

<b>Housing Select Committee</b>			
<b>Title</b>	Borough-wide licensing update		
<b>Key decision</b>	Yes	<b>Item no</b>	<b>4</b>
<b>Wards</b>	All		
<b>Contributors</b>	Executive Director of Customer Services Head of Law		
<b>Class</b>	Part 1	6 <sup>th</sup> March 2019	

## **1. Summary**

- 1.1. The purpose of this report is to update Committee on the work being undertaken to develop an application for a borough-wide selective licensing scheme to submit to the Secretary of State in November 2019. This report:
- a) summarises the data analysis completed to date which will form the evidence base for the application;
  - b) updates on current proposals on how this scheme would be operationalised;
  - c) outlines the timetable for the delivery of this project including the programme for resident consultation.

## **2. Recommendations**

- 2.1. The Committee is asked to:
- a) comment and note the progress of the work to develop an application for a borough wide licensing scheme. This report will be submitted to the Mayor & Cabinet in April 2019;
  - b) support the commitment to undertake a public consultation on the proposals to submit an all borough licensing scheme.
  - c) note the £400k upfront budget commitment needed if an all borough scheme is approved. This will be fully recovered from the licence fee.

## **3. Background to the report**

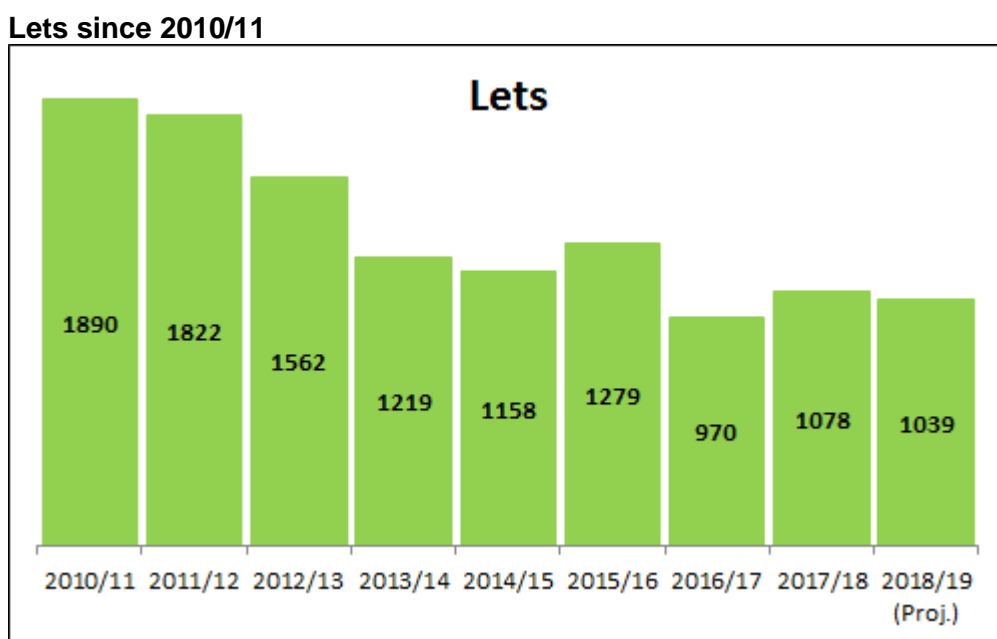
- 3.1. The housing landscape has changed substantially in recent years and continues to do so. Greater numbers of families and single people are now relying on the private rented sector to provide a home, and not just in the short term. This is consistent with the trend across London where the growth in private renting continues.
- 3.2. Between the 2001 census and 2016 the Greater London Authority (GLA) estimates that the number of households in social housing in Lewisham

decreased by 14%, the number of owner occupiers increased by 9% and the number of private renters increased by 98%.

3.3. This rapid increase in the private rented sector is due in part to the unaffordability of home ownership in Lewisham as a result of rapidly increasing house prices. House prices in Lewisham increased by 45% between January 2014 and January 2019, with the average house price now almost £420,000.

3.4. In addition, there are a substantial number of households on the housing waiting list (9,694 households as of January 2019) and a decreasing number of lets available. This combined with the aforementioned increase in the cost of housing in Lewisham means that Lewisham residents are more reliant on the private rented sector than ever before

3.5. . The below chart illustrates the decrease in the number of lets since 2010/11.



3.6. The stock condition of the private rented sector is also shown to be below that of other sectors. The 2017/18 English Household Survey found that privately rented dwellings were more likely to be older with 35% built before 1919, with a high proportion of converted flats and the highest proportion of non-decent homes<sup>1</sup>. Housing Health and Safety Rating System (HHSRS) hazards are

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<sup>1</sup> Ministry of Housing, Communities and Local Government, (2019), English Household Survey 2017/18, accessed via <https://www.gov.uk/government/collections/english-housing-survey> , pages 25-9

more prevalent in the private rented sector and the sector has the lowest proportion of homes with central heating<sup>2</sup>.

3.7. The Chartered Institute of Housing and the Chartered Institute of Environmental Health carried out joint research of 20 local authorities with selective licensing schemes. It found 'numerous examples of inspections leading to very high numbers of serious hazards and defects being identified and addressed in licensed areas'<sup>3</sup>. Licensing is not noted for being a 'quick win'<sup>4</sup> but has also led to a reduction in anti-social behaviour, for example, one area of Doncaster saw a 'reduction of 35% in noise complaints, 44% in nuisance complaints and a 20% fall in reports of unkempt properties. Fly tipping has also reduced'<sup>5</sup>.

3.8. Lewisham's Labour manifesto 2018 made a commitment to seek to deliver a borough-wide landlord licensing scheme for privately rented homes, now adopted as a corporate priority. This report details the existing licensing schemes in Lewisham and considers the objectives and implementation of a wide-scale selective licensing scheme.

#### **4. Policy context**

4.1. The contents of this report are consistent with the Council's policy framework. It supports the following priorities of the Council's Corporate Strategy 2018-2022:

- Tackling the housing crisis – Everyone has a decent home that is secure and affordable.
- Building safer communities – Every resident feels safe and secure living here as we work together towards a borough free from the fear of crime.

4.2. This report specifically addresses the following commitment in the Council's Corporate Strategy: We will seek to deliver a full borough-wide landlord license to crack down on rogue landlords.

4.3. The work of the Private Sector Housing Agency (PSHA) will also help meet the Council's Housing Strategy 2015-2020 in which the Council commits to the following key objectives:

- Helping residents at times of severe and urgent housing need.
- Greater security and quality for private renters.
- Promoting health and wellbeing by improving our residents' homes.

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<sup>2</sup> Ibid, pages 30 and 35

<sup>3</sup> Sandoul, T. and Pipe, D. (2019), A license to rent, Chartered Institute of Environmental Health and Chartered Institute of Housing, page 5

<sup>4</sup> Ibid, page 10

<sup>5</sup> Ibid, page 12

## 5. Existing licensing schemes in Lewisham

5.1. The Council currently operates the following licensing schemes:

- a) Mandatory scheme 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.
- b) Additional licensing relating to HMOs above commercial premises where there are at least three people living in two or more households, or poorly converted privately rented self-contained flats.

5.2 The additional licensing scheme has been operating since February 2017 and is Lewisham specific. The reasons for adding an additional licensing scheme in Lewisham was because available data highlighted that poor standards, conditions and hazards had been found in shared accommodation and within flats over commercial properties.

5.3 Below are tables to show the performance to date:

Table 1 shows the progress made in recent years in respect to HMO licensing in the borough. Between 2013 and 2017, annual increases in licensed properties ranged from 0 – 18%. Between 2017 and 2018 there was a much larger increase of 58%.

Date	Total number of licenced properties	Mandatory or additional
31 <sup>st</sup> March 2013	169	Mandatory
31 <sup>st</sup> March 2014	168	Mandatory
31 <sup>st</sup> March 2015	185	Mandatory
31 <sup>st</sup> March 2016	196	Mandatory
31 <sup>st</sup> March 2017	231	Mandatory & Additional
31 <sup>st</sup> March 2018	366	Mandatory & Additional

Table 2 shows the current number of licensed properties in the 18/19 financial year. This table highlights that the current number of licensed properties in the borough has increased by 69 properties since the start of the 18/19 financial year, an increase of nearly 19%. There are a further 204 applications which are being processed and will be formalised in this financial year. This will bring the total of new licences for the 18/19 financial year to 273 - an increase from the previous financial year of 75%.

	Numbers
<b>Mandatory licensed properties</b>	342
<b>Additional licensed properties</b>	93
<b>Total Licensed properties (both mandatory and additional)</b>	435
<b>Active pipeline of properties being processed</b>	204

This activity means the service will achieve the budgeted income target of £395,000 for financial year 2018/19.

5.4 Existing licensing schemes have allowed the Council to address problems with property standards in Lewisham. Since mandatory licensing was introduced in 2006, licensing and enforcement work has developed considerably and more issues are being addressed through the licensing process. This is evidenced further by the fact that since the introduction of additional licensing in 2017 and the extension of mandatory licensing in 2018, the number of disrepair complaints has fallen by 26%, while the number of HMO complaints rose by 190%<sup>6</sup>. This shift towards addressing issues through licensing work gives the Council significantly more power to address issues in these properties than if properties were not licensed.

5.5 However, the existing licensing schemes have limitations as some landlords can seek to avoid their licensing obligations. For example, there has been evidence of landlords reducing occupancy level below licensing thresholds by illegally evicting tenants. In a similar vein, landlords have falsely claimed that tenants are part of the same household when in fact they are not. When this happens it prevents the Council from being able to use licensing to regulate tenancy management and housing conditions. It is unfortunate that very few landlords voluntarily license their properties, so significant Council resources are required to find properties and challenge landlords who are looking to work around the requirements.

5.6 A borough wide-scale licensing scheme would address these issues as licensable properties would be easier to identify and there would be significantly less scope for landlords to force / persuade tenants to leave tenancies to bring homes under licensing thresholds. It would also mean that the Council had more influence over standards and practices for all HMOs as opposed to just those covered by existing schemes.

## **6. Selective licensing application**

6.1. In order to effectively respond to the above issues and widen the Council's scope to tackle poor housing conditions and protect vulnerable renters there is a corporate commitment to seek to deliver a wide-scale selective licensing scheme.

6.2. The overarching aims of this commitment would bring benefits to both tenants and landlords as well as Lewisham citizens more generally. The focus of the work would be to:

- inspect 100% of all licenced properties over the term of the scheme
- improve property standards, security and decency generally;
- help tenants feel safe and secure in their homes through advice, support and effective enforcement;
- deliver a "level playing field" for all landlords by demanding the same standards of accommodation and management across all landlords. The gap between the poor and good landlords will be radically reduced and professional standards will be raised;

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<sup>6</sup> Using figures between 2016 (the year prior to additional licensing) and 2018 (latest annual figures).

- support landlords both during but also after the five year scheme, utilising the data and intelligence about the landlord sector so services can be tailored to their needs; ;
  - assertively crack down on rogue landlords.
- 6.3. Approval from the Secretary of State (SoS) is required for selective licensing schemes covering more than 20% of the area or more than 20% of the private rented properties in the area. Approval is therefore needed for borough-wide licensing. Approval is granted for a period of 5 years. Any extension would need a further application. It is envisaged that a licensing scheme will address the identified problems within the 5 year timeframe.
- 6.4. The Selective Licensing of Houses (Additional Conditions) Order 2015 states licensing can be used if the area is experiencing one or more of the following:
- Low demand – not relevant in Lewisham
  - High Anti-Social Behaviour
  - High migration
  - Poor housing conditions
  - High levels of deprivation
  - High level of crime

Evidence must demonstrate that the proposals cover an area which is experiencing significant and persistent problems pertaining to the above issues, and that some or all landlords are failing to take action to combat the problem that would be appropriate for them to take. Also, that making a designation will lead to a reduction in, or elimination of, the problem.

- 6.5. Any selective licensing scheme must be consistent with the Council's Housing Strategy and seek to adopt a co-ordinated approach to dealing with homelessness, anti-social behaviour and empty homes. The submission must set out the role that Police and Social Services will play to ensure the designation reaches its goal and must first consider other courses of action that might provide an effective remedy. Discussions with the Police have commenced and discussions are planned with Social Services for March. Partnerships with other agencies are being developed, for example the London Fire Brigade, registered housing providers and the Housing Needs service who will be integral to advising on any implications on homelessness applications.
- 6.6. A dedicated project team has been created to deliver the requirements of the submission to the SoS. This includes extensive data analysis, operationalisation plans and delivery of a public consultation programme. A timeline has been included in Appendix 1 to clarify the key stages of the project.
- 6.7. The Ministry of Housing, Communities and Local Government (MHCLG) have advised on the best way to pursue a borough-wide selective licensing scheme. Considerations include applying for multiple designations at the same time to increase the chance of success.
- 6.8. Research prior to commencement of the work has included the review of a number of other applications for other London Borough schemes who have been through this process. It should be noted that no London borough has a full SoS approved borough-wide licensing scheme as yet. Newham, Barking

and Dagenham, Waltham Forest and Croydon all commenced their borough-wide licensing schemes before the requirement to obtain SoS approval. Newham have since renewed their licensing scheme with SoS consent for an almost borough-wide scheme (excluding the Olympic Village area). Brent and Redbridge have also obtained SoS approval for selective licensing within a number of areas within their boroughs. Barking and Dagenham are seeking approval for the renewal of their borough-wide scheme.

6.9. Lewisham's available data has been assessed. Where available we have used similar data sets to Boroughs where they have made successful applications. In some cases, additional data has been obtained and utilised. This data has been used to develop an informed map of Lewisham's private rental sector. This has taken a lot of work to complete. Before this exercise the Council could not confirm the number of PRS properties with any real accuracy. This new data set of PRS properties has been matched with data pertaining to issues named in 6.2 to establish links between these problem issues and private rental properties. The data analysis work has been detailed in section 8 of this report.

6.10. Officers have almost completed the extensive data analysis required as the foundation of identifying the appropriate designation for the Council's application. The Mayor and Cabinet report prior to submission to the SoS will outline how all requirements above will be addressed in the submission.

## **7. New additional licensing scheme**

7.1. Whilst pursuing a selective licensing application it was also deemed important to implement an additional HMO licensing scheme to cover **all** HMO properties across the borough. The reasoning for this is:

- a) Should the SoS reject proposals for a borough-wide selective licensing scheme, there will still be a system in place to enable the Council to licence all HMOs which are largely the property type that has the worst conditions in the private rented sector;
- b) To address problems linked to landlords who can easily take their HMOs outside of current scheme definitions – e.g. landlords illegally evicting tenants to bring houses under the official HMO occupancy level.
- c) To reduce the resources required when landlords dispute their property status as an HMO to focus these resources on enforcement to improve property and management standards.
- d) HMOs are the highest risk premises and require more robust inspection and enforcement. The administrative cost is greater and the fee must reflect this.
- e) HMOs require a different set of conditions that reflect the riskier nature of the premises.
- f) To ensure all HMOs regardless of size and number of households would be covered if selective licensing is refused.

7.2. There is no requirement to obtain SoS approval for an additional licensing scheme as there is "General Approval" in place. Public consultation is however still a requirement. The intention is to consult for both selective licensing and borough wide additional licensing at the same time.

7.3. The extension of this additional HMO licensing scheme has been incorporated into the data analysis work by the creation of a model that can also predict whether a property is an HMO in addition to predicting whether it is privately rented. This model is being continually refined and is already being utilised by officers in the PSHA as a foundation for much more targeted enforcement work.

7.4. Work continues to investigate the fit of this additional scheme with the all borough licensing scheme.

## **8. Data analysis**

8.1. A summary of the data analysis completed so far has been included below. The analysis will be further developed and refined ahead of a full Mayor and Cabinet report due to be presented on 24<sup>th</sup> April 2019 and the consultation programme.

### **8.2. Establishing the size and location of the private rented sector in Lewisham**

- a) To date, the location and an exact number of private rented sector properties has not been known in any detail in Lewisham. The 2011 Census indicated that there were 28,216<sup>7</sup> privately rented properties, more than double the number at the 2001 Census (13,143<sup>8</sup>). There has been a strong sense that the private rented sector in Lewisham has continued to grow since the 2011 Census was collected.
- b) An essential first part of the data analysis work has been establishing where the private rented properties are located in order to identify the extent to which the conditions outlined at 6.2 can be attributed to properties in the private rented sector.
- c) An in-depth analysis has been carried out in order to ascertain whether there has indeed been a substantial increase in the sector, and to ensure the selective licensing conditions outlined by Government were applied to an up to date assessment of the private rented sector in the borough.
- d) Over 35 internal and external datasets have been matched to make an up-to-date assessment of the size and scale of the private rented sector in Lewisham. The data was collated in line with an agreed Data Protection Information Agreement (DPIA).

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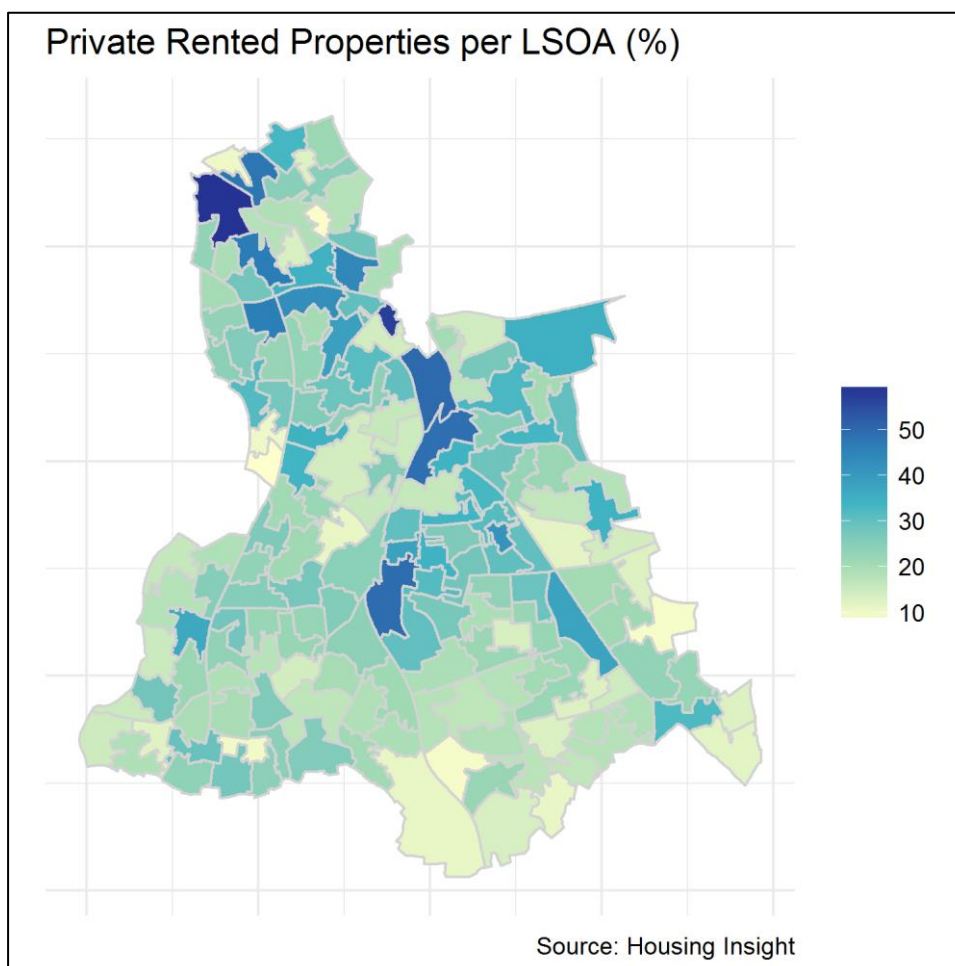
<sup>7</sup> Office for National Statistics ; National Records of Scotland ; Northern Ireland Statistics and Research Agency (2016): 2011 Census aggregate data. UK Data Service (Edition: June 2016). DOI: <http://dx.doi.org/10.5257/census/aggregate-2011-1>

<sup>8</sup> Office for National Statistics (2011): 2001 Census aggregate data (Edition: May 2011). UK Data Service. DOI: <http://dx.doi.org/10.5257/census/aggregate-2001-2>



- e) An extensive quality assessment and data cleansing process was undertaken. Records were matched together to establish the likelihood of a property being a particular tenure. The properties were matched to the Local Land and Property Gazetteer address database. The number of properties identified as private rented increased as each dataset was cycled through.
- f) The outcome was a matrix of more than 50 variables which has been used to establish a profile of each residential property and establish tenure. This has provided an informed estimate of the current location of the private rented sector in Lewisham. The model is being further validated through targeted street surveys to test and verify the outcomes generated. The process is continually being refined. A current estimate of the total number of private rented sector properties is around 31,000.
- g) In line with the aim of introducing borough-wide additional licensing, further modelling was completed to establish the likelihood of a private rented property being an HMO or a single family dwelling. Work is ongoing to produce a current estimate of the split between single family homes and HMOs.

- h) The below map shows the spread of the private rented sector in Lewisham across Lower Super Output Areas (LSOA<sup>9</sup>); the darker areas show a higher concentration of privately rented properties. Compared to the social rented and owner-occupied sectors, privately rented stock is distributed relatively evenly over the borough; however the graph shows some obvious areas of concentration – particularly in the north of the borough and moving down the middle (roughly along the route of the A21).



### 8.3. Anti-social behaviour

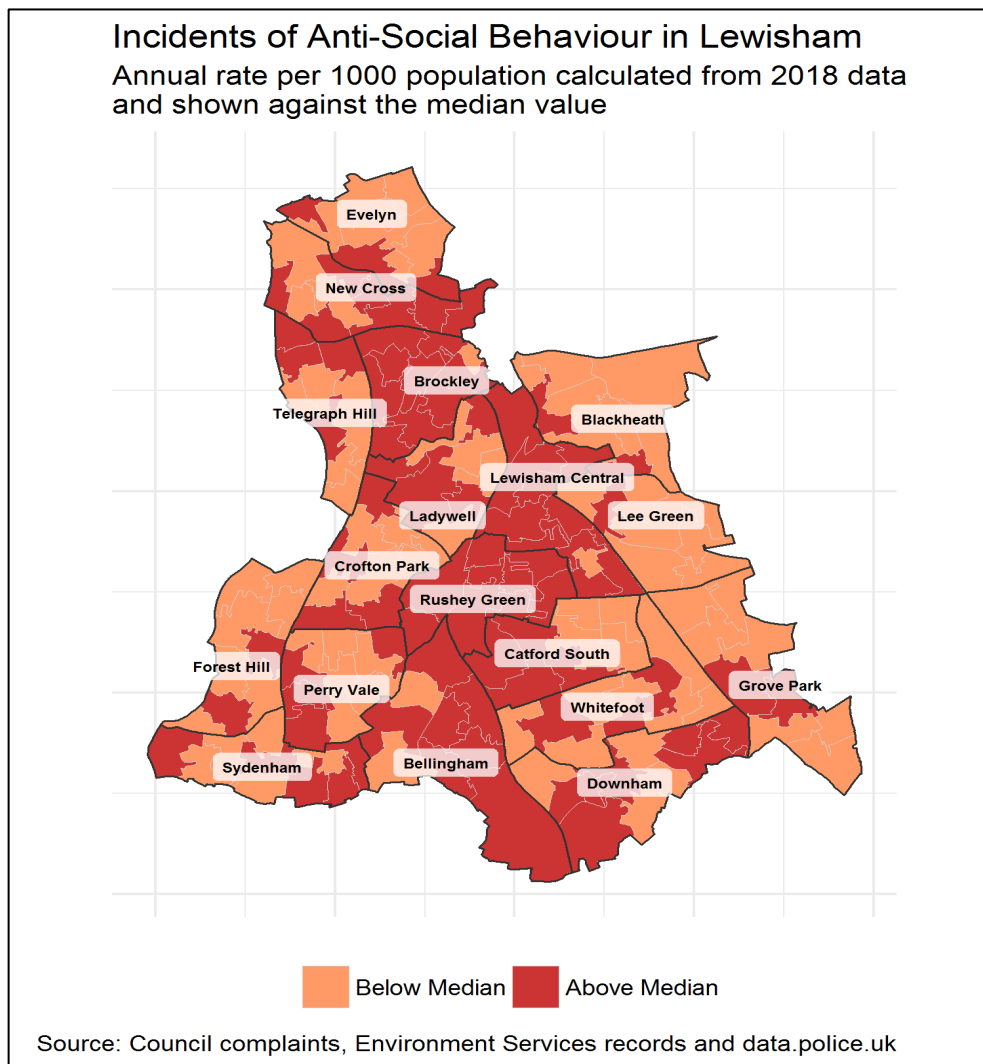
- a) The MHCLG guidance advises that significant and persistent anti-social behaviour (ASB) occurring within the curtilage of the property or within its immediate vicinity can be considered as a reason for making a designation. This includes intimidation or harassment, noise, rowdy and nuisance behaviour, animal and vehicle related nuisance, anti-social

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<sup>9</sup> Lower Super Output Areas (LSOAs) are geographical areas with an average population of 1,500 people used in the Indices of Multiple Deprivation. Lewisham has 169 LSOAs spread across 18 wards.

drinking, drug taking or dealing, graffiti and fly posting, and litter and waste within the curtilage of the property.

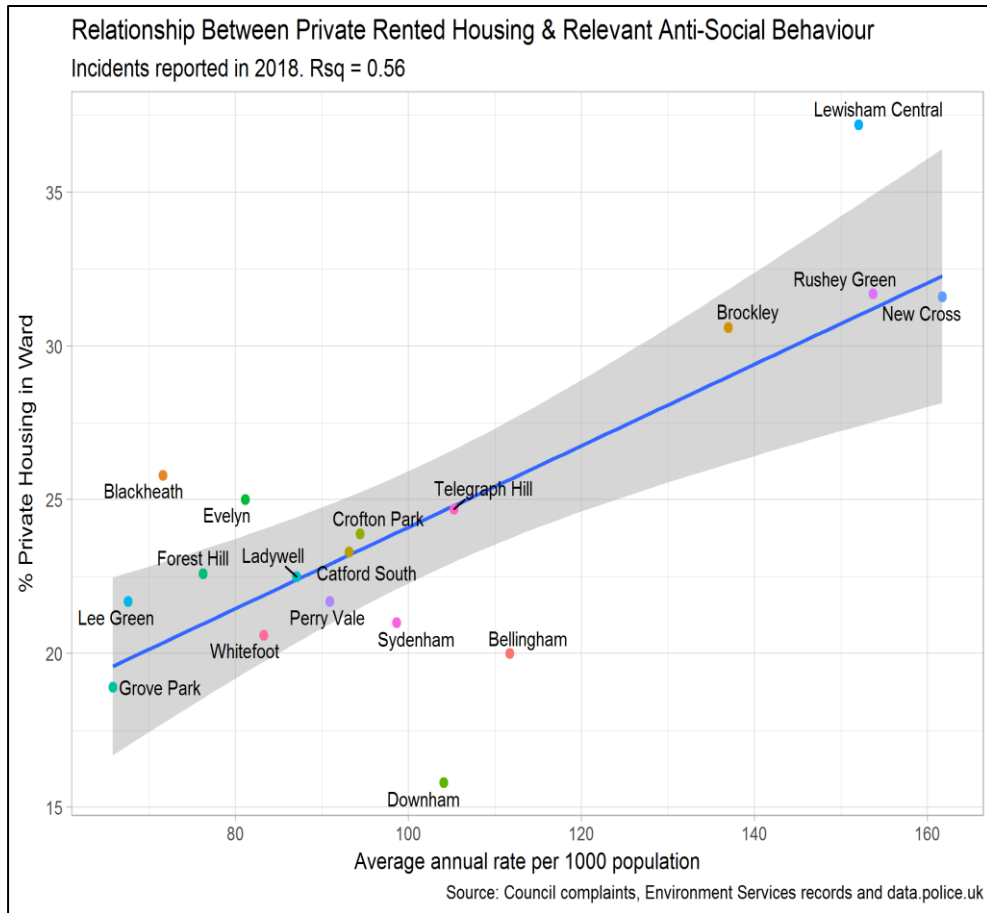
- b) To assess the pattern of ASB across Lewisham, data was collated from police records, Council complaints and Environment Services records. There were 32,433 relevant incidents recorded in 2018 comprising: 6,577 police reported ASB incidents; 2,459 relevant council complaints (84% of which related to noise and nuisance); and 23,397 relevant Environment Services records.
- c) The below map shows the parts of the borough where the rate of ASB - that is the number of incidents per 1,000 people - were higher and lower than the borough median.



- d) Future analysis will also include ASB in Lewisham Homes leasehold properties where permission has been granted to the leaseholder to let the property.
- e) Rates of ASB were compared with levels of private rented housing at ward level. The below graph shows a positive correlation between the

two; that is, as the proportion of private rented sector properties increase so does ASB. The fact that the majority of wards are in or near the grey area shows this is a reasonably strong relationship and therefore vital information for the application for a selective licensing scheme.

The 'outliers' such as Downham, Bellingham and Blackheath will help to refine the designations of the scheme.



#### 8.4. High levels of migration

- a) In considering whether an area is experiencing, or has experienced, high levels of migration: the guidance advises looking at whether the area has experienced a large increase in the size of the population over a short period of time. By this, it is meant that net migration into the designated area has increased the population of the area by around 15% or more over a 12-month period.
- b) Work is ongoing to assess whether the data shows that this condition could be met. A full update will be available in the April Mayor and Cabinet report.

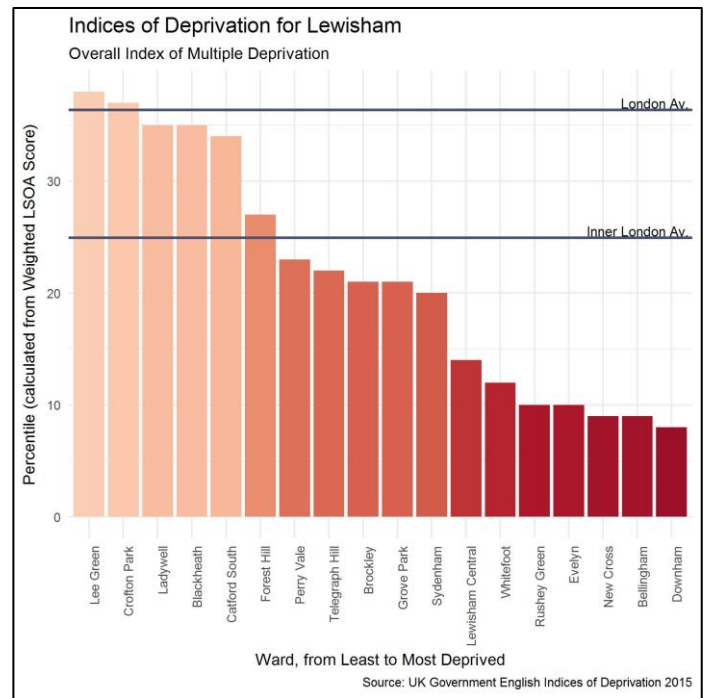
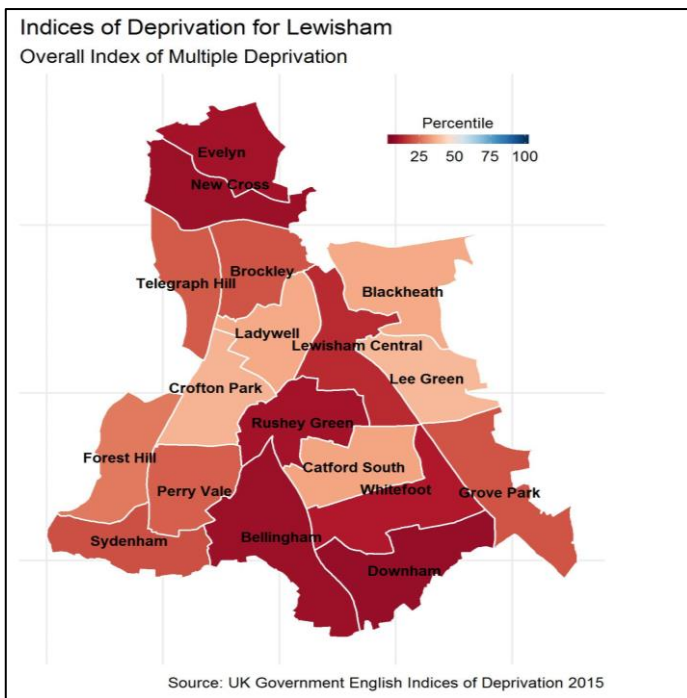
#### 8.5. Poor property conditions

- a) As per the guidance, poor housing conditions can be used as a designation reason to tackle significant numbers of properties in the private rented sector which are in poor condition, adversely affecting the character of the area and/or the health and safety of occupants. Consideration can be given to the age and visual appearance of properties where a high proportion are in the private rented sector and whether a significant proportion need to be inspected in order to determine whether any of those properties contain category 1 and 2 HHSRS hazards.
- b) PSHA records of disrepair, category 1 and 2 hazards, enforcement and complaint records have been analysed, as well as Energy Performance Certificates data for known private rented properties to assess poor property conditions across the borough. Work is ongoing for this designation and a full update will be available in the April Mayor and Cabinet report.

#### 8.6. High levels of deprivation

- a) High levels of deprivation can be used as a designation reason if the area is experiencing high levels compared to neighbouring areas and regions. The factors of deprivation which can be considered are: the employment status of adults, the average income of households, the health of households, the availability and ease of access to education, training and other services for households, housing conditions, the physical environment and levels of crime. A designation can be made if a high proportion of housing in areas with high deprivation is in the private rented sector.
- b) The Indices of Multiple Deprivation (IMD) has been used to assess how Lewisham performs in comparison to England, London, Inner London and boroughs who have had approval for selective licensing. The IMD takes into account factors to do with Crime, Education, Income, Health, Housing and Environment, giving individual scores for these measures and an overall score.
- c) Overall, Lewisham performs poorly when compared to England and London. All Lewisham Wards are within the lowest 40% of the country and measure at the London average or lower. Rushey Green, Evelyn, New Cross, Bellingham and Downham are in the lowest 10% nationally.

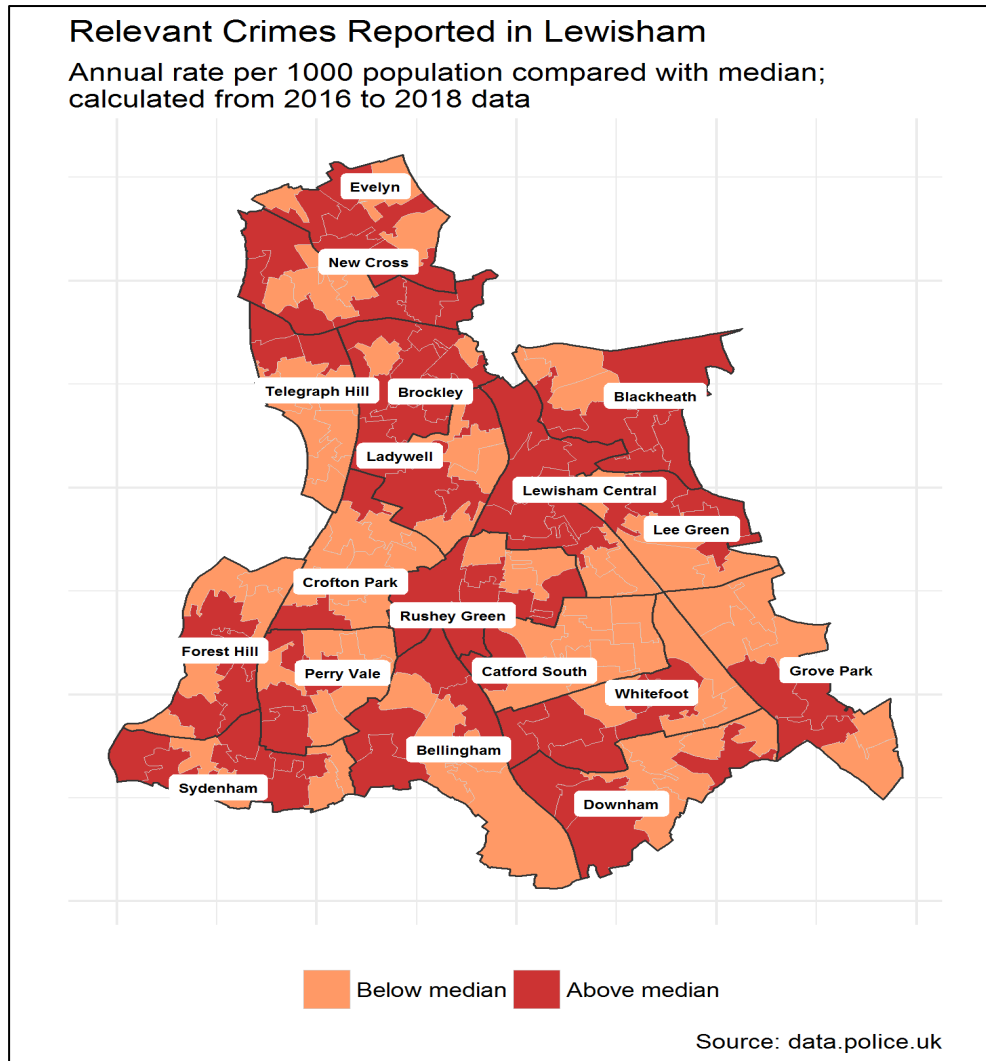
- d) The below graphs illustrate the level of comparative deprivation in Lewisham. It is worth noting that the lesser deprived areas in the country would be highlighted in blue; there are no 'blue' wards in Lewisham, further highlighting the points made above.



### 8.7. High levels of crime

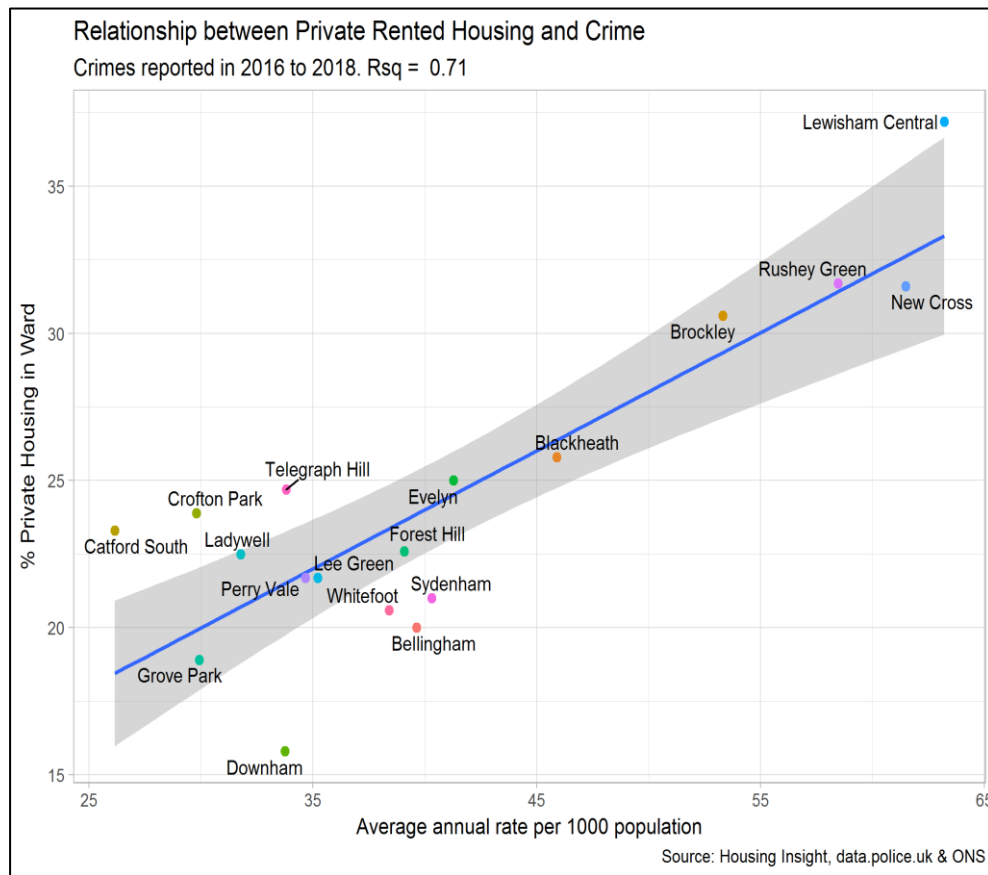
- a) Crime can be considered as a designation reason if there has been a recent increase in the levels of crime, whether the crime rate is higher than other areas or if the crime rate is higher than the national average. The impact of crime in the area on the local community can also be considered. Again, the designation can only be used if a high proportion of housing in areas with high levels of crime is in the private rented sector. Consideration should also be given to whether the criminal activities impact on some people living in privately rented accommodation as well as others living in the areas and businesses therein, the nature of the criminal activity (e.g. theft, burglary, arson, criminal damage, graffiti) and whether some of the criminal activity is the responsibility of some people living in privately rented accommodation.
- b) Police recorded street level crime records have been mapped against known private rented sector properties.

- c) Over 3 years, 2016 to 2018, there were 37,550 incidents of Crime<sup>10</sup> in Lewisham. The below graph shows the parts of the borough where these were higher than the borough median:



<sup>10</sup> Crime relating only to: Bicycle theft, Burglary, Criminal damage and arson, Other crime, Other theft, Robbery, Theft from the person and Vehicle crime (as advised by MHCLG guidance).

- d) The below graph shows a positive correlation with the private rented sector and crime reported from 2016–2018. As instances of private rented sector properties increase, so does the crime rate. In data terms, this is an especially strong relationship and therefore vital information for the application for a selective licensing scheme.



## 9. Timeline

9.1 The above data analysis will enable the team to ascertain appropriate designations for licensing across the borough. Following this assessment, a finalised report will be presented at April 2019 Mayor & Cabinet. Subject to Mayor & Cabinet approval, the public consultation is expected to run from May – August 2019. The application to the SoS will be in November 2019, with a response due by February 2020. Delivery of the scheme is expected in May 2020. A high-level timeline is included as Appendix 1.

## 10. Consultation

10.1. Section 80 (9) of the Housing Act 2004 states that when considering designating an area the local housing authority must:

- take reasonable steps to consult persons who are likely to be affected by the designation, and,



- consider any representations made in accordance with the consultation.

10.2. The public consultation is planned to run between May – August 2019 if agreement is secured from the Mayor & Cabinet. A report on the results of the consultation will be presented to Committee and Mayor & Cabinet in the autumn.

10.3. To address the requirements of the Act an extensive publicity campaign is being planned in partnership with the communications team and consultation leads. The Council's own publications such as Lewisham Life and the website will be utilised, along with external resources such as local assemblies and other networks. Other boroughs have also seen success with postal surveys and door-to-door campaigns.

10.4. Other boroughs' consultation responses demonstrate higher rates of landlord responses compared to private tenants, therefore the campaign will be primarily targeted at reaching private tenants in the borough. Communications from local ward Councillors to their constituents would be highly valuable to support the campaign. A briefing will be prepared for Councillors to encourage participation.

## **11. Operationalisation**

11.1. The project team are developing a comprehensive operationalisation plan that sets out what is needed to actually deliver an all borough licensing scheme in Lewisham if the application is successful.

### **11.2. Some key principles of the scheme**

- a) The scheme will wholly cover the costs of licensing and enforcement and will not make a profit.
- b) The project will aim to introduce a high level of apprentices into the service at the initial co-ordinating officer level.
- c) By the end of the five year scheme, 100% of properties in the private rented sector will be inspected as part of the licensing process. A risk rating system will be used to identify the highest risk properties which will be prioritised for inspections.
- d) Good landlords will be supported with best practice guides, landlord forums and advice on dealing with issues affecting the private rented sector. This work will continue after the scheme has ended, providing a lasting legacy and ensuring long term help for landlords beyond the period of the scheme.
- e) As all licenses are granted for five years irrelevant of the date it is issued some will extend beyond the end of the scheme meaning there is an impact on the service until the end of the tenth year.
- f) The draft licensing conditions are detailed in appendix 2.

### 11.3. Building a new licensing team

- a) The data analysis work indicates that there are around 31,000 private rented properties across the borough. These figures have been used to estimate the cost of running a borough-wide scheme.
- b) The total estimated costs is calculated over the five year scheme and the five years after the scheme ends in order to manage any remaining licenses. They include all attributed expenditure including, salaries (with associated on-costs), premises and equipment for staff, publicity, consultations and legal costs. Consideration has been given to any adverse effect on other council teams and project officers have been included to help mitigate those effects.
- c) The current licensing team is made up of nine licensing and housing enforcement officers who have the dual function of inspecting new licensable HMOs and enforcing disrepair in all other private rented property. The team also includes two coordinators, who manage the Health & Safety documentation compliance and payments. Three additional rogue landlord officers focus on illegal eviction and tenant harassment. Currently the team licence less than 1000 homes.
- d) To deliver a scheme that licences up to 31,000 homes will require additional staff, these have been shown below. There is a complex matrix that sits behind the figures and incorporates the average performance of officers across the overall licensing process and is broken down by role. The numbers shown indicate the additional staff requirements for the first full year only in relation to private rented single occupancy homes, further work is being carried out in relation any additional licensing scheme which centres around HMOs which could impact on the scheme will be delivered. We estimated that around 50% of the new licence applications will be received in this first year, our estimate is based on the experience of other boroughs that have introduced a large scale licensing scheme:

<b>Staff</b>	<b>Number</b>
Admin	26
Inspector	13
Manager	3
Lawyer	1
Project Manager	1
Project Officer	4
ASB Officer	1
Data analyst	0.25
Apprentices	7

- e) Staff costs will decrease in years 2 – 5.

Staff	Number
Admin	7
Inspector (reducing to 11 in year 5)	From 13 down to 11
Manager	2
Lawyer	1
Project Manager	1
Project Officer	4
ASB Officer	1
Data Analyst	0
Apprentices	7

- f) Staff costs will decrease further in year 6-10 while licences issued after year one run their course:

Staff	Number
Admin	2
Inspector (reducing year on year)	From 7 down to 1
Manager	0
Lawyer (reducing to 0 in year 9 and 10)	1
Project Manager (reducing to 0 in year 7)	1
Project Officer	0
ASB Officer	0
Data analyst (reducing to 0 in year 7)	0.25

The information above is based on the delivery of an all borough licensing scheme across all privately rented properties. Further work is underway to look at the licensing of all HMOs across the Borough as outlined in s7.0 to assess how these properties are classified either through the all borough scheme or as HMOs. Street surveys are being undertaken to assess the quality of the data and to better understand how to manage and assess different properties within the PRS. When this work is finalised then the numbers of staffing will be finally confirmed.

#### 11.4. Licensing fees

- a) Costs for the licensing and enforcement service will be fully met from the licence fee. An initial budget of £400k is required as a start-up fund but this will be fully recovered from the licence fee income.
- b) The fee is calculated based on the full costs to administer a licence plus an additional separate enforcement charge due once the licence is issued.
- c) The fee proposal that is being developed is based on the council tax banding for a property. Larger properties are more likely to be banded

higher than smaller properties as the work associated with the application will be greater for larger properties.

- d) A review of the current licence fees will run in tandem with this project.
- e) The table below shows the proposed fee per property based on council tax bands. Calculations are ongoing as to how these will be split in order to comply with the point in 11.4.b). These have been scrutinised by officers across the key services and compared with fees charged by other boroughs with selective licensing schemes.

<b>Band</b>	<b>Percentage of properties in Lewisham</b>	<b>Proposed Fee</b>
A	6.10%	£575.00
B	27.43%	£600.00
C	35.25%	£625.00
D	21.48%	£650.00
E	6.13%	£675.00
F	2.34%	£700.00
G	1.11%	£725.00
H	0.15%	£750.00

The fee level for Houses in Multiple Occupation is currently £500 per lettable unit up to a maximum of £5000 per property. Work is being carried out as part of this project to review the fee level against the new proposed additional HMO licensing scheme and borough wide scheme.

Further details of the finances are included in section 12 below.

## **12. Financial implications**

- 12.1. 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 (additional £1m over five years).
- 12.2. It should be noted that, as outlined in section 11 above, there are significant staffing and operational costs associated with the implementation of a selective borough wide licencing scheme. These costs, currently estimated at £17.3m, will need to be fully covered by the implementation of a licencing fee to ensure full cost recovery. Based on current assumptions a fee basis as set out at 11.4 would be sufficient to recover costs incurred.
- 12.3. 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.

12.4. Further financial implications of the introduction of a selective licencing scheme will be reported on as and when the information gathering and outline of the implementation plans are complete and brought forward for approval by Mayor and Cabinet.

### **13. Legal implications**

#### 13.1. Designation and consultation

An authority may designate either the whole or a part of its district as subject to selective licensing of residential accommodation. Properties let by local authorities and private registered providers of social housing (PRPSHs) are exempt from the licensing requirements.

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

- a) 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
- b) consider whether there are other effective methods of achieving the intended objective.

#### 13.2. Approval by the Secretary of State (SoS)

Approval of the SoS will be required as the proposed borough-wide scheme will:

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

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

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

- a) all costs incurred by the authority in carrying out their functions under this Part, and
- b) 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).

#### 13.4. Equalities Legislation

- a) 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.

- b) 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.
- c) 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.
- d) 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 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.
- e) 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:
- <https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice>
- <https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>
- f) 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](#)

- g) 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:  
<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance#h1>

13.5.MHCLG guidance on ‘Selective Licensing in the Private Rented Sector’ is available [here](#).

#### **14. Crime and disorder implications**

14.1.The implementation of the scheme should not have negative crime and disorder implications. The scheme will identify further crime and disorder as a result of inspections and investigation, and the team will work with landlords to address identified ASB.

The scheme will also raise the profile of the service which in turn will mean individuals are likely to contact the Council to report issues.

#### **15. Equalities implications**

15.1.An Equality Analysis Assessment (EAA) is underway and will be completed on full conclusion of the data analysis.

#### **16. Environmental implications**

16.1.The scheme will identify environmental issues not already known such as fly-tipping and waste management issues in private rented accommodation.

#### **Originator**

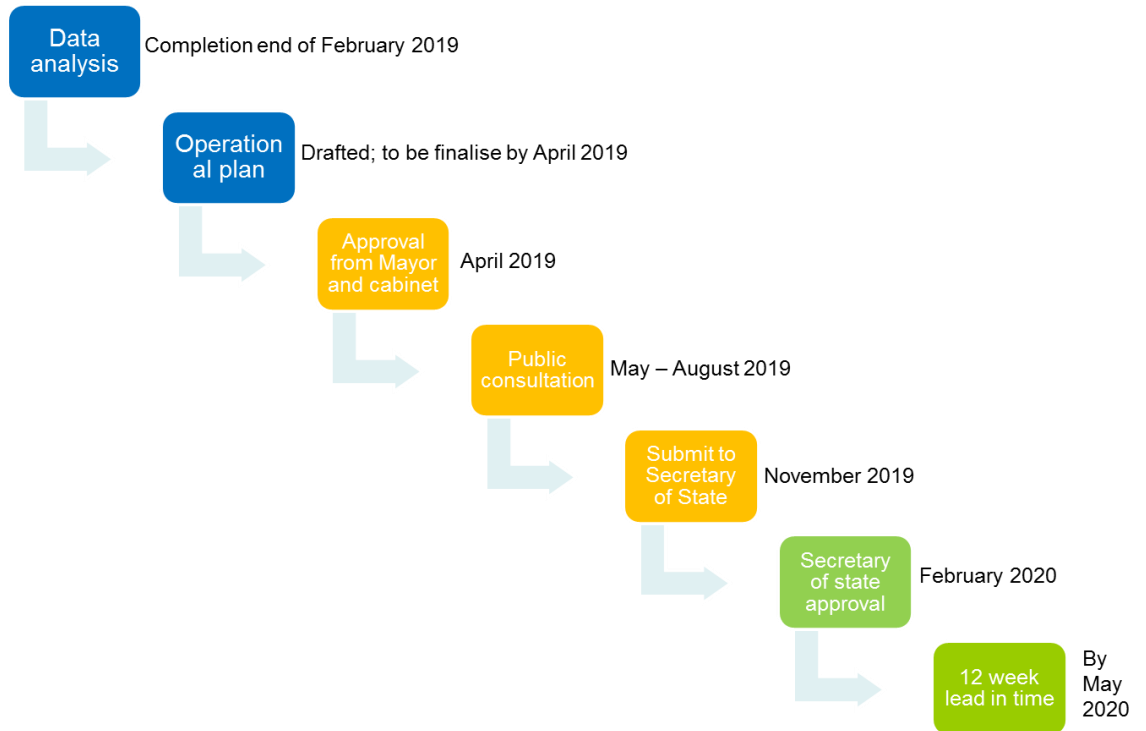
For further information please contact Nicholas Stabeler (Private Sector Housing Agency Manager) on [Nicholas.stabeler@lewisham.gov.uk](mailto:Nicholas.stabeler@lewisham.gov.uk) or 0208 314 9484.

#### **Appendices:**

1. High-level project timeline
2. Licensing conditions

## Appendix 1

### Timeline





## **Appendix 2**

### **1. Draft licensing conditions**

#### 1.1. Conditions of granting a licence

Before granting a licence, the authority must be satisfied that:

- the proposed license holder is a fit and proper person and is the most appropriate person to hold the licence
- the proposed manager of the property (if different from the licence holder) is a fit and proper person
- the proposed management arrangements are otherwise satisfactory.

**Even when all the conditions above are satisfied, the granting of a licence and its precise terms and durations is discretionary.**

#### 1.2. Conditions of licence

Licences are non-transferable. A new licence must be applied for if the licence holder ceases to be involved in the management of the property.

##### a) Mandatory conditions

The following are mandatory conditions that must be attached to every licence:

- the production of a gas safety certificate (if there is a gas supply to the house)
- keeping any electrical appliances and furniture in a safe condition
- the installation of smoke alarms in proper working order
- a requirement that the licence holder supplies the occupiers of the house with a written statement of the terms of occupancy
- a requirement that the licence holder obtains references from persons wishing to occupy the house
- such other conditions as may be imposed by regulations, e.g. the provision of Energy Performance Certificates.

##### b) Discretionary conditions

The local authority can impose further conditions regulating the management, use or occupation of the dwelling, including:

- restrictions or prohibition on the use or occupation of particular parts of the house

- a requirement for the landlord to take reasonable steps to prevent antisocial behaviour by occupiers or visitors.

c) Licence duration

Licences can be granted on properties for a maximum of five years. A local authority can have a policy that says it will consider matters relevant to the question of whether a landlord is a fit and proper person in deciding the duration of the licence to be granted to any individual landlord. However, the extent to which such matters are relevant will depend on the facts of the individual case.

### 1.3. Revoking of licence

Licences may be revoked:

- where there has been a serious breach or repeated breaches of a condition of the licence
- the license holder is no longer a fit and proper person
- the property becomes structurally defective.

### 1.4. Sanctions

Where a property should be but has not been licensed, or a license has been obtained but its conditions are breached, a range of sanctions may be available:

- offences can be punished on conviction by a fine
- a local authority can impose a civil penalty of up to £30,000 as an alternative to prosecution
- a rent repayment order (RRO) can be obtained but only in respect of a period where a property has been let unlicensed when it should have been licensed
- the landlord could be subject to a banning order
- the landlord cannot serve a section 21 notice requiring possession of an assured shorthold tenancy during the unlicensed period.