

Report of Service Manager, Private Sector Housing

Report to Director, Resources and Housing

Date: 14th August 2019

Subject: Changes to the Private Sector Housing and Legal Service structures following the designation of selective licensing in Beeston and Harehills

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Beeston and Holbeck, Hunslet and Riverside, Gipton and Harehills, Richmond Hill and Burmantofts	Yes
Are there implications for equality and diversity and cohesion and integration?	No
Is the decision eligible for Call-In?	No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	No

Summary of main issues

In June 2019 the Council's Executive Board approved the business case for Beeston and Harehills to be areas subject to selective licensing under Part 3 of the Housing Act 2004 with the schemes formally designated on 18th July 2019 commencing on 6th January 2020. This means that from 6th January 2020 all privately rented properties in the two areas will need to be licensed in order to be let out to tenants. Part 3 of the Housing Act 2004 allows the Council to charge a licence fee to cover the cost of any designated scheme. Any income generated must be ring-fenced to the running of the scheme and cannot be used to support other Council functions.

As part of the approval from Executive Board, a fee of £825 per licensable property was agreed, with a £150 discount for Leeds Rental Standard members. The fee is paid in two parts, £425 as part of the initial licence application and the remaining £400 once a draft licence has been issued. The second part of the fee must be paid prior to the issuing of any final licence. This means the Council receives the income prior to any licence being issued so reducing the risk of bad debt or non-payment.

If a landlord fails to pay, they will not be issued with a licence and therefore they will be liable for formal legal proceedings which may result in prosecution or a civil penalty of up to £30k. If a landlord pays the first part of the fee and not the second then the

licence application could be cancelled and they forfeit the initial £425. They would then have to reapply including repaying this part of the licence fee.

The two designations are separate and therefore two separate teams need to be created to deliver each scheme. The licence fee income from each scheme can only be used to fund that scheme.

It is proposed to provide additional staffing resources in order to implement and deliver the schemes in Beeston and Harehills. For Beeston it is proposed a staffing structure of one Deputy Service Manager (PO4), two Principal Housing Officers (PO2), two Senior Housing Officers (SO2), three Housing Officers (C3) and one Housing Assistant post (B3). The projected overall scheme cost is £2.4m, and it is anticipated that the licence fee income will ensure the scheme remains cost neutral to the Council.

For Harehills it is proposed a structure of one Deputy Service Manager (PO4), two Principal Housing Officers (PO2), three Senior Housing Officers (SO2), four Housing Officers (C3) and one Housing Assistant post (B3). The projected overall scheme cost is £2.65m, and it is anticipated that the licence fee income will ensure the scheme remains cost neutral to the Council.

It is also projected that additional fee income will be generated from both schemes due to normal market turnover and the proactive targeting of the area to ensure all properties that require a licence obtain a licence. This proved to be the case for both the previous scheme in Cross Green/East End Park and from mandatory HMO licensing.

To support the work of the service around the increase in formal actions as a result of the introduction of the schemes, it is proposed to increase the structure of Legal Services by two Principal Legal Officers (PO6) to support the increase in prosecutions and civil penalties and half a FTE Legal Officer (C3) to support the recovery of the penalty income. This is an additional cost to that service of £125k per annum. It is proposed to support the cost via the civil penalty fee income generated as a result of the increased enforcement work. However this will be an initial budget pressure subject to the recovery of that income.

Recommendations

The Director of Resources and Housing, is requested to approve the additional staffing resources necessary to enable the effective delivery of the selective licensing schemes:

The staffing structure for Beeston selective licensing team of one Deputy Service Manager (PO4), two Principal Housing Officers (PO2), two Senior Housing Officers (SO2), three Housing Officers (C3) and Housing Assistant post (B3).

The staffing structure for Harehills selective licensing team of one Deputy Service Manager (PO4), two Principal Housing Officers (PO2), three Senior Housing Officers (SO2), four Housing Officers (C3) and one Housing Assistant post (B3).

The additional staffing resources for Legal service of Two Principal Legal Officers (PO6) and 0.5 FTE (C3) Legal Officer.

1 Purpose of this report

- 1.1 The purpose of this report is to set out the requirements of Part 3 of the Housing Act 2004 following the designation of Beeston and Harehills On the 18th July 2019 as selective licensing areas and amend the Private Sector Housing Team structure to provide additional posts to implement the schemes with funding from the licence fee income.
- 1.2 It is proposed that the structure be increased by two Deputy Service Managers (PO4), four Principal Housing Officers (PO2), five Senior Housing Officers (SO2), seven Housing Officers (C3) and two Housing Assistants (B3).
- 1.3 The purpose of this report is to set out the requirements for additional support from Legal Services as part of the implementation of the selective licensing areas in Beeston and Harehills and to support the increased formal legal action by the service.
- 1.4 It is proposed that an additional two FTE Principal Legal Officers (PO6) and 0.5 FTE Legal Officer (C3) be approved for Legal Services

2 Background information

- 2.1 Part 3 of the Housing Act 2004 allows a Council to consider the introduction of selective licensing subject to an appropriate business case. The Council's Executive Board in June 2019 considered the business cases for and approved that the designation of selective licensing schemes for both Beeston and Harehills should be made with effect from the 6th January 2020. Both areas were designated on the 18th July 2019 and will come into force on the 6th January 2020. This will mean that landlords will need to apply for a licence in both areas by the 6th January 2020 or be at risk of formal action for operating without a licence.
- 2.2 As part of any designation, the Council can charge a licence fee to cover the cost of the administration and enforcement of the scheme. The income from any fees is ring-fenced to the scheme and the scheme only. The fee income generated allows delivery by the service at no cost to the Council. The schemes should be cost neutral with the income generated covering the costs. However the fee income cannot be used to support any other Council function including the enforcement of Part 1 of the Housing Act 2004.
- 2.3 The fee has to be charged in two parts, the first part to cover the cost of the application and it's processing at a cost of £425 per licence, the second part for the enforcement of the scheme at a cost of £400 per licence. There will be a £150 discount for landlords who, upon application for their licence are members of the Leeds Rental Standard. This means most income is generated within the first 12 months of the scheme and the Council receives the income prior to any licence being issued so reducing the risk of bad debt or non-payment. If a landlord fails to pay they will not be issued with a licence and therefore liable for formal legal proceedings which may result in prosecution or a civil penalty of up to £30k. If a landlord pays the first part of the fee and not the second as part of the draft licence process then the licence application can be cancelled and they forfeit the initial £425. They will then have to reapply including the repayment of this part of the licence fee. Additional income will be generated during the 5 year life of the scheme due to the turnover of property in the market.

- 2.4 Approval has been given to designate both Beeston and Harehills for selective licensing. Whilst approval has been given to designate the schemes as of the 6th January 2020 they are two separate schemes and need to be managed as such. The fee income from each area is ring-fenced to each scheme to pay only for the cost of that scheme. This means each team will be different in number and structure depending on the size of the scheme and the income generated.

3 Main issues

- 3.1 It is necessary to make certain assumptions when determining an appropriate fee structure and to some degree accept an element of risk. Furthermore, the exact number of licence applications expected is not a certainty and there is a potential risk that we may over or underestimate the true number of applications.
- 3.2 As part of the development of the business cases for both areas, checks were made on the likely number of potential private rented properties in each area. Based on a sample of approximately two thirds of all properties in both areas it is estimated that up to 50% of the designated area in Beeston and 58% in Harehills are in the private rented sector. This information is based on Council Tax data available to officers.
- 3.3 Whilst there is no definitive figure known and there is no means to guarantee the level of the private rented sector in either area, an estimate of likely numbers and income has been determined based on the best available intelligence. This means that the estimated income and structure may vary from the initial estimations due to either insufficient or excess income generated. This will need to be monitored and managed accordingly. If there is a potential deficit then it can be managed via vacancies, delays in recruitment, savings in the overall budget etc as all budgets are currently managed by the Council. Any excess will mean more properties require licensing and therefore it is likely that an increased resource will be required to deliver the schemes meaning additional staff will be required which will be covered by the additional income.
- 3.4 To deliver this scheme it is proposed to have a team of one Deputy Service Manager (PO4), two Principal Housing Officers (PO2), two Senior Housing Officers (SO2), three Housing Officers (C3) and one Housing Assistant post (B3). This is at an overall scheme cost of £2.4m over the five years of the scheme which will be managed in order to deliver the scheme efficiently and ensure the budget remains cost neutral to the Council.
- 3.5 For Harehills it has initially been estimated that there will be in the region of 3,275 licences generating an income of around £2.66m. To deliver this scheme it is proposed to have a team of one Deputy Service Manager (PO4), two Principal Housing Officers (PO2), three Senior Housing Officers (SO2), four Housing Officers (C3) and one Housing Assistant post (B3). This is at an overall scheme cost of £2.65m over the five years of the scheme which will be managed in order to deliver the scheme efficiently and ensure the budget remains cost neutral to the Council.
- 3.6 Based on the mandatory HMO licensing scheme and the previous selective licensing scheme in Cross Green/East End Park, it is anticipated that more than the above estimated number of properties in both areas are likely to require a

licence over the life time of the scheme. This is based on the likelihood of the turnover of properties and the fact that as the scheme is implemented additional properties will be found which require to be licensed. As part of the implementation of selective licensing in both areas, it is anticipated that, from the date of designation, officers will be proactively targeting the area to ensure all privately rented properties have had an application made for a licence and they will look to instigate legal action where landlords have failed to do so.

- 3.7 It is anticipated that as a result of the introduction of selective licensing there will be an increase in formal actions across both areas. It is estimated that at least 10% of properties will be subject to formal legal action. This is based on the experience of the previous scheme in Cross Green/East End Park and from discussions with representatives of national landlord associations. Over the 5 years of the scheme it is estimated that there will be around 650 formal actions of which 75% are likely to be civil penalties and 25% prosecutions. In addition, a recent report by the Chartered Institutes of Environmental Health and Housing showed that in other designated areas around 60/70% of properties need works to bring them up to the legal minimum standard. This will mean potential action and increased formal actions under Part 1 of the Housing Act 2004.
- 3.8 Enforcement is an essential element to ensure the success of the schemes. As such, additional legal resources will be required. It is anticipated that around 700 additional legal actions will be undertaken over the next 5 years as a result of the designation of the two areas.
- 3.9 To ensure the Council is able to meet the challenge it has been estimated by colleagues in Legal Services that two additional FTE posts at grade PO6 will be required to deal with the increase workload. In addition, a 0.5 FTE post at C3 will be required to assist with the recovery of the civil penalty income as a result of the increased actions. This is at a cost of £125k per annum which is an initial budget pressure for the service
- 3.10 These posts are in addition to the existing Legal service structure and will be new posts. It is proposed that the income from civil penalties be used to support the additional posts in Legal Services.
- 3.11 Currently the service is processing 12 civil penalty notices, with a further number under consideration for this action. The 12 civil penalties have a combined amount of £254.6k in costs to the landlords. They range in total from £2k to £30k, which is the maximum penalty level per offence. All civil penalty actions by the Council are subject to appeal to the Tribunal who may uphold, vary or quash the notice. There is also the need to recover the monies liable which again is a risk for the Council in terms of income actually generated.
- 3.12 The service has been through a number of recruitment exercises for posts over recent years. Unfortunately, due to the experience and knowledge required of some of the roles this has proved to be unproductive for certain grades. It is proposed that, due to the short timescales involved and the need to recruit officers to deliver the project, the roles for Principal, Senior and Housing Officers be subject to external recruitment. This would minimise the risk of not being able to recruit suitably qualified and experienced officers to implement the two schemes. It is proposed to initially recruit to the Deputy Service Manager posts internally as

the service has not recruited to these posts in recent years and there is an expectation that it is likely that suitable candidates will be available from within the existing Council staff.

- 3.13 Workforce Implementation Plan: The workforce implementation plan for recruiting to the proposed new posts has been developed in line with corporate policy and no officer will be adversely affected by the proposal. It is proposed that the posts will be firstly matched to people in the talent pool and then internally for the Deputy Service Manager and externally for the remaining posts

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 As part of the business case for both areas, the licence fee was consulted on with all stakeholders include local landlords and national landlord associations.
- 4.1.2 Discussions have also taken place with Legal Services regarding the makeup of the licence to ensure it legally complies.
- 4.1.3 Discussions have also taken place with Finance regarding the potential cost of the schemes and the likely fee income that will ensure it operates on a cost neutral basis.
- 4.1.4 The workforce implementation plan is set out in paragraph 3.13 above.
- 4.1.5 This report has been shared with Trade Union colleagues and feedback received has been included in this report.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 There are no issues for Equality and Diversity / cohesion and integration.
- 4.2.2 An equality screening document has been attached to this report.
- 4.2.3 A full Equality Diversity Cohesion and Integration assessment for both schemes was as part of the Executive Board reports to June 2019 meeting.

4.3 Council policies and the Best Council Plan

- 4.3.1 By targeting an area with some of the poorest housing and most deprived communities, selective licensing will help contribute towards many of the Council's key priorities. The initiative seeks to contribute to the compassionate city agenda, improving housing and health, reducing crime and anti-social behaviour.

Climate Change Emergency

- 4.3.2 Selective licensing will help issues affecting the climate by :
- Encouraging better quality homes and standards which will help to reduce energy consumption;
 - Empty homes in the area will be targeted to reduce the numbers but also to contribute to an overall net reduction in the city preventing the need for new build and reducing the carbon footprint these create compared to renovating the existing stock;
 - Education of both tenants and landlords to help reduce waste and improve recycling in the area;

- Better engagement with landlords to improve education specifically around the changing energy legislation requirements which affect the sector.

4.4 **Resources and value for money**

- 4.4.1 Once designated the Council has a requirement to implement and enforce the schemes in the two areas. However, the scheme allows local authorities to set a licence fee to cover the cost of this work and ensure it can be operated on a cost neutral basis. This means that the schemes themselves will not have a cost to the Council.
- 4.4.2 The cost to the Council is the additionality as part of the schemes. This means resources will be targeted to help improve the housing conditions, the factors that affect deprivation in the area and to support the landlords to improve their business, target those who affect the neighbourhood and to support residents to improve their lives. All of these are linked to the Best Council plan aims as a compassionate city and to ensure everyone in the city benefits from its economic success.
- 4.4.3 From the date of any approval there is the potential for an application for a Judicial Review of both decisions. This may delay the implementation of either scheme which will affect recruitment of officers. It is proposed to phase the recruitment of officers to the posts to mitigate the risks to the Council should a review be forthcoming.

4.5 **Legal Implications, Access to Information and Call In**

- 4.5.1 The decision being requested falls under the Director's delegations in accordance with part 3 of the constitution.
- 4.5.2 The Executive Board in June 2019 delegated the implementation of both schemes to the Director of Resources and Housing
- 4.5.3 Part 3 of the Housing Act 2006 allows the Council to charge a licence fee to cover the cost of any selective licensing schemes. It cannot be used to fund any other activity other than those under Part 3 of the Housing Act 2004.
- 4.5.4 The licence fee was part of the consultation undertaken by the Council when considering the proposal and developing the business cases for both areas.
- 4.5.5 The Housing and Planning Act 2016 introduced civil penalties as an alternative to prosecutions. They can be used for failing to comply with notices service under Part 1 of the Housing Act 2004 as well breaches of Part 3. Penalties of up to £30k have been introduced and the Act states that the income from the penalties must be ring-fenced to private sector activity including the cost of enforcement. All civil penalties can be subject to appeal by the Landlord which may result in it being upheld, varied or revoked by the Tribunal.
- 4.5.6 The decision is not open to call in as it is an operational decision.

4.6 **Risk Management**

- 4.6.1 One key risk is that there are not enough licensable properties identified to cover the cost of the new posts. However, given the scale of the markets, the size of the sector and the likely turnover of properties in the five years this is unlikely and monitoring will be undertaken on a monthly basis.

- 4.6.2 The collection of any fee income is a risk. The licensing process means that no property can receive a licence without the full payment of the fee.
- 4.6.3 Another risk is the income from the civil penalties. Evidence suggests that the level of formal actions as detailed will be the actual numbers the Council will have to undertake as part of implementing the schemes. However there is no guarantees that this will be the level or that the Council will be able to collect all the civil penalty income. This is a risk to the Council and potential budget pressure, especially at the commencement of the schemes.
- 4.6.4 Part of the implementation plan will be for officers to proactively target properties to ensure all those licensable apply for a licence and to ensure compliance with the licence conditions. In such instances, where there is no licence or breaches of conditions legal proceedings may commence with a view to potentially take formal action, either a prosecution or civil penalty with a fine of up to £30k.
- 4.6.5 Whilst there will be potential penalty income, all notices are subject to appeal and even if successful the Council will require to take action to recover the debt.
- 4.6.6 There is a risk in relation to both income sources as the fee income is for a fixed 5 year scheme and the civil penalty income is based on the assumption of the issuing of penalties and the subsequent recovery of the income. The budget and pressures will be managed as per current budgets to ensure that any risks are minimised.

5 Conclusion

- 5.1 The Executive Board approved the business cases for both Beeston and Harehills to be selective licensing areas. The Council designated the areas on the 18th July 2010 with a commencement date of the 6th January 2020.
- 5.2 The Council is able to charge a licence fee to cover the cost of the administration of the schemes making it cost neutral. The fee is ring fenced to each scheme and cannot be used to fund any other Council function or any other designated scheme other than the one for which the fee was paid.
- 5.3 To deliver the scheme the Council requires additional resources, namely one Deputy Service Manager (PO4), two Principal Housing Officers (PO2), two Senior Housing Officers (SO2), three Housing Officers (C3) and Housing Assistant post (B3) for Beeston and one Deputy Service Manager (PO4), two Principal Housing Officers (PO2), three Senior Housing Officers (SO2), four Housing Officers (C3) and one Housing Assistant post (B3) for Harehills.
- 5.4 To support the delivery of both schemes additional legal resources will be required. It is proposed two additional Principal Legal officers (PO6) and 0.5 FTE Legal officer (C3) are added to Legal Services paid for from civil penalty income.

6 Recommendations

- 6.1 The Director of Resources and Housing, is requested to approve the additional staffing resources necessary to enable the effective delivery of the selective licensing schemes:

- 6.2 The staffing structure for Beeston selective licensing team of one Deputy Service Manager (PO4), two Principal Housing Officers (PO2), two Senior Housing Officers (SO2), three Housing Officers (C3) and Housing Assistant post (B3).
- 6.3 The staffing structure for Harehills selective licensing team of one Deputy Service Manager (PO4), two Principal Housing Officers (PO2), three Senior Housing Officers (SO2), four Housing Officers (C3) and one Housing Assistant post (B3).
- 6.4 The additional staffing resources for Legal service of Two Principal Legal Officers (PO6) and 0.5 FTE (C3) Legal Officer.

7 Background documents¹

- 7.1 None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.