

STRONG AND SUPPORTIVE COMMUNITIES SCRUTINY COMMITTEE	AGENDA ITEM NO. 5
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Report of the Head of Housing and Health Improvement

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SELECTIVE LICENSING

1. PURPOSE

- 1.1 To present proposals for a Selective Licensing Scheme of the private rented housing sector within Peterborough following public consultation.

2. RECOMMENDATIONS

- 2.1 Members are asked to scrutinise the proposals, noting the outcome of the consultation and the resultant final proposals. It should be noted that at time of writing there was a further week of public consultation to run before it closes on 14 January 2016. The proposals described in this report are based on the responses received during the consultation to date; should any further submissions be received this will be made clear at the Scrutiny committee meeting.

3. LINKS TO THE SUSTAINABLE COMMUNITY STRATEGY

- 3.1 Providing affordable, warm, safe and secure housing is a cornerstone of a strong society.
- 3.2 Whilst this work cuts across the entire Sustainable Community Strategy, it is most closely aligned to the priorities of 'creating opportunities, tackling inequalities' and 'creating strong and supportive communities'.

4. BACKGROUND

- 4.1 The Housing Act 2004 has given councils the power to introduce selective licensing of privately rented properties to improve conditions for tenants and the local community in certain circumstances.
- 4.2 In order to introduce selective licensing the Council must demonstrate that the proposed area has a high level of privately rented housing stock and that one or more of the following criteria are met:
- That the area is suffering from low housing demand
 - That the area is experiencing a significant and persistent problem caused by anti-social behaviour
 - That the area is suffering from poor property conditions
 - That the area has high levels of migration
 - That the area has high levels of deprivation
 - That the area has high levels of crime

- 4.3 The specific areas that the proposed selective licensing scheme will cover are located within the following wards:
- Central
 - North
 - East
 - Park
 - Fletton
 - Bretton North
 - Stanground Central
 - Walton
 - Orton Longueville
- 4.4 The scheme will cover 6205 properties. It will last for 5 years.
- 4.5 During the scheme all landlords, or letting agents on behalf of a landlord, will be required to obtain a licence for each property they let. In order to obtain such a licence they must demonstrate that they are a fit and proper person and meet a number of conditions, as defined by section 89 of the housing Act 2004. These include not having committed any offences involving:
- fraud or other dishonesty
 - violence or drugs
 - any offence listed in schedule 3 of the Sexual Offences Act 2003
- or
- practised unlawful discrimination on the grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with the carrying on of any business
- or
- contravened any provision of the law relating to housing or landlord and tenant law.
- 4.6 A fee will be payable in order to obtain a licence; fees will range from £50 to £900 and will last for the duration of the proposed scheme (5 years). A map showing the proposed designated areas can be found at Appendix 3. A list of the streets that fall within the designated areas is available at Appendix 4.
- 4.7 The Council has taken great care in deciding which areas should be included in the proposed scheme. It has used a range of independently produced information upon which to assess the evidence and its analysts created a 'Selective Licensing Index' (SLI). The SLI was developed to provide an objective geographical appraisal of those areas across the city which may benefit from the implementation of a Selective Licensing scheme.
- 4.8 The SLI amalgamated crime, socio-demographic, deprivation and other housing related data to produce a tool used to assess each of the six criteria upon which a Selective Licensing Scheme can be legally based. The concept of the SLI originates from the Vulnerable Localities Index which was developed by the Jill Dando Institute of Crime Science.
- 4.9 The Selective Licensing Index uses the Lower Super Output Area (LSOA) geographies, which average approximately 1,500 residents and are defined by the Office of National Statistics (ONS). The ONS collects and analyses economic and demographic data across the country to assist local and central government policy creation and decision making. Nationally, over 35000 such LSOAs exist; the Peterborough Unitary Authority area has 112. These areas are independent of political boundaries (such as Councillor wards or parliamentary constituencies) and can be used to compare differences across cities and other regions.
- 4.10 In Peterborough, only those areas that meet at least five of the six criteria set out at 4.2 above, have been identified for inclusion within the scheme.

5. KEY ISSUES

5.1 A 12 week public consultation began on 22 October 2015 and concludes on 14 January 2016. The consultation process was designed to enable the initial proposals to be fully considered, debated and scrutinised by the public. Particular care was taken to engage with landlords, letting agents, tenants, representative groups and Councillors. The process included presentation to the Strong and Supportive Communities Scrutiny Committee on 24 November 2015.

5.2 A detailed consultation evaluation document is being prepared and will be tabled prior to committee. However, a document which summarises the responses to the questionnaire and an anonymised copy of comments received and responses provided are appended to this report.

5.3 Prior to the commencement of any scheme the Council will be looking to provide landlords with support and training to assist them in discharging their responsibilities under the scheme.

5.4 A number of consistent themes have emerged throughout the process so far falling into the following broad categories:

- The fee structure and a perceived unfairness of applying a financial burden upon good landlords/agents
- That other accredited bodies exist
- The nature of the areas selected
- The ability to enforce and prosecute with limited resources

5.5 A summary of these and our proposed response is shown in the table below, and there then follows a more detailed response.

Theme	Pre consultation	Post consultation
Fee structure	<p>£50 for landlord who is National Landlords Association (NLA) or Residential Letting Agents (RLA) accredited</p> <p>£600 standard fee</p> <p>£750 for House in multiple occupation</p>	<p>Available to accredited members of a nationally accredited landlord/letting agent association. NLA, RLA, Association of Residential Letting Agents (ARLA), UK Association of Letting Agents (UKALA), National Approved Letting Scheme (NALS) for the first 3 months of the scheme.</p> <p>The licence holder must maintain their accreditation each year. If accreditation lapses the licence holder will be liable to pay £550 (the difference between £50 and £600)</p> <p>If an accredited licence holder buys a property within the 5 year licence period the fee will be £50 for that property</p> <p>£600 standard fee</p> <p>£750 for House in multiple occupation</p>

	£900 Any landlord who is found to be renting a property without having made a valid application 3 months after the start of the scheme	£900 Any landlord who is found to be renting a property without having made a valid application 3 months after the start of the scheme
Accredited bodies included in the scheme	NLA and RLA	NLA, RLA, ARLA, UKALA, NALS
Areas selected	356 roads/streets/closes in Central, North, East, Park, Fletton, Bretton North, Stanground Central, Walton and Orton Longueville wards	356 roads/streets/closes in Central, North, East, Park, Fletton, Bretton North, Stanground Central, Walton and Orton Longueville wards
Licence conditions	19 proposed conditions	<p>Addition to condition 1 requiring landlords to make tenancy agreement available to the tenants before they are asked to sign it.</p> <p>Amendment to condition 2 accepting a signed declaration rather than a reference.</p> <p>Addition of licence condition 20 requiring landlord to maintain their annual accreditation with national body</p>

5.6 The Fee Structure

- 5.6.1 A wide variety of comments have been made so far about the fee structure formally in writing and verbally at various meetings. Comments ranged from the differential between the lower 'accredited' level of £50 and the 'non-accredited' level of £600 being too great, to it being too small. There was a level of misunderstanding as to whether this was an annual fee or a 'one-off' payment. There were also suggestions that it could be a staged process rather than a single up-front payment.
- 5.6.2 The issue of the fee structure is something that has exercised officers considerably. Legislation allows authorities to charge a fee structure in order to administer and run the scheme. The proposals to introduce a scheme in Peterborough are wholly to raise the standard of some of its' private rented housing sector for the benefit of all. The fee structure has thus been based upon the principle that those landlords who demonstrate that they meet nationally approved standards receive significant discount; thus the lower level of fee. This is a deliberate action aimed at encouraging as many landlords as possible to become accredited or have their properties managed by nationally accredited letting agents. The cost of becoming an accredited landlord in all cases is less than the differential between the discounted fee of £50 and the base level of £600. Some landlords will not want to join nationally accredited bodies perhaps for reasons of time constraint, out of principle or for other reasons; the £600 fee we believe is reasonable in these cases; it equates to £120 per year or £10 per month. All fees are fully tax deductible. Those who fail to apply to licence within the first three months forgo their option of lower fees and will be required to pay £900 for a licence. Again, this is a deliberate policy to try and ensure licensing of rented property is made in a timely manner. A potential local accreditation scheme may be developed in the future which landlords can join, which would follow on from selective licensing.
- 5.6.3 As a result of the consultation we have considered carefully whether we should reduce the lower level of fees to zero in order that accredited landlords receive no additional financial burden. The level of administration to support the scheme, even if all were subject to the lower fee, is such that to do so would make it financially unviable unless the upper fees compensated accordingly; we do not feel that to increase the upper fee is appropriate. We consider the £50

lower fee level, which equates to £10 per year per property, is appropriate to cover administrative costs.

5.6.4 We have further considered the option of staged payments. The administrative burden that this would place upon the Council, together with the effect upon a costing model predicated upon early fees, would necessitate a higher fee structure across all levels. We do not feel that increases in all fee levels would be welcomed. Whilst the scheme will undoubtedly provide landlords with an immediate financial burden, we do not feel that the £50 burden per property is too onerous and reiterate that the ethos of the scheme is to raise standards and thus encourage as many as possible towards national accreditation.

5.7 That Other Accredited Bodies Exist:

5.7.1 A number of comments were made through consultation that other national accredited bodies exist and that we should consider widening the scheme to incorporate those. This was particularly the case in respect of bodies that accredit letting agents.

5.7.2 Consultation was launched on the basis that landlords would receive the benefit of the lower rates if they were individually accredited with either the National Landlords Association (NLA) or the Residential Landlords Association (RLA), or that their letting agent was accredited with the Association of Residential Letting Agents (ARLA).

5.7.3 Dealing with landlords first; as part of the consultation process officers met with both the NLA and RLA and remain of the view that they provide overarching professional oversight and support for Landlords, including timely updates on legislative changes and burdens, 24 hour 7 day a week online resource library, telephone advice line for immediate issues, standard forms and letters and development courses. They also provide a coordinated voice for landlords at a local, regional and national level.

5.7.4 In respect of Agents; as a result of the consultation we have extended the lower level of fees to those who are members of either ARLA, or the UK Association of Letting Agents (UKALA), or those who are members of the National Approved Letting Scheme (NALS). These provide oversight and support for letting agents in the same way as NLA and RLA do for landlords so we felt it was only fair to offer the lower fee for landlords using letting agents who are members of these organisations.

5.8 The Nature of Areas Suggested:

5.8.1 This report contains an explanation at 4 above, as to how the proposed areas for the scheme were arrived at. The proposed scheme covers around 37% of the City's private rented stock. There were a number of comments made during consultation that ranged from other areas of the City suffering similar issues but not included, through to some of the areas that were included were not recognised as those with issues.

5.8.2 The scheme does not seek to include those areas that are dominated by properties under the management of our registered social landlords. It is some of these areas that prompted individual comment about the lack of inclusion. The selection criteria adopted for the scheme is such that for areas to be included they must have a private rented sector in excess of 19% and must meet at least five or all six of the criteria set out within the Act and guidance. Comments made about some of the RSL dominated areas were largely based around the physical look of the area; the evidence base for inclusion is much deeper than that and thus they do not meet the exacting criteria used to meet the requirement of the scheme.

5.8.3 There were a number of comments that the scheme should only include the area that comprises the central and east wards of the City; such comments were made largely on the

basis of the physical appearance of that area. Whilst that area is absolutely one that is included within the scheme, the other areas also suffered from the multiplicity of issues that the evidence suggested, not all of which are outwardly visible.

5.8.4 The use of the LSOA framework does mean that in some instances the areas chosen either split streets in two or have other irregular boundaries. As a result of consultation we considered whether to use officer's professional judgement in order to redraw some of the boundaries to include or reduce those that appeared illogical. To do this would mean applying a level of subjectivity to a process that has been wholly evidenced based. In addition, to apply an evidenced base process to all of the proposed areas down to individual street level information is not practicable or cost effective.

5.8.5 The consultation responses included commentary around the areas that had been identified and suggested that other areas were included, these included areas which did not meet the 19% private rented sector threshold and that the whole city should be included, which is contrary to Government guidance. Therefore the areas covered by the scheme remain the same after consultation.

5.9 **The Ability to Enforce and Prosecute with Limited Resources:**

5.9.1 The Housing Act allows authorities to apply a fee structure to support the running of such a scheme. This means that administrative support, the inspection regime and other scheme related issues can and will be funded from the licence fee. Any additional resource required to undertake these purposes will be funded from the scheme itself.

5.9.2 The Council is also looking to introduce Public Space Protection Orders in areas coterminous with the selective licencing scheme in order to support the ethos of improving the area and allowing a more efficient use of the multi-agency resources available for focused work to tackle the underlying causes of multiple problems.

5.10 In addition, we have amended the licence conditions to reflect discussions with the landlords in the City who are NLA members, including ensuring that landlords maintain their accreditation annually, amendments to the reference requirements and removing the requirement to provide tenancies in other languages.

5.11 **Other Considerations:**

5.11.1 Comments have been made during consultation that amount to a suggestion that its introduction could have a negative social impact. These include the fact that landlords will inevitably pass on the financial cost of meeting the requirements of the scheme to tenants and that in turn it could lead to increased evictions and homelessness. This scheme, and the standards it requires all landlords to meet, are those which they should already be meeting in accordance with existing legislation or best practice. The additional financial impact should only be the fee structure itself and its impact is described above. Those who feel encumbered by additional cost in bringing properties up to standard to meet the licence conditions should be meeting those conditions in any case and are thus contributing to the reason for the introduction of selective licencing. The Council does not apologise for its desire to drive up those standards. The cost of meeting legislative modern standards is a matter for those landlords and a business decision. Landlords who do not meet those standards will be identified and prosecuted. Illegal evictions arising from an unwillingness to meet current legislative standards or licence their property will result in investigation and potential prosecution.

5.11.2 Comment has been made suggesting that to introduce such a scheme at a time when additional regulations are being introduced on a regular basis, and at a time when the Government are introducing an increase on buy-to-let stamp duty, could result in fewer good landlords. The Council has considered this but takes the view that an increase in living standards in the areas identified by the scheme is likely to result in an increase in the desirability of properties in those areas thus market forces may well influence better return on investment.

5.11.3 Taking all into account the Council considers, on balance, that the benefits likely to accrue from the introduction of such a scheme outweigh any negative impact.

6. IMPLICATIONS

6.1 The proposed Selective Licensing scheme requires all private landlords with residential property in the designated areas of the City to apply for a licence for each property let to tenants. The Scheme is in place for 5 years and the licence is given for the entire period. In order to become a licence holder a landlord would have to meet certain standards. There is a licence fee and the licence fee structure is contained within the appendices to this report.

7. CONSULTATION

7.1 A public consultation was launched on 22 October 2015 and will end on 14 January 2016. This consisted of 40,000 letters being sent to residents, landlords and businesses in the proposed and surrounding areas and 7 public drop- in sessions as detailed in table 1 below. To date we have received 960 completed on-line questionnaires and 920 written questionnaires have been requested, 376 of which have been received.

Table 1

Exhibition	Total number of feedback forms completed at exhibition	Total number of attendance
Centre 68, 68b Westgate, Peterborough, PE1 1RG Thursday 5 th November 3pm – 7pm	6	36
Pyramid Centre, Watgall, Bretton, PE3 8NZ Thursday 12 th November 3pm – 7pm	6	56
The Fleet, Fleet Way, High Street, Fletton, PE2 8DL Wednesday 18 th November 3.30pm – 6.30pm	7	58
Herlington Community Centre, Herlington, Orton Malborne, PE2 5PW Wednesday 25 th November 5pm – 8pm	2	19
Parnwell Community Centre, Saltersgate, Parnwell, Peterborough, PE1 4YL Thursday 3 rd December 4pm – 7pm	4	13
Beehive Community Centre, St Martin's Street, Peterborough PE1 3BB	5	35

Monday 7 th December 3pm – 6.30pm		
The Allama Iqbal Centre, 157 Cromwell Road, Peterborough PE1 2EL Thursday 7 th January 10 am – 7 pm	36	64

7.2 The consultation response ‘in-box’ has received so far 105 responses which can be categorised broadly into the themes outlined at 5.4 above.

7.3 We have considered these main themes highlighted in the consultation and made amendments to the scheme accordingly.

7.4 The full consultation report will be finalised after consultation ends on 14 January and circulated to the committee in advance of the meeting.

8. NEXT STEPS

8.1 Comments and recommendations made by the Scrutiny Committee members will be considered and recommendations made to the Cabinet member for Growth, Planning, Housing and Economic Development for approval of the scheme.

8.2 The scheme will be submitted to the Secretary of State for approval, as the areas proposed for selective licensing make up 37.9% of the City’s private rented sector, which is more than the 20% threshold below which a local decision can be made.

9. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

- Department of Communities and Local Government “*Approval Steps for additional and selective licensing designations in England*” - February 2010
- Part 3 of the Housing Act 2004
- Department of Communities and Local Government ‘*Selective licensing in the private rented sector: A Guide for local authorities*’ - March 2015
- Department for Communities and Local Government ‘*Dealing with Rogue Landlords: A Guide for Local Authorities*’ – August 2012
- The Selective Licensing of Houses (Additional Conditions)(England) Order 2015

10. APPENDICES

- Appendix 1: Proposed Selective Licensing Scheme
- Appendix 2: Support for Landlords
- Appendix 3: A map showing the proposed designated areas
- Appendix 4: A list of the streets that fall within the designated areas
- Appendix 5: Selective Licensing Evidence Document
- Appendix 6: Proposed Licence Conditions
- Appendix 7: Proposed Fees and Charges
- Appendix 8: Equality Impact Assessment (reviewed, no change to submission 24/11/15)
- Appendix 9: Selective Licensing Consultation Questionnaire summary (as of 08/01/16)
- Appendix 10: Selective Licensing Consultation comments received and responses provided (as of 08/01/16)