

Improving the private rented sector – consideration of further selective licensing schemes in the city

Date: 13th March 2024

Report of: Director of Communities, Housing and Environment

Report to: Executive Board

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

Selective licensing is a discretionary power under Part 3 of the Housing Act 2004 available to the Council which, alongside other regeneration initiatives, can contribute to improving areas. In June 2019 the Executive Board agreed to the designation of two schemes, linked to the Council's priorities and to support those more deprived communities in the city, in Beeston and Harehills. These commenced as of January 2020 and will expire in January 2025 after the maximum of five years allowed for any scheme under the legislation.

The purpose of the report is to request that Executive Board consider the development of potential further business case(s) for selective licensing scheme(s) in the city. Any business case will need to be considered on its merits, based on criteria set out in Government legislation and guidance prior to any designation.

The proposed areas for any potential future scheme(s) would be within the five priority wards of Armley, Beeston and Holbeck, Burmantofts and Richmond Hill, Gipton and Harehills, and Hunslet and Riverside which are all linked to areas of high levels of private rented sector homes and high levels of deprivation and therefore links to our Best City Ambition to tackle poverty and inequality and improve quality of life for everyone in the city.

It is envisaged that the boundary of any proposed designation(s) will be drawn within these five wards but may not comprise the entirety of each ward. The initial evidence gathering based on the information around deprivation, discussions with ward members, and the levels of privately rented properties will determine the area(s) to be consulted on as part of the development of the business case.

A fund of £400k has been identified within the Housing Leeds, Private Sector Housing budget for the development of any further business case(s), identified from income generated from its enforcement activity and which is ringfenced for enforcement activities in relation to the private rented sector. The proposed budget does not create an additional pressure on the General Fund if this proposal is approved.

It will for the Executive Board to consider at a future date any potential further schemes within the city based on business case(s) developed.

Recommendations

Members of Executive Board are recommended to:

- a) approve the development of potential business case(s) under Part 3 of the Housing Act 2004 for further selective licensing scheme(s) in respect of the five priority wards of Armley, Beeston and Holbeck, Burmantofts and Richmond Hill, Gipton and Harehills, and Hunslet and Riverside;
- b) consider the matter again at a future date once the final business case(s) have been fully developed and agreed to consider whether to designate any further selective licensing area(s) under Part 3 of the Housing Act 2004 or request the Secretary of State to consider an application to do so if it meets the threshold for their approval, and;
- c) note that the Director of Communities, Housing and Environment is responsible for implementing the recommendations agreed.

What is this report about?

- 1 In June 2019 the Executive Board agreed to the designation of two schemes, in Beeston and Harehills respectively. These will expire as of January 2025 after the maximum of five years for any scheme under the legislation.
- 2 The purpose of the report is to request that Executive Board consider the development of potential business case(s) for selective licensing scheme(s) in the city. Any business case will need to be considered in the future by the Council on its merits based on the criteria in Government legislation and guidance prior to any designation.
- 3 In June 2019 the Executive Board agreed to the designation of two schemes, in Beeston and Harehills respectively. These will cease to exist as of January 2025 after the maximum of five years allowed for any scheme under the legislation. Any further designation after the 5 years will require a further business case.
- 4 The proposed areas for potential introduction of any scheme(s) based on the Leeds Best City Ambition are within the five priority wards of Armley, Beeston and Holbeck, Burmantofts and Richmond Hill, Gipton and Harehills, and Hunslet and Riverside which are all linked to areas of high levels of private rented sector homes and high levels of deprivation.
- 5 It is envisaged that the boundary of any proposed designation(s) will be drawn within these five wards but may not comprise the entirety of each ward. The initial evidence gathering based on the information around deprivation, discussions with ward members, and the levels of privately rented properties will determine the area(s) to be consulted on as part of the development of the business case.

What is selective licensing?

- 6 The Housing Act 2004 places a duty on local authorities to administer the licensing of certain Houses in Multiple Occupation (HMO) under Part 2 of that Act, and provides discretionary powers to consider the introduction of selective licensing for all other dwellings (under Part 3) and additional licensing for other HMO (under Part 2). Mandatory licensing applies to HMO where they are occupied by 5 or more individuals forming two or more households. If an HMO meets these criteria, then it requires a licence to operate and such an application must be made to the Council by the proposed licence holder, usually the landlord or managing agent.

- 7 Provided the property and management arrangements are suitable, the Council will grant a licence subject to conditions. These conditions cover issues such as the provision of adequate fire safety measures, levels of amenities and good management, all of which help to ensure that the property is safe for those who occupy such properties. If a property is subject to mandatory HMO licencing, then it is exempt from any selective licensing scheme under Part 3 of the Act. Most properties subject to mandatory HMO licencing are located in the northwest of the city, primarily serving the student market.
- 8 Selective licensing is available to the Council which, alongside other regeneration initiatives, can contribute to improving areas. If the Council wishes to introduce such a scheme, then the Government has laid out criteria under which any designation can be made. A selective licensing designation may only be made if the area to which it relates is experiencing one or more of the following conditions: low housing demand; persistent antisocial behaviour due to the private rented sector; poor housing conditions; high levels of migration; high levels of deprivation and high levels of crime. Any designated scheme must also be consistent with the overall Housing strategy and be part of a coordinated approach.
- 9 Any business case must consider other alternatives to selective licensing. As part of the overall strategy to address standards in the city there are several initiatives which have been adopted to ensure people have quality homes to live in. For example, the Council supports the Leeds Rental Standard (LRS), which allows landlords to self-regulate their own businesses without the need for the involvement of the Council and more formal action. As with mandatory HMO licensing, membership of the LRS is, again, predominantly those landlords operating in the student market and the northwest of the city and not within the wards under consideration for selective licensing.
- 10 The intention of Selective Licensing is to bring about significant improvements to property conditions and the way they are managed. This is achieved through multiple interventions including the requirement for all landlords operating in the area obtain a licence for each property within the area, subject to certain exemptions. These include if the property is let via a social registered provider, already subject to mandatory licencing under Part 2 of the Housing Act 2004, a short term holiday let or rented by a closed family member such as a father, mother daughter or son. In addition, all private rented properties which are subject to licensing will be fully inspected to assess their suitability and strict conditions will be attached to the licence that requires the landlords to not only achieve improved standards but also regulate the way they manage the tenancies.
- 11 Any designated scheme is to be self-financing via a licence fee. All privately rented properties would require a licence to operate (save for certain exemptions) and this is intended to generate the income to administer and enforce the scheme. The licence will have conditions attached which the owner must comply with. Any owner failing to obtain a licence or breaching a condition(s) would be liable for prosecution or a civil penalty under recently introduced legislation.

What impact will this proposal have?

- 12 Any business case will take time to develop due to the complexity of the issues. Initially there will be a need to gather all the evidence required to support the business case(s) as per the criteria in the Government's legislation and guidance. This data will include the tenure mix, location of the privately rented properties, the Indices of Multiple Deprivation (IMD) data, crime information, environmental data, existing stock condition and employment, demographics etc. All this will be required to justify the business case(s) prior to any consultation being

undertaken. It will be essential that during this period all potential stakeholders are identified so that robust consultation can occur.

- 13 The proposal is to consider the potential for selective licensing in the five priority areas based on the Government criteria under Part 3 of the Housing Act 2004 and The Selective Licensing of Houses (Additional Conditions) (England) Order 2015. It will be for the Executive Board to consider at a future time whether to approve both the business case(s) for selective licensing designation and the designation of any selective licensing scheme(s).
- 14 During the period whereby any scheme is under consideration and being consulted upon it is likely to cause an element of uncertainty in the market for both tenant and landlords. In both groups there will be those who support and those who do not support any potential scheme(s) introduction.
- 15 For tenants there is a risk of threats of eviction or risks of rent increases as landlords determine what they wish to do with their homes. Previous consultations have had these threats raised but there is no evidence that the process of consulting on any potential business case(s) has resulted in either event occurring in large numbers.
- 16 As with any group there will be landlords who will oppose the idea of further licensing and those who will be in favour. During the last consultation, Leeds Landlords Against Licensing was formed who were active in their opposition to any licensing scheme in the Beeston and Harehills areas. They brought Judicial Reviews against the Council, although both failed at an early stage. They also ran an active campaign, including social media, mainstream media and lobbying of ward and lead members and senior managers in the Council against it. It is likely similar campaigning will occur again if the proposal is agreed.
- 17 Should approval to develop a business case be granted, a full Equality, Diversity, Cohesion and Integration Assessment for any scheme will be undertaken as part of that process, once the scope of any proposed scheme is defined and relevant evidence and data is available.

Why consider the five wards for potential Selective Licensing area(s)

- 18 The Leeds Best City Ambition sets out a mission to tackle poverty and inequality and improve quality of life for everyone in the city. Targeting improvements in housing quality will contribute directly to this mission and to the priorities which underpin it, shaped by the three pillars of health and wellbeing, inclusive growth and zero carbon. Improving housing quality and energy efficiency, and working with landlords to do so, is specifically highlighted as a priority for both health and wellbeing and zero carbon in the recently updated Best City Ambition – as well as in the Leeds Housing Strategy 2022-27. In addition, Leeds has recently declared itself as a Marmot City. Working with the University College London's Institute of Health Equity (IHE) over the next two years, Leeds will look to tackle health inequalities focusing on giving every child the best start in life and creating healthy sustainable communities with good quality housing. The potential positive impact is especially relevant given any future Selective Licensing scheme would seek to benefit those living in some of the city's lowest income communities with generally poorer quality housing stock and health outcomes.
- 19 The case for considering these five wards for a potential scheme will be developed and considered through the development of a full business case, but at this stage is shaped by evidence showing the high levels of deprivation in these wards compared to other areas in Leeds and the city as a whole. This is one of the conditions upon which the Council may designate an area(s) for selective licensing, in accordance with the legislation. Additionally,

there is a higher-than-average concentration of private rented sector housing in these five wards – according to the 2021 Census, 36% of homes are privately rented across the five wards compared to 22% in Leeds as a whole. To give a sense of scale, the area consists of 58,439 properties of which 20,948 are believed to be in the private rented sector (Census 2021). There has been a growth rate of around 10% in the sector over the last decade.

- 20 As the defined boundary for any licensing area has yet to be determined, the best approach we can take to consider the levels of deprivation is to look at evidence around the five wards as a whole. It should be noted, however, that some parts of Hunslet and Riverside ward which fall within the city centre have significantly lower levels of deprivation than these five wards overall. More detailed analysis would account for this as part of any future business case. According to the most recent IMD data in 2019, there are 79 Lower Layer Super Output Areas (LSOAs) in total across the five wards. Of these, 51 (or 65%) fall within decile 1 of the IMD i.e. the 10% most deprived neighbourhoods nationally, and 13 fall within decile 2. In total therefore 81% of residents in these five wards are living in the 20% most deprived neighbourhoods nationally. Evidence from the IMD data also shows poorer outcomes across a range of issues associated with levels of deprivation, including higher crime rates, higher in-work claimant counts and rates of poverty, lower average earnings and worse health outcomes than city averages.
- 21 The intended outcome of any proposed designation(s) would be (together with other measures) a reduction of the problems with housing in the private rented sector contributing to the high level of deprivation.

What has been achieved so far in Beeston and Harehills because of introducing selective licensing?

- 22 Both current selective licensing designations commenced on the 5th January 2020 and unfortunately in March 2020 we faced the COVID pandemic which has impacted on the delivery of the schemes.
- 23 To support landlords as part of the first lockdown the Council decided not to chase any licence fee payments. This meant no applications could be fully processed until September 2020 if landlords failed to pay their fee on request. The Council continued to accept fee payments but did not chase any non-payment until the Autumn of 2020. This led to a delay in issuing licences. Also the process had to be done remotely due to a lack of access to the office and took longer than it would have, had we been able to access the office as a selective licensing team during that period. It also meant redesigning the process, remote training of newly recruited officers, also in COVID, and agreeing with IG colleagues a new process to meet their legal requirements due to the removal of applications from the office which contained personal data.
- 24 Officers were also unable to undertake proactive housing inspections, not just as part of selective licensing, but as any part of the service until Autumn 2022 due to safety concerns linked to the pandemic.
- 25 The pandemic also affected the partnership working and the ability to address wider issues that housing identifies. It has taken time to rebuild these partnerships post-pandemic. Some partnerships have been re-engaged quicker than others, for example with the Police, whereas others have taken longer so affecting the impact we had planned and hoped for when the schemes were first designated.
- 26 Despite the operational limitations of COVID the service was able to continue to undertake visits when they were safe to do so with the agreement of occupants. This meant we could still

address issues of poor accommodation, and work with landlords to improve the quality of people's homes. It was also during this period that we recruited to the two teams, 18 new posts, and undertook training of the new officers despite the restrictions placed upon us at the time

- 27 As a result, both during COVID and afterwards up to December 2023, the Council had received 7551 applications for licences for 6570 properties resulting in the issuing of 6016 licences across both designated areas of Beeston and Harehills. A number of applications have not progressed due to non-payment of fees, refusal, incomplete applications or that they were not requiring one in the first place.
- 28 Up to December 2023, the Council had conducted 3923 inspections and revisits across both areas, not just by the selective licensing teams but the service as a whole, and which addressed issues relating to licence compliance and wider issues, such as the existence of any hazards under Part 1 Housing Act 2004. This has resulted in just over 1300 homes being improved and 4000 people benefiting from safer, better-quality homes.
- 29 Unfortunately, compliance with the required standards in both Beeston and Harehills has been an issue, with around 80% of properties inspected found to be non-compliant with the legal requirements. Whilst most have been addressed informally, there have been a significant number of landlords where formal action has been appropriate. This has meant the Council has had to serve over 300 civil penalties for various housing-related offences. Formal action has been taken in circumstances where:
- properties have been let without a licence, which is a strict liability offence;
 - poor quality homes have been let to tenants, leading to the service of improvement notices which the landlord has failed to comply with, and;
 - inspections have identified significant breaches of licence conditions which have required immediate action, or licence holders have failed to remedy breaches after they have been brought to their attention.
- 30 To support the partnership approach there have been action and community days to support partners in addressing wider issues such as crime, antisocial behaviour and environmental issues. Officers have held regular community surgeries in the area such as at the Hamara Centre in Beeston on a Thursday lunchtime to allow us to better engage with the community. In Harehills there have been engagement days with partners to engage with residents about selective licensing such as when it was launched in the Ashton's.
- 31 In addition to addressing housing quality, selective licensing has allowed the Council to address wider issues affecting the lives of those living in the designated areas. By proactively crossing the threshold into people's homes, this has allowed officers working with partners to address issues in relation to health and wellbeing and the financial challenges faced by people. This has led to 1419 referrals to other agencies for support and assistance so far. Examples of such interventions are set out below:
- An elderly gentleman living in poor conditions, with wastewater in the property, a blocked toilet and a kitchen which was not fit to use amongst wider issues came to the attention of the team. He also had no food or heating and was unable to pay his bills. There were real concerns about his wellbeing, the suitability of the accommodation, and his vulnerability with the potential issue of cuckooing as well. Working in partnership with LASBT and Adults and Health we were able to address his immediate issues by supplying a food parcel, we worked with the landlord to bring the home up to standard and ultimately worked with others to get him rehoused into more suitable accommodation. The property itself was then fully renovated and relet.

- A young mother was discovered by the team who was struggling. Officers contacted Leeds Baby Bank and items were obtained for an expectant mother including a bath, a pushchair, a bed and nappies etc. Working with Housing Support we were able to get her moved to a more suitable home with a support network around her.
- A family had been moved from another authority with no furniture. Working with Leeds and Moortown Furniture Store and Zarach, new beds, bedding, and nightwear together with bedroom furniture were obtained for a family who literally had mattresses in a bedroom that were shared.
- A quote from a resident following a proactive visit to their home - "I've lived here for 3 years and nothing had ever been done to the house. The bathroom and kitchen have always been in a poor state. I've never had any smoke alarms or fire doors. I've not even had handrails on the stairs which I find difficult to get up and down safely. Since the council have been involved, through Selective Licensing, they have made the landlord put all these things right and I am really happy with the result. I now love living in this house".
- Another tenant who received support because of officers visiting their property "I moved from Luton, Bedfordshire and I moved through the council due to me having issues with my husband. I got told that my house in Leeds was going to be a 4-bedroom but to my surprise it was a 3-bedroom, and the landlords turned the living room into a bedroom. They had put on the contract that it was a 4-bedroom and had charged me for 4-bedroom house. The house was in very poor condition, and I had told the landlord many times to try and do something and every time they would use the same excuse that the home was deep cleaned when it was clearly not. My daughter had slipped down the stairs once due to water coming through the roof when it had rained. We had told them, but they decided not to do anything about it. My landlords were absolutely awful to me. When you and your team told me you could help me, it meant so much I was so happy! You did so much for me and I can't Thank You enough for everything you've have done for me. I will always remember you for everything you have done".
- We have also worked with landlords to help them improve their businesses and accommodation. Feedback from a landlord shows positive outcomes by supporting the sector, not just undertaking enforcement, are being achieved as well "Thanks for today and the way you conducted the re-inspection. It was fair and professional and encourages an effective working relationship between landlords and LCC. I am really proud of how the bathroom has turned out in Flat 1. I have already moved to get those two jobs completed asap. I have also spoke to the fire alarm company to address the issue of the orange light to stop the continuous 'control enabled' signal being on. Following your previous visit in October, I have been making steps towards improvements across another property and I think I can have my other property (3 self contained flats) available for inspection soon. Thanks again".
- A lady in Nowell Terrace who has received the SL info through the letter box offering support as part of the scheme with any issues contacted the team. She is an owner occupier and has lived there for 50 years. She said she felt the need to call, simply to thank us for tackling the landlords/properties in the area. She was really pleased that something was being done!
- A property on Burlington Road was visited to carry out a routine selective licensing inspection. The adult tenants present did not speak English and so one of the children present acted as an interpreter. The child was of school age and was at home. After speaking with him he advised that there were 4 children living at the property and who weren't in school. This raised some concerns so upon returning to the office the officer made

a referral to CME. After speaking with the tenants further it came to light that applications for school places had been submitted but had gone missing and so the children were not known to anyone. CME are now working with the tenants to get the children into schools as quickly as possible. Had the initial inspection not occurred, the authorities would not have been aware of the children resulting in them missing out on their education.

- This property was brought to the service's attention via a Councillor complaint. Upon visiting the one-bedroom flat, it was found it to be tenanted by a mother and her 3 children who were all sharing one bedroom. There was significant damp and mould present in the bedroom which was being made worse by the fact that all tenants were sharing the one room. The landlord was co-operative and worked with a local agent to help secure a new property for the tenant. Speaking with the tenant, and she advised how she was happy with the new property she had found and was hopefully due to move in the coming weeks. A prohibition order was served on the flat to prohibit it from being rented by a family, but the landlord was happy to comply with this as he advised he originally thought this tenant would be moving in by herself and knew that the flat was not big enough to accommodate a family. As a result of the tenant's complaint to her local Councillor, we were able to help find her more suitable alternative accommodation close by and also work with the landlord of this property to carry out any necessary repairs to rent the property back out to either a single person or a couple sharing.
- Following a referral regarding a fire at a property when inspecting the 1st floor flat, officers found a severely disabled tenant who was house bound due to not having replaced his scooter following the fire. The flat (which had been created without planning permission) was extremely dangerous to live in because there was no safe escape route in the event of a fire. There were no escape windows, no working smoke detectors and existing windows were covered with security grilles. If there was a fire in the flat, there would be a very real chance of a fatality. Officers arranged for the disabled tenant to be moved to safer, more suitable accommodation and for the landlord to carry out much needed fire safety works.

32 The work in the areas has allowed the service not just the selective licensing officers to address the rogue landlords in the area. Working in partnership with agencies has allowed a greater impact in addressing those landlords who use the sector to support criminal activity. As an example, by being part of Operation Barrowberry, the Clear Hold Build strategy for Harehills, working together with the Police and others we have attended over 40 warrants and taken follow up action, helped to remove millions of pounds of cannabis, and had considerable success in addressing criminality in the sector. This success has been as a direct result of the introduction of the schemes in the two areas.

33 The work to address criminality within the private rented sector started in the two selective licensing areas. This initiative has now expanded to several ongoing city-wide operations working with Police and partners. This closer working, sharing of knowledge and information and targeting those using the sector for this criminal activity has resulted in the seizure of over £50m in cannabis across the city. By assessing the lessons learned from previous ways of working and developing the data gathered through the selective licensing scheme, we now have a better understanding of the way some landlords utilise the sector for criminality. This increased awareness of the criminal landlord methodology and closer partnership working has enhanced our ability to identify benefit fraud, council tax fraud, as well as identifying and supporting victims of human trafficking, modern slavery and other vulnerable individuals being exploited within the sector.

Next Steps

34 If the Executive Board approves the recommendations as detailed above the next steps will be to determine the boundary(ies) of the proposed scheme(s) and then develop a business case, including consultation, for the relevant area(s). The board will be invited to consider the approval of any business case(s) at a future date. The process and time scale for this is detailed in paragraphs 61 to 64 in this report.

How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

35 Working in partnership with the sector will help engagement to address issues affecting climate and wellbeing by:

- Helping to address better homes so improving people's health and wellbeing and a better place to live.
- Working in partnership will help to contribute to improving neighbourhoods targeting poor and criminal landlords who negatively affect the lives of communities.
- Education of both residents/tenants and landlords to improve knowledge of the help available such as reducing waste and improving recycling and energy efficiency grants/support available.

36 By crossing the threshold and working with partners the proposals will address wider determinates of health other than housing so improving people's wellbeing.

What consultation and engagement has taken place?

Wards affected: Armley, Beeston and Holbeck, Hunslet and Riverside, Gipton and Harehills and Burmantofts and Richmond Hill

Have ward members been consulted?

Yes

No

37 The Lead Member has been consulted on the proposal to consider and consult on any potential further business case(s) for the city.

38 Ward members have been consulted on the proposal and will be consulted on the potential boundaries and business case(s) which may affect their wards as part of the process of developing the business case(s).

What are the resource implications?

39 The Council is liable for the cost of any potential business case(s) whether they lead to the designation of a further scheme(s) or not. It cannot recover the cost as part of the licence fee.

40 A fund of £400k has been identified within the Housing Leeds, Private Sector Housing budget for the development of any further business case(s). This has been identified from income generated from its enforcement activity and which is ringfenced for enforcement activities in relation to the private rented sector. The proposed budget does not create an additional pressure on the General Fund if this proposal is approved.

- 41 The budget will cover the costs of any business case(s) development including the project team, consultation costs, legal support, and subsequent legally required advertising costs if any scheme(s) are designated.
- 42 Any approved scheme(s) would charge a licence fee which would cover the cost of the scheme's administration and the enforcement of licences and their conditions. This would mean that any actual scheme(s) would be cost neutral to the Council as the fee should cover all costs making it self-funding. However, the fee cannot cover the cost of any additional enforcement under Part 1 of the Housing Act 2004, as the Council has a duty to address housing conditions and this cost cannot be charged as part of any licence fee.
- 43 Failure to comply with selective licensing within any designated area(s) is a criminal offence which is enforced through the imposition of financial penalties or prosecutions via the Magistrates' Court. Any income received from a financial penalty arising from a failure to comply with selective licensing is retained by the Council and can be used for enforcement activities across the Private Sector Housing service generally, including the costs of enforcement under Part 1 Housing Act 2004.
- 44 To manage any potential further scheme(s) additional officers may be required. Whilst the Council has existing resources to deliver the two existing Beeson and Harehills schemes which can be transferred to any new scheme(s), post 2025, depending on its size(s) if approved then increase or a reduction in existing officers may be required.

What are the key risks and how are they being managed?

- 45 The Council has designated three previous schemes in the city; Cross Green, Beeston and Harehills; and has gained experience and learnt lessons based on their business cases and designation. This learning will help with any further business case(s) which may be required if approved.
- 46 The Government has issued legislation and guidance as to how and what any proposed scheme must meet and the criteria for any business case. It is essential that the Council follows these criteria as this is a legal requirement and to limit the risks of any potential Judicial Review and its chance of success. Previously schemes were subject to two Judicial Reviews. By following the legislation and guidance, supported by colleagues in Legal, as well as undertaking a robust consultation process, which was above the legally required minimum, meant their applications were unsuccessful. It is essential that the Council repeats this process to minimise the risk of any successful Judicial Review, should an application be made.
- 47 The Council has continued to work with other Local Housing Authorities, sharing good practice and ideas so supporting the learning in relation to business cases and lessons learnt.
- 48 Any new scheme, if approved, will be subject to a licence fee payable by landlords who let a residential property within any designated area(s). This fee income requires collection to administer the scheme. The Council has gained considerable experience in collecting fees from the existing schemes as well as from mandatory Houses in Multiple Occupation licensing. It has a well-developed process for the collection of fees and a robust enforcement strategy to take legal action against those who fail to licence their properties as they are required to do so.

49 The licence fee income from selective licensing is ringfenced to the administration and compliance of the scheme. It cannot be used for other functions including standards under Part 1 of the Housing Act 2004 which the Council has a duty to enforce. Within the service resources will be identified to ensure that all necessary enforcement action is taken over and above the administration of any scheme.

What are the legal implications?

50 The report is eligible for call in.

51 The Council has the power to self-designate any selective licensing area(s) provided that the total designation(s) within its area at any one time does not exceed 20% of the total number of privately rented properties of Leeds or 20% of the geographical area of Leeds. Should it be greater than 20% of either of these then it will be for the Secretary of State to approve any scheme(s). If the area is deemed to exceed the 20% threshold, the Council would have to discuss the potential business case(s) with the Secretary of State as to its validity and the time scale for any potential approval.

52 The Government has provided guidance as to the expectations for the consultation of any scheme and the drawing up of any business case and the process to designate an area(s). The Council will be required to follow this guidance, as well as any legislative requirements, when developing and implementing any case to ensure that it meets the legal requirements for designation.

53 Like any formal decision of this nature, it could be subject to challenge by way of Judicial Review. The current Beeston and Harehills designations were subject to two Judicial Review challenges. Both failed at an early stage. One claim did not proceed beyond an initial letter threatening legal action and the other claim was refused permission to proceed and costs awarded to the Council. The main challenges against these and other business cases produced by other Councils, have been around the consultation process and the proportionality of the use of selective licensing to address the problems identified in a business case. It must be anticipated that this could again be an outcome of any approval and would be part of the overall cost to develop the case(s). Any Judicial Review would affect the implementation of any scheme as until the outcome of any judgement the scheme(s) could not be fully implemented.

54 The purpose of the report is to seek approval from Executive Board to consider the options for further selective licensing scheme(s) in the five wards identified post 2025 when the existing Beeston and Harehills schemes cease, and to examine any potential business case(s) for determination. Any subsequent decision on whether to designate any further scheme(s) will be determined by the Council or Secretary of State depending on the proposed size of the scheme(s) at a future date.

Options, timescales and measuring success

What other options were considered?

55 As part of the overall strategy for improving standards in the private rented sector the Council has adopted several different options, such as self-regulation via the Leeds Rental Standard and the Neighbourhood Approach such as in Holbeck, the Edinburgh's in Armley and the Nowell's in Harehills previously. Whilst all have had their successes, they do not address standards in the wider private rented sector in the priority areas.

- 56 Whilst covering approximately 6% of the sector the Leeds Rental Standard covers mainly the market in the northwest of the city and does not impact standards in the priority wards.
- 57 The Neighbourhood Approach delivered improvements in Holbeck but the resources and size of the private rented sector in the priority wards would make this prohibitive in terms of the resources available to the Council.
- 58 Selective licensing provides the potential for a wider area-based approach to addressing issues within the private rented sector. It provides additional resources to proactively address issues such as the management of the properties as well as standards, something existing legislation available to the Council fails to provide. The existing schemes in Beeston and Harehills have also provided intelligence on the sector to support initiatives such as the Clear Hold Build approach in Harehills to address criminality which other powers would not be able to do as easily.
- 59 Selective licensing also allows for a wider partnership approach to address issues such as health, financial inclusion, and support with employment and training. It allows the Council to proactively access homes in our priority wards which other powers fail to do so. Officers working in partnership can improve access to other services due to proactively visiting properties, as well as improving standards and the management of the sector, to improve neighbourhoods and individual homes.

How will success be measured?

- 60 The proposal is for the consideration of potential further selective licensing scheme(s) linked to the priority wards in the city. Delivery of the outcome of any potential business case(s) would be deemed a success. This proposal is not for the designation of any further selective licensing scheme(s). That will be for the Executive Board to determine at a future point in time following consultation and drawing up of the business case(s).

What is the timetable and who will be responsible for implementation?

- 61 The Private Sector Housing Team in Housing Leeds will be responsible for the development of potential business case(s).
- 62 If approved, then any scheme(s) under Part 3 of the Housing Act 2004 will require a minimum 3 month lead in period before designation. This provides a period by which it is required to publish the designation in two papers and for landlords to make their applications for licences.
- 63 The introduction of any potential selective licensing scheme(s) will therefore take time and will be dependent upon the potential size, number of privately rented properties, the outcome of the consultation and if there is any challenge to it via judicial review(s). It is anticipated that any business case for any further scheme(s) will take at around 18 months to reach designation.
- 64 The 18 month timeline is based on the following assumptions:

- The first 3 to 5 months to define the boundary(ies) of the proposed selective licensing scheme(s) and develop the draft business case(s),
- A minimum of a further 5 months for full and robust consultation,
- A further 2 months to then address the issues raised during the consultation,

- An additional 2 to 3 months to finalise the business case to seek formal council approval (this is dependent upon it not meeting the threshold for Secretary of State approval),
- Finally, a minimum of 3 months lead into the designation as required by the legislation if approval is granted.

Appendices

- None

Background papers

- None