area can still be considered as suffering from extremely high levels of deprivation
- 5.6 In relation to the proposed Additional (HMO) Licensing schemes re-designation, evidence of poor management practices are demonstrated through poor conditions or within the local community including ASB and crime. Over the 3.5-year period of the current Additional Licensing schemes, 189 service requests were received from HMO properties. 153 of those were from HMOs within the licensing areas equating to 81%. This provides evidence of poor property management across this sector and specifically within the proposed designated areas. Parts of Waterloo/Seaforth and central Southport have high levels of deprivation, being within the worst 10% most deprived areas nationally. Both areas also have above the national average of flats/maisonettes within the PRS and have a significant stock of larger style properties that in recent years have been prone to conversion, to either bedsits or self-contained flats.
- 5.7 Re-designating the Additional (HMO) Licensing areas will continue to build upon improvements to the management standards in this sector, improve living conditions and ultimately lead to a better quality of life for residents. It will help the



areas to be more conducive to good landlords but provide an environment that is less opportunistic and attractive for poor and rogue landlords.

## 6. Fees

- 6.1 The proposed licence fees below have been based on knowledge-based estimate of the number of properties that will require a licence. This calculated income stream, although cannot be guaranteed as it is dependent upon the number of applications received when the scheme is launched, is a reliable estimate, as the current licensing schemes have provided a sound evidence base for the number of properties that will require a licence. The fees are subject to annual review to ensure recovery of all relevant costs. We propose to keep the licence fee for Selective licences the same as the fee in the current scheme. We have made proposed changes to multiple property owner's level of fee. We are proposing to increase the fee for HMOs in the Additional Licensing areas. The reasoning for this is detailed in the Business Case, but due in the main, to the additional amount of work involved in the licensing of these types of properties. We have not included an early bird discount fee in these proposals.

<b>Selective Licensing</b>	<b>£</b>	<b>Annual Equiv. £</b>	<b>Weekly Equiv. £</b>
<b>Full Fee</b>	695	139	2.67
<b>Accreditation</b>	545	109	2.10
<b>Accredited Managing Agents</b>	495	99	1.90

### **In addition to the above fee:**

For each additional unit (under the same ownership, within the same building) a charge of £30 per additional unit will apply.

<b>Additional Licensing (HMO)</b>	<b>£</b>	<b>Annual Equiv.</b>	<b>Weekly Equiv.</b>
<b>Full Fee</b>	950	190	3.65
<b>Accreditation</b>	800	160	3.08
<b>Accredited Managing Agents</b>	750	150	2.88

### **In addition to the above fee:**

For each additional unit (under the control of the same proposed licence holder, within the same building) a charge of £30 per additional unit will apply.

- 6.2 A review of fees will be undertaken annually and will be adjusted to reflect changes in costs – with any changes approved by Cabinet Member in line with the Financial Procedure Rules. The fees are in line with the findings of the decision of

Hemming v Westminster City Council, which ruled that fees should be paid in 2 stages : on application a fee is charged that amounts purely to the costs of the authorisation procedures and once the application is successful, a further fee to cover the costs of enforcement of the scheme is paid.

## **7. Resources**

7.1 The schemes generate high levels of work and needs to be resourced accordingly. A team of 11.5 staff will be required to manage the workload. The team will be staffed sufficiently to process Selective and Additional (HMO) applications and enforce the schemes. The team will be funded from licence application fees. The level of staffing is the same as current levels and there is no requirement for additional staff.

The team will comprise of:-

- 1 Senior Housing Practitioner
- 3 x Housing Practitioners
- 5 x Housing Compliance Officers
- 2 x Admin Support
- 0.5 x Legal Officer

## **8. Consultation**

8.1 Consultation is a key feature of the development of the proposals. Section 56 (3) & Section 80 (9) of the Housing Act 2004 requires that before making a designation, the local authority is required to undertake a formal consultation process on the proposed implementation of the selective and additional licensing designations and take reasonable steps to consult with persons likely to be affected. This should include local residents, including tenants, landlords, managing agents and other members of the community who live or operate businesses or provide services within the proposed designation and neighbouring areas that may be affected.

8.2 Our engagement and consultation process will last for a period of 12 weeks, which is scheduled to commence, subject to Cabinet Approval, in May 2022.

8.3 To provide an impartial consultation Sefton intends to commission an external consultant to undertake the consultation process.

8.4 Further information about the consultation process and how to get involved will be provided on Sefton's website and everyone who is likely to be directly affected by the proposals will be contacted and invited to participate in the consultation. The consultation will be widely promoted.

## **9. Licence conditions**

9.1 Licence holder will be required to comply with conditions on their licence. Some of these conditions are mandatory and have to be applied to each licence, as defined in the Housing Act 2004. Each licence will also have a further set of

conditions that are specific to Sefton. The draft Selective licensing conditions are in **Appendix 2 of the Business Case**. The draft Additional (HMO)Licensing conditions are attached in **Appendix 4 of the Business Case**.

## **10. Areas**

- 10.1 Selective licensing is proposed to be introduced in an area of Bootle. See **Appendix 1 of the Business Case**.
- 10.2 Additional (HMO) Licensing is proposed in 2 areas of the Borough. One in central Southport and one in the Waterloo/Seaforth area. See **Appendix 3 of the Business Case**.