

Report to:	Cabinet	Date of Meeting:	6 th October 2022
Subject:	Selective & Additional (HMO) Licensing Schemes Re-designation 2023 - 2028		
Report of:	Assistant Director Place (Head of Economic Growth and Housing)	Wards Affected:	Blundellsands; Cambridge; Church; Derby; Dukes; Kew; Linacre; Litherland; Victoria;
Portfolio:	Cabinet Member - Communities and Housing		
Is this a Key Decision:	Yes	Included in Forward Plan:	Yes
Exempt / Confidential Report:	No		

Summary:

To consider the results of the formal public consultation on the proposal to re-designate the Selective and Additional (HMO) housing Licensing schemes, as previously approved by Cabinet in December 2021.

To seek approval to re-designate both a Selective Licensing scheme and two Additional (Houses in Multiple Occupation (HMO)) Licensing schemes in designated areas of the borough, together with associated matters.

Recommendations:

Cabinet is asked to:

(1) approve the re-designation of a selective licensing scheme in the defined area of Bootle and two additional HMO licensing schemes in the defined areas of central Southport and areas of Waterloo/Seaforth/Brighton Le-Sands.

(2) approve a commencement date for the schemes of 1st March 2023.

(3) approve the licence conditions, as set out in Background Papers 2 & 4

(4) approve the fee structure (along with the recommended fee reductions & exemptions)

(5) authorise the preparation and publication of a Public Notice of designation under sections 80 and 83 of the Housing Act 2004. This Notice shall allow for the designation of the chosen areas for the introduction of a Selective Licensing and two Additional (HMO) licensing schemes.

(6) authorise the Assistant Director of Place (Economic Growth & Housing), in consultation with the Cabinet Member for Communities and Housing to agree any minor/technical changes to the schemes (non-fundamental changes).

(7) note that the Assistant Director Place (Economic Growth & Housing) will be asked to approve a supplementary revenue estimate of £40k for the first month of operation in 2022/23, in line with the requirements of the Financial Procedure Rules, which will be fully funded by income from the scheme. The budget allocations for future years will be included within the next Budget Report.

Reasons for the Recommendation(s):

To improve the private rented sector and to ensure safe homes for our residents and landlords as set out in our housing strategy.

Cabinet authority is required for the introduction of a selective housing licensing scheme across the designated area, and two additional (HMO) licensing schemes within the Borough.

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

1. Do nothing

Sefton could choose not to re-designate 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 borough wide scheme, but this was not taken forward because the evidence is not yet sufficient to introduce the whole borough and therefore such an application is unlikely to be supported

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 £2.4m over the 5 year period (£0.48m per annum) and this will 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:

Resource Implications (Financial, IT, Staffing and Assets):

The schemes will be fully funded from proposed license fee income and existing revenue budget.

Legal Implications:

Part 2 & 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. The procurement of an IT system will need to comply with the Council's Contract Procedure Rules.

Equality Implications:

An Equality Impact Assessment has been undertaken through development of the Business Case and no negative impacts have been identified. The Equality Impact Assessment is available as a background document.

Climate Emergency Implications:

The recommendations within this report will

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

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.

The Licence Holder must provide the tenant of the licenced dwelling with an Energy 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 unless it is exempt.

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 Consultations

The Executive Director of Corporate Resources and Customer Services (FD6945/22.) and the Chief Legal and Democratic Officer (LD5145/22.) have been consulted and any comments have been incorporated into the report.

(B) External Consultations

Contact Officer:	Clare Taylor
Telephone Number:	07812030362
Email Address:	clare.taylor@sefton.gov.uk

Appendices:

The following appendices are attached to this report:

Appendix 1 Consultation document on improving private rented housing in Sefton, MEL Research Ltd (including appendices)

Background Papers:

The following background papers, which are not available elsewhere on the Internet can be accessed on the Council website:

Background paper 1 Streets subject to selective licensing
https://www.sefton.gov.uk/media/5231/appendix-1_sl-designation.pdf

Background paper 2 Selective licensing conditions
https://www.sefton.gov.uk/media/5612/background-2_selective-licensing-conditions.docx

Background paper 3 Streets subject to additional licensing
<https://www.sefton.gov.uk/media/5243/appendix-3-al-designation.pdf>

Background paper 4 Additional licensing conditions
https://www.sefton.gov.uk/media/5613/background-4_additional-licensing-conditions.docx

Background paper 5 Equality Impact Assessment
https://www.sefton.gov.uk/media/5614/background-5_eia-selective-additional-hmo-licensing-schemes-2023-28.docx

1. Introduction/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 licence 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 The Business Case to re-designate the Selective Licensing Scheme and 2 Additional (HMO) Licensing Schemes in Sefton is available on the Councils website.

2. Selective Licensing

- 2.1 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 licence in order to rent out a property. The licence lasts for the duration of the 5-year scheme.
- 2.2 To qualify for a licence 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.
- 2.3 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.

3. Additional (HMO) Licensing

- 3.1 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.
- 3.2 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.
- 3.3 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 is 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.

- 3.4 The Council is satisfied that the 2 proposed areas for an Additional (HMO) licensing designation do meet the criteria.

4. Justification for the re-designation of the licensing schemes

- 4.1 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 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 schemes are not extended it is likely that issues would re-emerge in these areas 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.
- 4.2 The positive impact of the current schemes is clear and since the commencement of the licencing schemes in March 2018, 298 licensable properties have had serious Category 1 hazards removed. The total number of hazards removed from all licensable properties is 1176, 380 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.
- 4.3 Since the commencement of the current licensing schemes 1138 compliance visits took place. 75% were non-compliant on first inspection. However, following informal intervention by the Housing Standards Team, 99% of these properties became compliant. The main reasons for non-compliance were 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.
- 4.4 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.
- 4.5 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.

- 4.6 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.
- 4.7 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. During the term of the current Additional Licensing schemes (end Aug 2022), 219 service requests were received from HMO properties. 167 of those were from HMOs within the licensing areas equating to 76%. This provides evidence of poor property management across this sector and specifically within the proposed re-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.
- 4.8 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.
- 4.9 In December 2021 Cabinet agreed the business case to justify its licensing proposals and agreed to consult the public on proposals to introduce Selective and Additional (HMO) Licensing. The consultation was undertaken by an independent research company, MEL Research Ltd and commenced 9th May 2022, closing 12 weeks later on 31st July 2022, an approach approved by the Council's Consultation & Engagement Panel in March 2022.

5. Licence Fees

- 5.1 The proposed Selective licence fees are shown in the table below.

	£	Annual Equiv.	Weekly Equiv.
Full Fee	695	139	2.67
Accreditation	545	109	2.10
Accredited Managing Agent (licence holder)	495	99	1.90

- 5.2 **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.

5.3 The proposed Additional (HMO) licence fees are shown in the table below.

	£	Annual Equiv.	Weekly Equiv.
Full Fee	950	190	3.65
Accreditation	800	160	3.08
Accredited Managing Agent (licence holder)	750	150	2.88

5.4 **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.

5.5 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.

6 Licence Conditions

6.1 A 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 Background document 2. The draft Additional (HMO) Licensing conditions are attached in Background document 4.

7 Areas

7.1 Selective licensing is proposed to be introduced in an area of Bootle. See Background document 1.

7.2 Additional (HMO) Licensing is proposed in 2 areas of the Borough. One in central Southport and one in the Waterloo/Seaforth/Brighton Le-Sands area. See Background document 3.

8 Consultation

Consultation Methodology

8.1 The consultation was promoted via a number of methods. Respondents

could participate by phone, email, post or via an on-line survey. Easy read/accessible versions of the survey and associated documents were also available. Full details of all activities undertaken to promote the consultation and encouraged landlords, agents, tenants, residents, and other interested parties to participate can be found at Appendix 1. The consultation was regularly promoted across its duration in the local press and through social media with a direct link to the survey on the council's webpage.

- 8.2 64,000 leaflets were distributed via Royal Mail to the majority of properties within the 3 proposed licensing areas and immediately surrounding areas. The leaflets explained the proposals and encouraged residents/businesses to complete the on-line survey.
- 8.3 Researchers undertook doorstep interviews selecting a random sample of 545 households across the Borough, which was representative by ward, tenure, age, gender, and ethnicity.
- 8.4 In addition, a researcher interviewed relevant stakeholder organisations including a neighbouring authority and a third sector organisation. 3 on-line focus groups were held for landlords, tenants and residents.

9. Response to Consultation

Online survey

- 9.1 The online consultation was widely promoted by the council. In total, 787 responses were received to the online consultation.
- 9.2 As part of each of the above survey's respondents were asked whether they were a resident, and/or a landlord, and/or a managing agent and/or they classified themselves in some other way. The split of the respondent profiles are shown below (multiple answers possible).

	Number	% of responses
Sefton Resident	650	82.59%
Private tenant in Sefton	89	11.31%
Private landlord / agent	192	24.40%
or other (multiple answers possible)	137	17.41%

Stakeholder Consultation

- 9.3 A number of stakeholder details was provided by the Council to MEL Research although contact was made by MEL there was a low take-up with 3 stakeholders providing responses.

Focus Groups

- 9.4 3 on-line focus groups introducing the proposal were held by M·E·L Research. In total, 17 people attended these meetings.

Summary of key consultation findings

- 9.5 The attached report at Appendix 1 sets out the detailed findings which were analysed and produced by MEL Research Ltd on our behalf. The consultation feedback report along with responses to specific questions will also be published on the Council's website as part of the re-designation process.
- 9.6 Results evidence that more respondents support than oppose the introduction of the licensing of the privately rented sector across parts of Sefton. With 77% in total in favour of the selective licensing re-designation and 80% in favour of the two additional licensing re-designations. Comments indicate that they further believe the schemes will have a positive impact on them.
- 9.7 Views were sought from landlords, residents, tenants, charities, local businesses, third sector organisations and neighbouring boroughs on the implementation of the schemes with particular focus on the proposed designated areas, licence conditions and fees.
- 9.8 The majority of respondents also supported the proposed licence conditions and fee structure for all of the schemes.
- 9.9 Residents and tenants in Sefton are particularly very supportive on all aspects of the schemes. Landlords are understandably more resistant. However almost half of landlords are in favour of licensing.
- 9.10 3 Stakeholders responded to the consultation. The stakeholders interviewed, feel that some regulation of the private rented sector is needed in Sefton and that licensing schemes in general should have a positive impact on improving the private rented sector in Bootle.

10. Proposed changes to the licensing schemes

Staffing

- 10.1 In December 2021, Cabinet approved the proposals to consult on the re-designation of the 3 licensing schemes. That approval stated that to operate, manage and enforce the schemes, would require a team of staff including 5 compliance officers and those compliance officers would be fully funded from the licensing income. Since that report, there has been an increase in the estimated number of licence applications and consequently income from licensing fees. Comments that have come from the consultation have said that not enough compliance inspections have taken place during the current 5-year schemes. We therefore propose to increase the number of compliance officers to 6 in the new schemes, to ensure the number of compliance inspections is increased during

the 5-year duration of the re-designated schemes. The extra compliance officer can be fully funded from licence fee income. Should the take up of licences be lower than anticipated, the number of additional officers will be adjusted accordingly to ensure the scheme remains within the available level of funding.

Licence conditions

- 10.2 A minor change to the licence conditions for all schemes will be made in relation to the requirement to have a carbon monoxide alarm. This is due to changes in legislation that will come into effect before the commencement of the new schemes:

A carbon monoxide alarm is installed in any room which is used wholly or partly as living accommodation (including a bathroom or a lavatory) and contains a fixed combustion appliance other than a gas cooker.

Licence fees

- 10.3 It is not proposed to change the licence fee structure following the consultation results. The majority of respondents felt that the fees were reasonable. Although some respondents felt that the fees were unreasonable, the fees are set so that the scheme can operate efficiently and are cost neutral, meaning the Council do not make a profit from the fee income.

11. Conclusion

Re-designate Selective licensing

- 11.1 The Council will re-designate the selective licensing scheme across defined areas of Bootle, whereby all rental properties in streets, listed in Background paper 1, be designated as an area subject to selective licensing. This will require all landlords letting a property on those streets to apply for a licence.
- 11.2 Landlords will be required to adhere to a number of licence conditions which can be found at Background paper 2.
- 11.3 We will charge a fee and award any applicable fee reductions as set out in part 5 of this report. The licence will in most cases be valid until the end of the scheme.

Re-designate the 2 Additional (HMO) licensing schemes

- 11.4 The Council will re-designate the 2 Additional (HMO) licensing schemes, across defined areas of Seaforth, Waterloo, Brighton-le-Sands and Southport subject to additional licensing for any non-mandatory "houses in multiple occupation" (HMO). This will require landlords who let a property occupied by at least three people, who do not make up a single household to obtain a licence. A full list of the streets subject to additional licensing can be found at Background paper 3.

- 11.5 Landlords will be required to adhere to a number of licence conditions which can be found at Background paper 4.
- 11.6 We will charge a fee and award any applicable fee reductions as set out in part 5 of this report. The licence will in most cases be valid until the end of the scheme.

12. Notice of Delegation

- 12.1 Approval is sought to give authority to prepare and publish a Public Notice of designation under sections 80 and 83 of the Housing Act 2004. This Notice shall allow for the designation of the chosen areas for the introduction of a Selective licensing scheme and for two Additional (HMO) licensing schemes.
- 12.2 The proposed commencement date for the schemes is 1st March 2023.

13. Publication requirements relating to designations under Part 2 or 3 of the Act

- 13.1 The Housing Act 2004, Parts 2 or 3, Section 59 (2) or 83 (2) requires the Council to publicly post a designation notice within seven days of Cabinet decision and must do so in the manner prescribed by the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 (S.I. 2006/373). The designations will not come into force until at least three months after Cabinet approval.
- 13.2 Within 7 days after the date on which the designation is made the Council must:
- (i) place the notice on the public notice board at one or more municipal buildings within the designated area;
 - (ii) publish the notice on the Council's internet site; and
 - (iii) arrange for its publication in at least two local newspapers circulating in or around the designated area in the next edition of those newspapers and five times in the edition of those newspapers following the edition in which it is first published.
- 13.3 Landlords will be encouraged to apply for a licence and the Council will promote this to landlords/agents and tenants. Those who do not apply for the required licence may be subject to enforcement.

14. Equality Impact Statement

- 14.1 The re-designation of the Selective & Additional (HMO) Licensing schemes should have a positive impact in terms of Equalities and Diversity issues and along with other Interventions support the uplift and regeneration of the designated areas. A full Equalities impact assessment for the proposal has been prepared and can be found at Background paper 5.