



## Mayor and Cabinet

### **Borough-wide Licensing: Consultation responses and proposals to introduce new licensing schemes**

**Date:** 11 March 2020

**Key decision:** Yes.

**Class:** Part 1

**Ward(s) affected:** All

**Contributors:** Executive Director for Housing, Environment and Regeneration  
Director of Law  
Director of Financial Services  
Director of Corporate Policy and Governance  
Director of Public Protection and Safety

## Outline and recommendations

The Mayor and Cabinet are asked to agree the following recommendations in respect to the proposed Additional Licensing Scheme and the proposed Selective Licensing Scheme.

### 1. Proposed Additional Licensing Scheme

- 1.1. Note the consultation undertaken on the proposed Additional Licensing Scheme, the responses received, and the officer comments, as outlined in Appendix A – Consultation report and Appendix B – Response to consultation representations;
- 1.2. Note the proposed Additional Licensing Scheme Fee for HMOs fees that will be presented to the Supplementary Licensing Committee for approval before the scheme can commence, as outlined in paragraph 5 section Licensing fees for HMO;
- 1.3. Approve the proposed new licensing conditions for properties in the Private Rental Sector, as outlined in Appendix J – HMO Licence Conditions;
- 1.4. Approve the designation of an additional licensing scheme for all Houses in Multiple Occupation in the Council's area, as outlined in Appendix F – Additional Licensing Scheme Designation;
- 1.5. Delegate authority to the Executive Director for Housing, Environment and Regeneration to implement the new additional Licensing Scheme for Houses in Multiple Occupation, and publish the 3-month Statutory Notice for the scheme as part of the implementation;

### 2. Proposed Selective Licensing Scheme

- 2.1. Note the consultation undertaken on the proposed Selective Licensing Scheme, the responses received, and the officer comments, as outlined in Appendix A – Consultation report and Appendix B – Response to consultation representations;
- 2.2. Note the proposed Selective Licensing Scheme Fee that will be put to Supplementary Licensing Committee for approval before the scheme can commence, as part of the application to the Secretary of State, as outlined in paragraph 6 section Licensing fees for Selective;
- 2.3. Approve the proposed new licensing conditions for properties in the Private Rental Sector, as outlined in Appendix I – Selective Licence Conditions;
- 2.4. Approve the submission of an application to the Secretary of State for Housing, Communities and Local Government for a Selective Licensing Scheme to apply to all privately rented single occupancy dwellings in the Borough of Lewisham, as outlined in paragraph 6;
- 2.5. Delegate authority to the Executive Director for Housing, Environment and Regeneration:-
  - 2.5.1. to finalise the application for a Selective Licensing scheme and submit to the Secretary of State for Housing, Communities and Local Government;
  - 2.5.2. to implement the Selective Licensing Scheme and publish the 3-month Statutory Notice for the scheme as part of the implementation, pending necessary approvals from the Secretary of State for Housing, Communities and Local Government.

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## Timeline of engagement and decision-making

- 27 Feb 2019 Lewisham corporate strategy published with tackling the housing crisis stated as a key priority with a commitment to implement a full borough-wide licence scheme to crack down on rogue landlords.
- 06 Mar 2019 Housing Select Committee expressed its strong support for the submission to the Secretary of State for approval to implement such a scheme
- 24 Apr 2019 The Mayor and Cabinet agreed that:
- officers undertake a public consultation on the proposal for a new additional licensing scheme and for a selective licensing scheme (as split via the designations) which will require approval from the Secretary of State, and
  - if the new additional licensing scheme and the selective licensing schemes are agreed, the council will incur costs of up to £400,000 to introduce the schemes, which will be wholly recoverable from licencing fees
- 28 May to 21 Aug 2019 Public Consultation for a revised additional licensing scheme and the proposed new selective licensing scheme

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## 1. Summary

- 1.1. Lewisham's citizens want to live their best possible lives. One of the key components to living well and enjoying a successful life is having a safe, secure and affordable home. The Mayor of Lewisham and the Council share this ambition for our citizens and we have set out how we will work with our communities to deliver the best possible lives for citizens in our forward-looking and progressive "Corporate Strategy 2018-2022".
- 1.2. One of the priorities of the strategy is "Tackling the Housing Crisis" and ensuring that everyone has a decent home that is secure and affordable. The Council is committed to delivering this by improving standards across all housing sectors. This report sets out how the Council will deliver this commitment through seeking approval from the Mayor to deliver an additional licensing scheme for all Houses in Multiple Occupation (HMOs) and seeking permission to apply to the Secretary of State for Housing, Communities and Local Government for approval to introduce a Selective Licensing scheme.
- 1.3. The implementation of the two proposed licensing schemes will result in better property standards and better property management practices within the private rented sector (PRS) across Lewisham. The schemes will also result in a lower rate of antisocial behaviour and crime associated with the licensed properties
- 1.4. To assist the Mayor and Cabinet in making their decision, this report:
  - Provides the policy context and the history of licencing within the borough, its achievements and the limitations of the existing schemes;
  - Summarises the statutory consultation conducted on the licensing proposals, the responses received, and the amendments made to the proposed schemes;
  - Outlines the proposals for both new licensing schemes, including the proposed license fee and license conditions;
  - Details the objectives of the two new schemes, the key outcomes and how these will be achieved.

## 2. Recommendations

The Mayor and Cabinet are asked to agree on the following recommendations in respect to the proposed Additional Licensing Scheme and the proposed Selective Licensing Scheme.

### ***Additional Licensing Scheme***

- 2.1. Recommendations for the proposed Additional Licensing Scheme:-
  - 2.1.1. Note the consultation undertaken on the proposed Additional Licensing Scheme, the responses received, and the officer comments, as outlined in Appendix A – Consultation report and Appendix B – Response to consultation representations;
  - 2.1.2. Note the proposed Additional Licensing Scheme Fee for HMOs fees that will be presented to the Supplementary Licensing Committee for approval before the scheme can commence, as outlined in paragraph 5 section Licensing fees for HMO;
  - 2.1.3. Approve the proposed new licensing conditions for properties in the Private Rental Sector, as outlined in Appendix J – HMO Licence Conditions;
  - 2.1.4. Approve the designation of an additional licensing scheme for all Houses in Multiple Occupation in the Council's area, as outlined in Appendix F – Additional Licensing Scheme Designation;

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- 2.1.5. Delegate authority to the Executive Director for Housing, Environment and Regeneration to implement the new additional Licensing Scheme for Houses in Multiple Occupation, and publish the 3-month Statutory Notice for the scheme as part of the implementation;

### **Selective Licensing Scheme**

- 2.2. Recommendations for the proposed Selective Licensing Scheme:-
  - 2.2.1. Note the consultation undertaken on the proposed Selective Licensing Scheme, the responses received, and the officer comments, as outlined in Appendix A – Consultation report and Appendix B – Response to consultation representations;
  - 2.2.2. Note the proposed Selective Licensing Scheme Fee that will be put to Supplementary Licensing Committee for approval before the scheme can commence, as part of the application to the Secretary of State for Housing, Communities and Local Government, as outlined in paragraph 6 section Licensing fees for Selective Scheme;
  - 2.2.3. Approve the proposed new licensing conditions for properties in the Private Rental Sector, as outlined in Appendix I – Selective Licence Conditions;
  - 2.2.4. Approve the submission of an application to the Secretary of State for Housing, Communities and Local Government for a Selective Licensing Scheme to apply to all privately rented single occupancy dwellings in the Borough of Lewisham, as outlined in paragraph 6;
  - 2.2.5. Delegate authority to the Executive Director for Housing, Environment and Regeneration:-
    - 2.2.5.1. to finalise the application for a Selective Licensing scheme and submit to the Secretary of State for Housing, Communities and Local Government;
    - 2.2.5.2. to implement the Selective Licensing Scheme and publish the 3-month Statutory Notice for the scheme as part of the implementation, pending necessary approvals from the Secretary of State for Housing, Communities and Local Government.

## **3. Policy Context**

- 3.1. The implementation of the Additional and Selective licencing schemes directly supports a number of our corporate strategies and policies. A more detailed analysis of the strategic fit is outlined within the ‘Strategic Context’ section of Appendix O – Evidence Base: Borough Wide Licensing Consultation.
- 3.2. A summary of how the two licensing schemes support our key strategies is set out below:-
  - *The Corporate Strategy 2018-2022*: Tackling the housing crisis so that everyone has a decent home that is secure and affordable; Improved standards across all housing sectors; Building safer communities so that every resident feels safe and secure living here as we work together towards a borough free from crime
  - *The Housing Strategies* (both 2015-20 and draft 2020-26 currently out for public consultation): Greater security and quality for private renters (current Housing Strategy); Promoting health and wellbeing by improving our residents' homes (current Housing Strategy); Improving the quality, standard and safety of housing (draft 2020-26 strategy);
  - *Safer Lewisham Plan*: reduction in harm and vulnerability is identified as a critical as part of an overall prevention, intervention and enforcement approaches.
  - *MOPAC Police and Crime Plan 2017-21*: The safer Lewisham Partnership has committed to working to the Mayor’s Office for Policing and Crime (MOPAC)

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Police and Crime Plan. This advocates a multi-disciplinary and problem solving approach between the council and the police, using all the powers and resources at our disposal to tackle and prevent antisocial behaviour (ASB).

- *Sustainable community strategy 2008-20*: being a safer borough, where people feel safe and live free from crime, antisocial behaviour and abuse.

## 4. Background

### Housing and The Private Rented Sector

#### England

- 4.1. In 2016/17, the private rented sector accounted for 21% of households in England. The size of the private rented sector has increased from 2.6 million households in 2006/07 to 4.7 million households in 2016/17 ([English Housing Survey](#)).
- 4.2. In 2016/17, household reference persons (HRP) in the private rented sector in England were, on average, younger than social renters and owner-occupiers, with a mean age of 40 years (compared with 52 years for social renters and 57 years for owner-occupiers). Whilst this is broadly unchanged over the past ten years, the distribution of the sector across age bands has shifted ([English Housing Survey](#)) increasing the likelihood of longer tenures.
- 4.3. Over the past 20 years, the biggest change has been in the proportion of 35- to 44-year-olds living in the private rented sector, increasing from 16% in 1996/97 to 24% in 2017/18. There were more than three times as many 35- to 44-year-olds renting privately in 2016/17 than 20 years ago, an increase from 331,000 households in 1996/97 to 1.1 million in 2016/17. The single largest group of private renter HRPs remains the 25 to 34 years age band, which represents 33% of the sector with 1.5 million households.
- 4.4. The PRS is predicted to increase in size from 24% in 2017/18 to 35% nationally by 2032. If the current trend continues the number of households renting privately could double again over the next twenty years.

#### London Borough of Lewisham

- 4.5. The Private Rented Sector (PRS) is an important part of Lewisham's housing market, accounting for approximately 32,000 properties within the borough. It is estimated that in 2019, one in four households in Lewisham rent from a private landlord – this is double the number in 2004 and this trend is expected to continue.
- 4.6. Looking ahead into the future, the private rented sector will be the sector in which our residents build their lives and for many it will be from cradle to grave the only sector that they will spend their lives, providing a home for them as young adults starting out, providing a home for them to raise their families in and providing a home for them after their families have grown up and left home. This shift in the type of households that are living in the PRS within Lewisham Borough has happened over the last decade and now more households aged 25-34 now rent in the PRS (44%) rather than owning their own home, this is up from 28% in 2007-08.

### **Why we are applying for the additional and selective licensing schemes**

- 4.7. *“Housing insecurity means buying a home is a distant dream for most. The new norm is paying private landlords on insecure contracts, leaving you with no idea of how much you’ll be paying or where you will be living from one year to the next.”<sup>1</sup>* Ensuring that

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<sup>1</sup> Lewisham Mayor’s AGM 4<sup>th</sup> April 2019.

residents in the PRS live in high-quality homes and security of tenure is a priority that is jointly shared by both the Mayor of Lewisham, the Council and Government. In Lewisham, we know that the vast majority of landlords take their responsibilities to their tenants seriously and provide decent, well-maintained and well-managed homes.

- 4.8. However, it is also the case that there are widespread issues of poor housing conditions, housing hazards, disrepair and incidences of antisocial behaviour within the PRS. In addition, there are a small number of criminal landlords who rent out accommodation that is not safe.
- 4.9. Our extensive and comprehensive Borough Wide Licensing Consultation (see Appendix C – Evidence Base: Borough Wide Licensing Consultation) has given us evidence that the PRS in Lewisham is affected by issues relating to poor property condition, antisocial behaviour and crime. So we now know that:-
- HMOs account for 20%. of the 32,000 PRS properties in Lewisham
  - Survey results have shown Category 1 hazards<sup>2</sup> in 18.4% of homes in the PRS and Category 2 hazards in 38% of homes in the PRS.
  - Antisocial behaviour (ASB) incidents are higher in wards with more privately rented homes.
  - 36% of homes in the PRS and 46% of HMOs have experienced multiple incidents of environmental ASB in close proximity to the property.
  - The wards with the highest levels of privately rented homes also have the highest levels of crime across the borough.
- 4.10. Based on this evidence and following public consultation we are seeking approval to implement both a selective and additional licensing scheme which will enable us to do more than we are currently able. These licensing schemes will enable us to;
- Simplify enforcement by bringing all properties in the PRS under licensing and by clearly defining unlicensed properties as an offence.
  - Providing a channel for effective engagement between landlords and the Council thereby enabling us to better raise landlord awareness of their responsibilities
  - Directly targeting the Council's resources on areas of concern and being able to generate sufficient revenue to cover the costs of our activities
  - Provide a proactive approach to inspection, as there will no longer be the need to issue a 24-hour notice for access in circumstances where failure to licence and breaches in licence conditions are suspected
  - Improve our ability to identify unlicensed properties and in targeting priority properties, through effective intelligence gathering mechanisms
  - Develop and publish clear targets and metrics to measure progress and success.

### Current PRS Licensing in Lewisham

- 4.11. The Council currently operates the following licensing schemes:
- **Mandatory scheme**, operational since 2006, relating to all Houses of Multiple Occupation (HMO) where five people across two or more households (families) live in the same property and share facilities such as a kitchen or bathroom. This is a national scheme. Since its introduction, the council's licensing and enforcement capabilities have developed considerably, with significant issues

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<sup>2</sup> Please refer to glossary

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being addressed through the licensing process.

- **Additional licensing**, operational since February 2017, relating to HMOs above commercial premises where at least three people are living in two or more households, or poorly converted privately rented self-contained flats. This Lewisham specific scheme was implemented as data gathered during the implementation of the mandatory scheme highlighted poor standards, conditions and hazards found in shared accommodation and particularly within flats over commercial properties.

### **Achievements of the current schemes**

4.12. Since the introduction of additional licensing in 2017 and the extension of mandatory licensing in 2018:

- There have been 10 successful prosecutions of landlords and agents with sentences ranging from fines to suspended custodial sentences:-
  - five of these were convicted of offences relating to harassment and unlawful eviction, and
  - the remaining five convicted of Housing Act 2004 and Environmental Protection Act 1990 offences
- Officers have on average tackled 15 cases of illegal eviction and 15 cases of tenant harassment per month, helping tenants back into their homes once it is safe to do so.
- In 2018, we tackled 391 complaints on disrepairs on a combination licenses and non-licensed properties using statutory enforcement tools (HHSRS Part 1 Housing Act 2004).
- In Oct 2018, two-storey five-person HMOs became mandatory licensable. We have since doubled the number of licensed HMOs. We have seen a reduction in stand-alone disrepair complaints to 231 as more high-risk properties were bought into mandatory licensing. Of these only two were complaints from the premises that had come to our attention in 2018.

### **Rationale for new schemes**

4.13. However, our current schemes have not been the panacea for our ills. The current schemes are severely limiting in coverage as only 10% of all HMOs and less than 2% of all properties in the PRS are covered by the current scheme.

4.14. A borough-wide licensing scheme in Lewisham would make all properties in the PRS licensable. The new licensing schemes will complement existing council powers as detailed in Appendix M – New schemes complementing existing powers. A summary of the benefits of the new scheme:

- The proposed licensing conditions under the new schemes will:
  - empower PRS tenants with knowledge of their rights and responsibilities,
  - bring a wider range of conditions outside of HHSRS within scope,
  - ensure all PRS landlords complete a fit and proper test, and,
  - provide a level playing field for all landlords in Lewisham and will force criminal landlords out of the PRS
- Licensing will standardise all accommodation within the borough irrespective of who procures it, (ie other local authorities, charities), and this is likely to increase the number of homes available to Lewisham to meet our housing needs.

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- 4.15. “Licence to Rent” a report of joint research project commissioned by the Chartered Institute of Housing and the Chartered Institute of Environmental Health<sup>3</sup> found that the introduction of selective licensing schemes greatly improved housing conditions in the area and landlords became more willing to do required works on their properties once the selective licensing was introduced.

### **Public Consultation for the New Schemes**

- 4.16. A public consultation considering both the additional and selective licensing schemes was run over a 12 week period from 28th May to 21st August 2019.
- 4.17. 1,831 people responded to the consultation. In comparison to similar consultations by 21 other boroughs, this is significantly higher than the average response of 910 and it is the fifth-highest response overall (Newham, Waltham Forest and Croydon received 4,080, 2,400 and 2,309 respectively, although these boroughs were renewing their schemes; Hammersmith and Fulham received 2,018).
- 4.18. Of the 1,831 responses:
- 88% (1,619) of respondents live in Lewisham borough;
  - 26% (473) were private housing tenants;
  - 22% (411) were private landlords of one or more Lewisham properties.
- 4.19. Analysis of the responses shows there is general support for Lewisham’s proposals to extend additional HMO licensing and introduce borough-wide selective licensing. There were a range of responses to the fee levels, these are summarised in the following sections: 5.3, 5.4, 6.3 and 6.4.
- 4.20. 50% of all respondents found the licensing conditions to be clear and understandable, compared with 18% who did not and 32% who did not give a view. 37% of landlords and 55% of tenants found them to be clear and understandable.
- 4.21. Following the extensive consultation, amendments to the proposed extension to Additional Licensing, and introduction of Selective licensing have been made, which include:-
- A flat fee before discounts will apply to selective licences, regardless of what council tax band the property is in.
  - A commitment to working in partnership with other agencies to mitigate the impact of extending additional licensing and introducing Selective licensing in the borough.
  - A commitment to training tenants on sustaining tenancies and tenants' responsibilities and rights, in collaboration with local and national property management and estate agents.
  - A commitment to developing a mediation service to support landlords and tenants in the resolution of disputes and to help both parties reach an amicable solution.
- 4.22. The detailed consultation report can be found in Appendix A – Consultation report. Scheme specific findings are summarised in the main body of the report under the proposed scheme headings.

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<sup>3</sup> [Report commissioned by CIH and CIEH](#), Jan 2019.

## 5. Proposed Additional HMO scheme

- 5.1. The proposed extension to the Additional HMO Scheme will make it a requirement for all privately rented HMOs, as defined in Section 254 of the Housing Act 2004, in Lewisham to be licensed by the Council.
- Additional licensing will apply to smaller houses in multiple occupation (HMOs) that are not covered by the mandatory HMO or selective licence schemes.
  - Unless an exemption<sup>4</sup> applies, additional licensing will apply to flats or houses
    - that are occupied by three or four unrelated people
    - which form two or more households
    - are under one or more tenancies
    - which share amenities such as kitchens or bathrooms
  - The current additional HMO scheme will be subsumed by the new proposed additional licensing scheme.

### Summary of Consultation Response Report

- 5.2. The table below shows the support for the proposals grouped by the respondent category and as a percentage of the total number of responses.

Category	Respondents	Support the proposal	Do not support the proposal	No stated preference
All	1,831	1111 (60.7%)	379 (20.7%)	341 (18.6%)
Landlords	411 (22.4%)	108 (5.9%)	195 (10.6%)	108 (5.9%)
<i>HMO Landlords</i>	<i>88 (4.8%)</i>	<i>9 (10.3%)</i>	<i>56 (63.6%)</i>	<i>23 (26.1%)</i>
Not Landlords	1,420 (77.6%)	1003 (54.8%)	184 (10.0%)	233 (12.7%)

- 5.3. In addition, 43% of respondents thought the proposed fee levels for the proposed extension to the HMO scheme to be 'about right', or 'too low'. 32% thought the fees were 'too high' or that 'the Council should not be charging this fee at all', and the remainder had no stated preference.
- 5.4. The majority of respondents thought the proposed early bird discount, the HMO fees based on lettable units and offering reductions to landlords who are part of an accreditation scheme to be fair.

### HMO licensing conditions

- 5.5. The proposed Additional scheme will run alongside the national Mandatory Scheme. Licences are typically valid for five years. A shorter licence period can be considered where representations are made. This might arise where an owners/landlord's interest in a property is limited – for example, the PSHA have granted yearly licences to property guardians where a property guardian company has a time-limited interest in protecting a dwelling.

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<sup>4</sup> Housing Act 2004 Schedule 14

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- 5.6. Detailed licensing conditions for HMOs can be found in Appendix J – HMO Licence Conditions.

### Licensing fees for HMO

- 5.7. Mandatory and Additional HMO licence applications will follow the same fee structure. It is proposed that the fee for an Additional or Mandatory HMO licence remains £500 per **lettable unit** before applying discounts. The proposed fees have been set to make the scheme cost neutral, taking into account the cost of inspections and compliance checks, and the discounts available to landlords.
- 5.8. The cost of the fees is a valid business expense for tax purposes. VAT is not applied to licence fees.
- 5.9. The fees being proposed have been benchmarked with those charged by neighbouring boroughs mandatory and/or additional HMO licensing schemes. The fee is based on the Council's experience in operating its previous licensing schemes and has been in force 2016/17.

Council	HMO Fee
<b>Croydon</b>	£250 applies per room up to a maximum of £5000
<b>Southwark</b>	£268 per bedroom for the first 10 bedrooms £161 for each bedroom in excess of 10 rooms
<b>Lewisham (proposed)</b>	£500 per lettable unit
<b>Lambeth (Mandatory HMO only)</b>	New applications - £276 per lettable room / bedsit up to a maximum of £4464 Renewal - £174 per lettable unit, max £2784 Max units / lets – 16
<b>Greenwich</b>	Ranges from £ 315 to £520 per unit <ul style="list-style-type: none"> <li>Enhanced fee where application is due to council identifying the HMO - £520 per unit</li> <li>Standard fee for a new application - £400 per unit</li> <li>Standard rate for renewals - £315 per unit</li> </ul>

- 5.10. We set our licensing fees with reference to our actual costs in administering and enforcing the schemes, in compliance with the Housing Act 2004. The primary purpose of licensing properties is to ensure they are safe to occupy. Lewisham takes this duty seriously, and the effort we intend to undertake is reflected in the level of the fees being charged.
- 5.11. We will inspect and fully assess every licensable HMO property as part of the licensing process. We will provide the proposed licence holder with a full schedule of works necessary to tackle any category 1 hazards present and to bring the property up to licensable standards. We will inspect every licensed HMO at least once during the period of the five year licence, as well as attend all properties in the Borough where there are complaints of disrepair and/or dangerous housing conditions.
- 5.12. Section 9 details the scheme costs, and Appendix H explains how the fees will be calculated and discounts applied.

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## 6. Proposed Selective Licensing Scheme

- 6.1. If we are successful with the application to the Secretary of State for a borough-wide licensing scheme, private properties which are let to a single household or two unrelated people in the borough of Lewisham must apply for a selective licence, unless an exemption<sup>5</sup> applies.

### Summary of consultation response report

- 6.2. The table below shows the support for the proposals group by the respondent category and as a percentage of the total number of responses.

Category	Respondents	Support the proposal	Do not support the proposal	No stated preference
All	1,831	962 (53%)	558 (30%)	311 (17%)
Landlords	411 (22.4%)	43 (2.3%)	308 (16.8%)	60 (3.3%)
Not Landlords	1,420 (77.6%)	919 (50.2%)	251 (13.7%)	250 (13.6%)

- 6.3. In response to the proposed selective scheme, 40% believe 'the Council should not be charging this fee at all' or that the fee is 'too high'. 39% thought the fee to be 'about right' or 'too low'.
- 6.4. Whilst many respondents (39%) think the selective licensing fee proposal is fair, there was a notable number (29%) who think basing the selective licensing fees on council tax bands is not fair. The Council has therefore reconsidered the fee structure based on comments received and now proposes the use of a fixed fee for all selective licences.

### Selective licensing conditions

- 6.5. Licences are typically valid for 5 years. A shorter licence period can be considered where representations are made. This might arise where an owners/landlord's interest in a property is limited – for example, the PSHA have granted yearly licences to property guardians where a property guardian company has a time-limited interest in protecting a dwelling.
- 6.6. Detailed licensing conditions for privately rented properties falling under the selective scheme can be found in Appendix I – Selective Licence Conditions.

### Licensing fees for selective

- 6.7. It is proposed that the fee for a selective licence is £640 per **property** before applying discounts. This fee has been set to make the scheme cost neutral, taking into account the cost of inspections and compliance checks, and the discounts available to landlords.
- 6.8. The cost of the fees is a valid business expense for tax purposes. VAT is not applied to licence fees.
- 6.9. The fees being proposed have been benchmarked with those charged by other London boroughs that have Selective licensing schemes.

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<sup>5</sup> Housing Act 2004 Schedule 14

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Local Authority	Selective Fee per property
<b>Croydon</b>	£750
<b>Southwark</b>	£500
<b>Lewisham (proposed)</b>	£640
<b>Waltham Forest</b>	£700
<b>Newham</b>	£750

- 6.10. We set our licensing fees with reference to our actual costs in administering and enforcing the schemes, in compliance with the Housing Act 2004. The primary purpose of licensing properties is to ensure they are safe to occupy. Lewisham takes this duty seriously, and the effort we intend to undertake is reflected in the level of the fee.
- 6.11. We will inspect and fully assess every licensable property as part of the licensing process. We will provide the proposed licence holder with a full schedule of works necessary to tackle any category 1 hazards present and to bring the property up to licensable standards. We will inspect every licensed property at least once during the period of the five year licence, as well as attend all properties in the borough where there are complaints of disrepair and/or dangerous housing conditions.
- 6.12. Section 9 details the scheme costs, and Appendix H explains how the fees will be calculated and discounts applied.

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## 7. Objectives and Key Outcomes

### Objectives

7.1. Our citizens have been telling us that they want to live in homes that are safe and secure, on estates and streets that are well maintained and presentable, and in a thriving communities free from crime and antisocial behaviour. The Council's strategy sets a vision for providing our citizens the opportunity to live their best life, protecting the individual identities of our neighbourhoods and making Lewisham a place our citizens love to live in. Better and safer housing conditions are a key component of this vision and we propose the borough-wide licensing scheme will aim to:

- Improve property conditions and management standards in the PRS,
- Reduce antisocial behaviour (ASB), and,
- Tackle crime

### Improving property conditions and management standards in the PRS

7.2. Ensure that all licensable properties in the borough conform to [Lewisham's licensing standards](#).

- All HMOs will be inspected prior to determining a licence application.
- All private rented properties covered by the selective scheme will be inspected at least once during the duration of the licence.
- The housing directorate will use data analytics and risk modelling tools to identify unlicensed properties.

7.3. Achieve less than 10% repeat complaints on housing standards through a combination of informal and formal actions, including:

- Incentivising landlord accreditations through schemes that promote a professional standard of property management
- Landlord training on licence conditions and standards will be made available independently and in partnership with the London Landlord Accreditation Scheme
- Use of the data analytics and risk modelling tools to support the identification of properties that are likely to be operating unlawfully or are likely to be high risk, especially HMOs
- Serving of notices and orders under relevant legislation e.g. Housing Act 2004 and other Public Health related legislations
- Undertaking joint enforcement with our statutory partners
- Engaging and upskilling tenants through regular and comprehensive tenant outreach programs to ensure all our citizens who are renting their homes are aware of their rights as well as their own responsibilities

### Tackling ASB in the PRS Sector

7.4. Achieve less than 15% instances of repeat ASB linked to licensed properties over the life of the scheme. This will be delivered through:

- tenant and landlords outreach programs and training,
- joint enforcement with partners such as Crime Enforcement and Regulation, Planning, Building Control, Adult and Children's/young people's social services, Community Mental Health, the Fire Brigade and others

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## Tackling crime in the designated areas

- 7.5. Achieve less than 10% instances of repeat crime linked to licensed properties over the life of the scheme, through:
- tenant and landlords outreach programs and training,
  - joint enforcement with partners such as CER and the Police

## 8. Options and alternatives considered

- 8.1. The consultation report included as Appendix A of this report details a number of alternative options to borough-wide selective and additional licensing that the Council has already considered and these are listed below:-

- *Maintaining current licensing arrangements*

This would leave only mandatory HMO licensing and the current additional scheme as the means for enforcing housing management of properties that are HMOs.

- *Introducing borough-wide additional licensing for HMOs*

This would have the effect of excluding citizens who rent homes in small HMOs and single houses from being licensed and therefore this would not be as comprehensive a scheme as we would like for our citizens

- *Introducing selective licensing to less than 20% of the borough*

This would have the effect of leaving small HMOs and properties let to a single household across 80% of the borough exempt from licensing, therefore, meaning the majority of our citizens living in the private rented sector will not enjoy the benefits of the licensing schemes

- *Voluntary accreditation*

This requires landlord engagement, and rogue operators are unlikely to attend/engage. There has been a low take-up of the voluntary accreditation scheme prior to the implementation of our current licensing scheme.

- 8.2. In addition to the options included in the licensing scheme consultation last year, officers have undertaken a review of whether the Council could still achieve the vision and ambitions of our Corporate Strategy through using existing tools and the existing licensing schemes to tackle poor housing management and conditions in the private rented sector. The options that were reviewed and the reason why they were rejected are set out below:-

- *Using the enforcement powers already granted by the Housing and Planning Act 2016, Housing Act 2004, and the Tenant Fees Act 2019*

Officers have experienced a significant amount of resistance from landlords who dispute that their properties fall within the requirements of either the existing mandatory or additional licensing schemes. This has meant the process to license properties to date has been very labour-intensive, focusing on proving the case, sometimes through court, rather than tackling disrepair and poor landlord practice.

- *Use of prosecutions and civil penalty notices as a disincentive to keeping properties in poor conditions*

The absence of large-scale licensing significantly reduces the scope of the Council's ability to impose civil penalties in respect of identified housing breaches. Successful prosecutions, or the imposition of civil penalties, do not in themselves improved property conditions. In all cases, harm caused due to these conditions have already occurred.

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- *Use of improvement grants to subsidise improvement works, improving standards and deriving benefits for both landlords and tenants*

There are limited grants available and these would only fund improvements that the landlord should, in any event, be carrying out to meet their legal obligations. Any grant scheme would be discretionary and would rely on voluntary landlord engagement.

- *Use of ASB powers to issue formal notices on individual properties to tackle ASB*

In these situations, ASB action is generally taken against the tenant in occupation. There is no obligation on landlords to be proactive in managing their properties to prevent or reduce the likelihood of ASB occurring.

- 8.3. We have concluded that none of the above options, either individually or collectively, are capable of achieving the jointly shared objectives and commitments of the Mayor of Lewisham, the Council and our strategic partners to our citizens that have been set out in our Corporate Strategy, Housing Strategy and partner strategies. Implementing Additional Licensing and a Selective Licensing schemes will ensure safety and security for all our citizens who are currently living in the private rented sector and provide support for all our landlords who provide accommodation for our citizens.

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## 9. Launching the proposed schemes

- 9.1. We propose to launch the revised additional HMO scheme within three months of obtaining approval from the Mayor and Cabinet. Based on current plans, an early-bird discount for the new additional HMO licensing schemes will start in the first quarter of financial year 2020/21, with the scheme launching after the early-bird period.
- 9.2. The new Selective Scheme will be launched no earlier than three months of obtaining Secretary of State – MHCLG approval. An early-bird discount will run as part of the scheme pre-launch marketing, with the scheme launching after the early bird period.
- 9.3. We have developed a communication strategy and plan to ensure details of the scheme are communicated effectively to tenants, landlords and property management agents.
- The communications for each of the schemes will start with seven days of the scheme being approved and will continue throughout the scheme.
  - Clear guidance will be published on the council's website regarding the schemes, the fees applicable, the discounts available, the licensing standards and the application process.
  - Landlords, and their agents, will be given a minimum of three months from the date the scheme is approved before it comes into effect. An early-bird discount will be made available to landlords who apply for a scheme during this grace period.
- 9.4. The Council acknowledges that there may be unexpected delays in the processing of applications. Applications once submitted will be deemed as “submitted applications” and the landlords, and their agents, will not be penalised if their applications have been submitted with the relevant documents.

### Scheme Costs

- 9.5. It is our intention that the two schemes are self-financing over the five-year period they are in force. With this in mind, the licence fees have been set at a level which will cover the estimated costs staffing costs and other running costs. The cost of running the two schemes is estimated to be £21.07 million. Section 10 – Expanding the team, details the expected growth in staffing.
- 9.6. The cost of running the two schemes is comparable to successful schemes in other London boroughs. The cost of the schemes compares favourably with Newham<sup>6</sup> cost of £21m (2017) for 39,000 properties.
- 9.7. Included in the running costs is a £400k start-up fund to secure office space, provide for a consultation period, deliver a digital platform, and publicise the two schemes. This is included scheme costs and will be recovered from the fee income.

### Discounts and Two-Part Payments

- 9.8. Applicants are eligible for the following discounts
- To encourage early applications, a 20% “early bird” discount will be offered to applications made before the designation comes into force.
  - Once the designation comes into force, to encourage professionalism and development in the sector a 20% discount will be offered where the applicant, or their agent, is a member of an accreditation scheme recognised by the licensing and enforcement team at Lewisham Council.
  - A special discount of 50% will be given to non-profit registered charities that are

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<sup>6</sup> Para 9 - [Newham Cabinet Report 2017](#)

not registered social housing providers, and follow a Government approved code<sup>7</sup>.

- 9.9. The licensing fee will be charged in two parts; an administration fee, payable on application for a licence, and an enforcement fee, payable before the licence is issued.
- For an Additional Licence, the administration element will be £250 per lettable unit. For a Selective Licence, it will be £160 per property.
  - The enforcement element will account for the remainder of the fees and will be charged on the issuance “Notice of Intent to Grant a Licence”. Discounts will be calculated on the total cost of the license and will be applied to the enforcement element of the fee.
  - No refunds are provided if the application is refused for any reason or if the property reverts to a property that no longer needs a licence before the term of the existing licence is complete. A partial refund may be provided if an application is withdrawn before a decision has been made, dependent on the costs incurred by the council.

### **Risks and Mitigations**

- 9.10. Every effort will be made to ensure the overall budget will break-even over a full 5 year period. If significant deficits were emerging, staffing levels will be flexed to bring the scheme back into balance. Regular reviews of the scheme, its implementation and resourcing will be undertaken to ensure that the financial performance is within the scope outlined in this report. Any proposed changes will be agreed with the Executive Director and the relevant portfolio holder.
- 9.11. These estimates are based on our assessment that there are 6000 HMO and 26,000 single household dwelling currently operating in Lewisham. Based on the experience of other councils implementing the scheme, as well as experience from the extension to Lewisham’s additional licensing in October 2018, the following risks have been taken into account while creating the financial plan:
- In the event, not all landlords apply for licences, the council will need to spend additional resources to identify these properties. The cost of this additional work has been taken into account. The licence holder will be expected to pay the full licence fee for the period they were required to be under licence. This will limit the impact on the overall revenue but will have an impact on the cash-flow.
  - An estimated 50% of applications may be eligible for a discount. This has been taken into account when calculating the projected income from the schemes.
  - With the statutory requirement to split the fee in two parts, there is a risk that a small proportion of the fee income could become uncollectable. As part of the costing, we have an estimated £0.30 million as a contingency to cover this. This accounts for 1.5% of the overall costs. In addition, we will take every action available to us to ensure applicants pay the enforcement fee prior to considering outstanding amounts as bad debt
    - The final licence will not be issued until the full fee has been paid.
    - The licence applicant will be required to acknowledge their commitment to pay the enforcement fees. They will have the option of paying the enforcement fees in monthly instalments.
    - Landlord training to include our practices regarding outstanding payments. We will register a local land charge limiting the ability for the

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<sup>7</sup> As set out in the [Housing Act 2004 s233](#).

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landlord to sell / dispose of the dwelling. We will also use the 1925 Law of Property Act to seek to gain title of the dwelling through Court Court Judgements.

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## 10. Delivering the scheme outcomes

- 10.1. The Licensing and Enforcement team perform a wide range of operational activities to identify licensable properties, take enforcement action and tackle rogue landlords. The new licensing scheme will boost these activities through;
- improved support for tenants, landlords and agents,
  - a digital-first customer-centric policy,
  - effective working arrangements with partners better,
  - intelligence gathering and use,
  - increased powers to license properties, and,
  - expansion of the licensing and enforcement team

### **Supporting Tenants, Landlords and Agents**

- 10.2. As the new schemes are launched, the council is obligated to continue our support of landlords and tenants to ensure the objectives of the schemes are met.
- 10.3. We will continue working with landlords, letting agents, colleagues from Housing Needs and Crisis to develop and deliver training to equip tenants with the knowledge base to help them secure and sustain a tenancy in the Private Rented Sector. See Appendix L – Tenant Training - Moving into a rented property.
- 10.4. We will expand our current mediation service to support landlords and tenants in the resolution of disputes and to help both parties reach an amicable solution. The current offer covers tenancy sustainment and will be expanded to cover disrepair and ASB.
- 10.5. Officers will work with landlords to resolve deficiencies they identify. This may include the serving improvement notices or taking actions where there are breaches of the HMO management regulations. To support landlords discretionary grants of up to £6k is available for HMO landlords to tackle Category 1 hazards and £3k for landlords managing self-contained accommodation. A condition of the discretionary landlord grants is that landlords must have completed the London Landlord Accreditation scheme.
- 10.6. The council will hold regular forums for landlords and for tenants to build awareness of their rights and responsibilities.
- 10.7. We are committed to publishing annual reports on progress against the scheme's objectives. We believe this will build trust and support with the wider community and key stakeholders.

### **Digital-First Customer-Centric Policy**

- 10.8. A project is underway to provide an upgraded secure digital platform to the licensing and enforcement team.
- Landlords will be able to complete their application, including document upload, and pay for licence fees using the portal
  - Enforcement officers will be provided with sim-enabled touchscreen-based devices allowing them to input details of their visit directly onto the new digital platform
- 10.9. The licensing application and enforcement processes have been streamlined and automated as part of this project. The process redesigns coupled with the upgraded IT software and hardware are expected to drive efficiencies in identifying and inspecting properties, recording actions and completing cases.
- 10.10. The licensing team will implement an account management approach while dealing with

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portfolio landlords. In addition to providing landlords with adequate support, this approach will help drive efficiencies in application processing and licence enforcement.

### **Working with partners**

- 10.11. The Licensing and Enforcement team actively works with partners, particularly around enforcement. Key partners for the team include the Crime, Enforcement and Regulation Service (CER), Planning Department, Housing Needs Service, the Council's Adult and Children Services, London Fire Brigade and Metropolitan Police.
- 10.12. For example, joint visits have been arranged with the London Fire Brigade who have served notices to improve fire safety, whilst the Council have served notices to remedy overcrowding and disrepair.
- 10.13. The Council's Joint Enforcement Board has been reinstated to develop collaborative approaches to enforcement around complex cases. The membership is made up of the Council's Housing, Planning, Resources and CER services.
- 10.14. As part of the scheme, the council will employ specialist officers to support our partners. The licensing team will be trained on specific areas of interest for partners – for example, children's safeguarding.
- 10.15. Training in private sector housing enforcement will be offered to partners. To encourage professional management of properties and reduce the potential for increased workload for partners, partnership feedback will be incorporated into the best practice guides and other advice for landlords as part of the schemes. We will continue to deliver training to partners such as front line police officers about offences committed by landlords against their tenants, as response team officers are likely to be called in the event of offences such as illegal evictions.

### **Better Intelligence Gathering and Use**

- 10.16. As part of the consultation process, considerable work has already been done to gather information and gain a thorough understanding of the private rented sector (PRS).
- 10.17. To further support the implementation of an effective licensing scheme, we intend to build on the work already done and operationalise the intelligence tool developed. This will include risk modelling to identify properties that require a licence but are not licensed, properties that are likely to be operating unlawfully, to support the investigation and activity of the licensing team and to risk model properties that may require inspection at an earlier point.
- 10.18. Combined datasets will be used to identify households exhibiting patterns that may indicate the need for enforcement activity. Aggregated data on the properties exhibiting these patterns and the nature of those patterns will be shared with the licensing and enforcement team to support enforcement action.
- 10.19. In addition to identifying licensable properties, this will provide officers with the evidence they need to take effective enforcement action.
- 10.20. As part of the scheme rollout, we will implement an intelligence operating model to effectively identify criminal landlords and share intelligence with other enforcement agencies and local authorities.

### **Increased Powers to License**

- 10.21. All licensed properties must be free from category 1 hazards and conform to Lewisham's licensing standards.
- 10.22. The council has set out its licensing conditions to accompany a granted property licence, placing obligations on the Licence Holder in relation to the letting and management of the property.

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10.23. The licensing conditions will give the licensing and enforcement team the powers required to enforce the licensing conditions and helped deliver the scheme outcomes.

### **Expanding the team**

10.24. The current team will be expanded to both handle the increase as well as taking on more responsibilities.

10.25. The existing licensing team consists of 22 posts, including licensing and housing enforcement officers, licensing application coordinators, and rogue landlord officers. We expect this to grow to 29 to support the new additional HMO scheme.

10.26. Currently, we do not license single household properties in the PRS sector within Lewisham. The proposed selective scheme will require hiring and training additional staff to administer the scheme. We expect this to further increase the size of the team by an additional 29 posts primarily in the licensing and housing enforcement, and licensing application coordinator teams.

10.27. The council will employ 11 landlord liaison and partnership officers to work with landlords to help them to address issues in their properties and to reinforce the view that actively managing their properties and dealing with complaints of ASB and Crime is a key part of being a landlord. This team will also support our partners with the additional workload expected with assistance from a data intelligence officer to manage the intelligence operating model.

10.28. Recruitment for these additional posts will aim to attract local talent and improve skills and knowledge within the borough. A majority of the posts will be fixed-term contracts that will end with the scheme.

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## 11. Financial implications

- 11.1. This report seeks Mayor & Cabinet approval for the introduction of an additional licencing scheme for all Houses in Multiple Occupation (HMOs) and for permission to apply to the Secretary of State for approval to introduce a selective licencing scheme. For the selective licencing scheme, this will mean that a new fee charge would need to be introduced in order to recover the costs incurred.
- 11.2. The Council's current budget includes an allocation of £0.89m for licensing and environmental health in the strategic housing division. This includes the additional budget allocation given as part of the 2016/17 expansion of the service for the additional licencing scheme project.
- 11.3. As outlined in section 9 – Scheme Costs, there are significant staffing and operational costs associated with the implementation of an additional HMO and selective borough-wide licencing scheme. These costs, currently estimated at £21.07m, will need to be fully covered by the implementation of a licencing fee to ensure full cost recovery.
- 11.4. A comprehensive financial model has been developed to assess the resourcing implications of the expanded HMO scheme and new selective licencing scheme over the five-year licencing period. Based on current assumptions within the financial modelling undertaken, a fee basis of £500, as set out at 5.7, for licencing HMO's and £640, as set out at 6.7, for selective licencing would be sufficient to recover costs incurred.
- 11.5. Whilst the financial modelling is robust, it does rely on assumptions of the number of licensable properties, both HMO and privately rented units within the borough. There is a risk that the numbers could have been over/under estimated resulting in additional costs or loss of income.
- 11.6. In addition, as there is a statutory requirement to split the fee into two parts, there is a risk that some of the fee income will remain outstanding and result in a requirement to set-up an impairment allowance (bad debt provision). As part of the financial forecasts an allowance of £0.30 million contingency has been allocated to cover this. This represents 1.5% of the overall costs. In addition, every effort will be made to ensure applicants pay the enforcement fee prior to putting forward any outstanding amounts for write-off action.
- 11.7. Mitigation against this and other risks outlined in this report are that staffing levels can be flexed to bring the scheme back into balance. In addition, quarterly reviews of the scheme, its implementation and resourcing will be undertaken to ensure that operational and financial performance is within the scope outlined in this report.
- 11.8. An initial budget of £400k is required as a start-up fund in order to secure office space, provide for a consultation period, and publicise the scheme prior to implementation. Funding for the additional £400k will need to be identified approximately three to six months prior to the official scheme start date. This cost will be recovered via the fee income.

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## 12. Legal implications

Of significance for Lewisham, and the real purpose of this Report is for Members to note that whether an HMO is included in a scheme depends on the local authority designation. Also an 'additional' licensing scheme designation needs 'general approval', whilst a 'selective' licensing scheme requires the approval of the Secretary of State ("SoS") for confirmation of the designation. Consultation for these different licensing schemes is necessary.

### HMO Licensing Schemes

- 12.1. The Housing Act 2004 provides local authorities with the power to impose different types of licensing schemes for houses in multiple occupation, ("HMO"s). HMO's governed by Part 2 of the Housing Act 2004 are generally defined as premises which contain 5 or more people in 2 or more households and contain shared facilities. There is a statutory requirement for every licensable HMO to be licensed by a local authority. This is 'mandatory' licensing.

Part 2 of the Housing Act 2004, gives local authorities power to introduce licensing schemes for HMO's that are not covered by mandatory licensing schemes, and / or which go beyond the national mandatory regime. For each type of different statutory licensing scheme, the definition of an HMO is modified accordingly.

Designations require either 'General Approval' (for 'additional' licensing schemes) or the approval of the Secretary of State by confirmation (for 'Selective' licensing schemes).

The Housing Act 2004: Licensing of Houses in Multiple Occupation and Selection of Other Residential Accommodation (England) General Approval 2015, revoked the former 2010 General Approval provisions, such that 'General Approval' is deemed to be granted for additional licensing schemes, subject only to confirmation by the local authority that it has consulted persons, likely to be affected by them, (s. 56(3)(a) of the 2004 Act,) for not less than 10 weeks.

Designations may last no longer than 5 years from the date on which they come into force.

### Additional Licensing Schemes

- 12.2. An authority may, pursuant to s. 56 of Part 2 of the 2004 Act, designate either the whole of its area or a part of its area as subject to 'additional licensing' in relation to a description of HMO's specified in its express designation. When exercising power under s. 56, local authorities must ensure that exercise of their power is consistent with their overall housing strategy, seek to co-ordinate their approach to homelessness, empty properties, and to antisocial behaviour affecting the private rented sector, not make a designation unless they have considered whether there are other effective measures dealing with the problem, and consider that the designation will significantly assist them to deal with the problem.

### Selective Licensing Schemes

- 12.3. Sections 79- 81 of Part 3 of the 2004 Act, provide local authorities with power to introduce selective licensing schemes for other houses falling outside of Part 2.

The types of houses to be licensed under a selective licensing scheme are defined within s. 79 (2) of the 2004 Act. Namely, it applies to a house "if (a) it is in an area that is for the time being designated under section 80 [for selective licensing], and (b) the whole of it is occupied either- (i) under a single tenancy or licence that is not an exempt tenancy ...., or (ii) under two or more tenancies or licences of different dwellings contained in it, none of which is an exempt tenancy or licence..."

Further statutory considerations for a local authority apply under Part 3 of the Housing

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Act 2004 for selective licensing schemes, pursuant to section 80 (2)(a) and (b). These include conditions in relation to housing conditions, deprivation, migration and conditions in relation to crime.

12.4. Before making a decision to introduce selective licensing the local authority must:

- consult with those who are likely to be affected, including those who live, work or operate businesses in adjoining local authority areas where they will be affected
- consider whether there are other effective methods of achieving the intended objective

12.5. Approval by the Secretary of State is required for selective licensing schemes.

The Secretary of State will take into account when deciding whether to confirm a Scheme, the robustness of the proposed measures to ensure compliance. In particular, the Secretary of State will expect to be assured there are systems in place to monitor compliance and enforcement measures will be in place where there is non-compliance.

Approval of the Secretary of State will be required for a selective Licensing scheme as the proposed borough-wide scheme will:

- cover more than 20% of the authority's area, and / or,
- affect more than 20% of privately rented homes in the authority's area.

Selective licensing may come into force no earlier than three months after the designation has been approved (or it falls under the general approval).

12.6. When fixing fees, the local housing authority may pursuant to s. 87 of the 2004 Housing Act (subject to any regulations made under subsection 5) take into account:

- all costs incurred by the authority in carrying out their functions under this Part, and,
- all costs incurred by them in carrying out their functions under Chapter 1 of Part 4 in relation to Part 3 houses (so far as they are not recoverable under or by virtue of any provision of that Chapter).

### **Commitment to Equality**

12.7. The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

12.8. In summary, the Council must, in the exercise of its functions, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act,
- advance equality of opportunity between people who share a protected characteristic and those who do not,
- foster good relations between people who share a protected characteristic and those who do not

12.9. It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed above.

12.10. The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for the Mayor, bearing in mind

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the issues of relevance and proportionality. The Mayor must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.

12.11. The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:

- [Equality Act - Codes of Practice](#)
- [Equality Act - Technical Guidance](#)

12.12. The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

- [The essential guide to the public sector equality duty](#)
- [Meeting the equality duty in policy and decision-making](#)
- [Engagement and the equality duty: A guide for public authorities](#)
- [Objectives and the equality duty. A guide for public authorities](#)
- [Equality Information and the Equality Duty: A Guide for Public Authorities](#)

12.13. The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

- [Public Sector Equality Duty Guidance](#)

### **13. Equalities implications**

- 13.1. With respect to the Council's Comprehensive Equalities Scheme 2016-20, the proposals described in this report make a clear contribution to the following equality objectives:
- Tackling victimisation, discrimination and harassment
  - Improving access to services
  - Closing the gap in outcomes between citizens
  - Increasing mutual understanding and respect within and between communities
  - Increasing participation and engagement
- 13.2. Although socio-economic status is not a characteristic protected under the Equality Act 2010, it is part of the lived experience of all characteristics protected under the Equality Act. As such, the proposals described in this report will make a specific contribution to tackling socio-economic inequality; particularly as it affects low income households, people with learning disabilities, those who do not speak English as a first language and others whose circumstances increase their risk of vulnerability to exploitation.
- 13.3. Additional details of the equality implications of this report are set out the equality analysis assessment which is accessible at Appendix D – [Equality Analysis Assessment](#).

### **14. Climate change and environmental implications**

- 14.1. The licensing schemes will identify climate and environmental issues not already known such as energy performance, fly-tipping and waste management issues directly linked to properties in the PRS.
- 14.2. A coordinated approach will be taken to engage with landlords. Inspections will focus on the eradication of category 1 and 2 hazards on cold and thermal efficiency, especially for vulnerable residents.
- 14.3. Inspections of these properties will be conducted on a risk basis including analysis of potential poor standards in the stock and will work to address poor standards including damp and cold.
- 14.4. Our officers will be trained to provide advice on potential issues relating to energy efficiency, root damage, subsidence and light.
- 14.5. Undertake targeted work with all landlords and using landlord forums to promote energy efficiency, including engaging with landlord accreditation schemes that promote energy efficiency.
- 14.6. Support a new PRS renters union across the sector to provide a forum for renters; allowing us to raise awareness of the Climate Emergency and measures to tackle it and the union to flag up specific concerns to be addressed
- 14.7. The licensing and enforcement team is committed in support Lewisham's climate change initiative by supporting the climate initiative team in
- developing a programme to target high-risk streets and neighbourhoods with tailored advice including the publication and promotion of initiatives,
  - assessing the actions and investment needed to get all buildings in the PRS to an average of EPC B and in identifying energy inefficient properties,
  - exploring the potential to provide a discount on the licence fees based on their EPC rating

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## 15. Crime and disorder implications

- 15.1. One of the objectives of the proposed schemes includes tackling ASB and crime. The scheme will identify crime and disorder issues as a result of inspections and investigation. This may result in an increase in anti social behaviour casework, which is investigated primarily by the Council's Crime, Enforcement & Regulation Service.
- 15.2. The Private Sector Housing Agency will tackle ASB and crime through active and robust enforcement working in partnership with a range of internal and external agencies including the Crime Enforcement and Regulation Service and Police.
- 15.3. The Council must ensure that the selective licensing scheme is consistent with the authority's overall Housing Strategy and must seek to continue to adopt a coordinated approach in dealing with Homelessness, ASB and empty properties. The Council in its Housing Strategy is committed to working in partnership with the landlords and tenants of the PRS which represent the second-highest tenure in the Borough.

## 16. Health and wellbeing implications

- 16.1. A key component of delivering the scheme outcomes is the promotion of careers in PRS housing to young people. We will create additional opportunities to promote careers in housing and environmental health to young people, to create a long-term pipeline of qualified officers.
- 16.2. A poorly managed private rented detracts from the look and feel of the street and this will put off residents of all sectors from remaining in the Lewisham, regardless of tenure. A good quality private rented offer will encourage residents to stay in the borough, in turn creating sustainable communities.
- 16.3. Housing has a huge influence on our mental health and wellbeing. Those who are vulnerable – elderly or young, isolated, without a support network, and adults with disabilities – are more likely to be affected. Poor housing conditions have a long-term impact on health, increasing the risk of severe ill-health or disability by up to 25 per cent during childhood and early adulthood. Children living in crowded homes are more likely to be stressed, anxious and depressed, have poorer physical health, and attain less well at school. An improvement in property conditions is expected to lead to a general improvement in residents living conditions and their health.

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## 17. Background papers

### Mayor and Cabinet Report – 11 March 2020

- 17.1. Appendix A – [Consultation report](#)
- 17.2. Appendix B – [Response to consultation representations](#)
- 17.3. Appendix C – [Evidence Base: Borough Wide Licensing Consultation](#)
- 17.4. Appendix D – [Equality Analysis Assessment](#)
- 17.5. Appendix E – [Selective Licensing Scheme Designation](#)
- 17.6. Appendix F – [Additional Licensing Scheme Designation](#)
- 17.7. Appendix G – [Licensing Scheme Objectives](#)
- 17.8. Appendix H – [Fee Structure for Licence Applications](#)
- 17.9. Appendix I – [Selective Licence Conditions](#)
- 17.10. Appendix J – [HMO Licence Conditions](#)
- 17.11. Appendix K – [Policy relating granting licences and the application process](#)
- 17.12. Appendix L – [Tenant Training - Moving into a rented property](#)
- 17.13. Appendix M – [New schemes complementing existing powers](#)

### Public Consultation – Summer 2019

- 17.14. Appendix N – [Consultation Guide: Borough-wide licensing](#)
- 17.15. Appendix O – [Evidence Base: Borough Wide Licensing Consultation](#)

### Mayor and Cabinet Report - 24 April 2019

- 17.16. Appendix P – [Borough-wide licensing consultation](#)
- 17.17. Appendix Q – [Equalities Analysis Assessment](#)
- 17.18. Appendix R – [Comments on borough wide selective licensing scheme](#)

### Housing Select Committee – 6 March 2019

- 17.19. Appendix S – [Private sector licensing report](#)
- 17.20. Appendix T – [Selective licensing presentation](#)

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## 18. Glossary

Term	Definition
Lettable Unit	A room that could be occupied as living accommodation by a household or part of a household that does not form part of the common parts of the property.
Fit and Proper Test	<p>A person is not fit and proper to hold a licence if:</p> <ul style="list-style-type: none"> <li>• They have an unspent conviction for a serious sexual, violent, dishonesty or drugs offence.</li> </ul> <p>AND/OR</p> <ul style="list-style-type: none"> <li>• They have a history of discrimination against people with protected characteristics under the Equality Act 2010</li> </ul> <p>AND/OR</p> <ul style="list-style-type: none"> <li>• They have been convicted of or made subject to adverse findings contrary to housing or landlord and tenant law</li> </ul> <p>AND/OR</p> <ul style="list-style-type: none"> <li>• They are currently subject to a banning order</li> </ul>
HHSRS Hazard Levels	A hazard is defined as any risk of harm to the health or safety of an actual or potential occupier that arises from a deficiency. Hazards are given a rating using the Housing Health and Safety Rating System ranging from A-J. This is based upon the likelihood of an event occurring and the range of probable harm outcomes, with Level A having the highest likelihood of a harmful outcome occurring.
Category 1 Hazard	A category 1 hazard is one that scores A-C on the HHSRS Hazard Category Levels. This rating gives the Local Housing Authority the duty to act.
Category 2 Hazard	A category 2 hazard is one that scores D-J on the HHSRS Hazard Category Levels. This rating gives the Local Housing Authority the discretion to act.
Improvement Notice	A notice served by a Local Housing Authority on the person responsible for carrying out repairs that instructs them to undertake a specified schedule of work necessary to remedy a hazard or hazards within a set time frame. The responsible person must be informed of the inspection and assessment in advance and given a chance to attend.
Prohibition Order	An order made by the Local Housing Authority prohibiting the use of all or part of the premises. Can only be made if there are category 1 hazards present. The responsible person must be informed of the inspection and assessment in advance and given a chance to attend.
Emergency Prohibition Order	See Prohibition Order above. Can be made without notice to the person responsible for the property if there is an imminent risk of serious harm to occupiers.

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Term	Definition
Exemptions to HMO licensing	<p>The following are not HMOs and fall outside licensing:</p> <ul style="list-style-type: none"> <li>• Buildings managed by public bodies (Local Authorities, Police Authorities, Hospitals etc.)</li> <li>• Buildings managed by Registered Social Landlords or Registered Providers of social housing.</li> <li>• Buildings managed by cooperatives</li> <li>• Student housing managed by educational establishments</li> <li>• Buildings occupied by religious communities</li> <li>• Buildings occupied by owners + 1 or 2 lodgers</li> </ul>
Scope of selective licensing	<p>All properties within the designated area occupied under a single tenancy, two or more tenancies which are not exempted.</p>
Exemptions to selective licensing	<p>The following are exempted from selective licensing:</p> <ul style="list-style-type: none"> <li>• Registered Social Landlords (Housing Associations)</li> <li>• Registered providers of Social Housing (Local Authorities and ALMOs)</li> <li>• Public bodies (health services, police and fire authorities)</li> <li>• Student accommodation managed by educational establishments</li> <li>• Tenancies of over 21 years where the tenancy is occupied by the original tenant, their successors or their family</li> <li>• Tenancies between family members where the person granting the tenancy is a freeholder or a leaseholder with 21+ years remaining on the lease.</li> <li>• Holiday lets</li> <li>• Lodgers sharing accommodation with the landlord or the landlord's family.</li> </ul>

## 19. Report author and contact

19.1. For further information please contact Fenella Beckman (Head of the Private Sector Housing Agency) on [fenella.beckman@lewisham.gov.uk](mailto:fenella.beckman@lewisham.gov.uk) or 0208 314 8632.

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