

Decision Pathway – Report



PURPOSE: Key decision

MEETING: Cabinet

DATE: 14 December 2021

TITLE	New private rented property licensing scheme	
Ward(s)	Bedminster, Brislington West, Horfield	
Author: Tom Gilchrist, Jan Hamilton	Job title: Private Housing and Accessible Homes Manager. Senior Policy and Project officer, Private Housing	
Cabinet lead: Cllr Tom Renhard, Cabinet Member Housing Delivery and Homes	Executive Director lead: Stephen Peacock, Executive Director Growth and Regeneration	
Proposal origin: Councillor		
Decision maker: Cabinet Member Decision forum: Cabinet		
<p>Purpose of Report: To seek approval to introduce additional licensing scheme to three wards – Bedminster, Brislington West and Horfield; selective licensing to two wards – Bedminster and Brislington West - and the proposed licensing fee structure.</p>		
<p>Evidence Base:</p> <ol style="list-style-type: none"> 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%. In Bedminster ward the private rented sector is 29%, Brislington West 25% and Horfield 31%. Although most private landlords provide a good standard of accommodation and service to their tenants, many do not. Some houses are in poor condition and poorly managed, with a significant number let to vulnerable tenants who are unaware of their rights or the are aware of the minimum standards of accommodation their landlord should provide. Using powers under Part 2 and 3 Housing Act 2004, it is proposed to declare: <ol style="list-style-type: none"> an Additional Licensing scheme in Bedminster, Brislington West and Horfield wards to tackle the substandard conditions and poor management of the Houses in Multiple Occupation (HMO’s) not currently covered by mandatory licensing; and Selective licensing schemes in Bedminster and Brislington West wards covering most other types of private rented housing. (see appendix A for full proposal). Licensing gives the local authority 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 the Local Authority to proactively inspect and deal with issues that would not otherwise come to our attention. The evidence used to declare these Additional and Selective licensing areas is based on the findings from a Housing Stock Modelling Survey of the private rented sector (published October 2020), undertaken by the Building Research Establishment (BRE), using a range of data sources and the council’s own information relating to housing management and property conditions in the rented sector. The BRE sampling found that 16% of HMOs in Bedminster, 11% in Brislington West and 10% in Horfield 		

wards, had serious hazards present and lower energy efficiency levels compared to the citywide average as well as notably higher levels of fuel poverty. 26% of all complaints received by the Private Housing teams relate to conditions in HMOs.

7. For Selective licensing the first criteria to meet is that there is a high proportion of Privately Rented Properties (PRS) in the area. The government definition of a high proportion is currently 19% of all housing (source: [English Housing Survey 2019-20](#)). In Bedminster ward 29% of dwellings; and in Brislington West ward 25% are in the PRS. The second criteria to be met is that it must meet one of six conditions – and in this case that condition is poor property conditions where a significant number of properties in the PRS are in poor condition and are adversely affecting the health and safety of the occupants. In Bedminster and Brislington West wards the level of disrepair and properties with actionable hazards under the Housing Act 2004, is higher than the citywide average. Licensing would enable the council officers to inspect these properties proactively in order to determine the incidence of category 1 or 2 hazards and ensure they are remedied so that a general improvement of property conditions in the designated area will be improved over the lifetime of the designation.
8. The BRE considered the impact of the council's previous licensing schemes and found that in comparing hazards in the PRS over a two-year period between the 2017 and 2020 stock modelling surveys, in areas where discretionary licensing schemes had been declared, there was a 43% (850 hazards remedied) reduction in serious hazard in rented accommodation in these areas.
9. In selecting the two areas where Selective licensing is being proposed, the age of the housing stock was also considered. 46% of residential properties in Bedminster ward were built before 1919 and 36% in Brislington West. Older homes are more likely to have issues with excess cold, poor insulation and damp. These areas have not been targeted with any previous local authority insulation improvement schemes in the past.
10. The proposed new licensing schemes will include an estimated 2,222 selective licensable dwellings and 686 additional (HMO) licenced properties. There are already 479 mandatory licensable HMOs in these three wards. These HMO's will not be covered by these proposals.
11. A fee will be required to be paid when a property licence application is made. The total income generated from fees charged will not exceed the total expected cost of the scheme. The proposed fee has been calculated on this basis. Without the licensing fee income, the council would not be able to operate the scheme. See Appendix A2

Cabinet Member / Officer Recommendations:

That Cabinet:

1. Approve the Additional licensing scheme in Bedminster, Brislington West and Horfield wards
2. Approve the Selective licensing scheme in Bedminster and Brislington West wards.
3. Approve the property licence fee structure for both schemes as per Appendix A2.

Corporate Strategy alignment:

1. The Fair and Inclusive theme highlights issues in the private rented sector. *"The Private Rented Sector continues to grow, bringing issues such as the insecurity of short-term tenancies and, for some, poor conditions or tenancy management."* It could also come under the Wellbeing theme. It is well documented that a healthy home environment contributes to the occupant's health and well-being.

City Benefits:

1. Demand for housing in Bristol is high resulting in the rapid growth of the private rented sector. This proposal will ensure that substandard housing conditions and the unsatisfactory management of properties are identified and improved to meet minimum housing standards, licensing conditions and ensure good management practises are followed. This will improve living conditions for renters, which includes some of the most vulnerable residents in the city.

Consultation Details:

1. A 10-week consultation was held between 17 March and 26 May 2021 with the assistance of the council's Communications and Marketing team.
2. 26,287 letters were sent to all those affected by the proposal i.e., private landlords, their tenants and residents living or with property in the affected wards, with a link to an online proposal document and survey form. Paper copies were available upon request.
3. Emails were sent to 6,924 landlords on the Landlord Database.
4. Emails were sent to local landlord and tenant organisations and the two universities and to West of England LAs.
5. Local ward councillors were briefed.
6. A presentation was given to 70 members of the West of England Landlord and Agent panel.
7. The consultation was publicised on the council's Consultation Hub, on private landlord's web pages and in a press release. There was also an item in the Our City e-newsletter and Ask Bristol newsletter.
8. It was also promoted in two editions of the Private Landlords monthly newsletter.
9. Social media posts were made weekly throughout the consultation period on Facebook reaching more than 16,000 people and Twitter reaching more than 110,000 people.
10. That 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.

Background Documents: [Building Research Establishment \(BRE\) Bristol Housing Stock Report, October 2020](#)

Revenue Cost	£2.2m	Source of Revenue Funding	The cost of the scheme is funded through licence fee income
Capital Cost	£n/a	Source of Capital Funding	n/a
One off cost <input type="checkbox"/>	Ongoing cost <input type="checkbox"/>	Saving Proposal <input type="checkbox"/>	Income generation proposal <input checked="" type="checkbox"/>

Required information to be completed by Financial/Legal/ICT/ HR partners:

1. Finance Advice: The projected cost for two new rented property licensing schemes in three wards of the city is £2.2m and expected to issue just over 2900 licensing over 5 years. The scheme cost is funded within existing budget and there is no additional budget requirement.

It is estimated that additional Licensing for HMO will cost £798k and Selecting Licensing for dwellings will cost £1.450m over 5 years. The cost includes staff, set up cost and overheads to run the scheme. Please see appendix G with 5 years cost breakdown and fee schedule.

It is anticipated that 686 additional licensing and 2222 Selective licensing will be issued over 5 years with fee (before any discounts) of £1300 and £799 per application respectively. Please see fee schedule.

The total income generated by the scheme is required by legislation not to exceed cost (over its 5-year duration) the cost of processing applications and operating the scheme. Based on current projection there will be small deficit over 5 years. The potential shortfall could be covered by marginal increase in licence applications. In the event where there will be deficit at the end of the scheme, it will be covered within service budgets.

The greater part of scheme income will be received in the early years, so it is appropriate a reserve is operated to smooth out the income and achieve a better match with the costs entailed.

Finance Business Partner: Aisha Bapu, Principal Accountant, 7 October 2021

2. Legal Advice:

Appendix A1 sets out the statutory tests that must be met in order for the Council to have discretion to make the proposed designation. In summary the decision maker must be satisfied:

- That a significant proportion of the HMO's are being managed to give rise to the particular problems identified.

- That the proposal seeks to adopt a co-ordinated approach
 - That there is consistency with the Council’s overall current housing strategy
 - whether there are any other courses of action available to the council of whatever nature that might provide an effective method of dealing with the problems
 - That the designation will significantly assist the council in dealing with the problems identified
- The nature of the decision is discretionary and as such the decision maker must direct itself only to factors that are relevant, disregard the irrelevant and striving to achieve the purpose of the legislation make a decision that is rational and reasonable in law.

Consultation has taken place in relation to the decision to be taken. The Responses to the consultation must be taken into account by Cabinet when taking the decision. Cabinet should also be satisfied that proper consultation has taken place in that (i) proposals were consulted on are at a formative stage (ii) sufficient reasons have been given for the proposals and (iii) adequate time has been allowed for consideration and response. Appendix B1 of this report clearly sets out the process that was undertaken and how responses have been taken into consideration by officers when developing their proposals for final decision.

The Public Sector Equality duty requires the decision maker to consider the need to promote equality for persons with “protected characteristics” and to have due regard to the need to i) eliminate discrimination, harassment, and victimisation; ii) advance equality of opportunity; and iii) foster good relations between persons who share a relevant protected characteristic and those who do not share it.

The Equalities Impact Check/Assessment (Appendix E) is designed to assess whether there are any barriers in place that may prevent people with a protected characteristic using a service or benefiting from a policy. The decision maker must take into consideration the information in the check/assessment before taking the decision.

A decision can be made where there is a negative impact if it is clear that it is necessary, it is not possible to reduce or remove the negative impact by looking at alternatives and the means by which the aim of the decision is being implemented is both necessary and appropriate.

The decision maker should have regard to the regulators code insofar as the decisions being made would set standards that private landlords would have to comply with. The code can be found at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf

The decision maker is asked to set fees at certain levels and Appendices A1 and A2 are clear that they do not exceed the amount that is allowed under statutory provisions. If the decision maker wanted to consider another level of fee, then further detailed financial information would be needed and further consultation should be undertaken with those likely to be affected.

Legal Team Leader: Anne Nugent, Team Leader (in consultation with regulatory lawyer Kate Burnham-Davies) Comments based on documentation provided on 2 December 2021

3. Implications on IT: The proposal does not introduce any new IT/Digital requirements; therefore no impact is anticipated on IT/Digital Services

IT Team Leader: Simon Oliver, Director Digital Transformation 15 September 2021

4. HR Advice: There are no anticipated HR implications.

HR Partner: Celia Williams, HR Business Partner, Growth & Regeneration 30 September 2021

EDM Sign-off	Stephen Peacock, Executive Director Growth and Regeneration	13 October 2021
Cabinet Member sign-off	Cllr. Tom Renhard, Cabinet Member Housing Delivery and Homes	18 October 2021
For Key Decisions - Mayor’s Office sign-off	Mayor’s Office	15 November 2021

Appendix A1 – Further essential background / detail on the proposal Proposal to introduce a new property licensing scheme Appendix A2 – Proposal fee structure	YES
Appendix B1 – Details of consultation carried out - internal and external	YES

The Property Licensing Proposal Consultation report has been published on the Consultation Hub	
Appendix B2 - Response and comments to consultation	
Appendix C – Summary of any engagement with scrutiny	NO
Appendix D – Risk assessment	YES
Appendix E – Equalities screening / impact assessment of proposal	YES
Appendix F – Eco-impact screening/ impact assessment of proposal	YES
Appendix G – Financial Advice	NO
Appendix H – Legal Advice	NO
Appendix I – Exempt Information	No
Appendix J – HR advice	NO
Appendix K – ICT	NO
Appendix L – Procurement	NO