

## APPENDIX A1

### Introduction of proposed discretionary licensing schemes in Horfield, Bedminster and Brislington West wards

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#### 1. Background

1.1 In Bristol, privately rented housing accounts for 30.3% (61,580) of the city's housing stock (Building Research Establishment (BRE) Bristol Housing Stock Report, October 2020) – more than 10% above the national average of 19%.

1.2 The private rented sector (PRS) offers flexibility in respect to tenure enabling people to move their accommodation to meet their requirements e.g., changes to employment, personal circumstances, access to schools and other facilities and moving closer to family and friends.

1.3 Although many landlords provide a good standard of accommodation and service to their tenants, there are a substantial number who do not. Given the demand for housing in the city, unscrupulous landlords take advantage of those who have least choice in the market due to their personal circumstances and offer substandard and poorly managed accommodation.

1.4 Licensing gives the local authority the resources and the power to proactively inspect the accommodation that meets the designation criteria to ensure property standards and good management practices are met. Property licensing enables us to proactively find and deal with issues that would not otherwise come to our attention.

1.5 The Government recognises that problems of poor management and housing conditions are not just confined to larger HMOs (Houses in Multiple Occupation) and significant concerns still exist in other private rented property. For this reason, they also introduced powers to Councils to declare areas where landlords are required to licence other rented properties in their areas, under the [Housing Act 2004](#) (the Act).

1.6 The evidence used to declare these Additional and Selective licensing areas is based on the findings from a commissioned Bristol Housing Stock Modelling Survey of the private rented sector (published October 2020) undertaken by Building Research Establishment (BRE), using a range of data sources, including **the council's own data** relating to poor management and substandard conditions and complaints received.

1.7 Generally, where we see high concentrations of HMOs there are more likely to be issues with anti-social behavior such as noise and waste which if left unchecked can impact the local community as evidenced by comments received during consultation. By introducing additional licensing schemes, the aim is to improve poor management and its associated problems for both the occupants of the HMO and for members of the public. Poor management practices will be improved by inspecting every property subject to additional licensing to identify serious hazards which are then remedied through following our Private Housing Enforcement Policy, as appropriate to require licence conditions or other legal requirements are met. See Appendix 3.

1.8 A selective licensing scheme may be introduced if the area to which it relates satisfies one or more of the conditions set out The Selective Licensing of Houses (Additional Conditions) (England) Order 2015. We propose to introduce the scheme under the criteria that there is a high proportion of Privately Rented Properties (PRS) in the area and there are properties in poor condition. The government definition of a high proportion is currently 19%<sup>1</sup> of all housing.

1.9 Introducing selective licensing to these areas would bring a general improvement of property conditions that now adversely affecting the occupants. This can be achieved by inspecting every property subject to selective licensing criteria to identify and remedy hazards. This again will be remedied through our enforcement powers under part 1 of the Act or other enforcement powers as appropriate and ensuring selective licensing conditions are met – see Appendix 4.

1.10 The BRE considered the impact of previous licensing schemes and found that in comparing hazards in the PRS in the wards where licensing schemes had been declared, over a two-year period between the 2017 and 2020 reports, they report that “The intervention work to mitigate hazards within these discretionary licensing areas has resulted in 850 of hazards being mitigated from the PRS stock in these wards. This is 43% of the number of hazards across these wards before mitigation work.”

1.11 The Council will charge fees to recover the cost of the proposed licensing scheme. This gives the Council the funds to set up and operate the scheme over its lifetime.

## **2. The Proposal**

- 2.1 The report proposes to declare property licensing schemes to a further 3 wards. Horfield ward declared an Additional Licensing area
- Bedminster ward declared an Additional and Selective Licensing area
- Brislington West ward is declared an Additional and Selective Licensing area

It is estimated that there are approximately 2,222 dwellings that will require a selective licence and 686 HMOs that will require an additional licence. The total number expected to require a licence is 2,908. There are 14,345 dwellings in private ownership in these wards which means 20% of the dwellings in private ownership will need a licence.

A map of the proposed schemes can be found at Appendix 2

## **3. Type of property affected by each scheme**

3.1 Additional Licensing – privately rented houses in multiple occupation (HMO)<sup>2</sup>, which

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<sup>1</sup> English Housing Survey 2019-20

<sup>2</sup> Meaning of HMO as defined in S254 Housing Act 2004

includes houses or flats occupied by **three** or more people who are NOT in the same family and who share some facilities, such as kitchens or bathrooms, and that are **not** subject to mandatory licensing nor those converted blocks of flats to which section 257<sup>3</sup> of The Act applies.

3.2 Poorly converted properties are also not included in this proposal. These are HMOs which have been converted without building regulation approval which are mostly rented out. They are known as section 257 HMOs<sup>1</sup>, which is the section of the Housing Act 2004 they are defined under.

3.3 Selective Licensing – Most other private rented properties that are not subject to additional or mandatory HMO licence

3.4 Please note: **Mandatory Licensed properties** – are HMOs occupied by **five** or more people who are NOT in the same family and who share some facilities, such as kitchens or bathroom. Mandatory licensed HMOs are **not required to have a further licence under this proposal**. They should already be licensed under the national mandatory scheme.

3.5 Certain types of buildings or parts of buildings are by law **not** subject to licensing. Schedule 14 of the Housing Act 2004 gives a list of properties excluded from HMO licensing and Selective licensing of Houses (Specified Exemptions) (England) Order 2006 SI 2006/370 gives the list of properties excluded from selective licensing. These can be found in Appendix 1 of this proposal.

#### **4. Reasons for the proposed schemes**

4.1 The [Housing Act 2004](#) (the Act) introduced discretionary property licensing (additional and selective licensing). These powers allow local authorities to require landlords and agents of some privately rented accommodation to license their properties to tackle problems of poor management and poor housing conditions. It helps tenants, residents, and members of the public where landlords have failed to properly manage their properties and tenancies.

4.2 Where additional licensing is proposed in the Bedminster, Brislington West and Horfield wards, evidence indicates that a significant proportion of HMOs are being managed sufficiently ineffectively which could lead to problems either for those occupying the HMOs, or for members of the public (section 56 of the Act).

4.3 Introducing an Additional Licensing scheme would improve poor management and its associated problems for both the occupants of the HMO and for members of the public. Poor management practices will be improved by inspecting every property that will be subject to additional licensing in the area, to identify serious hazards which will be remedied through enforcement under Part 1 of the Act, or other enforcement

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<sup>3</sup> Certain poorly converted HMOs under section 257 of the Housing Act 2004

powers as appropriate, and to ensure compliance with licensing conditions (see Appendix 3).

4.4 A selective licensing scheme may be introduced if the area to which it relates satisfies one or more of the conditions set down in The Selective Licensing of Houses (Additional Conditions) (England) Order 2015. In this case, the condition that has been met under this proposal is “*poor property conditions*” (see Appendix 5).

4.5 The introduction of selective licensing would bring a general improvement of property conditions that are adversely affecting the occupants in the area. This will be achieved by inspecting every property that will be subject to selective licensing in the area to identify and remedy serious hazards. This will be remedied through enforcement under Part 1 of the Act or other enforcement powers as appropriate, to ensure compliance with licensing conditions (see Appendix 4).

4.6 Where selective licensing is proposed in the Bedminster and Brislington West wards evidence indicates that a significant number of this type of accommodation is in poor condition, affecting the health and safety of the occupants. It is therefore considered appropriate for properties in the area to be subject to selective licensing and inspected to assess their condition and take appropriate action where serious hazards<sup>4</sup> (category 1 Bands A-C or category 2 Band D hazards) exist.

## **5. Evidence**

5.1 We are aware through complaints about the private rented sector that there are significant issues in the areas we wish to apply additional or selective licensing.

5.2 The BRE, who are the leading experts in stock modelling, were asked to report specific areas which have higher levels of private rented stock, poor conditions and signs of poor management and disrepair, which could be considered suitable for licensing schemes.

5.3 The BRE took Bristol City Council’s own private housing raw data – on complaints received, breaches in management conditions and actionable hazards already identified – and combined these samples with data from sources including the Local Land and Property Gazetteer, Council Tax, Experian, Energy Performance Certificate data, Land Registry, Tenancy Deposit Schemes, student housing and Ordinance Survey.

5.4 With this data the BRE were able to model property conditions in the private rented sector and identify areas where we could expect to find significant issues because properties are failing the minimum housing standards.

### ***Additional Licensing***

5.5 A significant proportion of the HMOs of that description in the area are being

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<sup>4</sup> A hazard is any risk of harm to the health or safety of an actual or potential occupier of accommodation that arises from a deficiency in the dwelling, building or land in the vicinity. Health includes mental health

managed sufficiently ineffectively to give rise, or be likely to give rise, to one or more problems, either for those occupying the HMOs or for members of the public.

5.6 The concentration of HMOs in Horfield is 41% (711), Bedminster 20% (355) and Brislington West 17% (221). Some of these are already licensable under mandatory licensing, but there are still an estimated 686 HMOs that would meet additional licensing criteria under this proposal.

5.7 Some of the worst concentrations of PRS stock with poorest conditions of HMO have been identified in the 12 central wards, which are already subject to an additional licensing scheme that was introduced in 2018. The areas selected for this designation are the wards that come next on the list of priority areas to be subject to licensing, according to the BRE analysis.

5.8 The BRE found that generally HMOs have higher levels of hazards, particularly falls hazards, which present a great risk of injury for those occupying the HMO. This is also our experience from inspecting these types of properties. The BRE sampling found that 16% of HMOs in Bedminster, 11% in Brislington West and 10% in Horfield, had category 1 hazards present.

5.9 Properties in the proposed areas were found to have lower energy efficiency levels compared to the citywide average. Bedminster and Brislington wards have an average SAP rating in the PRS of 59 and in Horfield 60. The SAP is the methodology used by the government to assess and compare the energy and environmental performance of dwellings. The higher the rating under simple SAP, the better. The scores run from 1 to 100.

5.10 Within these three wards there are also notably higher levels of fuel poverty – using the low income, high-cost definition – in HMOs (23% compared to the 15% citywide average) and low-income households (38% compared to the 20% citywide average). A property that is not well maintained to a satisfactory standard or properly insulated can be harder to heat as costs are higher. In turn this can lead to ill health.

5.11 26% (654) of all complaints received by the Private Housing Service relate to HMOs. Over the past five years the service has dealt with 433 properties in the three wards where poor conditions and the lack of amenities have had an adverse impact on the health, safety, and welfare of the occupants.

5.12 The complaints we have received have been made by tenants living in the PRS properties and we have provided reactive responses to their complaints. Some tenants making such complaints are at risk of retaliatory eviction if the landlord objects to this action by the tenant. Licensing will enable us to be proactive and inspect all the HMOs and deal with the issues that we encounter, without the tenant having to make a complaint and put themselves at risk of retaliatory eviction.

5.13 At present where licensing schemes have not been introduced, we have few powers to rectify the problems before they get to a point where the tenants are suffering with the poor conditions. The tenants in undeclared areas must make a complaint before we can take any action. With licensing in place, we would have an opportunity to intervene to require landlords and agents to manage issues before they become a problem for the occupants.

5.14 Generally where there are high concentrations of HMOs, we are more likely to see problems of anti-social behaviour or issues such as noise and waste, which if left unchecked can impact on the local community.

5.15 In Bedminster ward we received 242 complaints about waste issues in the PRS (HMOs and non-HMOs) and 129 on domestic noise in the last five years. In Brislington we received 193 waste and 114 noise complaints and in Horfield 167 waste and 208 noise complaints.

5.16 Many of the smaller HMOs in these wards have not previously come under any kind of local authority scrutiny. Considering those that have come to our notice in the last five years under mandatory licensing — and from the data supplied by the BRE report — we would expect to find a significant number of HMOs that do not meet licensing or minimum housing standards.

5.17 Licensing gives us the resources to go into the whole area, which will reveal the issues of poor condition and management of properties which we can then address.

### ***Selective licensing***

5.18 In Bedminster and Brislington West wards there are around 2,222 properties that would meet local selective licensing criteria as set out in [The Selective Licensing of Houses \(Additional Conditions\) \(England\) Order 2015 – Article 4](#) (see Appendix 5 for further detail).

5.19 Under Selective Licensing designation, the criteria for opting to designate an area under poor housing conditions must have a high proportion of property in the private rented sector (PRS). The PRS makes up 19% of the total housing stock in England and any figure above this is considered to have a high proportion of PRS. In Bedminster ward 29% of properties are in the PRS and Brislington West ward 25%. They are let using assured tenancies or licences to occupy the property.

5.20 In these two wards, the levels of disrepair in the PRS (6% and 5%) and the numbers of properties with category 1 hazards (18% and 17% respectively) are higher than the Bristol average of 4% and 12% respectively. This means that a significant number of private tenants are living in poor housing conditions and there is a serious risk to their health and safety. It is therefore considered appropriate to inspect properties in these wards to determine whether category 1 or 2 hazards exist. NB Horfield ward did not meet the criteria for selective licensing at this time as the levels of disrepair (4%) / serious hazards (13%) was not worse than citywide average levels and was felt that most of the disrepair would be found in the HMOs included under the Additional licensing proposal.

5.21 The BRE looked at the impact of discretionary licensing schemes declared by the council. Data from two BRE reports from 2017 and 2019 was compared., The BRE found that when comparing the numbers of serious (Category 1) hazards for private rented properties in the wards where we had declared discretionary licensing schemes, there was a 43% (850 hazards) improvement over this two-year period. See also Table 14 and Maps 14 and 15 of the BRE report for further detail. (See Chapter 5 of the [Building Research Establishment \(BRE\) Bristol Housing Stock Report, October 2020](#))

5.22 We have also considered the age profile of the properties in the two wards. Given that 46% of residential properties in Bedminster ward and 36% of properties in Brislington West ward were built pre-1918, they are more likely to have issues with excess cold and damp. These areas have not been subject to any targeted local authority renewal or group repair schemes in the past.

5.23 The outcome of this scheme would lead to a general improvement in property conditions in the area through powers under section 3(1) of the Act and through the selective licence conditions imposed under s90 of the Act.

5.24 Outcomes from our previous discretionary licensing scheme have shown that where we have declared either Selective or Additional licensing schemes, we have made improvements to the housing in the area.

## **6. Previous Licensing Schemes**

6.1 Bristol has declared three discretionary licensing schemes:

- Stapleton Road area
- Eastville and St George West wards
- Central area

6.2 Bristol City Council commissioned the BRE to consider the impact of previous licensing schemes and found that in comparing hazards in the PRS over a two-year period between the 2017 and 2020 reports, in areas where discretionary licensing schemes had been declared, there was a 43% improvement in the number of hazards found.

### ***Stapleton Road area scheme***

6.3 The Stapleton Road scheme ran from 15 April 2013 to 15 April 2018 as both additional and selective licensing so most privately rented properties in the area required a licence. In total 1,207 licences were issued.

Table 1: Statistical summary of outcomes

<b>Detail</b>	<b>Number</b>
Number of properties licensed	1,207
Number of inspections undertaken	2,485
Number of properties where at least one serious hazard identified	396 (33%)
Number of HMOs where management breaches identified	137 (68%)
Number of properties requiring improvements to meet licensing conditions	845 (70%)
Number of referrals made to other agencies/ Departments	204
Number of Service Requests received	1,549
Number of notices served both formal and informal	665

6.4 The Stapleton Road scheme was declared under the selective licensing anti-social behavior criteria (poor housing conditions had not been included in the legislation at that point).

6.5 Working within the constraints of the Housing Act 2004 has proved challenging to gain evidence that the landlord was the negligent party in respect of anti-social behaviour attributed to his/her property. However, notwithstanding these issues the licensing team has made a significant impact in reducing anti-social behaviour during the period of the scheme and these include noise, waste/refuse disposal, fly tipping, graffiti, and drug related problems.

6.6 The proactive and collaborative approach undertaken by the licensing team and its partners in tackling ASB during the 5 years duration of the scheme has been successful. The work carried out has sent a positive message to residents, landlords and tenants and other stakeholders that the area is valued and is respected. It also played its part in changing the perception of the area, from being neglected and run down to a vibrant, progressive, and dynamic place to live, work and visit.

6.7 The overall results show that there has been a considerable improvement in the condition and management of licensable private rented properties in the area. This means that tenants in licensed properties can be confident that their homes will meet the minimum housing standard.

6.8 Although enforcement action has been taken where landlords refused to engage with the council, the licensing team has worked in cooperation with most landlords to ensure improvements to their properties have been achieved.

6.9 Before the scheme was introduced many landlords were unaware of their legal responsibilities regarding the minimum legal standards required and the law concerning tenancies. The advice and guidance given by the licensing team and its partners has been received positively and has given landlords a clear understanding of what is required.

6.10 The wider partnership working has proved to be extremely successful, with direct enforcement action, community activities and referrals to other agencies. This has resulted in a cleaner and safer place to work and live. The close working with Tenancy Relations has also proved to be a major benefit for tenants experiencing problems with their landlords.

### ***Eastville / St George West scheme***

6.11 The Eastville / St George scheme ran from 1<sup>st</sup> July 2016 to 30<sup>th</sup> June 2021 as both additional and selective licensing so most privately rented properties in the area required a licence. This scheme was declared under the poor housing conditions criteria for selective licensing. In total 3,738 licences were issued.

Table 2: Outcome Stats- Eastville/ St George key outcomes so far

	<b>Selective</b>	<b>Additional</b>	<b>Total</b>
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Total number of licence applications received <sup>5</sup>	3447	291	3738
Number of property licences issued	3336	280	3616
Number of inspections undertaken <sup>4</sup>	3122	287	3409
Number of properties where at least one serious hazard resolved A-D <sup>3</sup>	489	52	541 (15%)
Number of HMOs where management breaches identified	37	209	246 (87%)
Number of schedules issued requiring works to meet licensing conditions	3351	280	3631 (100%)
Number of referrals made to other agencies/ Departments <sup>1</sup>	-	-	361
Number of Service Requests received <sup>2</sup>	-	-	2817
Number of Informal Improvement Notices Served	562	76	638
Number of Formal Improvement Notices Served	24	0	24
Number of Hazard Awareness Notices Served	84	6	90
Number of fire safety improvements <sup>3</sup>	559	116	675
Number of properties improved <sup>3</sup>	2806	213	3019

1 This includes all referrals in the Eastville & St George area some of which may not relate to a licensed/licensable property.

2 This includes all service requests received in the Eastville & St George area some of which may not relate to a licensed/licensable property.

3 There are still properties which have been inspected but are yet to be marked off, so these figures are likely to increase over the next several months.

4 The number of licences issued is higher than the number of property inspections because there are some properties left to inspect (approx. 15), some licences will have been revoked before the property was inspected (e.g., property sold, no longer rented etc.)

5 The number of applications is higher than the number of licences issued because the property may have been sold or become non-licensable prior to the licence being issued, duplicate applications e.g., a selective licence may have been applied for, but the property has become an HMO in the interim and now requires an additional licence.

### **Central Area scheme**

6.12 The central area licensing scheme came into force on 1<sup>st</sup> July 2019 covering HMOs in 12 wards in central Bristol including Ashley, Bishopston and Ashley Down, Central, Clifton, Clifton Down, Cotham, Easton, Hotwells and Harbourside, Lawrence Hill, Redland, Southville and Windmill Hill.

6.13 Under this scheme only HMOs are required to be licensed and will run until 30<sup>th</sup> June 2024.

6.14 Initial stages of licensing delivery plan is to process the applications and issue

property licences. So far, we have received 3,267 applications and issued 2,663 licences. We have up to two years to issue the licence from receipt of a valid application.

6.15 The second phase of delivery is to inspect every licensable property to ensure that the management and property conditions meet licensing standards. Due to Covid 19 restrictions this phase started slowly but to date we have inspected 775 properties.

6.16 Any non-compliance with licensing standards will be required to be remedied to comply with licensing conditions. If the property is not made compliant enforcement action will be taken against the landlord to bring the property up to the required standard.

### ***Investigations***

6.17 Where a landlord does not come forward to licence their properties, suspected licensable properties are referred for initial investigation. We use investigative powers available to us to look for evidence of whether these properties require a licence. If a property does need a licence and a licence is not applied for, we will follow our private Housing Enforcement Policy, taking appropriate action. This can include a financial penalty of up to £30,000 or a criminal prosecution where fines are unlimited.

### ***Rent Repayment Orders***

6.18 Where a landlord or agent has not met its duty to licence a property tenants and the Council (where housing benefit has been paid) can apply to a First Tier Tribunal for a Rent Repayment Order. Rent paid can be reclaimed for the period the property should have been licensed up to a maximum of 12 months.

The Council has information on assistance we can provide for tenants on our website - [here](#).

## ***7. Alternative actions considered***

7.1 The council must consider whether there are any alternative courses of action available that could provide an effective method of dealing with the problem or problems in the private rented sector in the three proposed areas. These include:

### ***Complaints***

7.2 The council responds to complaints from private tenants about problems in their homes across the city, however this type of approach alone has its limitations, because:

- not all tenants are aware of the service
- some tenants do not report problems relating to poor property conditions and unsatisfactory property management, because they are afraid it will jeopardise their tenancy and their home
- we can only enforce minimum legal standards (as opposed to licensing, where more than just the legal minimum can be required through the licence conditions).

7.3 This approach requires significant resource. Cuts in central government finance means this type of reactive service will not ensure sustainable improvements can be delivered in the private rented sector, over the next five years.

7.4 On its own, this reactive complaint service approach to tackling the issues in the proposed areas, will not significantly improve the standards and management of PRS properties will not address the housing problems identified at the scale needed.

7.5. Please note: Individual complaints outside of licensing schemes will continue to be dealt with through the complaints approach.

### ***Mandatory Licensing***

7.6 A city-wide mandatory licensing scheme has been in operation since 2006. Although there has been improvement in the standards of the HMOs covered by this scheme it is clear there are still problems with the condition of other HMOs in these areas.

7.7 Mandatory licensing alone is not considered the most satisfactory course of action as it will not give the Council the powers to visit and significantly improve the standards and management of the 3,060 smaller HMO's and other privately rented properties in the proposed area which are not covered by Mandatory licensing criteria.

### ***Self-Regulation – Rent with Confidence Scheme***

7.8 Rent with Confidence is a voluntary scheme for landlords and agents to join and agree to meet at least minimum housing standards and good management practice in their properties. These types of initiatives are important and form part of the overall objectives to improve standards and conditions in the private rented sector. However, as this is a voluntary scheme it does not attract those landlords and agents who continue to mismanage their properties or meet their legal obligations.

7.9 Only relatively small numbers of properties are covered by this scheme. The council does not believe it will be effective at tackling the conditions in these areas as the proposed licensing schemes.

### ***Co-regulation***

7.10 Co-regulation is a relatively new concept with a limited number of schemes in operation, which has raised issues of effectiveness and affordability. There is no set definition, but essentially are voluntary schemes where the local authority works in partnership with an accreditation scheme or another organisation to establish a framework under which responsibilities for the management of properties are shared. Although voluntary and partnership working is welcome and to be encouraged, there are risks associated with this type of scheme if it were expected to be the only option used to improve the PRS in an area.

7.11 It is not compulsory and is dependent on landlords volunteering to join the scheme and complying with its conditions

7.12 These schemes have very limited sanctions if a landlord chooses not to comply with the rules. When this occurs, the local council will then be required to inspect the property(s) and act, where appropriate. This will introduce a further tier of administration, potential delays in responding and result in the council incurring additional costs.

7.13 Under Co-regulation schemes the backup legal powers can only be used to require

minimum legal standards (compared to licensing, where licence conditions which require more than a legal minimum can also be required).

7.14 The cost of this approach is significant and due to cuts in central government finance and restrictions on the Bristol City Council budgets, there is no funding available to fund additional officers to carry out these inspections and run the scheme.

7.15 We have considered the [Liverpool Selective Licensing and Co-Regulation report](#) when considering whether it is suitable in Bristol. However, we have concluded that a co-regulation approach to tackle the issues in the proposed areas is not considered the most satisfactory course of action as it will not significantly improve the standards of management and condition of significant numbers of the properties within the proposed area.

### ***Rogue Landlords Initiatives***

7.16 Rogue Landlord initiatives identify and target rogue landlords and agents in the city who exploit tenants, including recent arrivals into the UK. Enforcement action can be taken under a variety of legislation, including the Protection from Eviction Act, the Housing Acts and Trading Standards and Tenancy relations legislation. Officers work in partnership with the police and other organisations to identify incidences of slavery and trafficking.

7.17 Central government funding for this scheme has now ended and the council does not have money available to support this initiative without further outside funding.

7.18 It is not certain whether a further initiative will be introduced in the future. However, should funding be made available in the future this type of scheme is not considered the most satisfactory course of action, as it will not significantly improve the standards and management of all private rented properties in the proposed area.

### ***Selective and Additional Licensing***

7.19 Selective and Additional licensing are the preferred option for these specific areas as they will have a significant impact on the management and condition of privately rented properties for the following reasons.

7.20 The council will have the powers to investigate properties it believes need to be licensed. Using its powers to proactively inspect all properties in the scheme should greatly reduce a tenant's fear of retaliatory eviction or harassment as they do not have to report problems in their homes.

7.21 Using the discretionary licensing powers under Housing Act 2004 will ensure that there are satisfactory management practices in place and that the landlord/manager is a fit and proper person (Appendix 6) to be granted a licence.

7.22 Licensing conditions will also enable the council to deal with issues where there are no other minimum legal powers available to tackle the issue.

7.23 Licensing provides confidence and assurance to existing or prospective tenants that licensed properties are well managed and safe to occupy.

7.24 The council will require that licensable properties meet certain standards and landlords will need to ensure that their properties are well managed and safe. If they don't meet the licensing conditions, they will be breaking the law and could be prosecuted.

7.25 Through property licensing the council will be able to work with landlords/agents/owners and other organisations to deal with other issues in the area such as empty properties, overcrowding, anti-social behaviour and crime reduction.

7.26 The council will work with landlords and agents in the designated area to offer training, advice, and guidance on a wide range of issues affecting the private rented sector including a landlord and tenants' legal requirements and responsibilities. The aim is to provide existing or potential private landlords the basic tools to ensure they meet requirements to competently manage their accommodation.

7.27 The council believes that licensing properties in the proposed areas will have a positive impact on private tenants living in these properties as it will raise standards of management and conditions of their homes through inspection and increased regulation. This will also benefit landlords who are already compliant and put at a competitive disadvantage by non-complaint landlords in the same area.

7.28 Having considered the issues and problems identified in the proposed areas and the resource restraints, the council believe a licensing scheme, funded through licence fees, means the council will have the necessary resources to ensure privately rented properties in the proposed area are required to meet the licensing standards.

7.29 Licences are normally issued for five years. This can be reduced in certain circumstances where the council needs to do so for the purpose of ensuring good management and standard of the property are maintained.

## **8. Licence fees**

8.1 The Housing Act 2004 allows councils to set a fee for property licences and says that the council may consider all costs incurred by the authority in carrying out the licensing function. The council cannot make a profit from licence fees.

The table in Appendix 7 sets out the fees for additional and selective licensing.

## **9. Landlord's licensing responsibilities**

### **Conditions**

9.1 If a property needs a licence, landlords and managers must comply with the conditions applied to the licence. These conditions are slightly different for Additional and selective licences and can be found in full at Appendix 3 for Additional Licensing and Appendix 4 for Selective Licensing conditions.

9.2 Brief descriptions of some of these conditions include:

- provide satisfactory gas (where applicable) and electric certificates to the council
- where electrical appliances and furniture are made available in the house, they must be in a safe condition
- provide the occupiers of the house a written statement of the terms on which they occupy it
- a carbon monoxide alarm is installed in any room in the property which is used as living accommodation.
- provide suitable facilities for the storage and disposal of refuse and recycling in accordance with the council's waste and recycling collection requirements

### ***Legal obligations***

9.3 The Housing Act 2004, together with other relevant legislation and regulation, sets out the legal requirements for landlords in relation to renting private properties and licensing. These can be found at Appendix 8.

9.4 It is very important that landlords are made aware that it is a criminal offence to operate a licensable property without a licence. This could result in unlimited fines or a civil penalty of up to £30,000, together with other restrictions.

## ***10. Actions which when taken in combination with the proposed schemes will improve PRS in Bristol***

### ***10.1 The Bristol Corporate Strategy 2018-2023***

Under the Fair and Inclusive Key Commitment, the Strategy recognises that a warm, secure affordable home provides a springboard to achieving a high-quality life. It acknowledges that the Private Rented Sector (PRS) continues to grow, bringing issues such as the insecurity of short-term tenancies and for some poor conditions or tenancy management. The strategy brings together representatives of different housing sectors at the Bristol Homes Board to provide leadership across a range of housing issues, including the private rented sector.

### ***10.2 Bristol's One City Plan - Raising Standards in the Private Rented Sector***

Under the One City Plan there is a target to improve PRS standards through discretionary licensing "to increase property standards in the private rented sector - are significantly improved from 2018 following work with landlords and tenants through discretionary licensing".

Under the additional powers that licensing gives Local Authorities, it is considered that licensing can increase quality and management standards in the sector through inspection and enforcement powers.

The BRE compared the levels of identified hazards before and after the introduction of discretionary licensing schemes in other areas of Bristol between the 2017 and 2020 reports. The results clearly showed that these interventions have made a positive impact

and reduced the levels of category 1 hazards (Source: [BRE Bristol Stock Modelling report, October 2020, Chapter 5](#))

### **10.3 Reduction in Empty Private Homes**

Bristol has a very successful programme of reducing empty homes and bringing them back into use. Many properties bought back into use have gone into the private rented sector, so it is important that they meet current property and management standards. We work with the Empty Property team to make sure that the landlords of these properties adhere to good management practices and the property meets minimum standards.

### **10.4 Homelessness**

The Bristol City Council Homelessness and Rough Sleepers Strategy 2019 - 2024 aims to use early intervention and prevention as a method to tackle problems before they become a crisis. It also aims to provide more move-on accommodation, including the use of the private rented sector, and bringing empty properties back into use to provide more affordable accommodation.

Shelter has carried out research into homelessness in relation to Bristol's private rented sector. The research identified that some private tenants who have previous experience of being homeless feel that they have no choice but to put up with poor conditions and harassment from their landlords. This is because they have nowhere else to go and their housing options are very limited, given their financial or personal circumstances.

Many tenants find it difficult to find somewhere to live in Bristol and were willing to go to great lengths to remain in their private rented accommodation despite the property having serious problems. People with children or who were receiving housing benefit found it particularly difficult to rent.

To sustain/increase the numbers of vulnerable tenants in licensable accommodation an incentive for private landlords is being developed with Housing Options. This will require private landlords to accept nominations from the Council in return for the reimbursement of the licence fee.

## **11. Consultation**

11.1 The Council is required to take reasonable steps to consult persons who are likely to be affected by the designation of a licence scheme and to consider representations made. The consultation period ran for 10 weeks from 17th March 2021 to 26th May 2021 with assistance from the Council's Communications and Marketing Team.

- 26,287 letters were sent to all those likely to be affected by the proposal i.e., private landlords, their tenants, residents living or with property in the affected wards. We provided a link to an online proposal document and survey form. Paper copies were available upon request.
- Emails were sent to 6,924 landlords on the Council's Landlord Database.
- Emails were sent to local and national landlord and tenant organisations and the two universities and to West of England Local Authorities adjoining Bristol's boundaries.

- Local ward councillors were briefed.
- A presentation was given to 70 attendees of the West of England Landlord and Agent panel.
- The consultation was publicised on the Council's Consultation Hub, on the Council's private landlord's web pages and in a press release.
- There was an item in the Our City e-newsletter and Ask Bristol newsletter available to Bristol residents who have signed up for these newsletters.
- It was also promoted in two editions of the Council's Private Landlords monthly newsletter.
- Social media posts were made throughout the consultation period on Facebook and Twitter reaching an average of 1,907 Facebook users and 109,962 Twitter users each time.
- Stakeholder toolkits were sent to councillors and other stakeholders to disseminate the information on the consultation.

11.2 The full results have now been published via the [Consultation Hub](#). See the full Consultation report in Appendix B and consultation responses in Appendix B2.

11.3 There were 1,411 completed surveys received via both the online form and paper survey forms. 208 emails and seven letters were also received and responded to during the consultation period.

11.4 Of the 1,383 survey respondents who identified which category of respondent they belonged to 411 (29.72%) were private landlords with properties in the proposed area; 233 (16.85%) were private tenants living in the area 671 (48.52%) were owner occupiers living in the area and 134 (9.69%) were other interested parties. The total adds up to more than 1,383 because some respondents would come under more than one category i.e., a private landlord with property in the area but who also is an owner occupier in the area.

11.5 The outcomes from the consultation broadly support the proposal. 1,411 responses were received and of those 818 (58.65%) agreed or strongly agreed that the proposed licensing schemes would help to resolve poor management and poor conditions of private rented properties in the proposed three wards.

11.6 The key views when broken down by respondent category show: (full details of all responses can be found in the Consultation Report Appendix B and the Consultation responses in Appendix B2.

- **85** (20.8) of landlords in the area agreed or strongly agreed with the proposal, **267** (65.3%) disagreed and **57** (13.9%) neither agreed nor disagreed.
- **142** (70%) of private tenants living in the area agreed or strongly agreed with the proposal, **76** (32.6%) disagreed or strongly disagreed and **15** (6.4%) neither agreed nor disagreed.
- **549** (82%) of owner occupiers living in the area agreed or strongly agreed with the proposal, **89** (13.3%) disagreed or strongly disagreed and **32** (4.8%) neither agreed nor disagreed.
- **68** (51.1%) of other interested parties agreed or strongly agreed with the proposal, **60** (45.1%) disagreed or strongly disagreed and **11** (8.3%) neither agreed nor

disagreed.

- **794** (57.66%) said that the proposed additional licensing fee was about right or too low **583** (42.34%) said it was too high.
- Of those who said the additional licence fee was too high **344** (59%) said it should be £500 or less – of those 22% said there should be no fee payable.
- **802** (58.19%) said the proposed selective licence fee was about right or too low, **569** (41.5%) said it was too high.
- Of those who said the selective licence fee was too high **424** (72%) said it should be £500 or less and of those 25% said there should be no fee payable.
- **977** (70.14%) of respondents agreed that those who do not licence their properties when they should, should be charged a higher fee than those who comply on time.
- **532** (38.66%) of respondents said the finder's fee should be more than the £100 proposed; **530** (38.52%) said it was about right and **314** (22.82%) said it was too high. – The majority of those who said the fee was too low suggesting a finder's fee of up to £500 should be applied.
- **918** (65.95%) agreed with the proposed discount for satisfactory certificates being submitted on time and **792** (57.27%) agreed with the discount proposed for landlords accredited under the Rent with Confidence scheme.
- **814** (58%) of respondents also provided free text comments on the proposal. Please note, some respondents left comments that have been broken down as they covered several categories. Please see Appendix B2 for the full breakdown

## **12. Appendix 1: Types of Properties that are Exempt from Licensing**

### **Exemptions from Additional Licensing – Schedule 14 Housing Act 2004**

Certain types of buildings or parts of buildings are by law **not** subject to HMO Licensing. (Schedule 14 of the Housing Act 2004) These broadly speaking include buildings:

- managed or owned by public sector bodies. (i.e., local authority housing, and properties managed or owned by registered providers previously known as registered social landlords, police authorities, Fire and Rescue authorities and the NHS).
- where the residential accommodation is ancillary to the principal use of the building i.e., caretaker accommodation
- occupied by religious communities for religious purposes
- Student accommodation managed and controlled by educational establishments such as universities.
- such as care homes.
- Bail hostels.
- Hostels - the description of which are specified by law.
- entirely occupied by freeholders or long leaseholders.
- occupied by owners.
- occupied by no more than two, unrelated people.
- occupied by a resident landlord with no more than two lodgers.
- which are Housing Co-operatives.

### **Exemptions from Selective Licensing**

Certain types of accommodation would not be subject to selective licensing (Selective licensing of Houses (Specified Exemptions) (England) Order 2006 SI 2006/370)

- Occupied by owners.
- Accommodation where the tenant is a family member.
- Managed or owned by public sector bodies i.e., social housing.
- Business premises.
- Student accommodation owned by a university.
- Holiday lets.
- Empty properties.

Any property where the landlord already holds an HMO licence.

## **13. Appendix 2 – Map of the proposed Licensing Schemes**

[Find my ward](#)

## 14. Appendix 3 Licence Conditions – Additional Licensing

### Additional Licensing conditions

The following licence scheme conditions apply both to the licence holder and to any manager who has accepted responsibility under the licence

#### 1 Professionalism and standard of conduct

	<b>Reasonable and equitable standard of conduct</b>
1.1	<i>Conduct business with regard to the property and the tenancy in a reasonable and equitable manner and in accordance with applicable standards of due diligence.</i>
	<b>'Fit and Proper Person' declarations</b> – supply to Council declarations by all individuals involved in management of the property if asked
1.2	<i>Any person involved in or becoming involved in the management of the property after the licence date must be a fit and proper person<sup>1</sup> and must supply the Council on demand<sup>2</sup> with a completed 'declaration in respect of a fit and proper person' form for each individual involved.</i>
	<b>All agents to be members of Agent Redress or Client Money Protection schemes</b>
1.3	<i>Where the licence holder or manager is a letting or property managing agent, they must be a member of a statutory scheme such as the Lettings and Management Agent Redress Scheme or the Client Money Protection Scheme.</i>

#### 2 Keeping the Council informed of changes

	<b>Any changes in licence holder</b> – notify Council
2.1	<i>Notify the Council in writing<sup>3</sup> of any change to the name, address or any other contact details (including email address) of the licence holder, manager or any other person involved in the management of the property, within 14 days of that change.</i>
	<b>Any changes in property layout or room numbering</b> – notify Council
2.2	<i>Do not make alterations to any aspect of the layout of the property, or the numbering of rooms, without first gaining written consent from the Council. Requests should be made in writing to the Council<sup>3</sup>, and include a full description of the proposed changes.</i>
	<b>Any changes to the way the property is occupied</b> – notify Council
2.3	<i>Any proposed changes to the way the property is occupied should first be submitted to the Council<sup>3</sup> to determine any consequent need for alterations to the required levels of amenity provision or the permitted number for the property.</i>
	<b>If occupation rises above the permitted numbers</b> – notify Council
2.4	<i>If the occupation of the property rises beyond the maximum permitted number, inform the Council<sup>3</sup> in writing within 28 days of the over occupation occurring.</i>

#### 3 Repair and maintenance

3.1	<p><b>Property repair timescales</b> – respond to disrepair issues promptly</p> <p><i>As far as is reasonably practicable keep within the following timescales in responding to information about disrepair and maintenance issues at the property:</i></p> <ul style="list-style-type: none"> <li>• <i>Emergency repairs: 24 hours (affecting health or safety e.g. dangerous electrical fault, blocked W C, no hot water, etc.)</i></li> <li>• <i>Urgent repairs: 5 working days (affecting material comfort e.g. no heating or fridge failure, serious roof leak, etc.)</i></li> <li>• <i>Other non-urgent repairs: within a reasonable time taking into account the extent and cost of the works required and any disruption for the occupiers.</i></li> </ul>
3.2	<p><b>Facilities and equipment</b> - keep facilities and equipment in a safe condition and good repair</p> <p><i>Facilities and equipment must be kept in a safe condition and good working order.</i></p>
3.3	<p><b>Asbestos and Legionella</b> – comply with legal requirements</p> <p><i>Comply with current statutory requirements relating to the safe management of the following:</i></p> <ul style="list-style-type: none"> <li>• <i>any asbestos containing materials<sup>4</sup>, and</i></li> <li>• <i>Legionella species risks<sup>5</sup>.</i></li> </ul>
3.4	<p><b>Pest control</b> – use competent contractors</p> <p><i>Employ a competent pest control contractor to carry out appropriate treatments to any pest infestation.</i></p>

#### 4 Gas and electrical safety

4.1	<p><b>Gas safety certificate</b> – provide one annually</p> <p><i>If gas is supplied to the house, supply to the Council<sup>3</sup> annually for their inspection, a satisfactory and genuine gas safety certificate obtained in respect of the house within the last 12 months.</i></p>
4.2	<p><b>Carbon monoxide alarm</b> - install if there a solid fuel combustion appliance, check on each new tenancy, supply declaration of condition if asked</p> <p><i>Install a carbon monoxide alarm in any room (includes a hall or landing) in the property which is used wholly or partly as living accommodation (includes bathroom or lavatory) and contains a solid fuel burning combustion appliance<sup>6</sup> and keep any such alarm in proper working order. Check the alarms on the day the tenancy begins if it is a new tenancy and supply to the Council on demand<sup>2</sup> a declaration of the condition and positioning of any such alarms.</i></p>
4.3	<p><b>Electrical safety</b> – meet current regulation requirements, supply to Council declaration of safety if asked</p> <p><i>Meet current statutory requirements in relation to electrical installations in The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 and ensure that every electrical installation<sup>7</sup> in the property is in proper working order and safe for continued use. Supply to the Council on demand<sup>2</sup> a declaration as to the safety of such installations within in 7 days of a request.</i></p>

	<p><b>Electrical safety certificates</b> – send to the Council an electrical certificate if any faults shown followed by confirmation of rectification</p>
4.4	<p><i>Supply to the Council on demand<sup>2</sup> a current (less than 5 years old) genuine electrical installation condition report within seven days in cases where the property would otherwise be exempt from the requirements of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020. Any code 1 or 2 defects in a report must be rectified and any FI (further investigation) codes followed up. On the expiry of a report, a new report must be obtained and supplied to the Council<sup>3</sup> within two months of the previous report's expiry date.</i></p>
4.5	<p><b>Electrical appliance and furniture safety</b> - keep in safe condition, supply to Council declaration if asked</p> <p><i>Keep electrical appliances and furniture made available in the house in a safe condition and supply to the Council on demand<sup>2</sup> a written declaration verifying the safety of the appliances and furniture.</i></p>

<b>5 Fire safety</b>	
5.1	<p><b>Smoke alarms</b> – install one on each floor and keep in working order</p> <p><i>Install a smoke alarm on each storey of the house on which there is a room used wholly or partly as living accommodation and keep any such alarm in proper working order.</i></p>
5.2	<p><b>Smoke alarms</b> – check smoke alarms at start of tenancy, supply a declaration on their condition and position if asked.</p> <p><i>Check smoke alarms whenever there is a new tenancy on the day the tenancy begins and supply to the Council on demand<sup>2</sup> a declaration of the condition and positioning of any such alarms.</i></p>
5.3	<p><b>Fire safety precautions and reviews</b> - provide fire precautions and review annually, producing evidence of reviews if asked</p> <p><i>Fire precautionary measures must be provided in accordance with <b>either</b>:</i></p> <p><i>The Bristol City Council document “Fire Safety Standards for Licensable HMOs<sup>9</sup></i></p> <p><b><u>or</u></b></p> <p><i>An independent Fire Risk Assessment (FRA) produced by a competent person that adheres to current regulations and legal requirements relating to fire safety and licensing. Such a Fire Risk Assessment must be approved by the Council and reviewed annually, on a change of tenancy, and whenever there are alterations to the property or its contents. Supply to the Council on demand written evidence of the Fire Risk Assessment together with any revisions.</i></p>
5.4	<p><b>Fire alarm periodic test certificate</b> – supply copy to Council if asked</p> <p><i>Where there is a Grade A fire alarm system installed, supply to the Council on demand<sup>2</sup> a satisfactory and genuine certificate of servicing by a competent person carried out in the previous 6 months, as required under BS 5839-6: 2019.</i></p> <p><i>Where there is a Grade C or Grade D system installed, supply to the Council on demand<sup>2</sup> a satisfactory and genuine certificate of servicing by a competent person carried out in the previous 12 months, following the servicing procedure contained in Annex I of BS 5839-6: 2019.</i></p>

**Lighting and emergency lighting** – keep emergency lighting in good working order, supply to Council declaration on condition of lighting system if asked

- 5.5 *Supply to the Council, on demand<sup>2</sup> a declaration that the lighting system is in proper working order. Emergency lighting to be maintained in accordance with the relevant British Standard (BS 5266-1:2016).*

## 6 Energy performance

**Energy Performance Certificate** – supply copy to Council if asked

- 6.1 *Where applicable supply to the Council on demand<sup>2</sup>, a current and genuine Energy Performance Certificate (EPC) in accordance with the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2012.*

**Minimum levels of energy efficiency** – property to have an EPC rating of at least E

- 6.2 *Ensure that the property reaches at least an Energy Performance Certificate (EPC) rating of E, subject to any exemptions, in compliance with the minimum level of energy efficiency for privately rented property required under The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015.*

## 7 Amenity standards

**Access to facilities** – 24-hour access to all property facilities

- 7.1 *Provide all tenants with 24-hour direct access to all toilet, personal washing and cooking facilities and equipment.*

**Sharing of bedrooms** – no obligate sharing of bedrooms

- 7.2 *Ensure that there is no obligate sharing of bedrooms*

**Names of all occupants** – supply names of all occupants to Council, if asked

- 7.3 *Supply to the Council on demand the names of all occupants*

**Room size and amenity standards** – comply with latest version of the Bristol City Council standards

- 7.4 *Comply with the Bristol City Council document 'Room Size & Amenity Standard for Licensable HMOs<sup>10</sup>'. This document may be updated during the term of the licence and it is the responsibility of the licence holder and the manager to ensure that they are aware of and are complying with the latest versions.*

**Small rooms** – tell the Council about any rooms of less than 4.64m<sup>2</sup> (50ft<sup>2</sup>)

- 7.5 *Notify the Council<sup>3</sup> of any room in the HMO with a floor area of less than 4.64 square metres.*

**Permitted numbers** – keep within the person and household number limits specified in the licence

- 7.6 *Ensure that the property is occupied in accordance with, and by no more than, the number of persons and households specified in the licence.*

**Refuse and recycling** - provide suitable storage and disposal facilities

- 7.7 *Provide suitable facilities for the storage and disposal of refuse and recycling in accordance with the Council's waste and recycling collection requirements.*

7.8	<p><b>Food safety</b> - all food handlers to be food safety trained</p> <p><i>Where food is provided, ensure that all food handlers have appropriate food safety training.</i></p>
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## 8 Tenancy agreements

8.1	<p><b>Written tenancy</b> – give all occupants a written statement of tenancy terms</p> <p><i>Supply to the occupiers of the house a written statement of the terms on which they occupy it.</i></p>
8.2	<p><b>Clear tenancy conditions</b> – do not mislead tenants about conditions</p> <p><i>Do not mislead prospective or existing tenants regarding the use, occupation, condition or the contents of the property which forms part of tenancy or agreement to occupy the property.</i></p>
8.3	<p><b>Make tenants aware of their rights and obligations</b></p> <p><i>Make tenants aware of their rights and obligations and of the licence holder or manager’s legal obligations when a tenancy is brought to an end or where the licence holder or manager seeks possession of the dwelling-house.</i></p>
8.4	<p><b>Avoid unfair terms in tenancy agreement</b></p> <p><i>The tenancy agreement should be free from both unfair terms and prohibited fees.</i></p>
8.5	<p><b>Tenancy clause on anti-social behaviour</b> – tenancy agreement to include anti-social behaviour clauses</p> <p><i>Issue new tenants with a tenancy or written agreement that include clauses that will allow the licence holder to take reasonable steps to tackle anti-social behaviour.</i></p>

## 9 Setting up and ending tenancies

9.1	<p><b>Inventories</b> – agree an inventory with the tenant at the beginning of each tenancy</p> <p><i>Arrange for an inventory of contents and condition to be signed by both parties at the beginning of the tenancy (or as soon as practicable afterwards) and give tenants the opportunity both to carry out a joint inventory inspection at the outset and to discuss the inventory at the end of the tenancy.</i></p>
9.2	<p><b>Deposit protection schemes</b> – use one</p> <p><i>Comply with all statutory obligations regarding tenancy deposit protection if a deposit is taken.</i></p>
9.3	<p><b>New tenant references</b> – request reference for new tenants, supply copy to Council if asked</p> <p><i>Require a reference for each new person wishing to occupy the property. The reference request should include questions about anti-social behaviour<sup>8</sup>, acting in a way that may cause a nuisance to neighbours, and any problems in respect of non-payment of rent. References should be retained for a minimum of 6 months from the issuing of the licence and supplied to the Council on demand<sup>2</sup>.</i></p>
9.4	<p><b>Past tenant references</b> – provide reference for past tenant if asked</p> <p><i>Provide, on request from other landlords, an honest, factual and accurate written reference relating to existing or past occupiers.</i></p>
9.5	<p><b>Contact details</b> – make details available to each households and display at property</p> <p><i>Make available to tenants the licence holder or manager’s name, address, any telephone contact</i></p>

number or email address to each household and ensure that such details are clearly displayed in a prominent position in the property.

- 9.6** **Fire precaution information for tenants** – give copy to all new tenants and supply copy if asked
- Provide written details of fire evacuation procedures to tenants and other occupiers. Ensure that all tenants and occupiers are aware of fire and fault indications of any fire alarm system, are adequately familiar with controls (e.g. resetting) and of measures to avoid false alarms. Supply these details to the Council on demand<sup>2</sup>.*

## 10 Tenants' entitlement to peaceful enjoyment of their home

### Obligation to allow tenant peaceful enjoyment

*Do not, and do not cause anyone else to:*

- 10.1**
- Unlawfully deprive any residential occupier(s) of their occupation of the property or any part of the property, or attempt to do so,*
  - Carry out acts likely to interfere with the peace or comfort of the residential occupier(s) or members of his household, or*
  - Persistently withdraw or withhold services reasonably required for the occupation of the property in question as a residence.*

### Access to property - need to give tenant 24 hours' notice

- 10.2** *Make prior arrangement with the tenant and give at least 24 hours' notice (except in emergencies) of access to the property by the landlord or their representative for inspection, repairs, monitoring or any other reason.*

### Notes

- 1** Fit and Proper person definition: see Housing Act 2004 s66, this can be found at <https://www.legislation.gov.uk/ukpga/2004/34/section/66>
- 2** Any reference to 'on demand' means the Council requires that the document(s) or information is supplied to the Council within 28 days unless stated otherwise.
- 3** Postal address: (Private Housing Team) (100TS) or (Licensing Team) (100TS), Bristol City Council, PO Box 3399, Bristol, BS1 9NE.
- 4** [Managing asbestos in buildings](#): A brief guide Health and Safety Executive.
- 5** Legionnaires' disease [A brief guide for duty holders](#) Health and Safety Executive.
- 6** Solid fuel includes coal, wood, etc. A non-functioning, purely decorative fireplace would not constitute a solid fuel burning combustion appliance.
- 7** Regulation 2(1) of the Building Regulations: "electrical installation" means fixed electrical cables or fixed electrical equipment located on the consumer's side of the

electricity supply meter.

**8** Anti-social behaviour: Behaviour that causes or is likely to cause harassment, alarm or distress to one or more persons not of the same household (this includes noise nuisance).

**9** Bristol City Council Fire Safety Standards for Licensable HMOs. The latest versions can be found at [www.bristol.gov.uk/hmo](http://www.bristol.gov.uk/hmo).

**10** Bristol City Council room size & amenity standard for licensable HMOs. The latest versions can be found at [www.bristol.gov.uk/hmo](http://www.bristol.gov.uk/hmo).

## 15. Appendix 4 - Selective Licensing Conditions

The following licence scheme conditions apply both to the licence holder and to any manager who has accepted responsibility under the licence.

1 Professionalism and standard of conduct	
1.1	<p>Reasonable and equitable standard of conduct</p> <p>Conduct business regarding the property and the tenancy in a reasonable and equitable manner and in accordance with applicable standards of due diligence.</p>
1.2	<p><b>'Fit and Proper Person' declarations</b> – supply to Council declarations by all individuals involved in management of the property if asked</p> <p>Any person involved in or becoming involved in the management of the property after the licence date must be a fit and proper person<sup>1</sup> and must supply the Council on demand<sup>2</sup> with a completed 'declaration in respect of a fit and proper person' form for everyone involved.</p>
1.3	<p>All agents to be members of Agent Redress or Client Money Protection schemes</p> <p>Where the licence holder or manager is a letting or property managing agent they must be a member of a statutory scheme such as the Lettings and Management Agent Redress Scheme or the Client Money Protection Scheme.</p>

2 Keeping the Council informed of changes	
2.1	<p>Any changes in licence holder – notify Council</p> <p>Notify the Council in writing<sup>3</sup> of any change to the name, address, or any other contact details (including email address) of the licence holder, manager or any other person involved in the management of the property, within 14 days of that change.</p>

3 Repair and maintenance	
3.1	<p><b>Repair timescales</b> – prompt response to disrepair issues</p> <p>As far as is reasonably practicable keep within the following timescales in responding to information about disrepair and maintenance issues at the property:</p> <ul style="list-style-type: none"><li>• Emergency repairs: 24 hours (affecting health or safety e.g., dangerous electrical fault, blocked W C, no hot water, etc.)</li><li>• Urgent repairs: 5 working days (affecting material comfort e.g., no heating or fridge failure, serious roof leak, etc.)</li><li>• Other non-urgent repairs: within a reasonable period taking into account the extent and cost of the works required and any disruption for the occupiers.</li></ul>
3.2	<p><b>Facilities and equipment</b> - keep facilities and equipment in a safe condition and good repair</p> <p>Facilities and equipment must be kept in a safe condition and good working order.</p>

3.3	<p><b>Asbestos and Legionella</b> – comply with legal requirements</p> <p>Comply with current statutory requirements relating to the identification of works necessary for the safe management of the following:</p> <ul style="list-style-type: none"> <li>• any asbestos containing materials<sup>4</sup>, and</li> <li>• Legionella species risks<sup>5</sup>.</li> </ul>
3.4	<p><b>Pest control</b> – use competent contractors</p> <p>Employ a competent pest control contractor to carry out appropriate treatments to any pest infestation.</p>

<p><b>4 Gas and electrical safety</b></p>	
4.1	<p><b>Gas safety certificate</b> – provide one annually</p> <p>If gas is supplied to the house, supply to the Council<sup>3</sup> annually for their inspection, a satisfactory and genuine gas safety certificate obtained in respect of the house within the last 12 months.</p>
4.2	<p><b>Carbon monoxide alarm</b> - install if there is a solid fuel combustion appliance, check on each new tenancy, supply declaration of condition if asked</p> <p>Install a carbon monoxide alarm in any room (includes a hall or landing) in the property which is used wholly or partly as living accommodation (includes bathroom or lavatory) and contains a solid fuel burning combustion appliance<sup>6</sup>, and keep any such alarm in proper working order. Check the alarms on the day the tenancy begins if it is a new tenancy and supply to the Council on demand<sup>2</sup> a declaration of the condition and positioning of any such alarms.</p>
4.3	<p><b>Electrical safety</b> – meet current regulation requirements, supply to Council declaration of safety if asked</p> <p>Meet current statutory requirements in relation to electrical installations in The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 and ensure that every electrical installation<sup>7</sup> in the property is in proper working order and safe for continued use. Supply to the Council on demand<sup>2</sup> a declaration as to the safety of such installations within in 7 days of a request.</p>
4.4	<p><b>Electrical safety certificates</b> – send to the Council an electrical certificate if any faults shown followed by confirmation of rectification</p> <p>Supply to the Council on demand<sup>2</sup> a current (less than 5 years old) genuine electrical installation condition report within seven days in cases where the property would otherwise be exempt from the requirements of The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.</p>
4.5	<p><b>Electrical appliance and furniture safety</b> - keep in safe condition, supply to Council declaration if asked</p> <p>Keep electrical appliances and furniture made available in the house in a safe condition and supply</p>

to the Council<sup>2</sup>, on demand<sup>5</sup> a written declaration verifying the safety of the appliances and furniture.

## 5 Fire safety

5.1	<b>Smoke alarms</b> – install one on each floor and keep in working order Install a smoke alarm on each storey of the house on which there is a room used wholly or partly as living accommodation and keep any such alarm in proper working order.
5.2	<b>Smoke alarms</b> – check smoke alarms at start of tenancy, supply a declaration on their condition and position if asked. Check smoke alarms whenever there is a new tenancy on the day the tenancy begins and supply to the Council on demand <sup>2</sup> a declaration of the condition and positioning of any such alarms.

## 6 Energy performance

6.1	<b>Energy Performance Certificate</b> – supply copy to Council if asked Where applicable supply to the Council on demand <sup>2</sup> , a current and genuine Energy Performance Certificate (EPC) in accordance with the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2012.
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## 7 Amenity standards

7.1	<b>Access to facilities</b> – 24 hour access to all property facilities Provide all tenants with 24hour direct access to all toilet, personal washing and cooking facilities and equipment.
7.2	<b>Sharing of bedrooms</b> – no obligate sharing of bedrooms Ensure that there is no obligate sharing of bedrooms.
7.3	<b>Names of all occupants</b> – supply names of all occupants to Council, if asked Supply to the Council on demand a list of all occupants

## 8 Tenancy agreements

8.1	<p><b>Written tenancy</b> – give all occupants a written statement of tenancy terms</p> <p>Supply to the occupiers of the house a written statement of the terms on which they occupy it.</p>
8.2	<p><b>Clear tenancy conditions</b> – do not mislead tenants about conditions</p> <p>Do not mislead prospective or existing tenants regarding the use, occupation, condition, or the contents of the property which forms part of tenancy or agreement to occupy the property.</p>
8.3	<p><b>Make tenants aware of their rights and obligations</b></p> <p>Make tenants aware of their rights and obligations and of the licence holder or manager’s legal obligations when a tenancy is brought to an end or where the licence holder or manager seeks possession of the dwelling-house.</p>
8.4	<p><b>Avoid unfair terms in tenancy agreement</b></p> <p>The tenancy agreement should be free from both unfair terms and prohibited fees.</p>
8.5	<p><b>Tenancy clause on anti-social behaviour</b> – tenancy agreement to include anti-social behaviour clauses</p> <p>Issue new tenants with a tenancy or written agreement that include clauses that will allow the licence holder to take reasonable steps to tackle anti-social behaviour.</p>

## 9 Setting up and ending tenancies

9.1	<p><b>Inventories</b> – agree an inventory with the tenant at the beginning of each tenancy</p> <p>Arrange for an inventory of contents and condition to be signed by both parties at the beginning of the tenancy (or as soon as practicable afterwards) and give tenants the opportunity both to carry out a joint inventory inspection at the outset and to discuss the inventory at the end of the tenancy.</p>
9.2	<p><b>Deposit protection schemes</b> – use one</p> <p>Comply with all statutory obligations regarding tenancy deposit protection if a deposit is taken.</p>
9.3	<p><b>New tenant references</b> – request reference for new tenants, supply copy to Council if asked</p> <p>Require a reference for each new person wishing to occupy the property. The reference request should include questions about anti-social behaviour<sup>8</sup>, acting in a way that may cause a nuisance to neighbours, and any problems in respect of non-payment of rent. References should be retained for a minimum of 6 months from the issuing of the licence and supplied to the Council on demand<sup>2</sup>.</p>
9.4	<p><b>Past tenant references</b> – provide reference for past tenant if asked</p> <p>Provide, on request from other landlords, an honest, factual, and accurate written reference relating to existing or past occupiers.</p>
9.5	<p><b>Contact details</b> – make details available to each households and display at property</p> <p>Make available to tenants the licence holder or manager’s name, address, any telephone contact number, or email address.</p>

9.6	<p><b>Fire precaution information for tenants</b> – give copy to all new tenants and supply copy if asked.</p> <p>Provide written details of fire evacuation procedures to tenants and other occupiers. Ensure that all tenants and occupiers are aware of fire and fault indications of any fire alarm system, are adequately familiar with controls (e.g., resetting) and of measures to avoid false alarms. Supply these details to the Council on demand<sup>2</sup>.</p>
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<b>10 Tenants' entitlement to peaceful enjoyment of their home</b>	
10.1	<p><b>Obligation to allow tenant peaceful enjoyment</b></p> <p>Do not, and do not cause anyone else to:</p> <ul style="list-style-type: none"> <li>• Unlawfully deprive any residential occupier(s) of their occupation of the property or any part of the property, or attempt to do so,</li> <li>• Carry out acts likely to interfere with the peace or comfort of the residential occupier(s) or members of his household, or</li> <li>• Persistently withdraw or withhold services reasonably required for the occupation of the property in question as a residence.</li> </ul>
10.2	<p><b>Access to property</b> - need to give tenant 24 hours' notice</p> <p>Make prior arrangement with the tenant and give at least 24 hours' notice (except in emergencies) of access to the property by the landlord or their representative for inspection, repairs, monitoring, or any other reason.</p>

<b>11 Relations with neighbours and dealing with anti-social behaviour<sup>8</sup></b>	
11.1	<p><b>Anti-social behaviour<sup>8</sup> by tenants</b> – take steps to address any tenant anti-social behaviour</p> <p>Take all reasonable and practicable steps to prevent or reduce anti-social behaviour<sup>8</sup> by persons occupying or visiting the house.</p>
11.2	<p><b>Illegal activity</b> – take steps to deal with any illegal activity at the property</p> <p>Take all reasonable steps to ensure that the property is not used for illegal or immoral purposes.</p>
11.3	<p><b>Property appearance</b> - keep property external appearance in reasonable condition and free of graffiti and fly posters</p> <p>Take all reasonable steps to keep the external appearance of the property in a reasonable condition taking into account its age of the property, character and locality and keep the exterior of the property free from graffiti and fly posters.</p>
11.4	<p><b>Monitor for anti-social behaviour</b> – make quarterly inspections to assess anti-social behaviour</p> <p>Arrange inspections of the property on a regular basis to assess if there is evidence of anti-social behaviour<sup>8</sup>; this should be at least quarterly, but more frequently if anti-social behaviour has been established.</p>
11.5	<p><b>Contact details for neighbours</b> – give neighbours contact details for any complaints about anti-social behaviour from the property</p>

Provide the occupants of adjoining properties direct contact details such as a telephone number to enable them to inform the licence holder of problems such as complaints about the behaviour of the tenants or their visitors.

## Notes

- 1 Fit and Proper person definition: see Housing Act 2004 s66, this can be found at <https://www.legislation.gov.uk/ukpga/2004/34/section/66>
- 2 Any reference to 'on demand' means the Council requires that the document(s) or information is supplied to the Council within 28 days unless stated otherwise.
- 3 Postal address: (Private Housing Team) (100TS) or (Licensing Team) (100TS), Bristol City Council, PO Box 3399, Bristol, BS1 9NE.
- 4 [Managing asbestos in buildings](#): A brief guide Health and Safety Executive.
- 5 Legionnaires' disease [A brief guide for duty holders](#) Health and Safety Executive.
- 6 Solid fuel includes coal, wood, etc. A non-functioning, purely decorative fireplace would not constitute a solid fuel burning combustion appliance.
- 7 Regulation 2(1) of the Building Regulations: "electrical installation" means fixed electrical cables or fixed electrical equipment located on the consumer's side of the electricity supply meter.
- 8 Anti-social behaviour: Behaviour that causes or is likely to cause harassment, alarm, or distress to one or more persons not of the same household (this includes noise nuisance).

## **16. Appendix 5: Designation Conditions applying to Selective Licensing**

### [The Selective Licensing of Houses \(Additional Conditions\) \(England\) Order 2015](#)

A selective licensing designation may be made if the area to which it relates satisfies one or more of the following conditions. The area is one experiencing:

- low housing demand (or is likely to become such an area).
- a significant and persistent problem caused by anti-social behavior.
- poor property conditions.
- high levels of migration.
- high level of deprivation.
- high levels of crime.

#### **Article 4: Poor property conditions**

Local housing authorities can address poor property conditions through their powers in Part 1 of the Act, which are extensive. A local housing authority should not use its Part 3 powers (selective licensing) where it is appropriate to tackle small numbers of properties which are in disrepair directly and immediately under Part 1.

There may be circumstances in which a significant number of properties in the private rented sector are in poor condition and are adversely affecting the character of the area and/ or the health and safety of their occupants. In that case, as part of wider strategy to tackle housing conditions, the local housing authority may consider it appropriate to make a selective licensing scheme so that it can prioritise enforcement action under Part 1 of the Act, whilst ensuring through licence conditions under Part 3 that the properties are properly managed to prevent further deterioration.

It is recommended that local housing authorities consider the following factors to help determine whether there are poor property conditions in their area:

- The age and visual appearance of properties in the area and that a high proportion of those properties are in the private rented sector.
- Whether following a review of housing conditions under section 3(1) of the Act<sup>16</sup>, the authority considers a significant number of properties in the private rented sector need to be inspected to determine whether any of those properties contain category 1 or 2 hazards.

The scheme should state what action the authority intends to take under Part 1 of the Act if it identifies there are serious deficiencies with properties, including the timescale for taking the appropriate action and its enforcement plan for non-compliance with improvement notices or prohibition orders it serves.

The outcome of the designation would be a general improvement of property conditions in the designated area within the lifetime of the designation.

## **17. Appendix 6 – Fit and Proper Person Checks**

Under the Housing Act 2004, if the council is to issue any property licence it must be satisfied that the proposed licence holder is a fit and proper person and the most appropriate person to hold the licence. It must also be satisfied that the proposed manager of the house is a fit and proper person to be the manager of the house. If not, the licence must be refused unless other arrangements can be agreed.

The licence may be revoked where the council no longer considers that the licence holder is a fit and proper person to be the licence holder and where the council no longer considers that the management of the house is being carried out by persons who are not in each case fit and proper persons to be involved in its management.

These requirements are to ensure that those responsible for managing the property are of sufficient integrity and good character to be involved in the management of the particular residential property, and as such they do not pose a risk to the welfare or safety of persons occupying the property.

However, where a property is not licensed, there is no control over persons who are not fit and proper managing property outside of the requirements of licensing.

Each person involved in the management of a licensed property needs to complete the Fit and Proper Person declaration form below which is to be kept for their own records.

## Declaration in Respect of a Fit and Proper Person

### Housing Act 2004 (Part 2 / Part 3)

Name.....

In connection with the application dated ..... for a property licence in respect of:

.....

.....

..... (Property Address)

I hereby declare that I am:

- (i) The proposed licence holder
- (ii) The manager of the property to whom rent is paid (if different from (i) above)
- (iii) Someone who is otherwise engaged in the management of the property

*(Delete as appropriate)*

and that I am a fit and proper person to be engaged in that capacity.

In support of the above declaration, I confirm that I:

- do not have any unspent convictions particularly in respect of any offence involving fraud or other dishonesty, or violence or drugs, or any offence listed in Schedule 3, of Sexual Offences Act 2003.
- have not been found guilty by any court or tribunal of practicing unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying on of any business.
- have not had any judgements (whether civil or criminal) made against me under housing, public health, environmental health or landlord and tenant law.

Please provide information about any HMO or house the proposed licence holder or manager owns or manages or has owned or managed which has been the subject of:

- any appropriate enforcement action described in section 5(2) of the Act.
- refusal to grant a licence under Part 2 or 3 of the Act or has had a licence revoked as a consequence of breaching the conditions of his licence.
- an interim or final management order under the Act

Details of above.....

.....

.....

.....

Read our policy statement and our property licensing and enforcement privacy notice to see what we do with your personal information.

Please note that it is a criminal offence to knowingly supply information which is false or misleading for the purposes of obtaining a licence. Evidence of any statements made in this application with regard to the property concerned may be required at a later date. If we subsequently discover something which is relevant and which you should have disclosed, or which has been incorrectly stated or described, your licence may be revoked, or other action taken.

Signed:

Date:

Name:

## **18. Appendix 7 – Licence Fees**

The Housing Act 2004 allows Councils to set a fee for property licences and says that the Council may take into account all costs incurred by the authority in carrying out the licensing function. The Council cannot make a profit from licence fees.

The predicted cost for the Additional Licensing scheme is £790,000.

The predicted cost for the Selective Licensing scheme is £1.44 million.

The fees proposed are for a licence which will normally last for five years and the fee is fixed for the five-year scheme period. There are no other costs or fees to pay after the correct fee has been paid.

The fee structure proposed is designed to allow the Council to recover the costs of the licensing function. There are two parts to the process of setting out the proposed fee structure:

- Part 1 covers the average cost of granting or refusing an application. This part of the fee is payable at the time of submitting the application. Applications cannot be accepted without payment.
- Part 2 covers the enforcement of the licence scheme requirements and general scheme administration costs. It is payable only for licences which are proposed to be granted and is not payable if the licence application is refused.

Refunds of fees paid will only be refunded when the property licensed didn't require a licence at the time of application.

Payments are only acceptable via credit or debit card, except where an applicant can show that they have an impairment that makes using this payment method unreasonable.

Part 2 payments must be paid within 28 days of request for payment, otherwise the property will be considered unlicensed.

**Table 1: Table of fees payable for additional licensing scheme**

<b>Application Status</b>	<b>Part 1 Fee</b>	<b>Part 2 Fee</b>	<b>Total</b>
Licence application and fee* received within deadline with no discounts	£1000	£300	£1,300
With £150 discount for satisfactory safety/EPC certificates <sup>1</sup>	£1000	£150	£1,150
With £150 discount for WoE Rent with Confidence membership <sup>2</sup>	£1000	£150	£1,150
With £300 discount for both WoE Rent with Confidence membership and satisfactory safety/EPC certificates	£1000	£0	£1,000
With £100 additional "Found Unlicensed Fee" <sup>3</sup>	£1000	£400	£1,400

**Table 2: Table of Selective licence fees payable**

<b>Application Status</b>	<b>Part 1 Fee</b>	<b>Part 2 Fee</b>	<b>Total</b>
Discounted licence application and fee* received within deadline with no safety or EPC certificates and no West of England (WoE) Rent with Confidence membership	£499	£300	£799
With discount for satisfactory safety/EPC certificates but no WoE Rent with Confidence membership <sup>1</sup>	£499	£150	£649
With discount for WoE Rent with Confidence membership only but no safety/EPC certificates <sup>2</sup>	£499	£150	£649
With discount for both WoE Rent with Confidence membership and satisfactory safety/EPC certificates <sup>3</sup>	£499	£0	£499
Found unlicensed fee	£499	£400	£899

1. Discounts will be awarded where bona fide satisfactory Electrical, Gas, (if applicable) safety and Energy Performance certificates are submitted before the licence is issued or within 3 months of the licence being issued.

2. Discounts will be awarded where the landlord or agent is a member of an accreditation scheme provided by an approved provider under the West of England Rent with Confidence scheme at the time of the application.

3. An additional found unlicensed fee will be added where the application is not made on time. No discounts are available if this fee is due.

## **19. Appendix 8 – Glossary of Legislation and Regulation relating to Licensing**

- [Housing Act 2004](#)
- [Housing Act 2004 Part 1 Housing Health and Safety Rating System](#)
- [SI 2006/ 373 - The Licensing and Management of Houses in Multiple Occupation and Other Houses \(Miscellaneous Provisions\) \(England\) Regulations 2006](#)
- [The Licensing of Houses in Multiple Occupation \(Mandatory Conditions of Licences\) \(England\) Regulations 2018](#)
- [SI 2015/ 977 The Selective Licensing of Houses \(Additional Conditions\) \(England\) Order 2015](#)
- [SI 2006/ 370 – Selective Licensing of Houses \(Specified Exemptions\) \(England\) Order 2006](#)
- [SI 2015/ 962 The Energy Efficiency \(Private Rented Property\) \(England and Wales\) Regulations 2015.](#)
- [SI 2012/ 3118 Energy Performance of Buildings \(Certificates and Inspections\) \(England and Wales\) Regulations 2012](#)
- [BS 5266-1 2016 Emergency Lighting Code of practice for emergency lighting of premises](#)
- [Landlord and Tenant Act 1985](#)
- [Landlord and Tenant Act 1987](#)
- [Protection from Eviction Act 1977](#)
- [Housing Act 1988](#)
- [Housing and Planning Act 2016](#)
- [Deregulation Act 2015](#)
- [SI 2015/ 1646 The Assured Short Hold Tenancy Notices and Prescribed Requirements \(England\) Regulations 2015](#)
- [SI 2007/ 797 Housing Tenancy \(Deposits\) \(Prescribed Information\) Order 2007](#)
- [Tenant Fees Act 2019](#)
- [Coronavirus Act 2020](#)