



Mayor and Cabinet

Private Sector Housing - Consultation for introducing selective licensing scheme.

Date: 6 October 2021

Key decision: Yes.

Class: Part 1

Ward(s) affected: All

Contributors: Director of Law and Governance
Director of Financial Services

Outline and recommendations

The purpose of this report is to seek permission to consult the public on the introduction of the selective licensing scheme. This report:

- Summarises the data analysis completed which will form the evidence base for the consultation;
- Outlines the proposals for public consultation;
- Provides the timetable for the delivery.

The Mayor and Cabinet are asked to agree on the following recommendations in respect to the proposed consultation for a Selective Licensing scheme.

- 1.1. agree that officers undertake a public consultation on the proposal for a Selective Licensing scheme as per section 6 of this report;
- 1.2. delegate authority to the Executive Director for Housing, Environment and Regeneration to finalise the consultation documents;
- 1.3. note that the consultation responses will be presented to the Mayor and Cabinet as part of any proposals to progress with the Selective Licensing scheme.

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 2019 – Public Consultation for revised additional licensing scheme and the new selective licensing scheme
- 21 Aug 2019
- 11 Mar 2020 Mayor and Cabinet agrees to introduce an Additional Licensing Scheme and delegate authority to the Executive Director for Housing, Environment and Regeneration to finalise the application for a Selective Licensing scheme and submit to the Secretary of State.
- 17 Mar 2020 The decision was made to cancel all non-statutory Council and committee meetings following the Covid-19 pandemic.
- 19 Mar 2020 Licensing Supplementary Committee meeting is cancelled due to Covid-19 pandemic. This means the fees for the Licensing Schemes have not been formally set.
- 15 May 2020 Executive Director for Housing, Regeneration and Public Realm considered the decision to revise implementation timetable for the Additional Licensing Scheme.
- 27 May 2020 Executive Director for Housing, Regeneration and Public Realm decision on the revised implementation timetable for the Additional Licensing Scheme comes into force.
- 11 Aug 2020 Licensing Supplementary Committee met to formally set fees for the Additional and Selective licensing schemes.

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1. Summary

- 1.1. On 11 March 2020, Mayor and Cabinet considered a report, "Borough-wide Licensing: Consultation responses and proposals to introduce new licensing schemes". The report's recommendations included delegating authority to the Executive Director for Housing, Regeneration and Public Realm to finalise the application for a Selective Licensing scheme and submit it to the Secretary of State was approved.
- 1.2. On 12 March 2020, Covid-19 was declared a pandemic by the World Health Organisation. On 23 March 2020, the Prime Minister placed the UK under lockdown with fines handed out to anyone who leaves their home for anything other than to go to work, to buy food and medicine or to exercise. This significantly impacted the council's ability to progress the activities needed to launch the new Additional Licensing schemes and to work on the application for the Selective Licensing scheme. as the service's priority and focus was on supporting our residents and businesses, ie, tenants, managing agents and landlords, as well as our homeless, rough sleepers, those vulnerable in shared accommodation to tackle the challenges of Covid-19. As a result, activity on the Selective Licensing application was paused.
- 1.3. The Government published emergency legislation to protect tenants during this time and reinforced that where possible landlords should ensure that tenants continue to be 100% safe and secure in their homes. On Monday 19 July 2021, England moved to Stage 4 of the Government's Roadmap which meant that most COVID-19 restrictions were lifted. The eviction ban was lifted on 31 May 2021 and the notice periods will return to pre-pandemic levels after 31 October 2021.
- 1.4. This report notifies that Executive Director for Housing, Regeneration and Public Realm has confirmed that officers should restart all activities relating to applying to the Secretary of State, Ministry of Housing, Communities and Local Government (MHCLG), for approval of a Selective Licensing Scheme.
- 1.5. The service consulted MHCLG on the validity of the data that was used during the original consultation in the summer of 2019. MHCLG advised the service that to be relevant the application data must include updates from 2019-2021, and must take into account the impact of the Covid-19 pandemic.
- 1.6. As the evidence base for selective licensing has changed and will have an impact on the designations, legal has advised the service will need to re-consult the public regarding selective licensing using the new evidence base. The purpose of this report is to seek permission to consult the public on the selective licensing scheme.
- 1.7. To assist the Mayor and Cabinet in making their decision, this report:
 - Summarises the data analysis completed which will form the evidence base for the consultation;
 - Outlines the proposals for public consultation;
 - Provides the timetable for the delivery of this project.

2. Recommendations

The Mayor and Cabinet are asked to agree on the following recommendations in respect to the revised Selective Licensing scheme.

- 2.1. agree that officers undertake a public consultation on the proposal for a Selective Licensing scheme as per section 6 of this report;
- 2.2. delegate authority to the Executive Director for Housing, Environment and Regeneration to finalise the consultation documents;

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- 2.3. agree that the submission of the Selective Licensing application to the MHCLG will be paused pending the outcome of the consultation.

3. Policy Context

- 3.1. **Lewisham Council Corporate Strategy:** - The implementation of the Limited Selective licencing schemes directly supports a number of our corporate strategies and policies. A summary of how the selective licensing schemes support our key strategies is set out below:-
 - 3.1.1. *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
 - 3.1.2. *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);
 - 3.1.3. *Safer Lewisham Plan:* reduction in harm and vulnerability is identified as a critical as part of an overall prevention, intervention and enforcement approach.
 - 3.1.4. *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) 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).
- 3.2. **The Coronavirus Act 2020:** - This Act received royal assent and became law in the UK on 25th March 2020. The Act grants the Government emergency powers to manage the Coronavirus Pandemic and provides the legal basis for the 'lockdown' of citizens and businesses. The Act allows the government the discretionary power to limit or suspend public gatherings, to detain individuals suspected to be infected by Covid-19, and to intervene or relax regulations in a range of sectors to limit transmission of the disease, ease the burden on public health services, and assist healthcare workers and those financially affected.

Its scope ranges from the food supply chain to the management of the deceased, to technical amendments needed to loosen up requirements and obligations around issues such as authorisations, vetting, and homeschooling. There are various measures to facilitate boosting staff numbers for healthcare and social services; provisions in relation to workers' rights and entitlements; powers to enforce social distancing, powers to facilitate remote operation of the court system, provisions in relation to the emergency financial support measures, provisions in relation to local authorities and in relation to business and residential tenancies. All of the provisions in the Act are time-limited for two years and not all the provisions came into force immediately. Measures can also be suspended and reactivated later. It will also be possible to extend or end the provisions of the Act, depending on the scientific evidence.

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4. Background

Housing and The Private Rented Sector

England¹

- 4.1. The House of Commons report on the housing conditions in the private rented sector states there have been significant changes in the extent and role of the private rented sector (PRS). The sector has grown; 4.4 million households rented their home from a private landlord in 2019/20, representing 19% of all households in England. A more diverse range of households, including families with children, are now living in the sector. For many, it is providing long-term rather than short-term accommodation. Younger households are more likely to rent privately than older households; in 2017 those in the 25 to 34 years age group represented the largest group (35%).

The English Housing Survey (EHS) estimates that in 2019 23% of PRS homes did not meet the Decent Home Standard – around 1.1 million homes. This compares with 18% of owner-occupied homes and 12% of social-rented homes. PRS homes were more likely to have at least one Category 1 hazard under the Housing Health and Safety Rating System (HHSRS).

- 4.2. The report summarises the legal frameworks governing housing standards. Statutory provisions govern private landlords' repairing and maintenance obligations in addition to other specific requirements, for example, in relation to gas and electrical safety. Enforcement of standards in private rented housing is primarily through the HHSRS, a risk-assessment based regulatory model used by local authority environmental health officers.

The Homes (Fitness for Human Habitation) Act 2018 requires private sector landlords in England to ensure their properties are fit for human habitation at the beginning of the tenancy and throughout. The Act provides tenants with the means to take legal action against their landlord.

- 4.3. The report also highlights some of the issues identified with the legal framework governing housing standards in the PRS:
- Calls to reform the HHSRS which is criticised for being overly complex, difficult for landlords and tenants to understand and out of date. A review of the HHSRS is underway.
 - Inconsistent and low levels of enforcement of housing standards by local authorities, which is thought to be a result of: insufficient local authority resources; the complexity of the legislation; and a lack of political will to address low standards in the sector.
 - The power imbalance between tenants and landlords, which puts tenants at risk of retaliatory eviction or rent rises when they seek repairs and maintenance of their homes. Tenants may fail to seek redress because of the cost, time and complexities involved.
 - Some commentators have called for a fundamental reform of the PRS regulatory framework. The complex and piecemeal nature of the framework is said to be leaving landlords confused about what their obligations are and tenants uncertain about who is responsible for resolving problems.

¹ [Housing conditions in the private rented sector \(England\)](#), 2021

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London Borough of Lewisham

- 4.4. The Private Rented Sector (PRS) is an important part of Lewisham's housing market, accounting for approximately 40,000 properties within the borough. It is estimated that in 2021, 30% of households in Lewisham rent from a private landlord, with growth in this tenure expected to continue.
- 4.5. 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, up from 28% in 2007-08.

Current PRS Licensing in Lewisham

- 4.6. The Council currently operates the following licensing schemes:
 - 4.6.1. 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 being addressed through the licensing process.
 - 4.6.2. 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.
 - 4.6.3. The Mayor and Cabinet have approved the implementation of a new borough-wide additional licensing scheme that will replace the existing additional licensing scheme. The new scheme had been paused due to the Covid-19 pandemic and will now be launched in April 2022.
 - 4.6.4. The Mayor and Cabinet have delegated authority to the Executive Director for Housing, Regeneration and Public Realm to apply to the Secretary of State of MHCLG for a borough-wide selective licensing scheme. The work on this application was paused due to the Covid-19 pandemic. This report outlines the plans to restart the work on the applications.

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5. Rationale for re-consulting the selective licensing scheme

- 5.1. The Executive Director for Housing, Regeneration and Public Realm has confirmed that officers can restart all activities relating to applying to the Secretary of State, Ministry of Housing, Communities and Local Government (MHCLG), for approval to launch the Selective Licensing Scheme.
- 5.2. As the original consultation was held in the summer of 2019, the service determined that the housing stock data needed to be refreshed and re-assessed. As the evidence base for selective licensing has changed and will have an impact on the designations, the service determined that the public will need to be reconsulted with this new evidence base.
- 5.3. After discussions with MHCLG and the legal department at Lewisham, the service determined that the application for Selective Licensing will be paused pending a public consultation with the new evidence base.

6. Proposed Selective Licensing Scheme

Summary of Evidence Base

- 6.1. In the summer of 2021, the council conducted a housing conditions assessment for purposes of consultation. A detailed report will be produced as part of the consultation. A summary of the finding is provided in this report.
 - 6.1.1. The survey used council data including council tax, housing benefits, tenancy deposits registrations, notices, complaints and prosecutions. The results of the survey were found to be consistent with police crime data as well as data from the indices for deprivation. The results of the survey were also consistent with boroughs within London.
 - 6.1.2. The survey shows that the size of the PRS sector in Lewisham has grown by 31% since the original consultation in 2019.
 - It is estimated there are, excluding known HMOs, 39,674 PRS properties in the borough. This accounts for 31% of the total dwellings in Lewisham.
 - The proportion of PRS properties as a percentage of dwellings in Lewisham is consistently above 20% with Downham having the lowest proportion, an estimated 23.40% properties in the PRS after excluding known HMOs.

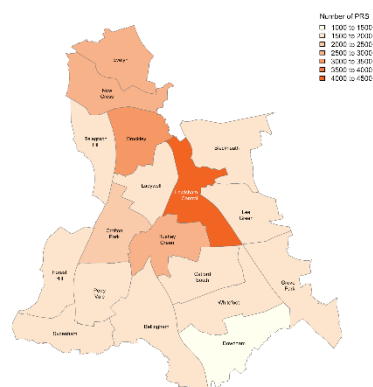


Figure 1 Number of PRS properties per ward

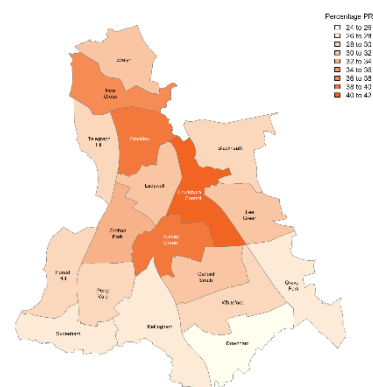


Figure 2 PRS as % of dwellings per ward

- 6.1.3. The table shows a summary of the analysis conducted as part of the housing stock survey (Summer 2021)

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Ward	Dwellings			Poor Property Conditions (PPC) Indicators				High Repeat Antisocial Behaviour (ASB) Indicator			Deprivation (Dep) Indicator		Designations	Indicators Met		
	Total dwellings	PRS ²	% PRS (minus known HMOs) ³	PRS dwellings with at least 1 Cat 1 hazard ⁴	PRS dwellings with at least 1 Cat 1 (rates per 100) ⁵	PRS complaints recorded	PRS notices served	Recorded ASB incidents (2016-21)	No. PRS with repeat ASB	No. repeat ASB incidents ⁶	Tenancy Deposit Scheme Register	HB claims 2016-21		ASB	PPC	Dep
Brockley	8059	3056	37.90%	488	16	177	50	444	67	250	1756	1150	1	✓	✓	✓
Lewisham Central	10688	4398	41.10%	717	16.3	267	100	483	85	222	2018	2286	1	✓	✓	✓
Rushey Green	7271	2863	39.40%	736	25.7	261	81	513	95	242	983	2827	1	✓	✓	✓
New Cross	8176	2905	35.50%	515	17.7	204	90	352	55	153	7232	1623	1	✓	✓	
Catford South	5872	1744	29.70%	611	35	174	57	451	80	231	674	1280	1	✓	✓	✓
Perry Vale	6849	1936	28.30%	462	23.9	121	18	354	66	200	770	1004	1	✓	✓	✓
Evelyn	9273	2761	29.80%	390	14.1	167	94	283	33	85	1067	1228	2		✓	✓
Ladywell	5796	1761	30.40%	459	26.1	116	39	318	50	154	1644	882	2		✓	✓
Lee Green	6296	1868	29.70%	457	24.5	104	36	278	45	120	1175	873	2		✓	✓
Sydenham	7099	1851	26.10%	771	41.7	126	59	263	46	125	656	1218	2		✓	✓
Crofton Park	6356	2049	32.20%	493	24.1	178	51	322	49	127	2285	1105	2		✓	
Bellingham	6656	1717	25.80%	424	24.7	120	16	343	66	170	922	2082	3			✓
Downham	6271	1492	23.80%	404	27.1	97	35	309	49	122	1613	1256	3			✓
Forest Hill	6834	1899	27.80%	394	20.7	64	11	217	34	88	808	690	3			✓
Grove Park	6368	1702	26.70%	407	23.9	88	14	292	43	114	3104	1156	3			✓
Whitefoot	6009	1769	29.40%	482	27.2	120	25	315	45	116	1126	2168	3			✓
Telegraph Hill	6816	1907	28.00%	419	22	141	42	224	32	90	7690	1005				
Blackheath	6944	1996	28.70%	366	18.3	77	39	187	32	86	2203	489				
Grand Total	128065	39674	30.98%	8995	22.7	2602	857	5948	972	2695	37726	24322				

² Predicted numbers

³ Predicted numbers

⁴ Predicted numbers

⁵ Predicted numbers

⁶ Incidents related to repeat ASB PRS properties

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Designation Areas and Proposed Conditions

- 6.2. **Designation Area 1** covers the current wards of Rushey Green, Brockley, New Cross, Catford South, Lewisham Central and Perry Vale. These wards show a significant and persistent Antisocial Behaviour (ASB) linked to PRS properties. Our analysis also shows a high prediction of properties in poor condition in these areas.
- 6.2.1. Significant and persistent ASB occurring within the curtilage of the property or its immediate vicinity are to be considered as a reason for making a designation. This includes intimidation or harassment, noise, rowdy and nuisance behaviour, animal and vehicle-related nuisance, antisocial drinking, drug-taking or dealing, graffiti and fly posting, and litter and waste. The housing stock assessment shows a clear link between high and repeat ASB and the private rented sector properties.

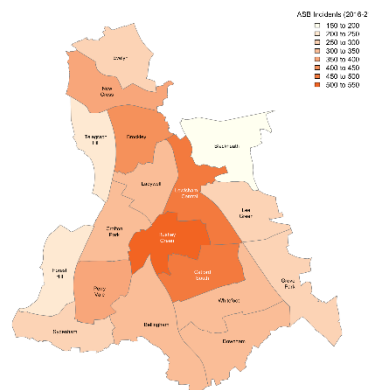


Figure 3 ASB incidents linked to PRS per ward

- The wards in the darker shades of orange showed a high number of recorded incidents of ASB.
 - These wards also showed a very high rate of repeat ASB (> 40%) linked to the same properties.
- 6.2.2. Poor housing conditions is a basis for a designation to tackle significant numbers of properties in the private rented sector that are in poor condition, adversely affecting the character of the area and/or the health and safety of occupants. The housing conditions report assessed properties in the private rented sector that are likely to need an inspection to determine whether any of those properties contain category 1 hazards. This also takes into account properties where the council has received PRS complaints.
- The wards of Rushey Green, Brockley, New Cross, Catford South, Lewisham Central and Perry Vale showed significant indicators of poor property conditions.
 - These areas showed a high number of predicted PRS properties with Cat1 hazards wards or a significant number of PRS complaints.
 - These are also displayed a low proportion (less than 1 in 3) of complaints to predicted cat 1 hazards or a high proportion of notices issued (more than 1 in 3) for PRS complaints received. The former indicates residents are less likely to make complaints in these areas. The latter indicates that landlords are less likely to act on a complaint without notices being served.

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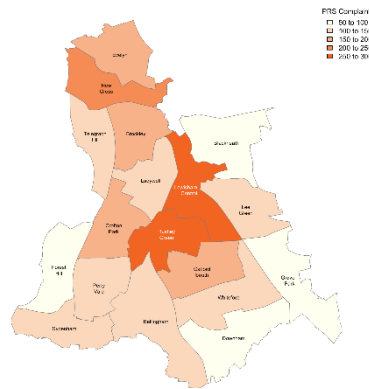


Figure 4 PRS complaints recorded

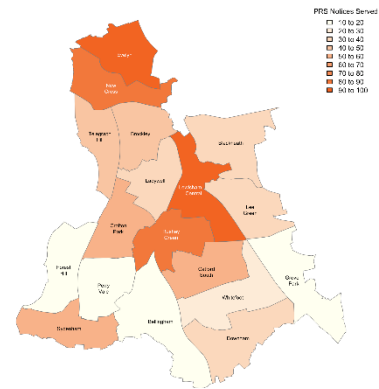


Figure 5 PRS notices issued

6.2.3. We propose to enforce the standard set of conditions for properties under this designation. In addition to the standard conditions, we propose the following mandatory conditions for this designation:

- To empower landlords to take up reference before renting, issue an ASB policy as part of the tenant information pack (a model policy is available to the landlord on Lewisham website). The licence holder will be asked to demonstrate what measures they have taken to address ASB in/around their property within 7 days of request
- To make failing to comply a breach of licence conditions for which they can be either fined or prosecuted. Serious or repeated breaches of licencing conditions could result in the licence being revoked. Multiple civil penalty notices (CPNs) or a conviction will make the licence holder no longer fit and proper to hold a licence to rent in England and Wales.
- All repair work must be carried out within a reasonable timescale with due regard to the severity of the issue.
- The Licence holder must ensure that any repairs, improvement works or treatments are carried out by a competent person(s). Copies of receipts and/or invoices for any such works must be provided to the Authority within 28 days upon demand.

6.3. **Designation Area 2** covers the current wards of Evelyn, Ladywell, Lee Green, Crofton Park and Sydenham. The data shows that have reported poor housing conditions.

6.3.1. Poor housing conditions is a basis for a designation to tackle significant numbers of properties in the private rented sector that are in poor condition, adversely affecting the character of the area and/or the health and safety of occupants. The housing conditions report assessed properties in the private rented sector that are likely to need an inspection to determine whether any of those properties contain category 1 hazards. This also takes into account properties where the council has received PRS complaints.

- The wards of Evelyn, Ladywell, Lee Green, Sydenham and Crofton Park showed significant indicators of poor property conditions.
- These areas showed a high number of predicted PRS properties with Cat1 hazards wards or a significant number of PRS complaints.
- These are also displayed a low proportion (less than 1 in 3) of complaints to predicted cat 1 hazards or a high proportion of notices issued (more than 1 in 3) for PRS complaints received. The former indicates residents are less likely to make complaints in these areas. The latter indicates that landlords are less likely to act

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on a complaint without notices being served.

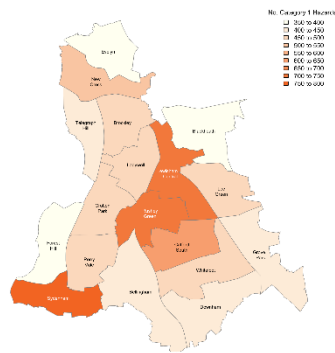


Figure 6 Predicted PRS with Cat 1 Hazards per ward

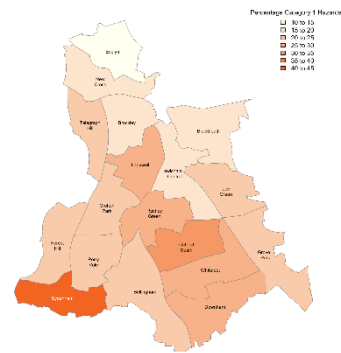


Figure 7 % of PRS with Cat 1 per ward

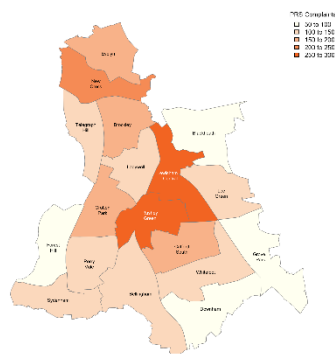


Figure 8 No of PRS complaints per ward

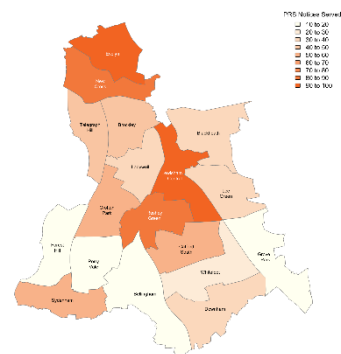


Figure 9 No of notices issued per ward

6.3.2. We propose to enforce the standard set of conditions for properties under this designation. In addition to the standard conditions, we propose the following mandatory conditions for this designation:

- All repair work must be carried out within a reasonable timescale with due regard to the severity of the issue.
- The Licence holder must ensure that any repairs, improvement works or treatments are carried out by a competent person(s). Copies of receipts and/or invoices for any such works must be provided to the Authority within 28 days upon demand.

6.4. **Designation Area 3** covers the current wards of Downham, Bellingham, Whitefoot, Forest Hill and Grove Park. Our evidence has shown a marked increase in rented properties in these areas. As one of the most deprived areas in England, pockets of deprivation exist across Lewisham wards.

- The assessment is in line with the Government's Indices of Deprivation where Lewisham is ranked 12th highest amongst London boroughs. Two-thirds of wards are within the worst half of the country for property conditions; all wards are within the worst half of the country for heating, including four wards in the worst 20% of the country.

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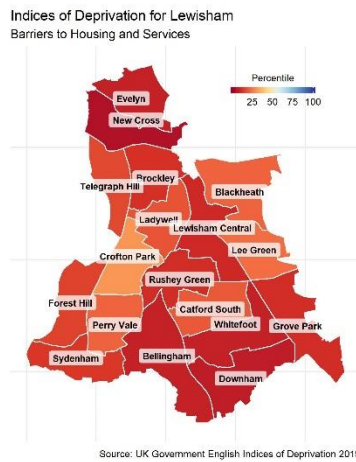


Figure 10 IMD Barriers to Housing by Ward

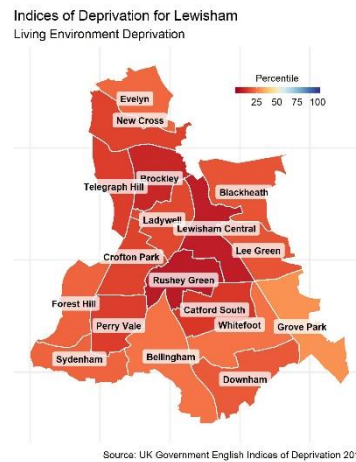


Figure 11 IMD Living Condition by Ward

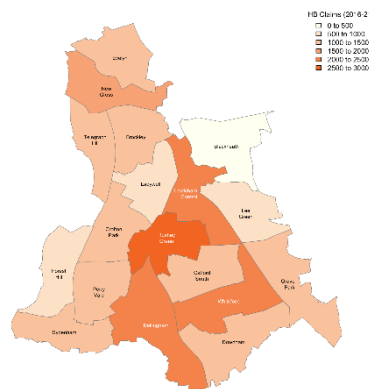


Figure 12 Housing Benefit linked to PRS by Ward

- Of the current 18 wards, 14 have been assessed to have a high ratio of housing benefits to PRS or a low ratio of tenancy deposits. The former suggests a high number of PRS properties are rented by tenants on housing benefits. The latter suggests that
 - the landlord has not followed the law and protected the deposit.
 - the property is not let on an Assured Shorthold Tenancy, so deposit protection did not apply, eg regulated tenancies which began pre 15th January 1989, excluded tenancies where the tenant shares facilities with the landlord or their family and tied properties which are linked to employment.
 - no deposit was taken that is returnable to the tenant, eg tenants housed with a local authority incentive payment.
- Of the 14 wards identified, 9 have been included in Designations 1 and 2. We propose Designation 3 to include the remaining five wards - Downham, Bellingham, Whitefoot, Forest Hill and Grove Park.

6.5. The wards of Telegraph Hill and Blackheath are not included in any of the designations as these wards did not meet the bar set for inclusion. However, with the rapid growth of PRS in Lewisham, the service will continue to monitor the ASB and property conditions in these wards and if required, apply for selective licensing at the appropriate time.

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Summary of Designations

Designation 1	Designation 2	Designation 3
ASB and Poor Housing Conditions	Poor Housing Conditions	Deprivation
Rushey Green, Brockley, New Cross, Catford South, Lewisham Central and Perry Vale	Evelyn, Ladywell, Lee Green, Crofton Park and Sydenham.	Downham, Bellingham, Whitefoot, Forest Hill and Grove Park.
<p>Figure 13 Map of designation areas</p>		

Scheme Objectives

- 6.6. We want our citizens to live in homes that are safe and secure, on estates and streets that are well maintained and presentable, and in thriving communities free from crime and antisocial behaviour. The Council's strategy sets a vision for providing our citizens with 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 selective licensing scheme will aim to:
- Ensure that all licensable properties in the borough conform to Lewisham's licensing standards.
 - Reduce the number of repeat complaints on housing standards through a combination of informal and formal actions
 - Reduce the number of repeat ASB linked to licensed properties over the life of the scheme.
 - Ensure all vulnerable tenants including those in housing benefits or universal credit are house in properties that are safe and well-managed.

Achieving the Objectives

- 6.7. There will be clear licence conditions relating to the standard and management of rented properties in the area. The council will use data and analytics to identify higher-risk properties or unlicensed properties. These will be prioritised for inspection by officers for compliance with licencing conditions. The council will take enforcement action, where necessary, to improve poor property conditions. Landlords who fail to license their properties could be prosecuted or could receive a civil penalty for failure to license.
- 6.8. The council will work with Crime Enforcement and Regulation, Planning, Building Control, Adult and Children's/young people's social services, Community Mental Health, the Fire Brigade and others to identify properties that need improvement. It will work with local community groups and ward councillors to identify tenants living in poor conditions and properties that can be improved.

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- 6.9. The council will work with landlords to address poor property conditions, anti-social behaviour and factors that make deprivation worse, to help them to comply with the licence conditions in Lewisham.

Fees for Selective Licensing

- 6.10. 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.
- 6.11. The cost of the fees is a valid business expense for tax purposes. VAT is not applied to licence fees.
- 6.12. The fees being proposed have been benchmarked with those charged by other London boroughs that have Selective licensing schemes.

Local Authority	Selective Fee per property
Croydon	£750
Southwark	£900 (proposed)
Lewisham (proposed)	£640
Waltham Forest	£700
Newham	£750

- 6.13. 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.
- 6.14. 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.

7. Revised plan for selective licensing application

Public Consultation

- 7.1. Statutory Consultation Period – we propose to run the consultation for eleven weeks from the 20 October 2021 up to the 5 January 2022. This meets our requirement to run the consultation for a minimum of ten weeks. We will analyse the consultation submission and submit a response within two weeks of completion of the statutory consultation period.
- 7.2. For the consultation, we will aim to:
- Create an online webpage to capture feedback for each designation area so we can break down responses by area.
 - Print supporting copies of consultation and make available at libraries (where open to the public).
 - Press release to local newspapers, with follow up calls to key journalists to encourage coverage
 - Use social media posts across Facebook, Instagram, Next Door, Twitter, etc.,

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across the life of eleven week consultation. Use targeted social media ads for specific areas if local responses are low over the life of the consultation.

- Use resident e-newsletter to spread the message (readership 35,000): this may be used more than once during the life of consultation. Use other e-newsletters, council blogs to encourage residents, businesses to complete consultation.
- Use staff e-newsletter to engage with council staff who live in the borough. Create specially adapted e-newsletters focused on and sent to key stakeholders and groups. Use internal communications to inform councillors directly.

7.3. Our target audience for this consultation will include:

Landlords	Local businesses
Private tenants	Community groups
Owner-occupiers	Volunteering organisations
Social housing tenants	Charities
People in temporary accommodation	Refugee groups
All other residents	Churches and other religious centres
LBL staff	Family and parent groups
Local MPs and Council Members	Youth clubs
Neighbouring boroughs	

Application to the Secretary of State

7.4. The Mayor and Cabinet have delegated authority to the Executive Director for Housing, Environment and Regeneration to finalise the application for a Selective Licensing scheme and submit it to the Secretary of State (SoS), MHCLG. However, as the designations have changed, post consultation the service will request the Mayor and Cabinet's approval to apply to the Secretary of State. As a result of the consultation, the service may alter the designations and the fees suggested as part of the application to the SoS MHCLG.

8. Financial implications

8.1. This report seeks Mayor & Cabinet agreement for officers to undertake a public consultation on the proposal for the introduction of a selective licensing scheme as per sections 6 & 7 of this report and delegate authority to the Executive Director for Housing, Environment and Regeneration to finalise the consultation documents.

8.2. It further notes that the application for permission to apply to the Secretary of State for approval to introduce a selective licencing scheme will be paused until the results of the consultation are known. As such there are no direct financial implications arising from this report.

8.3. It should be noted that the introduction of a selective licencing scheme, will incur considerable cost and will require the introduction of a new fee charge to recover the costs incurred, which will include start-up costs.

8.4. Scheme Costs will include significant staffing and other operational costs. A comprehensive financial model has been developed to assess the resourcing implications of the new selective licencing scheme over the five-year licencing period. This will be continually reviewed and updated as part of this exercise to confirm the level of fee required for selective licencing, based on any revised operation of the scheme. As outlined in section 6.10, current indications are that a fee in the region of

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£640 per property would be sufficient to cover costs incurred.

- 8.5. Whilst the financial modelling will be robust, it does rely on assumptions of the number of licensable properties within the borough. There is a risk that the numbers could have been over/under estimated resulting in additional costs or loss of income.
- 8.6. Mitigation against this and other risks 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.

9. Legal implications

HMO Licensing Schemes

- 9.1. The Housing Act 2004 provides local authorities with the power to impose different types of licensing schemes for houses in multiple occupation, (HMO). HMOs governed by Part 2 of the Housing Act 2004, are generally defined as premises where more than one household has living accommodation and at least two households share toilet, bathroom or kitchen facilities. There is a statutory requirement for every HMO to be licensed by a local authority. This is 'mandatory' licensing.
- 9.2. 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.
- 9.3. 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.

Selective Licensing Schemes

- 9.4. 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 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.
- 9.5. 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

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9.6. 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.

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

9.8. 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)..

9.9. On 26th March 2020, the Coronavirus Act 2020 came into force. The Covid -19 (Coronavirus) and the enforcement of standards in rented properties, was published in March 2020, expressly stated as being non-statutory guidance issued under s.9 of the Housing Act 2004. ["Guidance".] This Guidance is intended to provide a recommended approach for Local Authorities taking into account, the Covid -19 outbreak and current public health guidance. A link to the Guidance is provided within para. 3.2 of this report.

Commitment to Equality

9.10. 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.

9.11. 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.

9.12. 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.

9.13. 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

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case to case and due regard is such regard as is appropriate in all the circumstances.

9.14. 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](#)

9.15. 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](#)

9.16. 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](#)

10. Equalities implications

10.1. With respect to the Council's Comprehensive Equalities Scheme 2016-20, the proposals described in the Mayor and Cabinet 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

10.2. 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.

10.3. As part of the councils Covid-19 response, the Housing Needs Division is working tirelessly to support our most vulnerable residents and respond to the challenges we

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face as a result of the current coronavirus outbreak. Officers are focussed on direct matching of properties for our most vulnerable clients, with a particular focus on vulnerable households who are currently sharing facilities, urgent safeguarding cases, rough sleepers and other emergency cases such as hospital discharges.

11. Climate change and environmental implications

- 11.1. 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.
- 11.2. 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.
- 11.3. 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.
- 11.4. Our officers will be trained to provide advice on potential issues relating to energy efficiency, root damage, subsidence and light.
- 11.5. Undertake targeted work with all landlords and using landlord forums to promote energy efficiency, including engaging with landlord accreditation schemes that promote energy efficiency.
- 11.6. 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
- 11.7. 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
- 11.8. As part of the Covid-19 response, the licensing and enforcement team is committed to tackling environmental issues should they arise as per the temporary licensing and enforcement policy published for the Covid-19 emergency.
 - It specifically advises landlords and their agents to gather evidence of their attempts to carry out their repair obligations
 - The policy reminds landlords that while we will be sympathetic, pragmatic and understanding, the evidential burden of establishing that they have a reasonable excuse rests with them.
 - It advises landlords and their agents about the type of evidence they should collate to establish this developing a programme to target high-risk streets and neighbourhoods with tailored advice including the publication and promotion of initiatives.

12. Crime and disorder implications

- 12.1. 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

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investigation. This may result in an increase in anti-social behaviour casework, which is investigated primarily by the Council's Crime, Enforcement & Regulation Service.

- 12.2. 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.
- 12.3. 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.
- 12.4. In response to the Covid-19 pandemic, we remain committed to ensuring that tenants are safe in their homes, and their and others' safety is not compromised by being made homeless. Our rogue landlord team continue to provide telephone advice and will intervene in incidents of unlawful eviction and harassment.

13. Health and wellbeing implications

- 13.1. 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.
- 13.2. A poorly managed private rented property 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.
- 13.3. 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.
- 13.4. As part of the temporary Covid-19 licensing and enforcement policy, we are no longer carrying out routine licensing inspections. We will continue to inspect high-risk properties where this is possible without compromising residents' safety. We remain available to provide telephone and email advice and support to landlords. This includes posting regular updates on the council's website and circulating emails to landlords.

14. Background papers

- 14.1. [Mayor and Cabinet Report](#) 11 March 2020
- 14.2. [Scheme Fees – Licensing Supplementary Committee](#) 11 August 2020

15. Glossary

- 15.1.

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Term	Definition
Coronavirus	Coronavirus” is defined in the Act as meaning severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) (the virus itself) and “coronavirus disease” means Covid-19 (the official designation of the disease which can be caused by coronavirus).

16. Report author(s) and contact

- 16.1. For further information please contact Sabu Samarnath (Service Improvement Manager – Private Sector Housing Agency) on sabu.samarnath@lewisham.gov.uk or 0208 314 7378.

17. Appendices

- 17.1. Appendix A – Proposed Standard Conditions for the Selective Scheme
 17.2. Appendix B – Addendum to Standard Conditions

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