

Report to: Cabinet

Date of Meeting: 9 October 2017

Report Title: 2nd anniversary review of the Private Rented Sector Selective Licensing Scheme

Report By: Andrew Palmer, Assistant Director, Housing and Built Environment

Purpose of Report

The selective licensing of private rented accommodation across 7 wards in the Borough was approved by Cabinet in March 2015 and came into force on the 28 October 2015. The scheme has reached its second anniversary and this report reviews performance to date and makes recommendations in the future of the scheme.

Recommendation(s)

- 1. The progress of the scheme is noted**
- 2. The proposed revised licence fee structure at appendix 2 is adopted**

Reasons for Recommendations

A review of the selective licensing of all private rented accommodation across 7 wards in the Borough has identified that the licence fee previously adopted for the scheme on the 30 March 2015 is insufficient to ensure the scheme meets a stated aim to be cost neutral to the Council at its completion and as such an increase in fee for those properties presently unlicensed is required.

Introduction

1. At its meeting of the 30 March 2015 Cabinet approved the introduction of a selective licensing scheme of all privately rented accommodation in the wards of Braybrooke, Castle, Central St Leonards, Gensing, Old Hastings, Ore and Tressell. The scheme came into effect on the 26 October 2015.
2. Local authorities are required to review discretionary licensing schemes from time to time. The original intention was to carry out an initial review at the end of year two with a further review at the end of year four with progress being assessed against the following key outcomes:
 - i. Reduction in anti-social behaviour
 - ii. Improvements in housing conditions for private tenants
 - iii. Improved management standards
 - iv. Reduction of empty properties
3. Whilst the scheme has not quite been in operation for 2 years it seems appropriate to review the scheme at this time in light of Members upcoming consideration of a further licensing scheme of Houses in Multiple Occupation. It should be noted however that officers would not expect to see a significant improvement in any of the outcomes above after only two years of operation of the scheme.
4. To date the Council has received over 6,000 applications for selective licensing and has issued over 5,000 licences. This is considerably higher than had originally been estimated at this point in the scheme. Considerable enforcement action has also taken place with regard to landlords who have not come forward to licence their properties.

Reduction in anti-social behaviour

5. The original report considering the introduction of a selective licencing scheme reviewed evidence regarding anti-social behaviour from Sussex Police and HBC's own records, it concluded that there were grounds for designating a selective licensing scheme in parts of the town that were experiencing a significant and persistent problem caused by anti-social behaviour and some or all private sector landlords in the areas are not taking appropriate action to combat the problem.
6. Figures 2 to 4 in appendix one shows data on ASB and nuisance compared to previous years. As paragraph 3 above states after only two years of operation of the scheme officers would not expect to see significant reduction in anti-social behaviour. The original purpose for the introduction of the scheme (anti-social behaviour) therefore remains.

Improvements in housing conditions for private tenants

7. Comparing the overall housing complaints from the four years prior to the introduction of the selective licensing scheme to the years since the schemes

introduction shows a drop in complaints made to the council regarding housing conditions. Figure 1 in appendix one shows that across the whole borough there has been an average reduction in complaints of 23% taking a yearly average. Some areas have seen a greater percentage drop, most notably Central St Leonards (36% reduction). This could be partially due to the concentrated enforcement programme operating in St Leonards and funded through the Coastal Space Programme and Reducing Health Inequalities funding received by the Council.

8. The introduction of selective licensing is unlikely to be the only reason for improvement of housing conditions. There has been a steady improvement over the last five years particularly in the St Leonards Renewal Area where, as stated, the Coastal Space and Hastings and Rother Health Inequalities funding has provided a resource to proactively improve housing conditions in this area.
9. It should also be noted that in areas of high demand for housing and with a significant private rented sector there has been a recent trend of 'retaliatory eviction' whereby landlords are able to evict tenants who complain about housing conditions as they know there is a ready supply of tenants looking for accommodation. This threat of retaliatory eviction may be a contributing factor for the reducing numbers of complaints which is remedied though licensing as inspections of properties are not reliant on complaints from tenants.

Improved management standards

10. There is no specific output that can presently be used to measure improved management standards other than tenants' satisfaction with their living conditions. The most recent Housing Stock Condition Survey (December 2016) asked tenants a number of questions about renting in the private rented sector. The findings (reproduced at figure 5 in appendix one) generally indicate that while much of the privately rented sector was likely to be well managed, there were prevalent issues around landlords failing to carry out routine maintenance (only 64.9% fulfil this obligation) and failing to respond to problems in a reasonably time (only 78.3% do).
11. Whilst this data acts as a useful baseline to management standards in the private rented sector it would not be appropriate to update this information at this time and as such it is proposed to revisit these same questions about living in the private rented sector in a tenant survey to inform the exit review for the selective licensing scheme.

Reduction of empty properties

12. Whilst all area housing intervention should seek to bring empty properties back into use licensing can have the opposite effect as some owners who are sweating their asset with regards to their properties may leave properties empty. The numbers of empty properties (figure 6 in appendix one) are in constant flux as properties come back into use so, similar to measuring ASB, drawing conclusions after only two years of the scheme is not appropriate.

Financial position

13. At its meeting in March 2015 Cabinet resolved to adopt the following fee structure;

- Standard fee - £460 per dwelling licensed.

Registered Charities operating and managing property in the designated area to be exempt from the licensing fees, but not the requirement to be licensed.

Phased payments (direct debits) for landlords with 10 or more properties within the designated area.

- Incentives and reduced fees:

An 'early bird' rate in the first 6 months of the scheme, reducing the cost of a licence to £185.

A lower cost for membership of a recognised professional body or national landlord accreditation scheme, reducing the cost of a licence to £330.

If both these criteria apply then the cost of a licence will reduce further to £150 for responsible landlords.

- The application fees were determined based on the cost of administering the scheme and that the scheme would be cost neutral at the end of its fifth year of operation. The income profile made assumptions on the number of properties that would be licenced upon completion of the scheme (7,118) and those that would pay the full fee and the reduced fee.
- When the scheme was introduced the council received a significant number of applications within the 'early bird' period. In the first 6 months of the scheme 44% of the total number of applications expected across the whole 5 year period of the scheme were received. Based upon the experience of the additional licensing scheme, the original business plan had made an assumption that there would only be around 27% of licence applications made within the 'early bird' application window.
- A recent external audit by PwC (presented to Audit Committee on the 21 September 2017) estimated that the reduction in income for the scheme as a result of this unexpected uptake of the 'early bird' discount to be £369k. As a result of the reduced income officers immediately undertook to restructure the Housing Renewal Team with a view to reducing the staffing expenditure to meet the newly estimated income level. This reduction in staffing has caused delays in the processing of licences and the resource available to inspect all licenced properties. This was also highlighted in the PwC audit.
- As the scheme approaches its second anniversary and with guidance from PwC the original business plan for the selective licensing scheme has been reviewed to reflect the actual cost (and income) in the first two years of operation. Using the actual expenditure and income for 2015/16 and 2016/17 and keeping the expenditure as originally profiled at the end of its 5 year statutory period the selective licensing scheme will have operated at a net cost to the Council at the end of its fifth year of operation.
- Members are presently considering the introduction of an additional HMO licensing scheme to follow the previous HMO licensing scheme which ended in September

2016. Should this be approved it is proposed to transfer existing staff from selective licensing to operate the new HMO licensing scheme. Whilst this will reduce the resource available to the selective licensing scheme this will be at a time when the application rate will be starting to decline and reductions in staffing would be required anyway.

19. If staffing resources are transferred to administer a new HMO licensing scheme from April 2018 the net cost to the council of the selective licensing scheme upon its completion would reduce to £350k. As such in order to achieve a cost neutral position for selective licensing there is a need to increase the application fee for any remaining licences. It should be noted that over 6,000 applications have been received for selective licences a proportion of those that are not yet licenced could be seen as explicitly avoiding licensing and when they are identified they should pay a proportionately greater application fee than those already licenced.
20. As the 'early bird' discount period has ended and many of the good landlords are licenced it is therefore proposed to set one straight application fee with no further discounts. The newly proposed fee from 1 November 2017 will be - **£665** this equates to a 45% increase in the original full application fee. This increase in fee will seek to ensure the scheme operates at a nil net cost at the end of its 5 years of operation.
21. Whilst it might be argued that those applying for licences early have enjoyed financial advantage, two things should be noted. Firstly, existing landlords who have no license to date are in breach of the law and will have enjoyed a 2 year licence free period at the expense of those who applied early. A criticism of earlier schemes is that the council has not sufficiently addressed potential rogue elements who have sought to avoid licensing. Secondly, new landlords entering the market will be clear as to the future costs of new licences (as licences are normally issued for 5 years from the date of application so they will benefit from the full term of the licence) and will therefore be able to incorporate these within their business plan assumptions.

Legal Implications

22. There is a requirement that the Council must from time to time review the operation of any designation made by them and if following a review they consider it appropriate to do so, the Council may revoke the designation. Whilst there has been an improvement in property conditions over the past five years or so and complaints about housing conditions are lower per annum than prior to the introduction of the Selective Licensing scheme there is not sufficient evidence to show that the scheme has yet met its initial objectives and there is a need to continue the scheme.

Wards Affected

Braybrooke
Castle
Central St Leonards
Gensing
Old Hastings
Ore

Tressell

Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness
Crime and Fear of Crime (Section 17)
Risk Management
Economic/Financial Implications
Organisational Consequences
Local People's Views

Additional Information

Appendix 1 – Selective Licensing 2nd anniversary review tables.
Appendix 2 – Revised Selective Licensing Fee Structure (from 1 November 2017)

Officer to Contact

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Appendix 1: Selective Licensing 2nd anniversary review.

Figure 1 – Overall Housing Complaints (April 2014 to March 2017)

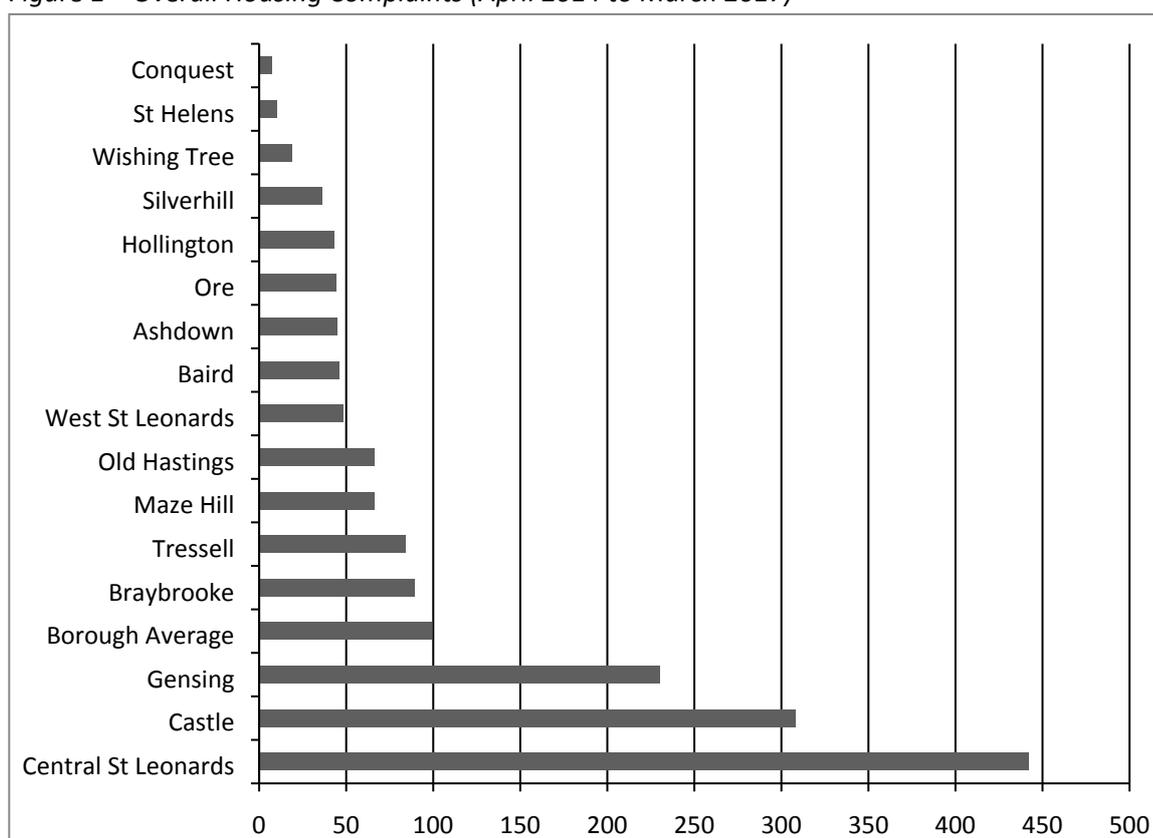


Figure 2 - % change in average housing complaints per annum (April 2011 to March 2015 against April 2015 to March 2017)

Ward	% change in average complaints per annum
Central St Leonards	-36%
Castle	-27%
Gensing	-17%
Borough Average	-23%
Braybrooke	-31%
Tressell	1%
Maze Hill	-11%
Old Hastings	1%
West St Leonards	0%
Baird	-31%
Ashdown	2%
Ore	1%
Hollington	-18%
Silverhill	37%
Wishing Tree	-37%
St Helens	-5%
Conquest	-22%

Figure 3 – Personal and Nuisance ASB in Hastings (January 2015 to June 2017)

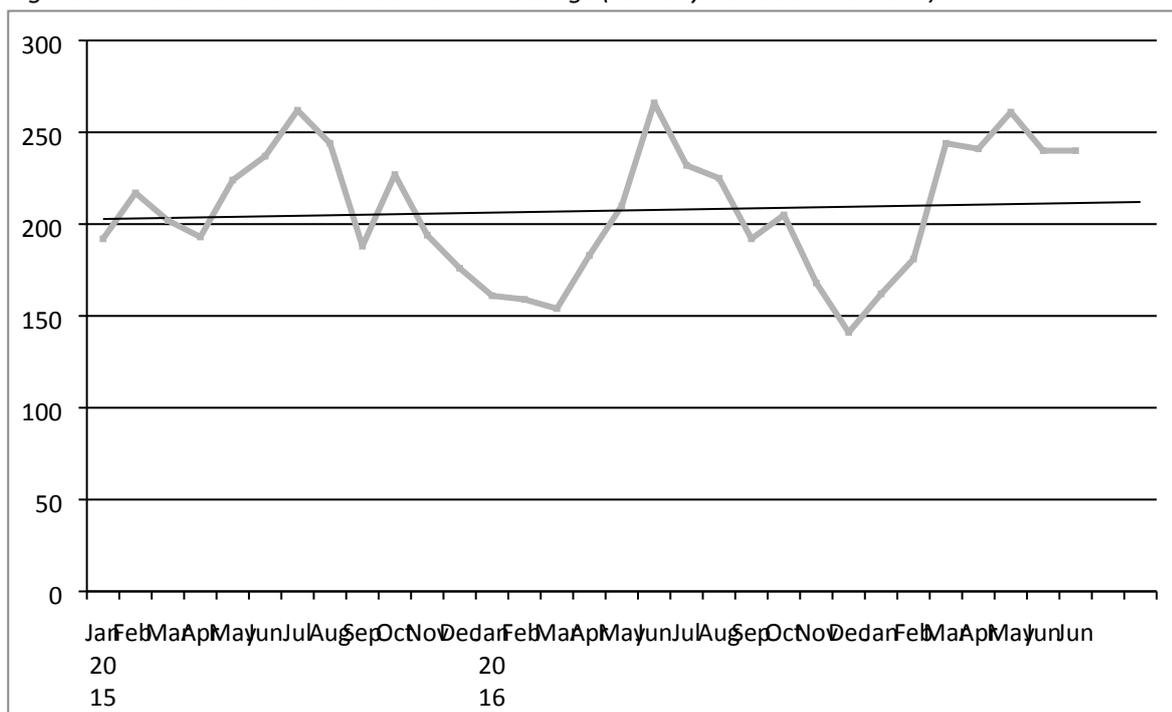


Figure 4 – Personal, Environmental and Nuisance ASB in Hastings (January 2015 to June 2017)

Ward	Jan 2015 to Sept 2015	Oct 2015 to June 2016	Difference Jan 15 to June 16	July 2016 to Mar 2017	Difference Jan 15 to Mar 17
Braybrooke	107	80	-27	91	-16
Castle	660	678	18	561	-99
Central St. Leonards	471	396	-75	448	-23
Gensing	243	209	-34	218	-25
Old Hastings	151	105	-46	162	11
Ore	120	128	8	119	-1
Tressell	207	134	-73	151	-56
Total	1959	1730	-229	1750	-209

Figure 5 – Hastings House Condition Survey 2016 – Private rented sector issues

Issues arising with private sector landlords	Private rented dwellings where household answered 'Yes'	
	Number	Proportion
Is there a written tenancy agreement?	8,750	91.26%
Was deposit NOT protected under a government back deposit scheme?	1,180	20.37%
Does the landlord respond to problems in a reasonable time?	7,500	78.29%
Does the landlord have an emergency number?	8,180	85.41%
Does the landlord carry out routine maintenance?	6,220	64.89%
Does the landlord always give notice before entering the property?	7,500	78.22%
Is there a smoke alarm working and present?	7,480	82.61%
All occupied private rented dwellings	9,580	100.00%

Figure 6 – Number of Long Term Empty Homes

	Nov-13	Jul-17	% change
Central St Leonards	150	240	60%
Castle	135	150	11%
Gensing	67	110	64%
Old Hastings	61	53	-13%
Borough Average	42	53	26%
Braybrooke	39	53	36%
Baird	37	12	-68%
Maze Hill	36	56	56%
Silverhill	36	23	-36%
Ashdown	21	12	-43%
Tressell	19	14	-26%
St Helens	19	28	47%
West St Leonards	16	15	-6%
Ore	14	25	79%
Wishing Tree	7	21	200%
Hollington	7	13	86%
Conquest	3	20	567%
	667	845	27%

Appendix 2: Revised Selective Licensing Fee Structure (from 1 November 2017)

The fee structure is to be reviewed regularly to ensure accuracy in terms of costs and revenue generation.

Proposed standard fee - £665 per dwelling licensed.

Registered Charities operating and managing property in the designated area to be exempt from the licensing fees, but not the requirement to be licensed.