

**Overview and Scrutiny Committee 9 October 2019**  
**Selective Licensing Update**

## 1. Summary

This ambitious scheme, one of the largest of its kind in the country, started on 1<sup>st</sup> August 2018 and is due to run to July 2023. Its implementation followed a pledge by the previous administration to introduce a city-wide licensing scheme which was part of an overall vision of 'Quality Housing for all'.

A team of 75 officers, across 12 different roles (many of whom were recruited from outside the authority) has been established, and there is at this stage satisfaction with how the scheme has developed. Appendix 1 and 2 offer some further key statistics, graphs and mini case studies.

## 2. Performance update

Key statistics (to end of Aug 2019, unless otherwise stated)

|  |          |
|--|----------|
| Licence applications received  | 17,523 * |
| Temporary exemption requests received                                  | 763 **   |
| Draft licences issued  | 3903     |
| Final licences issued  | 472      |
| Pre-licensing inspections completed                                    | 475      |
| Interventions (works required / improvements made)                     | 237      |
| Properties improved prior to our inspection, but because of the scheme | 67       |
| Properties improved through our intervention                           | 160      |
| Formal Enforcement (Civil Penalties and / or Prosecutions)             | 16       |

\* Up to 32,000 properties are believed to be subject to selective licensing. However, due to reasons such as the uncertain and fluctuating housing market it is estimated that the Council will receive 24,000, which is what the fee is based on.

\*\* Temporary exemptions notices (TENs) are given where there is evidence of the property being taken out of licensing e.g. selling a property. They last 3 months and can be extended once for a further 3 months, if after this time the property requires licensing a licence is required.

## Commentary

The Council has received above the level of expected licence applications to date. A whole new team needed to be created, new processes and ways of working had to be developed whilst working within a new regulatory context. This has presented challenges, but we are already seeing some positive outcomes.

Higher than expected levels of temporary exemption requests have been received: these require a response and this has created an unexpected pressure on the team. The following are the priorities and delivery plan for the scheme as identified by the Executive Board report, April 2018:

| Year | Promote | Process | Engage | Enforcement | Compliance | Review |
|------|---------|---------|--------|-------------|------------|--------|
| 1    | ■       | ■       | ■      | ■           | ■          | ■      |
| 2    | ■       | ■       | ■      | ■           | ■          | ■      |
| 3    | ■       | ■       | ■      | ■           | ■          | ■      |
| 4    | ■       | ■       | ■      | ■           | ■          | ■      |
| 5    | ■       | ■       | ■      | ■           | ■          | ■      |

Based on this, implementation is proceeding as follows:

### 2.1 Scheme promotion

There was intensive, wide ranging promotion of the scheme prior to the scheme starting and during the initial first few months, which clearly had an impact, but it has been identified that this should have continued beyond the start of the scheme. This is an area of learning.

### 2.2 Application processing

It was anticipated that the first two years of the scheme would focus on the processing of licences. There is a long way to go, but the team is making significant inroads into processing, determining and issuing licences. The initial and on-going training, development and reviewing of staff, officers and procedures has been an area that has taken considerable time and effort. The team has reviewed the application process and continues to seek ways to improve it for both applicants and the team. Changes have been made and continue to be made to streamline the process where appropriate. In retrospect greater effort could have been made to keep information required at application stage to a minimum, and move more requirements to the compliance phase of the scheme. This has been another lesson learned.

### 2.3 Engagement

Significant resources and effort have been put into engaging with landlords in order to raise awareness of the scheme, better inform landlords and support them through the process. The programme has included:

- 30 events, with 400 landlords and agents engaged with proactively, including support for older landlords and landlords with English as a 2<sup>nd</sup> language at libraries and community centres;
- 4 larger landlord / managing agent events, another planned for the autumn, each with approximately 100 attending;
- landlord newsletter and updates being sent to over 2,500 signed up landlords;
- a commitment to introduce a landlord liaison group to improve dialogue and involve landlords as stakeholders, e.g. reviewing the website from a user perspective;
- use of social media and community radio to disseminate key messages.

## 2.4 Compliance

The compliance work is planned to start in October 2019 with an expected 500 properties to be inspected by March 2020. This will be a focus throughout the remainder of the scheme.

## 2.5 Review

The scheme is just starting its 2<sup>nd</sup> year of five, so it is too early to provide any meaningful data on outcomes delivered by the scheme. These will be felt more as licences are in force and compliance work begins. However, it is extremely important that the systems to capture data and intelligence are in place now so that evaluation against the scheme's objectives and outcomes can be undertaken. Given the original grounds for the scheme were poor property conditions, ASB, crime, and deprivation, data collection and analysis is focusing on these areas.

Nationally, selective licensing appears to be having a positive impact. An independent review of selective licensing schemes<sup>1</sup> commissioned by the Ministry of Housing, Communities and Local Government (MHCLG) and drawing on evidence from schemes across the country concluded that selective licensing is an effective tool for tackling problems in the private rented sector (PRS).

## 3. Enforcement action

The council has and continues to use its powers to take action against landlords who do not comply with their legal obligations and apply for licences. Since August 2018 the council has issued 22 civil penalty notices and 5 prosecutions, with 9 of these relating to landlords failing to apply for a selective licence and 4 relating to landlord failing to licence under the mandatory or additional scheme.

There are over 230 investigations on-going and officers have written to landlords in relation to 1000 properties and door knocked 857 properties. There has been a response rate of 45% from landlords written to. The visits to unlicensed properties have uncovered imminent disrepair to properties and in particular has noted a trend of smoke alarm systems not working or being completely absent placing tenants at increased risk.

The Council is proposing to continue to undertake more proactive promotion of the scheme in areas where applications still have not been made, along with enforcement activity utilising a risk-based approach. This will include mailshots generated from council tax records.

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<sup>1</sup> [An independent review of the use and effectiveness of selective licensing](#) (Opinion Research Services, June 2019)

#### **4. Leadership, scheme management, and risk**

The scheme is benefiting from a structural change in leadership which has brought together the various teams within Community Protection which interact with the PRS under the banner of Safer Housing. Bringing together the compliance and enforcement functions is leading to more effective delivery of the scheme, together with a higher level of co-ordination and cross-service risk management.

An internal audit of the scheme was carried out within the first 6 months of the scheme. Although there are a number of issues to be addressed the overall opinion was one of limited assurance. Given the size of the task to get the scheme up and running in a very short space of time, this represents a successful outcome; the recommendations of the audit will now provide a helpful framework via which delivery of the scheme can be improved.

#### **5. Successes**

It is very early days to identify successes in terms of the scheme outcomes. The successes identified link largely to setting up this substantial scheme. There has been significant work through engagement to raise awareness of housing as an issue more widely across the Council and its partners. We have and continue to review processes, listening to feedback from landlords and colleagues, for example not requiring certain documents up front e.g. floor plans and land registry, with a view to determining licences more efficiently. The proposal to re-introduce a Landlord Liaison Group has been well received, to increase and improve dialogue in the private rented sector.

##### **Supporting wider outcomes**

- Proactive engagement with tenants causing ASB and satisfactory resolution of cases (see Appendix 2, case studies).
- Significant increase in Energy Performance Certificates issued in the PRS.
- Proportion of PRS homes with energy rating below 'D' reduced from 25.9% in 2018 to 15.6% in 2019.

#### **6. Challenges and other lessons learned**

- Despite the significant amount of awareness raising there is still a large number of landlords that have not applied for a licence.
- On the back of the Grenfell disaster and Hackitt review blocks of flats (some recently built / converted) have come under more scrutiny which were not envisaged when the scheme was being developed. Joint working with Nottinghamshire Fire and Rescue Service is on-going to audit the significant number of blocks of flats within the city to ensure they are safe, following some local concerns that the sign off of buildings by approved inspectors was not up always satisfactory. Licensing is providing opportunities to inspect and engage with a broader range of such buildings. Some blocks of flats within the city contain flats that fall under the 3 different licensing schemes, (mandatory, additional and selective), causing confusion.

- Due to a query about the legislation covering flats within blocks, the Council has committed to a fee review for such blocks; this will require an executive decision, likely in the Autumn.
- Need to licence almshouses and other charitable – provided properties, has prompted a discussion about support for these groups. The Council offered some financial support to become accredited. The Council also fed back to MHCLG as part of the review of Selective Licensing (above) that the Government is now considering.
- Digital by default for application forms has created difficulties for some landlords, with the Council offering support and a paper application form as appropriate.
- Engaging hard to reach landlords, ensuring maximum number of applications are received. We continue to identify a lack of awareness in neighbourhoods – amongst both landlords and tenants.
- Significant, and above expected levels of freedom of information, temporary exemption and subject access requests.
- The ruling in *Brown v Hyndburn Borough Council* in the Court of Appeal (2018) meant late changes to application forms, processes and licence conditions, causing frustration to both landlords and colleagues.

## **7. Particular successes – for shared learning**

Engagement work has been positive with significant engagement with groups of landlords that have not been engaged with before.

Creating a diverse workforce and the Council was 'Highly Commended' by the prestigious, national UK Housing Awards for the work done in creating a diverse and inclusive workforce.

## **8. Areas for improvement and development**

The following are areas for continued improvement:

- On-going scheme promotion to help identify unlicensed properties and bring them into the scheme.
- On-going project management and review of the scheme to work to ensure scheme outcomes are achieved.
- On-going work to consider the potential for co-location of the Selective Licensing team with wider Safer Housing team.

## Appendix 1

### Key statistics (to end of Aug 2019, unless otherwise stated)

|   |                      |
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| Properties improved prior to and because of the scheme  | 67                   |
| Properties improved through our intervention  | 160                  |
| Civil penalties issued (under selective licensing only)   | 16                   |
| Citizens requests for service (Jan - Dec 2018)  | 2,218                |
| Enforcement notices served (Jan - Dec 2018)<br>E.g. improvement notice, prohibition orders (Housing Act 2004) | 912 (390 properties) |
| Properties Improved (Jan - Dec 2018)  | 1,147                |

**Graph 1 Projected and actual draft and final licences issued to May 2020**



## **Appendix 2 – Mini case studies**

Without licensing, it is unlikely the interventions below would have been made to improve citizens' lives and support landlords.

### **Berridge ward – property conditions**

Pre licence inspection found the only heating was two gas fires and the occupant was 70 years plus. Full gas central heating system has now been fitted and the tenant is very happy.

Pre licence inspection that flagged for a low energy performance certificate (EPC) found to have no fire detection. Letting agents fitted fire detection urgently and following improvement works they have obtained a new and better EPC. Four properties with the same letting agent have insufficient heating (gas fires etc.) and secure tenants. Working with the letting agency to fit full gas fired heating in all the properties. Work will be ongoing with the agent's portfolio as other properties have been identified with a low EPC.

### **Mapperley ward – property conditions**

Works completed by a letting agency and partnership work with agencies such as Preventative Adaptions to complete additional works on the agreement of the owner to assist a vulnerable tenant. The result has seen an improvement in the living conditions for the tenants.

## **Reducing ASB, preventing illegal evictions**

**Following a councillor referral for Wollaton East and Lenton Abbey ward** a Wollaton landlady who had a difficult tenants causing ASB called to say thank you and if it wasn't for the Selective Licensing team being in place she wouldn't know what to do and wouldn't have the support.

Over a number of weeks, working with both parties the ASB was very quickly resolved. The landlady's health deteriorated, which meant a relative is now looking to move in.

We have worked with social care and East Midlands Property Owners (EMPO) as she struggled to understand the basics around tenancy management. She was granted a temporary exemption notice (TEN) with our help and with advice from EMPO she served a correct legal notice to her tenant.

We have had highly effective partnership work with Adult social services, occupational health, EMPO, Housing Aid and Community Protection. This has assisted us and resulted in a successful resolution for the individuals concerned.

Housing Aid contacted us to confirm in a few weeks they are confident that the tenant will be allocated a ground floor council flat in her preferred area. The partnership work with Housing Aid means that we have prevented homelessness. The property is no longer licensable.

**A Meadows (Bridge ward) landlord** was threatening illegal eviction of a tenant due to rent arrears, who had also not provided the correct paperwork for their application. Through supporting and working with the landlord and tenant, rent arrears were reduced and the landlord stopped the eviction.