

Decision Pathway – Report

PURPOSE: Key decision

MEETING: Cabinet

DATE: 06 February 2024

TITLE	Proposals to introduce new property licensing schemes	
Ward(s)	Citywide additional licensing scheme and a targeted selective licensing scheme in Bishopston & Ashley Down, Cotham and Easton wards	
Author: Tom Gilchrist	Job title: Private Housing Services Manager	
Cabinet lead: Councillor Kye Dudd, Cabinet Member for Housing Services and Energy	Executive Director lead: John Smith, Interim Executive Director Growth and Regeneration	
Proposal origin: Councillor		
Decision maker: Cabinet Member Decision forum: Cabinet		
Purpose of Report:		
<ol style="list-style-type: none"> 1. To seek approval to introduce a citywide additional licensing scheme. 2. To seek approval to introduce a targeted selective licensing scheme in three wards. 3. To seek approval of the proposed associated licensing fee structure. 		
Evidence Base:		
<ol style="list-style-type: none"> 1. In Bristol, privately rented housing accounts for 27.4% (55,670) of the city’s housing stock (Building Research Establishment (BRE) Bristol Housing Stock Report, August 2023) – more than 10% above the national average of 19%. 2. 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 of the minimum standards of accommodation their landlord should provide. 3. Using powers under Part 2 and 3 Housing Act 2004, it is proposed to declare <ol style="list-style-type: none"> a. a citywide Additional Licensing scheme to tackle the substandard conditions and poor management of the Houses in Multiple Occupation (HMO’s) not currently covered by mandatory licensing and b. A targeted selective licensing scheme in Bishopston & Ashley Down, Cotham and Easton wards. 4. 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 being met and to deal with issues that would not otherwise come to our attention. 5. The evidence used to declare these Additional and Selective licensing areas is based on the findings from the BRE report August 2023 using a range of data sources and the council’s own information relating to housing management and property conditions in the rented sector. This information was also backed up with the findings of the National statistics, English Housing Survey 2021 to 2022: private rented sector report 6. For Selective licensing, the first criteria to meet is: <ul style="list-style-type: none"> - 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 2021-2022). All three of the targeted wards exceed this figure - Bishopston and Ashley Down ward the private rented sector is 33%, Cotham 55% and Easton 23%. - The second criteria to be met is that that the proposal must meet one of six conditions should be met – The ‘Poor property conditions’ criteria was met as a significant number of properties in the PRS are in poor condition and are adversely affecting the health and safety of the occupants. 		

In all three wards, poor conditions were found to be notably higher with levels of disrepair and properties with actionable hazards under the Housing Act 2004.

- Licensing will enable officers to inspect rented properties proactively to determine the incidence of category 1 or 2 hazards and ensure these defects are remedied so that a general improvement of property conditions in the designated area will be improved over the lifetime of the designation. See also Appendix A2: The Licensing Proposal document.
- 7. The BRE modelling also found that HMOs account for an estimated 24% (13,349) of the private rented sector and had a higher level of serious hazards present and lower energy efficiency levels compared to the citywide average as well as notably higher levels of fuel poverty. 19% of all complaints received by the Private Housing team in the last five years relate to poor housing conditions and poor management in HMOs.
- 8. Bristol City Council has already introduced four previous property licensing schemes in the Stapleton Road area, Eastville and St George West wards (additional and selective), an additional licensing scheme in the 12 central wards in Bristol and most recently an additional licensing scheme in Bedminster, Brislington West and Horfield wards and a selective licensing scheme in Bedminster and Brislington West. High levels of improvements have been made in these areas and over 6,600 properties had been licensed up to June 2023 and a further 4,000 being processed. Given the outcomes from the previous schemes, we expect the licensing programme under these proposals to have similar outcomes. See section 6 of the proposal document Appendix A1 for a more comprehensive list of outcomes for each scheme to date).
- 9. The proposed new licensing schemes will include an estimated 8,041 additional licensable HMOs and 4,307 selective licensable properties. There are already 3,087 mandatory licensable HMOs in Bristol and these will not be included in these proposed new schemes. HMOs licensed under previous declared additional licensing schemes will need to re-license under this new additional licensing scheme proposal.
- 10. If both proposals are approved by Cabinet, additional resources will be recruited to deliver the licensing schemes.
- 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 fee covers the cost of the licensing function and no more. 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.
- 12. The result from the consultation shows that 52.57% of respondents agreed with the proposal to introduce a new additional licensing scheme and 39.19% disagreed. However, when this broken down by respondent group 28.60% of landlords and agents agreed or strongly agreed; 63.8% of private tenants; 76.15% of owner occupiers and 40.4% of "Other "respondents agreed or strongly agreed with the additional licensing proposal.
- 13. The result from the consultation shows that 38.96% of respondents agreed with the proposal to introduce a new selective licensing scheme and 51.22% disagreed. However, when this broken down by respondent group 13.86% of landlords and agents agreed or strongly agreed; 53.9% of private tenants; 60.71% of owner occupiers and 29.47% of "Other "respondents agreed or strongly agreed with the selective licensing proposal.
- 14. As private tenants are most affected by poor housing conditions or poor management their support for the scheme to improve their living conditions should be noted.
- 15. The Housing Act 2004 allows councils to set a fee for property licences and the council may consider all costs incurred by the authority in carrying out the licensing function and allows the council to recover the full cost of running the scheme. The fee calculator has been closely checked by council finance officers

Cabinet Member / Officer Recommendations:

That cabinet:

1. Approves the introduction of a citywide additional licensing scheme.
2. Approves the introduction of a targeted selective licensing scheme in three wards.
3. Approves the proposed associated licensing fee structure outlined in Appendix A2.
4. To note the outcome of the consultation.

Corporate Strategy alignment:

1. This scheme would continue efforts to improve housing standards in the PRS – a key issue in the council's Corporate Strategy.

City Benefits:

1. We must take necessary steps to ensure that the private rented stock provides decent housing conditions for

the residents of Bristol, many of whom are the most vulnerable.

Consultation Details:

1. A comprehensive ten-week consultation took place from 29 August to 7 November 2023 and was posted on the Ask Bristol and Property Licensing web pages. The consultation was started with the mayor's blog.
2. 12,636 letters were sent to known private landlords, letting agents and 7,483 to private tenants.
3. An article appeared in two Landlord Newsletters and to Tenant Organisation Newsletters during the consultation period. These went to 7,632 landlords and agents and to 35 tenant organisations.
4. Direct emails were sent to 31,947 private tenants and to 30,066 owner occupiers.
5. 90 emails to stakeholder organisations.
6. Posters were put up in 27 libraries and in 100 community centres across Bristol and shared through the Community Exchange Network.
7. 22 consultation packs were sent out to those who requested paper copies.
8. 248 direct emails were received, and responded to, from consultees.
9. A Landlord Forum and Tenant organisation's meeting was held during the consultation period.
10. All 70 councillors were emailed with details of the consultation and given relevant publicity materials.
11. Social media posts were made throughout the ten-week consultation period both the council and from other organisations such as Shelter and Acorn.
12. The consultation was raised at the Living Rent Commission tasking group and its members also asked to share details on the consultation.
13. We have received four submissions from organisations, which are included in the Consultation Report with responses.
14. The consultation attracted 1562 responses: 36.49% from private landlords or managing agents affected by the proposals; 24.58% from private tenants affected by the proposals; 29.00% from owner occupiers living near to affected properties; 19.33% from other interested parties.
15. The key results were:
 - a. 52.57% of respondents agreed with the proposal to introduce a new additional licensing scheme and 39.19% disagreed. However, when this broken down by respondent group 28.60% of landlords and agents agreed or strongly agreed; 63.8% of private tenants; 76.15% of owner occupiers and 40.4% of "Other" respondents agreed or strongly agreed with the additional licensing proposal.
 - b. 38.96% of respondents agreed with the proposal to introduce a new selective licensing scheme and 51.22% disagreed. However, when this broken down by respondent group 13.86% of landlords and agents agreed or strongly agreed; 53.9% of private tenants; 60.71% of owner occupiers and 29.47% of "Other" respondents agreed or strongly agreed with the selective licensing proposal.
 - c. 55.49% of the respondents found the additional licensing fees too high and 54.49% thought that the selective licensing fees were too high.
16. Other statistics from the Consultation report include:
 - a. 32.74% of landlords who responded to the survey own only one HMO but 1% own more than 100.
 - b. 24.07% of landlords who responded to the survey let an HMO, 59.26% let non-HMOs and 19.44% let both HMO and non-HMO
 - c. 36.79% of landlords who responded to the survey say they visit their properties every quarter but only 17.71% of private tenants who responded said their landlord visits quarterly. 12% of them said the landlord never visits.
 - d. 99% of landlords who responded to the survey say they comply with safety standards.
 - e. 31.08% of landlords who responded to the survey have experienced damage to their properties (more than wear and tear)
 - f. 44% of tenants who responded to the survey said they lived in an HMO.
 - g. 41% of tenants who responded to the survey live in Cotham.
 - h. 69.62% of tenants who responded to the survey said their landlords provided them with emergency contact details.
 - i. 29.67% of tenants who responded to the survey said their landlords didn't deal with ASB from other tenants or their visitors.

- j. 36.71% of tenants who responded to the survey said their landlord ignored requests for repairs.
- k. 38.51% of owner occupier respondents had made a complaint about noise from a privately rented property.
- l. 28.8% of owner occupier respondents had made a complaint about ASB from a privately rented property.
- m. 36.22% of owner occupier respondents have made a complaint about rubbish/waste at a privately rented property.

Background Documents: [The Building Research Establishment \(BRE\)](#) undertook a stock dwelling modelling analysis with emphasis on the private rented stock in Bristol. Further information on the state of the PRS was taken from [National statistics- English Housing Survey 2021 to 2022: private rented sector](#), published 13 July 2023

Revenue Cost	£12.5m and £3.5m	Source of Revenue Funding	Licensing fee income
Capital Cost	n/a	Source of Capital Funding	n/a
One off cost <input checked="" 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 £16m and expected to issue over 12,000 licenses over 5 years. Any additional costs associated with the scheme will be recovered from additional income generated.

It is estimated that additional Licensing for HMO will cost £12.5m and Selective Licensing for dwellings will cost £3.5m over 5 years. The cost includes staff, set up cost and overheads to run the scheme.

It is anticipated that 8,041 licenses (4,345 new & 3,696 renewal) and 4,307 Selective licenses (new only) will be issued over 5 years with fees (before any discounts like Regulatory memberships or Satisfactory certificates) of £1,861 and £912 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.

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: Martin Johnson – Interim Finance Manager Housing & Landlord Services, 17 January 2024

2. Legal Advice: The proposal document sets out the statutory ability and tests that must be satisfied to introduce schemes such as these. In order for either scheme to be introduced lawfully, the Council must ensure the legislation is complied with at every stage and that evidence for each the scheme is present and outlined as required.

Consultation has taken place in relation to the proposals. The responses to the consultation must be considered when taking the decision. It is noted that the consultation in relation to selective licensing was not supportive of the scheme's introduction.

Effective and proper consultation is imperative, and the decision maker should be satisfied that:

- (1) The proposals were consulted on are at a formative stage.
- (2) Sufficient reasons have been given for the proposals; and
- (3) That adequate time has been allowed for consideration and response.

This report sets out the key findings from the consultation. At the time of drafting these legal comments the full

consultation report is not available.

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 Appendix A2. It is imperative, in order for the scheme to be lawful, that the fees do not exceed the amount that is permitted under legislative 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.

It is lawful to introduce such a scheme as long as the correct statutory procedure is followed, the evidential basis for the scheme’s introduction is present and the outcome of the consultation is taken into consideration by the decision maker.

Legal Team Leader: Anne Nugent, Team Manager - Litigation, Regulatory and Community Team (in consultation with specialist regulatory lawyer Kate Burnham-Davies) 29 January 2024.

3. Implications on IT: IT are supportive and available to aid in progressing relevant work and can be engaged through the existing work request process.

IT Team Leader: Alex Simpson - Lead Enterprise Architect - 23 November 2023

4. HR Advice: The report states that additional staffing resource will be required, should both schemes be implemented. The service estimates an additional 28-30 FTE technical and support equivalent roles will be necessary to resource both schemes. The additional staff will be funded by generated income.

HR Partner: Celia Williams - HR Business Partner – Growth and Regeneration - 6 December 2023

EDM Sign-off	John Smith, Interim Executive Director Growth and Regeneration	29 November 2023
Cabinet Member sign-off	Councillor Kye Dudd, Cabinet Member for Housing Services and Energy	4 December 2023
For Key Decisions - Mayor’s Office sign-off	Mayor’s Office	8 January 2024

Appendix A – Further essential background / detail on the proposal	YES
A1: Proposal to introduce new property licensing schemes in Bristol – full consultation document	

A2: Proposed fee structure	
Appendix B – Details of consultation carried out - internal and external Appendix B1 - Consultation Report Appendix B2 - NRLA submission #2 Appendix B3 - Black South West Network Research paper Appendix B4 - Safeagent submission Appendix B5 - Grainger plc submission	YES
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