



NOTTINGHAM CITY COUNCIL
OVERVIEW AND SCRUTINY - CALL IN PANEL

Date: Wednesday 4 January 2017

Time: 12.00 pm

Place: LB 31 - Loxley House, Station Street, Nottingham, NG2 3NG

Councillors are requested to attend the above meeting to transact the following business

Corporate Director for Strategy and Resources

Senior Governance Officer: Laura Wilson **Direct Dial:** 0115 8764301

- 1 APOLOGIES FOR ABSENCE**
- 2 DECLARATIONS OF INTERESTS**
- 3 CONFIRMATION OF VALIDITY OF CALL-IN REQUEST RELATING TO AN EXECUTIVE BOARD DECISION (MINUTE 51) – PROPOSAL FOR A SCHEME OF SELECTIVE LICENSING FOR PRIVATELY RENTED HOUSES** 3 - 168
Report of the Governance Manager
- 4 CONSIDERATION OF CALL-IN REQUEST RELATING TO AN EXECUTIVE BOARD DECISION (MINUTE 51) – PROPOSAL FOR A SCHEME OF SELECTIVE LICENSING FOR PRIVATELY RENTED HOUSES** 169 - 178
Report of the Corporate Director for Strategy and Resources
- 5 EXCLUSION OF THE PUBLIC**
To consider excluding the public from the meeting during consideration of the remaining items in accordance with Section 100A(4) of the Local Government Act 1972 on the basis that, having regard to all the circumstances the public interest in maintaining the exemption outweighs the public interest in disclosing the information
- 6 CONFIRMATION OF VALIDITY OF CALL-IN REQUEST RELATING TO AN EXECUTIVE BOARD DECISION (MINUTE 51) – PROPOSAL FOR A SCHEME OF SELECTIVE LICENSING FOR PRIVATELY RENTED HOUSES - EXEMPT APPENDICES** 179 - 294

IF YOU NEED ANY ADVICE ON DECLARING AN INTEREST IN ANY ITEM ON THE AGENDA, PLEASE CONTACT THE GOVERNANCE OFFICER SHOWN ABOVE, IF POSSIBLE BEFORE THE DAY OF THE MEETING

CITIZENS ATTENDING MEETINGS ARE ASKED TO ARRIVE AT LEAST 15 MINUTES BEFORE THE START OF THE MEETING TO BE ISSUED WITH VISITOR BADGES

CITIZENS ARE ADVISED THAT THIS MEETING MAY BE RECORDED BY MEMBERS OF THE PUBLIC. ANY RECORDING OR REPORTING ON THIS MEETING SHOULD TAKE PLACE IN ACCORDANCE WITH THE COUNCIL'S POLICY ON RECORDING AND REPORTING ON PUBLIC MEETINGS, WHICH IS AVAILABLE AT WWW.NOTTINGHAMCITY.GOV.UK. INDIVIDUALS INTENDING TO RECORD THE MEETING ARE ASKED TO NOTIFY THE GOVERNANCE OFFICER SHOWN ABOVE IN ADVANCE.

OVERVIEW AND SCRUTINY COMMITTEE – CALL IN PANEL
DECEMBER 2016
CONFIRMATION OF VALIDITY OF CALL-IN REQUEST RELATING TO AN EXECUTIVE BOARD DECISION (MINUTE 51) – PROPOSAL FOR A SCHEME OF SELECTIVE LICENSING FOR PRIVATELY RENTED HOUSES
REPORT OF THE GOVERNANCE MANAGER

1 Purpose

- 1.1 A call-in request relating to an Executive Board Decision (Minute 51) Proposal for a Scheme of Selective Licensing for Privately Rented Houses has been received. The purpose of this agenda item is to consider the validity of this call-in request.

2 Action required

- 2.1 The Committee is asked to confirm that the call-in request relating to Executive Board Decision (Minute 51) is valid.

3 Background information

- 3.1 The Council’s call-in procedure is set out in the Council’s Constitution. A guide to the call-in process is attached as an appendix to this report.
- 3.2 The minutes of the Executive Board meeting held on 22 November 2016 were published on 24 November 2016 and the last date for call-in was 1 December 2016. It was not exempted from the call-in process. A copy of the report to Executive Board and the relevant minute have both been attached as appendices to this report. The exempt appendices to the report have also been attached to the agenda for Councillors’ consideration.
- 3.3 The Call-In Request Form was received by the Democratic Services Team on 29 November 2016 having been signed by Councillors Armstrong and Culley. A copy of the Call-In Request Form is attached as an appendix to this report. The Call-In Request Form identified the following reasons for call-in:
- 3.4 Inadequate consultation relating to the decision
- *The Decision outlines the ways in which the introduction of the Scheme will help the Council to meet its objectives. However these do not include sufficient detail to outline how the Scheme will work in practise and how therefore the Scheme will allow the Council to meet its objectives. For example, ‘landlords have to be assessed as fit and*

proper to manage’ – it does not provide information regarding the criteria to meet this standard

- *The Decision makes clear that there is a danger that some Landlords may move out of the City boundary and into neighbouring districts in order to avoid being subject to the Scheme. The Decision states that conversations will take place in future which will consider this matter but it appears no consultation has taken place prior to the Decision being taken with Local Authorities and others to assess the impact on the Scheme*
- *The initial consultation included an online survey for which just 12 out of 19 wards submitted responses. It also does not provide a list of the questions included, it includes prompted questions (‘select all’) rather than unprompted questions (which may have primed responses) and does not make clear if private rented sector homes were studied in isolation or if other property types were included such as owner-occupied or social housing to provide a comparative perspective*

3.5 Relevant information not considered

- *There is limited information regarding the success or otherwise of previous (and current) Licensing Schemes. The review of Mandatory Licensing for example refers to ‘positive working relationship with accreditation partners’ and ‘increased awareness of licence holders responsibility and the Council’s role in intervening and ensuring compliance’ but little or no evidence as to how these conclusions have been reached. And the review of the Additional Licensing Scheme states ‘the results are not at present showing a significant outcome in changes to ASB’. There does not appear to be any conclusions drawn as to what impact these reviews and the resulting disappointments, if any have had on the proposed Scheme*
- *This decision will have to be authorised by the Secretary of State. The Decision does not outline what factors are likely to be considered by the Secretary of State, the likelihood that the proposals thus far would be accepted and what further work will be taking place, during the consultation or afterwards in order to ensure that the proposal has the greatest chances of being accepted*
- *There is no evidence that there has been a review of the proposed consultation and whether the means of advertising the consultation will reach a sufficient number of target respondents. Nor is there any evidence that online and paper surveys are the appropriate methodology for reaching a sufficient number of target respondents*
- *The Decision acknowledges that the Scheme will place pressure on current Council services (e.g. Community Protection and Housing Aid) – however it does not appear any consultation and/or research has been carried out regarding what the impact will be*
- *The Decision makes clear that there may be difficulty in finding the staff necessary to administer the Scheme and therefore there may have to be a resort to ‘recruitment consultants (and) agency staff’. There does not appear to be an assessment of the financial implications that this would have*

- *The Decision does not appear to have reviewed the experiences of other Local Authorities which have introduced Selective Licensing and what this means for this proposed Scheme*
- *The Decision acknowledges that rents increased for tenants following the introduction of an Additional Licensing Scheme in 2014. However, only cursory references have been made, there is no assessment regarding the extent to which this increase in rents was a result of the introduction of the Additional Licensing Scheme (as opposed to other factors) and no consideration appears to have been given to the impact on tenants in practise should rents rise following the introduction of a Selective Licensing Scheme*
- *The Decision makes clear that research has taken place prior to this Decision being announced. This apparently includes (but may not be confined to) focus groups and an online survey. It is not clear what this research involved in practise (the items discussed in the focus groups, who moderated, the structure of the online survey, how the respondent sample was selected etc), how many were consulted (and if this provided a robust basis for feeding into the Decision) or the results of this research*

3.6 Viable alternatives not considered

- *The Scheme will apparently ensure an ‘increased ability to provide information to landlords about good practice’ and ‘Increased ability to signpost tenants to wide range of support as well as empowering tenants on standards they should expect’ – there does not appear to be any consideration of why this is the case nor whether this could be achieved without the introduction of a Selective Licensing Scheme*
- *There is insufficient information regarding how they have arrived at the proposed charges and whether alternative charges would suffice*
- *The Decision will apply to the entire City. It states that ‘it is clear that the vast majority of the City meets one or more of the conditions’. Some parts of the City do not meet any of the criteria and yet will be subject to the Scheme. It does not appear the alternative of applying the Scheme only to those parts of the City where there is a problem has been considered*
- *The Decision outlines sixteen policies which have been in place (and continue to be in place) but which it is felt have been insufficient in dealing with the issues identified. However, there is insufficient information as to what extent these Schemes have been successful or unsuccessful or what could be done to improve them (which could potentially mean the Selective Licensing Scheme would need to be adapted to ensure these complementary approaches work more effectively together or may not be needed at the present time)*
- *The sixteen policies which are currently in place have been listed as the alternatives proposed. However, these appear to have been in place prior to this Decision meaning that no new alternative Decision (whether updates/reforms to the current Schemes and/or an entirely new Scheme) has been considered*

- *The Decision states that there has been a relatively low take up of the Accreditation Scheme for Landlords but no consideration is outlined stating what could be done to increase take up and how an updated Accreditation Scheme which leads to increased take up might mean the proposed Selective Licensing Scheme should be updated (or may not be necessary in some or all areas)*
- *A Court Case is currently pending which could apparently have a bearing on the proposed financial structure of the Scheme, as well as the Housing and Planning Act which gained Royal Assent this year. The Decision acknowledges the importance of these but does not appear to have considered delaying the Decision until the results are known*
- *The Decision does not appear to have taken into consideration the possibility of targeted Local Strategies (as opposed to a blanket, City-wide approach)*

3.7 Justification for the decision open to challenge on the basis of evidence considered

- *As outlined above the Decision will apply to the entire City despite the fact that its own research shows that some parts of the City do not meet any of the criteria and yet will be subject to the Scheme, such as large portions of Clifton and Wollaton*
- *Some of the data provided is potentially misleading and shows less of a difference between owner-occupied properties, private rented sector properties and social housing than a reader could reasonably expect from the conclusions. For example:*
 - *The Decision states that ‘the analysis showed that 10% of the variance in the rate of ASB calls can be attributed to the proportion of private rented sector property and that for every unit increase in the proportion of private rented properties, noise related ASB would increase by 0.14 units’ – although the data is presented elsewhere the summary does not mention that the same is true of social rented (i.e. social rented – 0.14 unit increase)*
 - *It consistently looks at data which only takes into account raw number of incidents (such as anti-social behaviour) and not the number of properties (and hence the overall rate or percentage). For example, it states that ‘splitting the LSOAs between those with a high proportion of Private Rented Sector properties and the remainder with a lower proportion, found that on average for every 2 reports made in an LSOA with a low proportion of PRS, 3 would be recorded in an LSOA with a high proportion of PRS’. These conclusions are potentially misleading as they do not draw attention to the proportions or percentages which provide a much more valid evidence base. Rather the data is simply presented elsewhere*
 - *Information is not consistently presented. For example, comparisons are made between Nottingham City, High Proportion PRS LSOA and Low Proportion PRS LSOA and Private Rented (exc. HMOs), Owner Occupied and Socially Rented. However*

whilst in some cases figures are presented for all in others only Private Rent data is presented (e.g. Private Rented (exc. HMOs), Owner Occupied and Socially Rented data is provided for ASB calls but not for all ASB or noise-related ASB, which only shows Private Rented (exc. HMOs)

- *The Decision looks at whether Nottingham City has a high proportion of private rented sector properties, as required by the Department for Communities and Local Government (DCLG) Guidance. It however has measured private rented sector properties as a proportion of total properties at a Lower Super Output Area (LSOA) level (concluding that a large number of LSOAs have a high proportion of these private properties – 88/182 or 48%) rather than a City level despite the fact that the Scheme will be applied across the City*

3.8 On the basis of the information provided, the Governance Manager has confirmed the validity of 3.5, 3.6 and 3.7 above. The Governance Manager commented that:

3.9 “In terms of the reasons for call-in, I am satisfied that the request is valid in respect of reasons c) Relevant information not considered, d) Viable alternatives not considered and e) Justification for the decision open to challenge on the basis of evidence considered. In terms of reason b) Inadequate Consultation Relating to the Decision, this is considered an invalid reason for call-in because the decision taken was to go out to full consultation and therefore the assertion that the consultation was inadequate is premature.”

3.10 The Call-In Panel is asked to endorse this view.

4 List of attached information

- 4.1 The following information can be found in the appendices to this report
Appendix 1 – Overview and Scrutiny: Guide to Call-In
Appendix 2 – Report to Executive Board (22 November 2016) – Proposal for a Scheme of Selective Licensing for Privately Rented Houses
Appendix 3 – Public Addendum to the report
Appendix 4 – Minute 51 recording the decision in relation to the above report
Appendix 5 – Call-in Request Form
Appendix 6 (Exempt) – Exempt Appendix to the Board Report
Appendix 7 (Exempt) – Exempt Addendum to the Board Report

5 Background papers, other than published works or those disclosing exempt or confidential information

5.1 None

6 Published documents referred to in compiling this report

- 6.1 Nottingham City Council's Constitution -
<http://www.nottinghamcity.gov.uk/about-the-council/nottingham-city-councils-constitution/>.

7 Wards affected

- 7.1 All

8 Contact information

Nancy Barnard
Governance Manager
Nancy.barnard@nottinghamcity.gov.uk
0115 8764312



Overview and scrutiny: Guide to call-in

What is call-in

Call-in is a mechanism for scrutinising Executive decisions. Overview and scrutiny has the power to ask for an Executive decision to be reconsidered if, during the five working days immediately following an Executive decision, valid concerns are raised about the way in which the decision has been taken, for example that relevant information was not considered. This power is set out in national legislation and arrangements for putting it into practice are in the Council's Constitution.

Making a request to call-in a decision

Executive decisions are published on the Council's website. Following publication of an Executive decision there is a period of five working days during which non-executive councillors can request that the decision be called-in. The decision is not allowed to be implemented until the period of five working days has expired.

Decisions that can be called-in are those of:

- The Executive Board
- A committee of the Executive Board
- An individual Portfolio Holder
- Executive decision made by an Area Committee
- Executive decisions (£50,000 or more) made by an officer under authority delegated by the Leader, Executive Board or a committee of the Executive Board or by an officer to officer sub-delegation of powers within the Council's Scheme of Delegation

with the exception of decisions made under the urgency procedure, which cannot be called-in.

Requests to call-in a decision must be made in writing using the Call-In Request Form and signed by three non-executive councillors. Where a political group comprises only 3 or 2 councillors, and where there are no other minority groups or independent councillors on the Council, the requirement for three councillors to request reconsideration of the decision (call-in) is reduced to 2 (where the group comprises 3 councillors) and to 1 (where the group comprises 2 councillors).

Copies of the Call-In Request Form are available from the Constitutional Services Team (contact details at the end of this Guide).

When requesting a decision is called-in, at least one of the following reasons must be cited, along with further explanation for the reason(s) given:

- The decision is outside the Council's policy and/or budgetary framework
- Inadequate consultation relating to the decision
- Relevant information not considered
- Viable alternatives not considered

Appendix One

- Justification for the decision to be open to challenge on the basis of the evidence considered.

What happens when a request to call-in a decision is received

The Governance Manager is responsible for assessing the validity of call-in requests. If any doubt remains the Monitoring Officer will make the decision on whether the request is valid or not. Defamatory and frivolous requests will be rejected.

At this time, the relevant decision-maker, Portfolio Holder, Director and contact colleague will be informed that implementation of the decision is suspended until the outcome of the call-in has been determined. If the suspended decision relates to a contract or other procurement issue, the Contract Procurement Manager should also be notified.

The Call-In Panel (a sub-committee of the Overview and Scrutiny Committee) is responsible for considering call-in requests. Therefore once a request is considered to be valid, a meeting of the Panel will be scheduled. This meeting must be held within seven working days of the receipt of the request, or at a later date if agreed by the Chair of Overview and Scrutiny.

Meetings of the Call-In Panel

The purpose of the Call-In Panel meeting is to:

- a) Agree that the call-in is valid as set out in the Council's Constitution
- b) Consider whether the Executive decision should be referred back to the decision-maker for further consideration or whether it can be implemented.

Suggested procedure to be followed

When the meeting begins the Chair will:

1. Ask the Panel to agree whether the call-in is valid and agree the parameters for the discussion.
2. Ask the relevant Portfolio Holder (or relevant decision maker) to briefly outline details of, and reasons for their decision [suggested time: 10 minutes]
3. Ask a representative of the councillors who requested the call-in to briefly outline their concerns and reasons for these [suggested time: 10 minutes]
4. Ask the decision maker (and their supporting colleagues) to briefly respond to the points raised [suggested time: 10 minutes]

Members of the Call-In Panel will then discuss the call-in request, the decision and invite the decision taker and the councillors who requested the call-in to respond to any questions raised by the Panel.

The Chair will invite the decision maker and a representative of the councillors who requested the call-in to sum up any final comments [suggested time: 5 minutes each]. Following this, the decision maker (and their supporting colleagues) and the councillors who requested the call-in may leave the meeting if they chose to as they are not required to remain at the meeting during the deliberations.

Appendix One

Focusing on the reasons for the call-in as given in the Call-In Request Form, and based on the evidence from the decision maker and the councillors who requested the call-in, the Panel will then decide to either:

- a) Require that the decision is reconsidered, and make recommendation(s) as to what should be taken into consideration; or
- b) Agree that the decision does not need to be reconsidered and can be implemented.

In both cases, reasons will be given by the Panel for its decision.

If the Panel agrees that the decision should be reconsidered it can:

- a) Refer the decision back to the decision-maker for reconsideration; or
- b) Refer the decision to full Council if they feel that the decision made is contrary to the Council's policy and/or budgetary framework.

In addition, the Panel can make other relevant recommendations which will be referred to the relevant Portfolio Holder, or the Executive Board for response.

What happens following the meeting of the Call-In Panel

Following the meeting, the relevant decision-maker, Portfolio Holder, Director and contact colleague will be informed of the outcome of the meeting.

If the Panel decides that the decision does not need to be reconsidered, then it can be implemented immediately.

If the Panel refers the decision back to the decision-maker then it will be reconsidered in light of comments made by the Panel. The decision-maker can decide whether to amend the original decision or not before adopting a final decision. This final decision cannot be subject to further call-in.

Additional recommendations made by the Panel will be treated in the same way as any other recommendations made by overview and scrutiny, and referred to the relevant Portfolio Holder or Executive Board. They will be asked to provide a response to say whether they agree to implement the recommendation(s) and how they intend to do so. Progress on implementation will then be reviewed at a later date. If they decline to implement a recommendation they will be asked to explain why.

Contact information

For further information about call-in, or any other matters related to overview and scrutiny, contact Constitutional Services

Jane Garrard	0115 8764315	jane.garrard@nottinghamcity.gov.uk
Rav Kalsi	0115 8763759	rav.kalsi@nottinghamcity.gov.uk
Laura Wilson	0115 8764301	laura.wilson@nottinghamcity.gov.uk

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Subject:	Proposal for a Scheme of Selective Licensing for Privately Rented Houses
Corporate Director(s)/Director(s):	David Bishop Corporate Director Development & Growth, Deputy Chief Executive Andy Vaughan, Corporate Director for Commercial & Operations
Portfolio Holder(s):	Councillor Jane Urquhart, Portfolio Holder for Planning and Housing Councillor Nicola Heaton, Portfolio Holder for Community Services
Report authors and contact details:	Graham de Max, Housing Partnership and Strategy Manager Lorraine Raynor, Head of Community Protection, Chief Environmental Health and Safer Housing Officer
Subject to call-in: X Yes <input type="checkbox"/> No	
Key Decision: X Yes <input type="checkbox"/> No	
Criteria for Key Decision:	
(a) X Expenditure <input type="checkbox"/> Income <input type="checkbox"/> Savings of £1,000,000 or more taking account of the overall impact of the decision	
and/or	
(b) Significant impact on communities living or working in two or more wards in the City X Yes <input type="checkbox"/> No	
Type of expenditure: X Revenue <input type="checkbox"/> Capital	
Total value of the decision: Gross Value £22.652m Net Value £1.652m over 5 years	
Wards affected: All	
Date of consultation with Portfolio Holder(s):	
Relevant Council Plan Key Theme:	
Strategic Regeneration and Development	<input type="checkbox"/>
Schools	<input type="checkbox"/>
Planning and Housing	X
Community Services	<input type="checkbox"/>
Energy, Sustainability and Customer	<input type="checkbox"/>
Jobs, Growth and Transport	<input type="checkbox"/>
Adults, Health and Community Sector	<input type="checkbox"/>
Children, Early Intervention and Early Years	<input type="checkbox"/>
Leisure and Culture	<input type="checkbox"/>
Resources and Neighbourhood Regeneration	<input type="checkbox"/>
Summary of issues (including benefits to citizens/service users):	
<p>This report informs Executive Board of the data collection and analysis work that has been completed to inform a decision on proposals for a selective licensing scheme for privately rented houses. If the proposed designation is approved in principle by the Board a public consultation will take place.</p> <p>Use of selective licensing powers will provide the following benefits:</p> <ul style="list-style-type: none"> • An opportunity to effectively influence higher standards of privately rented houses and to ensure effective management through more extensive control; • A key tool in achieving the overall reduction of Anti-Social Behaviour (ASB); and • Lead to higher levels of customer satisfaction with private rented sector accommodation within the City <p>The report outlines the outcomes of an evidence gathering project surrounding the need for selective licensing within the City, and presents a proposed designation for consideration.</p>	

Exempt information:

Appendices 1 and 5 to this report contain exempt information under Paragraphs 3 and 5 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended). This information relates to the financial affairs of the authority and advice to which a claim to legal professional privilege could be maintained. The public interest in maintaining the exemption outweighs the public interest in disclosing it as the information relates to issues to which legal privilege can be claimed and where maintaining confidentiality will enable full and proper debate of the authority's financial affairs outweighing the public interest in disclosing the information.

Recommendation(s):

- 1** To approve in principle to pursue a scheme of selective licensing as outlined in the report.
- 2** To approve the draft designation contained in Appendix 3 for consultation in accordance with the statutory requirements and Department for Communities and Local Government guidance document *Selective Licensing in the Private Rented Sector: A Guide for local authorities*.
- 3** To bring back the results of the consultation to a future meeting of the Executive Board to consider and determine if the proposed scheme and designation should be made and submitted to the Secretary of State for Communities for confirmation.
- 4** To note the requirement to establish a ring fenced reserve, as detailed in recommendation 5, for this scheme.
- 5** To approve the use of reserves to fund setup costs of £0.080m should the scheme be approved (see 4.1).

1 REASONS FOR RECOMMENDATIONS

- 1.1 The proposed designated area has been chosen because evidence, gathered in accordance with the Department for Communities and Local Government (DCLG) guidance suggests that relevant statutory tests have been met and that selective licensing of privately rented houses in the area would be an appropriate tool to resolve problems.
- 1.2 Ward councillors have been consulted on the proposed scheme and designation.

2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)

- 2.1 The introduction of a licensing scheme for private rented accommodation to drive up standards and protect tenants across the City is a key objective in the current Council Plan for 2015-2019. Selective Licensing (a power available to local authorities to licence private rented houses) aims to improve living conditions for residents both in the private rented sector and the surrounding community and drive up standards amongst poor landlords. The scheme is an important element of the Council's commitment to safeguarding and protecting vulnerable citizens across the city and in providing quality, safe housing. In order for a scheme to be implemented there are strict statutory criteria and conditions which need to be met. The scheme will also contribute to reductions in levels of Crime and Anti-Social Behaviour and also contributes to one of the Council's key objectives to "cut the number of victims of crime by a fifth and contribute to reduce anti-social behaviour."
- 2.2 The current private rented stock of the City is estimated at approximately 43,000 properties, including 7,748 Houses in Multiple Occupation (HMOs). As part of the proposal the Council commissioned the Building Research

Establishment (BRE) to undertake a series of modelling exercises on the City's housing stock (attached at Appendix 5). The report used stock and tenure figure data from 2016 and shows a further increase in the number of private rented properties in the city compared to the 2011 household census data. The report also highlights that this figure is set to grow.

2.3 The Housing Act 2004 (the Act) creates three different types of licensing scheme:-

- mandatory licensing - which applies to HMOs meeting certain statutory criteria within the Council's area (currently properties of 3 storeys or more accommodating 5 or more people in more than 2 households)
- additional licensing - which is a discretionary scheme which can be applied to HMOs of a type prescribed by the Council in an area or areas chosen by the Council, and
- Selective licensing - which is also a discretionary scheme and which can be applied to "houses" (as opposed to HMOs) let in a prescribed manner in an area or areas chosen by the Council

All 3 schemes carry statutory exemptions for prescribed types of property and both discretionary schemes have to comply with prescribed statutory tests before they can be adopted. The City Council has adopted a scheme of additional licensing covering approximately 3,000 properties which came into effect in January 2014.

2.4 Recent changes to legislation mean that Local authorities are now required to obtain confirmation from the Secretary of State for any selective licensing scheme which would cover more than 20% of their geographical area or would affect more than 20% of privately rented houses in the local authority area. The scheme proposed covers the entire City and, if it proceeds, will ultimately require Secretary of State approval. Any scheme to be adopted will require robust, properly considered and clearly presented evidence.

2.5 In order for selective licensing to be considered one or more of 6 statutory grounds have to be met. Whilst the definitions of the grounds are more complicated the grounds essentially are that the area:-

- i. is an area of low housing demand (or is likely to become such an area)
- ii. suffers from or has a significant and persistent problem caused by anti-social behaviour
- iii. is experiencing poor property conditions
- iv. is experiencing or has recently experienced an influx of migration,
- v. is suffering a high level of deprivation or
- vi. suffers from high levels of crime

Criteria iii – vi can however only be applied where the area is one containing a "high proportion" of properties in the private rented sector. What constitutes a high proportion is for the Authority to determine and subject to Guidance.

2.6 Evidence gathering work has been carried out to establish if there are grounds for implementing a scheme of selective licensing in Nottingham and if so where. An evidence base to inform a designation was gathered using a number of data sources. Extensive analysis of the evidence against each of the criteria as identified in paragraph in 2.5 was undertaken. The area that has been chosen as a proposed designation to consult upon has been arrived at through the analysis of this data. The evidence that has been gathered supports a designation based on the following grounds: -

- significant and persistent problem caused by anti-social behaviour;

- poor property conditions;
- high level of deprivation and;
- high levels of crime.

The evidence demonstrates the existence of problems within the proposed designation and that there is a strong correlation between these criteria and the private rented housing stock in Nottingham. Whilst different parts of the City meet different grounds, collectively there is a strong argument for suggesting that the entire City should be covered by the scheme. “Nottingham City Council: Evidence to support the proposal”- Appendix 2 contains a map for each criteria. A map showing the designation is shown in Appendix 3 to this report “Designation for proposed scheme of selective licensing for privately rented houses”.

2.7 Collectively the Act and DCLG guidance document *Selective Licensing in the Private Rented Sector: A Guide for Local Authorities* state that before proposing a designation and embarking on a consultation the local housing authority must:

- Identify the problems affecting the area to which the designation will apply and provide evidence to support the existence of the problems.
- Decide what other measures it, or other persons together with the local housing authority, will take together with the selective licensing scheme to eliminate or mitigate those problems and how they will work together.
- Assess what outcomes will be delivered through the making of a scheme and taking the other measures.
- Show how such a designation will be part of the overall strategic approach, and how it fits with existing policies on homelessness, empty homes, regeneration and anti-social behaviour associated with privately renting tenants.
- Carefully consider any potential negative economic impact that licensing may have on their area – particularly the risk of increased costs to landlords who are already fully compliant with their obligations
- Demonstrate the role of other partners (if any), such as the Police or Social Services, in ensuring the designation reaches its goal.
- Show it has considered whether there are any other courses of action available to them that might provide an effective method of achieving the objectives that the designation is intended to achieve.
- How the making of the designation will significantly assist the local housing authority in achieving its’ objectives (whether or not in conjunction with those other measures).
- Demonstrate how licensing will work in conjunction with existing initiatives (such as landlord accreditation) and partnerships.
- Consider some of the possible effects of making a designation, and to include any risk assessment they may have carried out.

The Council has considered the above and believes that it has met all of the required tests

2.8 Officers have considered the strategic significance of the scheme and how the proposed scheme will support a co-ordinated strategic housing approach and assist with the achieving of objectives within the designation. As part of this consideration officers have:-

- looked at the other measures available,
- assessed what outcomes will be delivered through the making of a scheme,
- considered any potential negative economic impact on their area,
- identified the role of other partners and shown how licensing will work in conjunction with existing initiatives and partnerships,
- considered whether there are any other courses of action available and
- Considered some of the possible effects of making a designation.

Details to support the proposal can be found in the attached report "Nottingham City Council: The Strategic case for Selective Licensing" - Appendix 2.

Other aspects of the proposed scheme

2.9 Selective licensing designations can only be made for up to a maximum of 5 years and there is a statutory duty to review the scheme from time to time. At this stage it is proposed that this designation would run for a 5 year period. This will enable its implementation and effect to sufficiently stabilise for it to be effectively monitored and reviewed.

2.10 Before making a final decision as to whether to make (and seek confirmation of a scheme) the Council is required to conduct a full consultation for a minimum of 10 weeks which should be informative, clear and to the point, so that the full details of the proposal can be readily understood. It is proposed that consultation be carried out for a minimum period of 10 weeks between December 2016 and March 2017, which will include information on the proposed scheme, the reasons for it and how it has been arrived at, and indicative information regarding fees and conditions.

2.11 The consultation will include:-

- details of the area affected,
- why the Council believes there is a need for a scheme in the proposed designation, the alternatives that have been considered, the merits and demerits of the alternatives and the reasons the preference is for the introduction of a licensing scheme,
- what the Council considers the likely effect of the scheme will be,
- the licensing process and proposed standard conditions and
- the proposed fee structure.

and will gather views on the above matters and the potential impacts of the proposed licensing scheme. A Consultation document will be produced which sets out the detail behind the proposal to accompany the questions and to assist with responses to the consultation. Any decisions regarding the proposal will only be taken by the Council after it has fully considered the responses to the consultation, the supporting evidence and any other relevant information.

2.12 The Council will consult with local residents, including tenants, landlords and where appropriate their managing agents, key interested parties (i.e. Police,

Fire Service, local health providers etc.) and other members of the community including voluntary and community groups who live or operate businesses or provide services within the proposed designation. A survey will be developed which will be online and available as a printed version at various Council and community venues. Printed information will be made available in the form of posters and flyers to be distributed in public places in both the local authority's area and those of neighbouring authorities. The Council will publicise the project via social media, individual letters, adverts in local papers and news items on its own and partners' websites. It will also work with neighbouring authorities to publicise the proposed scheme and to ensure that the consultation includes local residents and those who operate businesses or provide services in the surrounding area outside of the proposed designation that will also be affected. In addition Council officers will attend pre-existing partners and public meetings with stakeholder groups to raise awareness about the project and the consultation and answer any queries. The Council will also publicise the project and the consultation via relevant landlord trade press in order to engage with landlords who live outside of Nottingham.

2.13 The formal consultation is in addition to the listening and engagement exercise that has already been undertaken by the Council. The purpose of the exercise was to engage with landlords and tenants, representatives from community groups and other interested parties to gather their views and to assist with gathering information in relation to the proposal. A small number of focus groups were held over the period April to August 2016. The Council held a number of dedicated sessions to which it invited along either landlords and or their managing agents who are currently renting out properties in Nottingham, tenants who are currently renting properties in Nottingham and representatives from different sections of the community. The aim of the sessions was to find out what are the issues faced by the groups, what impact a licensing scheme may have on the City's private rental sector and the City in general and to discuss what a scheme could look like. The outcomes have been looked at as part of the Council's proposal.

3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

3.1 Before adopting a scheme of selective licensing, local authorities are required to consider whether there are any other courses of action available to them (of whatever nature) that might provide an effective method of dealing with the problem or problems in question. The Council has operated a range of schemes and initiatives to improve property conditions and management of private rented sector properties for a number of years. These initiatives and work with other partners have ensured ongoing engagement with landlords. However problems still exist with a large number of landlords and properties which the Council believes can appropriately be addressed using selective licensing powers alongside existing initiatives and legislative provision. Details of these initiatives, work and considerations can be found in "Nottingham City Council: The Strategic case for Selective Licensing" – Appendix 2.

3.2 The Council could decide to not pursue a selective licensing scheme; however the evidence that is presented within Appendix 2 supports the view that the proposed scheme is needed. If the scheme is not implemented the City will continue to experience the significant problems in the private rented sector which have been identified.

4 FINANCE COMMENTS (INCLUDING IMPLICATIONS AND VALUE FOR MONEY/VAT)

4.1 Summary

- I. The total cost of the scheme over the five years is **£22.652m** with a licence cost per 'house' being calculated at **£600**.
- II. The scheme will be self-funding and the establishment of a ring-fenced reserve is required to manage the profile of take-up and costs.
- III. The scheme will require set up costs before Central Government make the decision. This will be approximately £0.080m and is included in the overall costs. Funding of this would be required in 2016/17 and will be repaid if the scheme is approved.

4.2 The calculation is based on the following assumptions:

- I. Costs to administer the scheme are included in the licence cost and have been assessed using an updated Local Government Association (LGA) toolkit to ensure value for money.

The costs included are:

- a. Staffing costs to run the scheme, these have been included at productive hours only as per the guidance and relevant staff grades for each piece of work.
 - b. Processing costs of each licence, application, checking etc. – this has been calculated using percentages for the amount of time taken.
 - c. Enforcement and compliance costs Management fees.
 - d. Start-up costs.
 - e. Exit costs.
 - f. Staff overhead costs (as per additional licencing).
 - g. Inflation factors.
- II. Only 600 accredited landlords have been included in the forecasts for this report for an estimate and only 75% of privately rented properties will apply.

This assumption is based on the experience of the Additional Licensing scheme which is still progressing.

4.3 Risks

- I. Resources will have to be reviewed if:
 - a. Level of applications may vary.
 - b. Landlords may gain accreditation in order to secure a lower fee. Accredited landlords could receive a reduction of £140. This would need to form part of the consultation.
- II. An on- going European Court case rules that enforcement costs are no longer recoverable. The net position would then be reduced and there would be risks of funding costs.

4.4 Reserve requirement

It is inevitable that applications will not be made uniformly over the five years of the scheme, with a larger proportion likely in the early years. This scheme needs to be self-financing with no gain or loss to be aligned to the Local Authority; to facilitate this a **ring fenced reserve will be required** for Selective Licencing.

The Selective Licencing scheme also includes **non-recoverable costs** which over the five years are estimated at £1.652m and will be funded from reserves; these are set out in **Table 1** below:

TABLE 1: NON RECOVERABLE COSTS	
Costs	£m
Housing rating Inspection	0.460
Prosecutions of licence conditions through the courts	0.780
Tribunal costs including Legal	0.398
Locksmiths	0.014
TOTAL	1.652

4.5 There may be additional demand placed on Council services such as Safer Housing, Community Protection, Housing Aid and Social Care. These are at this stage unknown.

4.6 Once the consultation has been undertaken, any material variations to the assumptions above will be represented for approval by the Portfolio Holders.

5 LEGAL AND PROCUREMENT COMMENTS (INCLUDING RISK MANAGEMENT ISSUES, AND INCLUDING LEGAL, CRIME AND DISORDER ACT AND PROCUREMENT IMPLICATIONS)

5.1 In order for the Board to ultimately make a designation and approve a scheme for selective licensing Councillors must:-

- be satisfied that one or more of the statutory grounds for making a scheme are met
- have taken reasonable steps to consult persons likely to be affected by the designation and have considered any representations
- ensure that any exercise of the power is consistent with the authority's overall housing strategy
- seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour both as regards combining selective licensing with other courses of action available to them and measures taken by other persons, and must not make a designation unless:-
 - they have considered whether there are any other courses of action available to them that might provide an effective method of achieving the objective(s) that the designation would be intended to achieve and
 - they consider that making the designation will significantly assist them to achieve that/those objective(s)

5.2 The matters outlined above are addressed more fully in Appendix 2 and Councillors should satisfy themselves of these matters before proceeding to consultation. Any suggested amendments to the designated area would need

to be evidence based and justifiable in order to withstand potential legal challenge.

- 5.3 Recent changes to legislation mean that local authorities are now required to obtain confirmation from the Secretary of State for any selective licensing scheme which would cover more than 20% of their geographical area or would affect more than 20% of privately rented houses in the local authority area. If, following consultation, the Council proceeds to make the designation, confirmation will be required from the Secretary of State. There is a risk therefore that the Secretary of State may take an alternative view on the evidence or approach taken by the Council and may refuse consent for the proposed Scheme. There is no right of appeal against the Secretary of State's decision though it would potentially be open to Judicial Review if the relevant grounds were met.
- 5.4 The Business plan to support the operational arrangements around selective licensing has assumed that applications will only be received for 75% of properties. There is potential for this number to further change due to changes in the housing market, legislative changes etc., which could have a significant impact on costs and income. The adjustment from 100% is based on experience of patterns of application and market change. The fee may go up or down before implementation due to various influencing factors and this variation could be up to 20%. In addition there is currently a case before the European Court relating to the calculation of fees for various types of licences and authorisations in general. Whilst the proposed fee structure has been devised taking into account existing law and guidance fees may have to be reviewed once the outcome of this case is known and this may affect the sums being charged to the Council's general fund if it is held that certain elements which have been included in the fee can no longer be lawfully charged. Annual review of income and expenditure and the recruitment of staff on temporary contracts are proposed to assist with the risk management of these pressures and both the Corporate Director and Director of Community Protection have delegated power to agree any necessary revisions to fees and charges with the relevant Portfolio holder
- 5.5 Recruitment will commence if agreement is given by the Secretary of State to implement the scheme. Pre planning of this is underway and further information will be made available before the implementation of any scheme. The ability to recruit experienced and competent staff is a risk. If sufficient staff cannot be recruited through the normal processes then the agreed procedures for recruiting consultants/agency staff may be used, to ensure there is sufficient resource and capacity. It is possible that the balance between administration/compliance may differ from the model. This would affect income and expenditure outcomes. If costs of the scheme change i.e. salary the cost of the licence will vary. Any changes to numbers due to accreditation, will also affect income and expenditure and staffing levels. Performance monitoring, annual review and a 5 year business account that allows flexibility will assist with risk management.
- 5.6 The resources which will be required in ensuring the success of the scheme, including the potential need for external recruitment can be found in Table 2 "*Nottingham City Council: The proposed scheme, how it will help to tackle problems and the outcomes we seek*" – Appendix 2. Subject to the costs being agreed as shown 4.1 above, recruitment will be delegated to the relevant Corporate Director in line with current delegated authorities (Nottingham City

Council Constitution, Part 2, Responsibilities for Functions and Terms of Reference, Section 9). The potential resource and people implications should be considered with colleagues within Human Resources, specifically Service Design and Recruitment, to look at the most appropriate, cost efficient, and timely options for filling the predicted posts.

6 STRATEGIC ASSETS & PROPERTY COMMENTS (FOR DECISIONS RELATING TO ALL PROPERTY ASSETS AND ASSOCIATED INFRASTRUCTURE)

6.1 None.

7 SOCIAL VALUE CONSIDERATIONS

7.1 The use of selective licensing is consistent with the Council's overall strategic approach to housing and its approach to a number of key priorities for the City. Selective licensing, by tackling the problems which are evidenced in the proposal, will help to achieve a number of positive outcomes in terms of regeneration, health and wellbeing, and community safety, which are all major priorities for the city. This will help to deliver improved outcomes for citizens.

8 REGARD TO THE NHS CONSTITUTION

8.1 The NHS Constitution has as one of its guiding principles that the NHS will work across organisational boundaries. It says: "The NHS is committed to working jointly with other local authority services, other public sector organisations and a wide range of private and voluntary sector organisations to provide and deliver improvements in health and wellbeing". The Council's approach to housing also follows this principle, seeking to work with a range of other services to improve citizens' lives, not least their health and wellbeing. One of the key benefits the Council believes that selective licensing will bring is improved housing conditions; the positive impact that better housing can make on health and wellbeing has been demonstrated both nationally and locally.

8.2 The City's Health and Wellbeing Strategy has "Healthy Environment" as one of its four main priorities. Within this there is the priority action "Housing will maximise the benefit and minimise the risk to health of Nottingham's citizens". The proposal for selective licensing fits very clearly with this action

9 EQUALITY IMPACT ASSESSMENT (EIA)

9.1 Has the equality impact of the proposals in this report been assessed?

Yes - see Appendix Four

10 LIST OF BACKGROUND PAPERS RELIED UPON IN WRITING THIS REPORT (NOT INCLUDING PUBLISHED DOCUMENTS OR CONFIDENTIAL OR EXEMPT INFORMATION)

10.1 Nottingham Crime and Drugs Partnership Exploring the role of private rented households on rate of crime and anti-social behaviour in Nottingham.

11 PUBLISHED DOCUMENTS REFERRED TO IN THIS REPORT

11.1 Housing Act 2004

Selective Licensing of Houses (Additional Conditions) (England) Order 2015
Selective Licensing in the private rented sector – A guide for local authorities
(DCLG March 2015)

Appendix 2 refers to the following documents.

The Nottingham City Joint Strategic Needs Assessment (JSNA) on Housing
(April 2013)

Housing Nottingham Plan: Nottingham Housing Strategic Partnership Plan
2013-2015

The Homelessness Prevention Strategy for Nottingham City, 2013-2018

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Nottingham City Council

Proposal for a Scheme of Selective Licensing for Privately Rented Houses

Appendix Two

11/15/2016

Appendix 2

Nottingham City Council

Proposal for a Scheme of Selective Licensing for Privately Rented Houses

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Appendix i	Proposed property licensing enforcement and compliance guide
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Proposal for a Scheme of Selective Licensing for Privately Rented Houses

i. Executive Summary

Nottingham City Council is proposing a scheme of selective licensing for the City's private rented sector (PRS). The contextual background to this and the justification for the scheme can be summarised as follows:

Local context

The increase in the size of the PRS has been the most significant change in Nottingham's housing market in the last 15 years.

The total population of the City is increasing at a faster rate than the overall rate for England (1.5% from 2014 to 2016 estimates compared to 0.9%). Rates of owner occupation are declining whilst rates of PRS is increasing. The City displays:

- A growing local economy however pressures remain on income
- Lower than average earnings for the City affecting the rates of owner occupation in the City
- Significantly lower levels of home ownership: 42% compared with 63% nationally
- Significant growth in the Private Rented Sector (PRS). Increase of 12% on the census data between 2001 and 2011 compared to +9% seen in England as a whole.
- The latest estimate now shows 43364 privately rented properties, of which 7748 are HMOs. (Building Research Establishment (BRE) 2016 data)
- High levels of low income households in the PRS

There is a correlation with anti-social behaviour and areas with a high level of PRS, across the City as a whole.

- For every unit increase in the proportion of PRS, ASB increases by 0.58 units
- PRS accounts for a 10% variance in the rate of noise related ASB calls.
- For every 2 reports received by the Council in areas with a low proportion of PRS for ASB, 3 are received in areas with a high proportion of PRS.
- When looking at the owner occupied sector in comparison to the PRS this rates increase to for every 3 reports received in areas with a low proportion PRS, 5 are received in areas with a high proportion.

Housing Conditions are worse in the PRS. Properties in the private sector are more than twice as likely to experience disrepair as those that are owner occupied.

- Two thirds of complaints about property disrepair or poor/sub standards received by the Council (2009-15) are attributable to private rented properties that are not HMOs.
- Areas with a high proportion of PRS are more than twice as likely to experience issues of disrepair and 1.5 times more likely to experience excess cold.
- PRS properties are more likely to experience these issues as a result of tenure type and not tenure concentration.

There is a strong correlation with rates of crime and areas with a high level of PRS.

- For every unit increase in PRS the rate of crime is expected to increase by more than 1.5 times.
- A 15% variance in the crime rate can be attributed to the proportion of PRS. The biggest variation of which is for violent crime.
- Areas with a high proportion of PRS have a worse overall performance in the indicator of crime deprivation than areas with a low proportion of PRS (51 compared to 41)

The City has high levels of deprivation and there is a strong correlation with levels of deprivation and areas with a high level of PRS

- The City has high levels of deprivation out of the 182 of the City's lower super output areas (LSOAs)
 - 61 in the 10% most deprived in the country,
 - 110 in the 20% most deprived.
 - 8th most deprived district in the country
- Areas with a high proportion of PRS have a lower average and median rank for 3 out of the 7 indices of multiple deprivation ranks.
- In terms of the key indicators of deprivation, there is a negative correlation with Crime, Barriers to Housing and Living Environment and a positive correlation with Income, Employment and Education and the proportion of PRS.

The City Council believes that the proposed licensing scheme will contribute positively to its stated strategic aims in relation to the PRS “ *to enable Nottingham residents to have access to a high standard of accommodation, whether renting or buying*”¹, and bring about real improvements in the sector.

This will be achieved in the following ways:

- The licence conditions will address the impact that poorly managed properties have on ASB and/ or crime, the local environment and housing conditions.
- Licensing will improve standards of tenancy management
- licensing will create a level playing field promoting an understanding among residents about what they can reasonably expect from their landlord
- Poor landlords will be isolated and therefore easier to identify
- It is a wholly complementary tool to use alongside other initiatives the Council has in place
- The Council has a track record of implementing licensing schemes and getting results and the existing licensing schemes show what can be achieved.
- Licensing and associated checks will secure housing improvements that will positively impact on the health and wellbeing on tenants
- Signposting tenants to services will support improved health, safety and finances

¹ Nottingham City Council: Council Plan 2015-2019

ii. Introduction

Background to the private rented sector in Nottingham

Nottingham is a vibrant, attractive City in which many thousands of people choose to live, work and study. It has many thriving businesses and industries and a growing economy. The latest population analysis shows the total population of the City is 318,900², this figure is an increase of 4,600 (1.5%) on the 2014 estimates, and is slightly higher than the percentage increase for England (0.9%). 69.8% of the City's population are of working age (222,500). Population projections suggest that total population may rise to around 332,700 by 2024. The 2011 Census shows 35% of the population as being from BME groups; an increase from 19% in 2001. The City has a young age demographic with 29% of the population aged 18 to 29 – full-time university students comprise about 1 in 8 of the population.

The latest data on economic output based on GVA (Gross Value Added)³ shows the local economy is growing and this is also reflected in positive employment and earnings data. Pressures remain on income. There are though continued improvements in other key labour market indicators, notably unemployment and out of work benefit claimants. Despite this, rates for the unemployment claimant count, economic inactivity, out of work benefits and employment rates within both the City and for the wider Greater Nottingham⁴ area remain above the national average. Greater Nottingham continues to perform well in terms of higher level skills attainment but the proportion of 16 to 64 year olds without qualifications remains above the national average. Workplace-based average earnings levels at City and Greater Nottingham levels are significantly below those prevailing at a national level and have been relatively stable in recent years. Residence-based average earnings are lower than those which are workplace-based because a substantial proportion of those in employment work in Nottingham City but actually reside outside its boundary

Nottingham has significantly lower levels of home ownership: 42% compared with 63% nationally. Lower than average earnings makes home ownership more challenging within the City, despite the lower than average house prices. Therefore the Council recognises the importance of the private rented sector (PRS) as part of the City's housing market. It is an easy-access, relatively affordable housing type which fits with the lifestyle and life choices for many of the population. The sector helps to support the City's economy and ambitions for growth by providing a source of accommodation for young professionals working in the City. Many of these workers are not able to access socially rented properties and not yet ready to make the step up to home ownership and thus seek the flexibility that private renting offers. The sector also supports the City's large student population and provides housing for people on lower incomes through the local housing allowance (LHA) system.

The City has a well-established strategic approach to housing developed over many years with partners across the private and public sector. Selective Licensing is an important element of this housing strategy and will help to enable a targeted, intervention- based approach to improving housing across all sectors.

² ONS mid-year estimates 2015

³ Nottingham City Council The Nottingham Economy May 2016 - Headline economic indicators bulletin

⁴ Greater Nottingham comprises of Nottingham City and the local authority districts of Broxtowe, Gedling & Rushcliffe

As part of this proposal, the Council commissioned the Building Research Establishment (BRE)⁵ to undertake a series of modelling exercises on Nottingham's housing stock. The detailed housing stock information provided in the report shows that there are 135,399 dwellings in Nottingham of which 42% are owner occupied, 32% are privately rented and 26% are social rented. The report highlights the significant growth in the Private Rented Sector in Nottingham in recent years from 13% of the total stock in 2001 to 25% in 2011. This 12% increase on the census data is higher than the change of +9% seen in England as a whole. The 2016 data shows a further increase of 7% in the proportion of private rented dwellings in the City compared to the 2011 Census data.

Nottingham has high levels of deprivation, with 61 of the 182 City's lower super output areas (LSOAs)⁶ falling amongst the 10% most deprived in the country, and 110 falling in the 20% most deprived. Overall, Nottingham is the 8th most deprived district in the country.⁷ The BRE report also highlights the high level of low income households in Nottingham⁸ and this is particularly noticeable when looking at the private rented sector (29% private rented sector tenants compared to 13% owner occupiers) and is consistent with the Office for National Statistics (ONS) data showing that Nottingham has the second lowest gross disposable income in the UK. The percentage of low incomes households in Nottingham outside of the social rented sector is high compared to the English Housing Survey regional and England averages (20% compared to 13% to 14% respectively), mainly due to high levels in the PRS.

The Council's ambition is to include more of its citizens in its prosperity and reduce the levels of poverty which are prevalent in many parts of the City. It is therefore no coincidence that one of the key problems that selective licensing will be used to address is deprivation. Selective licensing will contribute to the range of objectives which the Council and its partners are seeking to deliver in order to achieve a more inclusive and prosperous City – higher levels of employment, greater educational attainment and a healthier and happier population.

The reduction of crime and antisocial behaviour is also a key priority for the City. This is articulated in both the longer term strategy for the City, *The Nottingham Plan to 2020*, and the Council Plan 2015-18. A selective licensing scheme could make a significant contribution to this objective by addressing problems being generated by private sector homes.

The Council believes that all its citizens should be able to live in a good quality home, irrespective of its tenure. The Council, via its Arm's Length Management Organisation, Nottingham City Homes, has now achieved 100% decent homes⁹

BRE Integrated Dwelling Level Housing Stock Modelling and Database for Nottingham City Council

⁶ Super Output Areas are geography for the collection and publication of small area statistics. Lower Layer SOAs were first built using 2001 Census data from groups of Output Areas (typically four to six) and have been updated following the 2011 Census. They are statistical unit or census data capture area containing between 1000 and 3000 residents and 400 to 1200 households. There are 182 Lower Super Output Areas in Nottingham City. Measures of proximity (to give a reasonably compact shape) and social homogeneity (to encourage areas of similar social background) are also included

⁷ Indices of Multiple Deprivation, 2015

⁸ Nottingham has the 2nd lowest gross disposable income (money that households have available for spending and saving after direct taxes such as income tax and Council tax have been accounted for) in the UK. ONS Regional Gross Disposable Household Income (GDHI) 1997 to 2013

⁹ The Decent Homes Standard is a national property standard for social housing. It covers safety, warmth and modern facilities within both Council and housing association properties

across its stock. Our partner housing associations have also achieved decent homes giving comfort that the vast majority of the City's social housing delivers high quality, safe, warm and modern homes. As well as the improvement in the physical condition of social homes, big strides have been made in the quality of their management. The Council now seeks to promote similar improvement in the private rented sector, which currently is of very variable quality.

iii. The strategic case for a scheme of selective licensing

Strategic Priorities

The Council has a clear strategic approach to housing as articulated in its Council Plan 2015-2019. The Council Plan emphasises the Council's aim to enable Nottingham residents to have access to a high standard of accommodation, whether renting or buying. As part of this the priority is to create a comprehensive licensing scheme for private rented accommodation to drive up standards and protect tenants across the City. Such a scheme would also bring benefits to landlords and the private rented sector in general: the reputation and image of landlords and the PRS will improve as standards rise and poor performers leave the market.

Nottingham's Sustainable Community Strategy, the "Nottingham Plan", sets out the overall strategic direction and long term vision for the economic, social and environmental wellbeing of the City and is split into various themes. The priority of the "Neighbourhood Nottingham" theme is to improve the quality and choice of housing and neighbourhoods in which people want to live, attracting new people to the City and allowing those who want to stay, to do so. Improving the management of the existing private housing stock is a key element of achieving this objective.

The Council is currently developing a refreshed housing strategy which will drive forward these objectives and build on the earlier Nottingham Housing Strategic Partnership Plan 2013-2015 (the "Housing Nottingham Plan"). This plan set out how housing partners would deliver the priorities of the Nottingham Plan and acknowledged that the PRS was a critical component of the housing market which was supporting a rapidly growing number of households. It placed a strong emphasis on the strategic approach needed to achieve higher standards in the PRS. At that time, the main priority was improvement of the management and maintenance of the City's high levels of houses in multiple occupation (HMOs). The Housing Nottingham Plan stated the Council's intention to introduce a scheme of additional licensing designed to tackle issues of antisocial behaviour and other problems associated with HMOs in certain parts of the City and this objective was achieved by the introduction of the City's additional licensing designation which took effect from 1 January 2014. This had followed the introduction of mandatory licensing in 2006, the benefits of which were beginning to be seen when additional licensing was being considered. The current proposal to extend licensing beyond mandatory and additional licensing and into the general PRS builds on the success of those schemes and shows the Council's belief that licensing is an effective tool for addressing problems that other powers and initiatives have not been able to reduce or solve.

Selective Licensing – supporting a co-ordinated strategic housing approach

Homelessness Prevention

The Council is a nationally-recognised leader in the field of homelessness prevention. It was one of the first local authorities to lead on the prevention agenda and, in spite of an increasingly challenging environment, maintains an early intervention approach to all those in need. Other authorities have fallen back to the fulfilment of minimal statutory duties. The City's Homelessness Prevention Strategy, delivered via the multi-agency Strategy Implementation Group (SIG) exemplifies and

underpins the City's partnership approach. The Council has taken full advantage of powers under the Localism Act to discharge homelessness duties in the private rented sector, thus recognising the sector as an important source of good quality homes. There is a bond scheme in place to enable access to PRS homes by lower income tenants, thus reducing risk for landlords, and standards are assured via the Nottingham Standard accreditation mark¹⁰. Selective licensing, by raising standards of management and property conditions will further help to increase the supply of homes which meet the standards required to allow the fulfilment of homelessness duties via the PRS. At the same time selective licensing will tackle and help to reduce instances of poor management that may lead to households losing their homes and presenting for homelessness assistance. As such selective licensing will (combined with activity such as accreditation and tackling illegal evictions) provide a two pronged approach to homelessness by both addressing the issues that lead to homelessness and by providing an increased supply of higher quality accommodation for those displaced by it.

Health

The Nottingham City [Joint Strategic Needs Assessment \(JSNA\) on Housing \(April 2013\)](#) recognised that everyone is potentially at risk from the effects of poor housing conditions and that there is clear evidence to link poor health with poor housing. This was robustly evidenced in the Building Research Establishment's 2015 publication *The Cost of Poor Housing To Health*. This work showed that poor housing (as defined by homes with a Category One hazard) costs the NHS £1.4bn per year. Locally an impact assessment¹¹ of Nottingham City Homes. Secure Warm, Modern (Decent Homes) improvement for social housing programme showed:

- Estimated cost savings to NHS of £700,000 from 2 lives saved protecting vulnerable tenants from the cold
- 12 hospital admissions avoided
- 144 accidents avoided and
- 1,000 children with improved respiratory health and
- 1,400 tenants with improved mental health.

One of the four main priorities of the City's Health and Wellbeing Strategy (2016)¹² is to enable better health through a healthy environment, and within this there is a strong emphasis on housing. The Healthy Environment action plan within the strategy contains the action "Ensure homes are safe and well managed, protecting the health & wellbeing of tenants". The proposal for selective licensing will make a significant contribution to this objective.

Much is still to be achieved to improve housing standards and the existing housing offer, particularly in the private rented sector, which is becoming an ever-more important tenure. The Council, in partnership with a range of housing and health organisations is developing a more co-ordinated approach to housing interventions

¹⁰ The Nottingham Standard is an accreditation mark developed by Nottingham City Council to establish an overarching minimum standard for privately rented accommodation across the City <http://www.nottinghamcity.gov.uk/2025>

¹¹ Decent Homes Impact Study: The effects of Secure Warm Modern Homes in Nottingham (Nottingham City Homes/Nottingham Trent University, 2012)

¹² Joint Health and Wellbeing Strategy, Nottingham City Health and Wellbeing Board, 2016 <http://www.nottinghamcity.gov.uk/health-and-social-care/adult-social-care/looking-after-yourself-and-keeping-healthy/health-and-wellbeing-board/>

which promote better health and wellbeing. A ground-breaking Memorandum of Understanding on Housing and Health has been signed off by the City's Health and Wellbeing Board, together with an action plan which clearly identifies the private rented sector as a focus for action.

The evidence from the BRE stock modelling as detailed in Section iv shows that there are significant issues with property conditions in the City's PRS. There is a disproportionate level of Health and Housing Safety Rating Scheme (HHSRS) Category One hazards within the PRS, and this will undoubtedly have a negative impact on the health of those living in the properties affected. In tackling poor property conditions in the PRS, the Council believes that selective licensing will make a significant contribution to the improvement of the health and wellbeing of citizens living within it.

Empty Homes

Whilst the Council is not pursuing a selective licensing scheme on the grounds of low housing demand there is a very clear relationship in terms of the Council's overall approach to empty homes and improvement of the private rented sector. The Council takes a pro-active approach to empty homes, using a combination of encouragement and enforcement in order to bring empty homes back into use. A small team of officers are available to offer support, advice, and encouragement to owners. However; if this is not successful the Council is prepared to make full use of its enforcement and other powers. This may include action under section 215 of the Town and Country Planning Act requiring owners to remedy any detriment to the amenity of the area which their property is causing; serving notices relating to damage from pests or nuisance requiring works and/or abatement (and if necessary carrying out works in default); and ultimately acquiring properties by compulsory purchase or forcing sale to recover any costs incurred by the Council.

Selective licensing can have a direct impact on the number of empty homes. Better quality and better managed PRS homes will be delivered via a licensing scheme, which will be less likely to become vacant for long periods of time and cause blight in neighbourhoods. Selective licensing and our approach to empty homes go hand in hand in generally promoting a thriving, high quality private rented sector.

Regeneration

The Council is ambitious for the City's neighbourhoods to be thriving places where people want to live. The City's Neighbourhood Regeneration Strategy (2016) emphasises that most of the City's prosperity is focused on the City centre, rather than its neighbourhoods. The strategy focuses primarily on bringing investment and employment to the City's more deprived neighbourhoods; however other aspects such as housing have a key role to play in their improvement.

The Council is replacing a large number of obsolete Council houses with new, modern family housing, bringing about the regeneration of these areas. However, there is a danger that that the improvements in social housing are delivered in isolation, leaving inconsistent standards of quality and management other across tenures. Therefore, as the Council and its partners in both the social and private

sectors bring about a higher quality housing offer through regeneration, interventions such as selective licensing can similarly bring about uplift in quality in the PRS, eliminating the poor management and maintenance standards that can adversely affect a neighbourhood. A good example of this is the Meadows area of the City where there is extensive regeneration taking place through the demolition of outdated Council homes to be replaced by high quality family homes. The Meadows also has an older housing area with an above average level of private rented properties and where evidence shows that there are problems such as antisocial behaviour, deprivation and poor property conditions which, if not addressed, will undermine these regeneration plans. Regeneration will only be fully effective where there is a multi-tenure approach.

The Neighbourhood Regeneration Strategy emphasises that although there are some very good quality homes managed by good landlords in the City's PRS, the sector remains one in which some of the poorest housing is likely to be found. The Council, through its Safer Housing and Environmental Health teams uses a mix of encouragement, advice and enforcement to bring about improvement, and at the extreme end to drive the "rogue" element out of the market. This has included a programme of activity aimed at tackling rogue landlords supported by CLG's rogue landlord funding programme. £151,000 was received by the Council as part of this funding in 2015/16. The project focused activity on the Radford Road area of the City and on rented properties above commercial lets. 57 properties were inspected as part of this programme, of which 39 were unannounced raids in conjunction with the Police. This resulted in 34 Enforcement Notices being issued, 32 of which resulted in enforcement action being taken. 7 buildings were also prohibited for use. In addition to the inspection of properties the Council used the programme to run a number of initiatives in the area to improve conditions, including holding training events for landlords, partners and staff and events and communications to raise awareness in the community.

As already seen, the Council has also chosen to use discretionary licensing powers and has implemented a scheme of additional licensing covering HMOs within parts of the City. The introduction of licensing to the other parts of the PRS using selective licensing powers will further drive up standards in the City and contribute to the outcomes of the Neighbourhood Regeneration Strategy.

Antisocial behaviour (ASB)

Making the City a safer place to live, work in and enjoy is a major priority for the Council and its partners. One of the five key objectives of the Council Plan 2015-2019 is to "cut the number of victims of crime by a fifth and continue to reduce antisocial behaviour".

To achieve this, the City has in place the Community Protection service – a unique partnership which integrates the Police and City Council officers, working alongside each other to tackle crime and ASB. At the core of the service are 100 uniformed Community Protection Officers (CPOs) who are based in the City's neighbourhoods. CPOs work closely with the HMO and Safer Housing Teams within Environmental Health, providing information and dealing with complaints.

The City has been recognised nationally for its approach to ASB by ministers and civil servants. The Council was asked to mentor Tower Hamlets, Dagenham, Newham, Ashfield and Mansfield by Central Government. The Council featured/presented on national road shows (Engaging Communities, Fighting Crime). It was represented on the national ASB Squad and part of the small working group that designed the Antisocial Behaviour, Crime and Policing Act 2014. Several fellow-Core Cities have visited Nottingham to understand what Community Protection does. ASB is reducing in Nottingham, however, it remains a high priority because it is a continuing problem, and the Council wants to reduce it even further.

Data shows that there is proportionately a higher level of ASB in areas where there is a high concentration of privately rented homes¹³. A scheme of selected licensing will help to address ASB in these properties by raising management standards and licence conditions will include an obligation to ensure that tenancy conditions are effectively enforced.

Licensing of PRS properties will support the approach to ASB in a very practical way. Under section 44 of the Anti-social Behaviour, Crime and Policing Act 2014, Community Protection Notices (CPNs) can be served on private landlords or managing agents in respect of their tenants' behaviour. Section 43 (3) (c) provides a requirement for a person served with a CPN to ... "take reasonable steps to achieve specified results". "Reasonable steps" could include either applying for a licence or compliance with its conditions. In this way selective licensing will work with ASB powers in order to escalate cases of persistent and serious ASB, potentially leading to an injunction or property closure. The Council has evidence to support a proposal for selective licensing on a number of the statutory grounds. Antisocial behaviour however is one of the strongest grounds despite the City's highly successful approach to tackling it over the last ten years or so. It is therefore wholly legitimate to believe that selective licensing is both a necessary and appropriate tool to help to prevent and reduce ASB even further, both in the PRS and in the City in general.

Given the strategic context shown above, the use of selective licensing is clearly consistent with the Council's overall strategic approach to housing and its approach to a number of key priorities for the City. Selective licensing, by tackling the problems which are evidenced later in this report, will help to achieve a number of positive outcomes in terms of regeneration, health and wellbeing, and community safety, which are all major priorities for the City.

¹³ Exploring the role of private rented households on rate of crime and anti-social behaviour in Nottingham, Nottingham Crime & Drugs Partnership May 2016

Selective Licensing as a Complementary Tool

Selective licensing is not a tool that can be used in isolation. It will be used in conjunction with all of the other powers available to the Council under the Housing Act 2004 and other legislation governing private sector housing. It will also complement existing initiatives the Council has put in place, such as:

Accreditation: The Council fully supports and part funds Unipol's student accommodation accreditation service in Nottingham, and has done so since 2007. It also funds an accreditation scheme for non-student homes which is operated by Decent and Safe Homes (DASH), an organisation set up to promote better standards in PRS accommodation across the East Midlands. Together, these schemes make up an overarching minimum standard for privately rented accommodation across the City known as the "Nottingham Standard". The Nottingham Standard enables landlords to demonstrate that they manage good quality homes and gives confidence to renters that their accommodation is safe and well managed.

The Nottingham Standard initiative has been successful in attracting good landlords: it now covers nearly 2,500 PRS properties in the City (approx. 6% of the sector). This is however a relatively low level of coverage, leaving over 90% of properties unaccredited for which there is little or no guarantee of basic quality standards, other than those covered by HMO licensing. Like all accreditation schemes membership is voluntary. A proportion of landlords who choose to not be accredited still deliver high quality, well managed accommodation. However, many do not and choose to remain "under the radar", offering poorly managed and maintained homes, leading to antisocial behaviour and having a negative impact on neighbourhoods. These are the landlords the Council believes it needs to regulate via a scheme of selective licensing. It is proposed that accredited landlords will receive a lighter touch approach under the Council's proposed scheme; in this way the two tools will complement each other without placing undue burdens on those responsible landlords who engage with the Council and comply with their duties and responsibilities.

Mandatory licensing of HMOs

The Housing Act 2004 introduced the mandatory scheme for HMO licensing and came into force in 2006. There are currently approx. 2,000 HMOs in the City which fall under this scheme. The impact of mandatory licensing has been positive, with a reduction in the number of complaints and improved housing conditions and management. Together with the Council's scheme for additional licensing (below), licensing is delivering significant benefits to the City's private rented sector. Selective licensing will help to bring similar benefits to the non - HMO PRS stock. The Government has recently put forward proposals to extend mandatory licensing to other HMOs and this will increase the number of properties that fall under the mandatory licensing scheme. The changes to mandatory licensing will not affect selective licensing as HMOs are not included within selective licensing. A review of mandatory licensing and the Council's additional licensing schemes can be found in Appendix iii *Review of Nottingham City Council's Existing Licensing Schemes. Mandatory and Existing Licensing schemes October 2016*

Additional Licensing of HMOs

The Council has been operating a scheme of additional licensing of houses in multiple occupation in certain parts of the City since January 2014. An interim review of the impact of the scheme to date has taken place and can be found in Appendix iii *Review of Nottingham City Council's Existing Licensing Schemes. Mandatory and Existing Licensing schemes October 2016*. It is still relatively early to carry out a full evaluation as the scheme is only half way through its lifespan; however initial findings suggest that complaints about property conditions have reduced since the scheme has been in place and that complaints about antisocial behaviour have stabilised. Given the evidence that licensing - when combined with other activity - is an effective tool, it seems highly appropriate to use selective licensing in homes not covered by additional or mandatory licensing to tackle the problems which the evidence clearly demonstrates exist in many parts of the City. Whilst investigating suspected HMOs it has sometimes been found that the property in question is not a HMO, but the investigation may reveal other significant hazards or areas of poor management which leads to other types of enforcement appropriate to the housing type.

Compliance and Enforcement: Safer Housing Team

The Council is committed to improving housing conditions in the private rented sector via its Safer Housing team which provides a one stop shop for all. The team will continue to lead on Rogue Landlord enforcement and initiatives, respond to complaints made by citizens and enforce against landlords that fail to licence their properties. The aim is to work with owners and managing agents to achieve legislative compliance, through inspection, education and the provision of advice and information as appropriate.

The starting point will always be to try and work with landlords. Where compliance is not achieved the Council, takes a graduated approach to enforcement following Nottingham's 5-stage enforcement model. The enforcement options that are available, having considered all relevant information and evidence are:-

- **Stage 1 Advise** – seeking co-operation
- **Stage 2 Warn** – warning letters, threat of legal action
- **Stage 3 Initial Enforcement** – Legal notices, licence revocation / refusal
- **Stage 4 Substantive Enforcement** – Legal notices, prosecutions, interim management orders, simple cautions
- **Stage 5 Breach** – Prosecution, Final Management Orders

Where there is continued non-compliance or a flagrant disregard for the legislation a prosecution is sought.

Most of the work of the Safer Housing Team is reactive, responding to specific complaints. There is a clear relationship between licensing and enforcement: licensing requires landlords to be proactive in their approach to managing their properties, reducing the number of complaints which the Safer Housing Team has to respond to reactively.

Citizen requests to the team have increased year on year since 2013/14, with over 4,500 having been received since 2013. In this period the team has improved 1866 properties, 824 of which were in 2015/16 when the team received additional funding under the Rogue landlord programme as detailed in the section on *Regeneration*. The vast majority of these properties were privately rented properties.

Use of Interim and Final Management orders (IMO/FMOs)

Where properties that are subject to licensing are not licensed and the property falls within the criteria within the Housing Act 2004, section 102 the Council is under a duty to make an IMO. This is a tool under the Housing Act to ensure properties are suitably managed subject to the property being licensed or a FMO being made. The Council has an agreement in place with Nottingham City Homes to take over the management of such properties should the need arise. To date, the Council has not had to make an IMO or FMO.

How the making of a selective licensing designation will assist the Council in achieving its objectives

The proposed scheme of selective licensing will help the Council to achieve its strategic objectives for the City's private rented sector in the following ways:

- Owners will proactively provide information on the location and details of the privately rented homes they are responsible for;
- Landlords have to be assessed as fit and proper to manage ;
- Clear and explicit standards will be required to be met that will, for poorly managed accommodation, improve the safety and the impact of the property on both its occupiers and the neighbourhood;
- Issues identified under the housing health and safety rating system on inspection of properties will be dealt with (although the cost of is not covered by the licence fee). This will prevent hazards to health and contribute to key Health and Council targets relating to excess winter deaths, fuel poverty, falls, reduced crime and antisocial behaviour etc.
- Increased ability to provide information to landlords about good practice supplemented by sanctions where appropriate standards are not met.
- Increased ability to signpost tenants to wide range of support as well as empowering tenants on standards they should expect.
- Increased ability to prevent and respond to housing associated with crime and ASB

Role of other partners

One of the risks associated with a scheme of licensing is displacement – that via enforcement, or landlords attempting to avoid licensing by going under the radar and entering different markets, households have to leave their accommodation. This fear was voiced by Children's Services staff who support vulnerable families living in private rented housing during the evidence gathering stage. When licensing is implemented it will therefore be necessary to work very closely with services which support vulnerable households to ensure that they do not end up in a worse situation or with nowhere to live. The intention is to eliminate poor housing, not to drive it off the radar. Where licensing is implemented the improvement in management and

housing standards should help children and families to thrive, thus addressing one of the key objectives of the Council, i.e. tackling deprivation.

The Council works closely with its arms' length management organisation, Nottingham City Homes (NCH) to improve the City's neighbourhoods. The estates which NCH manages on behalf of the Council have large numbers of properties that have been bought via the Right to Buy but are now privately rented. Additionally, NCH manages homes in multi-tenure inner City areas with high levels of private renting. NCH therefore plays a key role in areas with high levels of PRS, and will be an important partner in the operation of the selective licensing scheme, working alongside Council officers to identify PRS homes and reporting issues of antisocial behaviour which are being caused by PRS tenants.

There are also important voluntary sector partners with a role to play: In the same way as Nottingham City Homes, housing associations who work in multi-tenure areas will need to be part of a joined up approach to problems in neighbourhoods. Agencies such as Framework HA, which specialise in assisting vulnerable homeless people in partnership with the homelessness strategy implementation group (see above) help to deliver the wide-ranging housing solutions which form part of the City's overall housing strategy. The Council also works with Nottingham Energy Partnership to achieve greater energy efficiency and a reduction of fuel poverty in private housing. This was most notably seen with the Warm Zone initiative between 2009 and 2011 which installed measures such as loft and cavity wall insulation in thousands of private sector homes.

As mentioned above, the Council works in partnership with the Police to tackle crime and antisocial behaviour through its Community Protection service. Licensing provides an opportunity to identify and gain access to homes which are a base for crime and a source of antisocial behaviour.

Finally, as one of its key Council Plan objectives, the Council has set up a not for profit energy company, Robin Hood Energy, to help citizens reduce their fuel costs and tackle fuel poverty. This is another example of the multi-faceted approach the Council has towards reducing poverty and deprivation.

Consideration of risks

As suggested in the DCLG document *Selective licensing in the private rented sector: A guide for local authorities (2015)*, the Council has given careful consideration to the potential negative economic impact that licensing may have. As has already been stated it is intended that the least compliant landlords pay more to be licensed and the best, most compliant landlords receive a lighter touch.

Consideration has also been given to the potential impact of the cost of licensing being passed on to tenants through higher rents. It is anticipated that the licence fee will be £600. Even at the additional estimated increase of 20%, over five years this would amount to £2.76 per week additional rent – assuming that the cost is passed on to tenants, which obviously depends on market conditions. The evidence from the Council's additional licensing scheme suggests that although rents in student HMOs (which make up a significant proportion of the City's HMOs) increased after the introduction of additional licensing, this was part of an upward trend in student rents

that was also experienced by other cities with large student populations. Between 2014 (introduction of additional licensing) and 2016 student rents in Nottingham raised by 9% compared to 7.5% in Bradford and 11% in Leeds.

Another potential risk suggested by DCLG's guidance is the possible "displacement" of landlords who choose not to engage in the scheme. The City borders a number of districts which are part of the urban continuum of greater Nottingham, so this is a risk. There are already landlords that operate both in the City and in neighbouring Council areas. However, property values are generally much higher and the PRS much smaller in the neighbouring districts, which means the opportunities for poor landlords to sell up in Nottingham and move to these districts will be very limited. That said, the Council will ensure that it consults with the neighbouring district Councils and listens to any concerns that they have.

Other options considered which could address problems in the PRS

Before adopting a scheme of selective licensing, local authorities are required to consider whether there are any other courses of action available to them (of whatever nature) that might provide an effective method of dealing with the problem or problems in question.

As has been seen above the Council has operated a range of schemes and initiatives to improve property conditions and management of Private Rented Sector properties for a number of years including:

- Accreditation: the Nottingham Standard helps tenants identify rented properties that meet a minimum quality standard and recognises good landlords providing quality approved and well managed accommodation. This brings unity to accreditation in the City by incorporating existing accreditation schemes under one certification mark. These are:
 - DASH Landlord Accreditation (formerly EMLAS) - which accredits all types of private rented sector landlords
 - Unipol Student Homes - which accredits only student landlords
- Additional HMO licensing scheme
- Established teams to deal with issues around anti-social behaviour and environmental crime.
- The Community Protection service, a joint service between NCC and Nottinghamshire Police. The service works in neighbourhoods across the City, dealing pro-actively and reactively with ASB, and engaging with communities on a local level.

In addition the following schemes/initiatives operate or have operated:

- Targeted work in the Sneinton area of the City utilising Migrant Impact Fund (MIF) monies to improve housing conditions and access to relevant information, services and facilities for migrant workers in the area.
- Burglary reduction: a joint NCC and Police funded Environmental Health Officer undertaking targeted work where repeat burglaries have occurred. Working with the landlord and where appropriate requiring works to improve the safety and security of the property, using HHSRS and taking formal action where necessary.

- Engaging and working with landlords and managing agents through participation in training events/seminars, regular meetings with the main landlord organisations in the City, and involvement in East Midlands Property Owners (EMPO)'s annual landlord Expo
- Employing a Student Strategy Manager (since 2005). This has led to more co-ordinated work across partner organisations in the City, helping to better support the large student population of the City (many of whom live in the PRS) whilst also ensuring that the interests of permanent residents are safeguarded
- Engagement with residents and community groups at events to promote the work of the Council's Safer Housing team.
- The Nottingham Private Rented Assistance Scheme (NPRAS): This scheme aims to make full use of the PRS as a homelessness prevention tool, as well as a source of suitable accommodation through which full homelessness duties can be discharged.
 - The scheme assists landlords and tenants by
 - Providing a Guarantee Bond in lieu of a deposit for all successful applicants and four weeks rent in advance for those eligible for Housing Benefit.
 - NPRAs Tenants' Passport ensures that the holder is tenancy ready and provides proof that the tenant is being assisted by the scheme to secure a privately rented property.
 - The scheme also offers a range of incentives and support packages to landlords accepting NPRAS clients, including all the benefits of the Nottingham Standard accreditation scheme, updates on changes to Housing Benefit legislation, direct links with the Landlord Liaison team at Housing Benefits, legal advice in relation to tenancies, and referrals to housing related support providers if required
- Rogue Landlord initiative: The Council has benefitted from DCLG's Rogue Landlord funding programme twice, in 2013/14 and in 2015/16. This has enabled the Council and its partners to carry out focused targeting of areas where rogue landlords are operating, often with connections to criminal activity. There have been some very notable successes through this programme:
 - 591 Part 1 Housing Act 2004 and other Environmental Health related enforcement actions taken
 - 238 Extra inspections / raids supported
 - 11 Prosecutions
 - 58 Multi- agency raids
 - 84 landlords trained at dedicated events
 - 34 delegates trained from new and emerging communities
 - Enforcement Officers trained in best practice
 - Improved communications and marketing
- Improved and greater intelligence sharing with Nottinghamshire Police, Nottinghamshire Fire Authority, HMRC, Gangmasters Licensing Authority, Community Voluntary Sector and other Local Government partners.
- 1,866 properties improved in the period 2013 – Sept 2016 through Council Intervention.
- Positive relationships with landlords and tenants and landlord training
- Engagement with the community and voluntary sector

- Social media - The Council website, Facebook (Nottingham Renters) and twitter (@Nottmrenters). Since the additional licensing scheme was launched the Safer Housing and Housing Licensing and Compliance team have promoted their twitter and Facebook accounts. They promote activity , housing matters and are particularly used to publicise prosecutions, along with issuing press releases. The aim is to use this to act as a deterrent to other landlords and raise awareness with tenants and landlords of their legal obligations and try to identify other rogue landlords that are operating within the sector. In addition, the Council hosts a strategic housing network called “Nottingham Nouse” which has over 2500 subscribers, including many landlords, tenants and other PRS stakeholders. Through its regular alerts and Twitter feed @nottinghamnouse, housing market and other key information such as legislative change is shared throughout the City.

As can be seen, the Council has taken a wide-ranging approach in order to deal with problems and raise standards in its growing PRS. These initiatives, and work with other partners has ensured that on-going engagement with landlords and two-way communication between landlords and the Council continues to be maintained. However, there are still problems with some landlords and properties (outlined in more detail in Part iv: *The evidence to support the proposal*) which the Council believes can only be further addressed using selective licensing powers alongside existing initiatives and legislative provisions. The Council believes that none of the existing initiatives either individually or collectively have provided an ultimate solution to stem complaints about private rented sector housing, and that making a selective licensing designation will significantly assist it to meet its objectives and strategic priorities .

Existing powers available to the Council are largely reactive, with officers responding to tenants’ complaints. Many tenants are reluctant to complain, through fear of retaliatory eviction and because their personal circumstances make it difficult for them to find alternative accommodation. Although enforcement activity has been successful in remedying problems in individual dwellings, it is not felt to have raised the standard of private sector dwellings generally. Although the voluntary accreditation scheme is helpful in driving up standards, it relies on the willingness of landlords to sign up to it. It is likely, therefore, that conscientious landlords will continue to support the scheme, but that ‘rogue’ landlords will remain difficult to identify, and will avoid joining the scheme, preferring instead to operate with the minimum of regulation “under the radar”.

Conclusion – why Nottingham needs Selective Licensing

The commitment to ensure that every citizen of Nottingham has a good quality home to live in is one of the very highest priorities for the Council in the next three years and beyond. At the present time, there can be no guarantee of this being the case. Although the significant investment in the social housing stock over the past six years to achieve the decent homes standard has given assurance that social tenants are guaranteed a good quality home, the same cannot be said for private tenants. The evidence indicates that the PRS is far less consistent in terms of property standards. Furthermore, the PRS (with the notable exception of a significant number of professional, high performing and compliant landlords) is generally not as well managed and is generating a number of problems in the City’s neighbourhoods.

Over a number of years the Council has developed a wide-ranging strategy to improve its PRS, utilising the powers available to it to the full, and implementing a number of other initiatives, all of which have had their successes. However, the Council still continues to receive a large and disproportionate number of complaints about the PRS. The Council believes, therefore, that it needs to use selective licensing alongside all of its other activity (which will continue), to bring about the significant improvement needed to meet its commitment to ensure all citizens can enjoy a decent quality home.

The guidance states: “Only where there is no practical and beneficial alternative to a designation should a scheme be made”. The Council believes this to be the case.

iv. The evidence to support the proposal

Introduction

This section of the proposal outlines the Council's evidence to support the introduction of the scheme. It outlines the analysis of several data sets and bodies of research to determine where the evidence meets the legal criteria to implement a selective licensing scheme. Selective licensing is intended to address the impact that poorly managed rented properties can have on ASB and / or crime, the local environment and housing conditions. A wide range of datasets as well as current national and local bodies of research were analysed for each of these factors and where possible the analysis was at Lower Super Output Area (LSOA) level. A primary aim of the evidence gathering was to analyse and establish a link between these issues and Private Rented Sector (PRS) properties. The evidence which the Council has collected and analysed shows a need for a selective licensing scheme based on the following conditions:

- A significant and persistent problem caused by anti-social behaviour;
- poor property conditions;
- high levels of deprivation; and
- high levels of crime.

In the case of the last three conditions, the statutory requirements only allow these to be applied where the area in question has a high proportion of property in the private rented sector. Analysis has been undertaken to establish the level and concentration of the private rented sector within the City. This established the baseline for this element of the criteria and identified which areas of the City contained a high proportion of properties in the PRS. It is not however suggested that all areas within the designation meet all four conditions. The conditions have been assessed independently and maps produced showing the areas where they are met. When those maps are overlaid it is clear that the vast majority of the City meets one or more of the conditions. On this basis it is logical, reasonable and appropriate to designate the entire district of Nottingham City Council for the purposes of selective licensing giving a coherent scheme which is easily defined for landlords and tenants alike.

Methodology

The Council has set out to show that the results of the analysis comply with the requirements as detailed in DCLG document *Selective licensing in the private rented sector: A guide for local authorities*. The methodology used aimed to determine whether properties with a high likelihood of being rented out as "houses"¹⁴ to which the Act applies¹⁵ are also likely to be associated with the criteria being tested. Methodological statements have been set out for each of the criteria analysed together with details of the data sets used. In conducting its own research the Council has used the latest available data based on the number of properties identified in the BRE modelling exercise as detailed in *Section ii Introduction - Background to the private rented sector in Nottingham*. Evidence chapter A: High

¹⁴ "house" is defined by s99 of the Housing Act 2004

¹⁵ See s79 of the Housing Act 2004

proportion of property in the private rented sector sets out the methodology the Council has adopted based on this data set in order to establish the location and proportion of the PRS in Nottingham. The Council believes that the estimates provided by BRE are robust and an accurate reflection of the housing stock in Nottingham. Census data does not give a true picture of the PRS as it is based on households and not properties and excludes empty properties. In addition this data is now somewhat out of date. The Council is satisfied that the increases seen based on 2011 household Census data is in line with uplifts from the latest English Housing Survey and the population increases as evidenced in the latest ONS mid-year population estimates.

The City's Crime and Drugs partnership (CDP) on behalf of the Council conducted research into the role of tenure type and the rate of Crime and ASB in Nottingham using 2011 household census data, as this was the latest available at the time and output areas. The CDP report has been used by the Council as secondary evidence and the difference in baseline and geography is discussed in the Council's own analysis against each of these criteria. The Crime and ASB sections of the evidence are, like the other sections, constructed using the BRE property baseline not the census.

In addition the Council conducted qualitative research in conjunction with its partners to establish what issues are faced in different areas of the City in relation to the PRS and also a number of listening and engagement exercises to gather the views of landlords and tenants to help to gather evidence to support its proposal.

Overall, the Council believes there is a robust evidence base to support a scheme of selective licensing. Whilst the Council has set out to establish the existence of problems based on the above criteria it is recognised that analysis of the evidence base included looking at evidence of correlation and not necessarily causation. The Council is satisfied that this statistical analysis when considered alongside other evidence (including reports and views from its officers and other stakeholders, the results of the engagement exercises, and documented reports and complaints) provides a robust evidence base upon which a City wide designation can be supported. In reaching this view the Council has taken into account relevant caselaw¹⁶ which indicates that such an approach is reasonable and lawful.

Summary of Research

The Council conducted initial investigations against each criteria. This preliminary research showed that the City as a whole has a high level of privately rented households which is above the national average and is growing. It was found that there was no evidence to support the need for a scheme based on low housing demand or migration; however, it was concluded that there was sufficient evidence to investigate the other statutory conditions which selective licensing is intended to address.

¹⁶ Regas v London Borough of Enfield; Southern Landlords Association v Thanet

The Council's own area based analysis at LSOA level produced a positive statistically significant correlation¹⁷ between high levels of PRS in an area and poor property conditions, deprivation and crime. The analysis also shows an overall correlation between ASB and the PRS across the City. The Council believes that tenure type is strongly correlated with these criteria. There are however other factors present, for example tenants' age, household composition and an area's population density, that make it problematic for an area based relationship to be viewed as causal.

Crime and Anti-Social Behaviour

In line with national trends, rates of Crime and ASB have been reducing in the City. However, overall, both Crime and ASB can still be seen as significant problems in Nottingham.

Nottingham has higher rates of incidents of ASB compared to the national average. In 2013-2014 Nottingham recorded a rate of 51 incidents per 1000 population compared to an average for England and Wales of 37 per 1000. Whilst numbers of ASB incidents in the Nottingham have reduced between 2014/15 and 2015/16, the rate of incidents per 1000 population in the City remains high at 56. This rate is significantly higher than the other Nottinghamshire Police divisions and the County as a whole (32.8 per 1000). The percentage change was also smaller in this period for the City than for the rest of the County (with the exception of Newark and Sherwood) and was less than both the percentage change for the County as a whole and the average percentage change recorded by Nottinghamshire Police.

Nottingham has a lower rate of crime per number of properties than the average for England and Wales, however when compared to all other local authority districts in the East Midlands it has the highest number of total recorded offences¹⁸. When looking at the Indices of Multiple Deprivation (IMD) for Crime, Nottingham is the most deprived when compared to all other local authority districts in the East Midlands¹⁹. For rates of all recorded crimes for 2015/16, rates are down when compared to 2014/15 for Nottinghamshire and this is predominantly down to the change in the City. However in comparison to the rest of the County, the rate in the city remains high and has significantly higher rates per 1000 population (94.5 compared to the average of 64.5) than the rest of the County. When looking at other major cities, in comparison with other Core cities²⁰ Nottingham ranks 5 out of 8 with a rate of 94.5 incidents per 1000 population. This is slightly above the average of 92.4. It is though significantly above the English average of 66.6²¹.

In order to explore if a relationship existed between tenure type, Crime, and ASB, the Council engaged with the City's Crime and Drugs partnership (CDP). The CDP is the City's statutory crime reduction partnership, and is a multi-agency partnership

¹⁷ Probability 'P' value of 0.05 used, meaning that any hypothesis with a P value greater than this has a 95% likelihood of being true. The difference between the 2 groups is unlikely to have occurred because the sample used is atypical. When testing each variable against the hypothesis where the p value is greater than 0.05 this demonstrates there is a positive relationship between the 2 variables and the null hypothesis can be rejected. The strength of the relationship is therefore demonstrated and can be seen to be statistically significant.

¹⁸ LGA Inform Total recorded offences (excluding Fraud) quarterly (crimes)

¹⁹ LGA IMD overall District rank

²⁰ Core English cities - Manchester, City of Bristol, Leeds, Liverpool, Newcastle upon Tyne, Sheffield and Birmingham

²¹ Nottingham Crime & Drug Partnership ASB and crime rates in Nottingham

that works to address issues through the formation of strategies and commissioning of services. The findings of the research have been endorsed by academic colleagues at Nottingham Trent University (NTU), who themselves have published research in this area. The purpose of the study was to explore if an association exists between density of private rented households and crime and anti-social behaviour rates in Nottingham. The study used an area based approach and the analysis was completed on areas with both a high proportion of PRS both including and excluding HMOs²² The study looked at a number of different types of ASB and crime and found that for all categories with the exception of theft the rate of crime or ASB increased in areas with a high proportion of PRS, (regardless of whether HMOs were included or excluded), compared to those with a low proportion.

The study found that:

- The crime and antisocial behaviour rate was significantly higher in areas with a high proportion of private rented households (both including and excluding HMOs), and the rate in these areas was above the overall rate for the City.
- The rate of ASB calls (especially noise related) and rates of crime and specific crimes for outputs areas with a high proportion of private rented households was higher than in the remaining output areas.

The findings of the report are consistent with NTU's own research findings:

- Crime and disorder is not evenly distributed across individuals or areas²³ and that”Recent evidence acknowledges the role of household characteristics and area characteristics in jointly explaining variation in crime, particularly burglary and theft”²⁴
- Private rented status” has been shown to be individually associated with crime and thathigh levels of private rented households is associated with increased risk of personal and property crimes”²⁵

The CDP report concludes:

*Whilst the exact nature of the relationship remains unclear, the evidence outlined in this paper suggests an association between increased crime and anti-social behaviour rates in areas which have a comparatively high proportion of private rented households. Whilst the effect is greatest when HMOs are included as private rented sector households, the effect remains statistically significant when HMOs are removed from the private rented sector category.*²⁶

Further analysis undertaken by the Council looking at LSOAs with a high proportion of private rented sector property (excluding HMOs). Combining the Police data on ASB with the Council's own data concludes there is a positive correlation between the rates of all ASB and noise related ASB and areas with a high proportion of PRS.

²² As indicated in the section on “High proportion of property in the private rented sector” a vast majority of HMOs are unlikely to fall to be licensed under a selective licensing designation. This approach therefore tested whether the correlation applied to the types of property that would fall to be licensed under such a designation.

²³ Pease & Tseloni, 2014

²⁴ Tseloni, 2006

²⁵ Tseloni, Ntzoufras, Nicolaou & Pease, 2010

²⁶ Exploring the role of private rented households on rate of crime and anti-social behaviour in Nottingham, Nottingham Crime & Drugs Partnership May 2016

The strongest correlation is a negative relationship between ASB and owner occupied.

Police data on crime showed that areas with a high proportion of private rented sector properties are almost twice as likely to experience crime as the remainder. 45% (48 out of 88) of the LSOAs with a high proportion were almost twice as likely to experience a crime rate in excess of the City average, with 5 also exceeding the national average. Areas with a high proportion PRS have higher incidences of all types of crime compared to the City overall and to areas with a lower proportion.

This is corroborated by looking at crime as one of the Indices of Multiple Deprivation (IMD). Areas with a higher proportion of PRS have a worse overall performance. Areas with a high proportion of PRS have a worse overall performance than areas with a low proportion, with 58% being in the lower half of the City's rank.

The positive correlation shown in the analysis of the data is borne out in the qualitative evidence which showed problems with PRS properties and complaints about ASB, with 64% of respondents to the online survey reporting problems with ASB that they believed to be associated with the PRS in their area.

Deprivation

Nottingham has high levels of deprivation with 61 of the 182 City's lower super output areas (LSOAs) falling amongst the 10% most deprived in the country, and 110 falling in the 20% most deprived. Overall, Nottingham is the 8th most deprived district in the country. The City ranks much higher than the 3 most local comparator districts of Derby, Sheffield and Leicester, all of which are ranked outside of the top 20. Nottingham scores poorly on all 7 measures of deprivation, but scores particularly poorly on income, health, crime, and poor property conditions. The analysis undertaken by the Council concluded that there is correlation between a high concentration of PRS and IMD ranks for crime, income and poor property conditions. When looking at all IMDs LSOAs with a high proportion of PRS have lower than average performance in at least one of the indices, with 87 of the 88 LSOAs with a high proportion of PRS being in the lower half of the City's ranking in one or more of the domains. Areas with a high proportion of PRS perform particularly badly when it comes to Crime, Barriers to Housing and the Living Environment

The issues that exist in the PRS are often compounded, with areas with a high proportion of PRS often suffering from more than one problem. Overall the analysis undertaken shows there is a positive correlation between the proportion of PRS in an area and rates of both ASB and crime and levels of deprivation, with the majority of areas suffering from issues associated with all 3 of these criteria.

Poor Property Conditions

As stated in section ii *Introduction - Background to the Private Rented Sector in Nottingham*, BRE undertook a series of modelling exercises on the housing stock within the City and whilst the report has a wider remit than poor property conditions in the private rented sector it does provide evidence for this criteria. The report provided by BRE focuses on all private sector stock, which is made up of owner occupied and private rented dwellings. The remainder of the housing stock consists of social housing. The report uses 6 key housing indicators to assess the condition of the housing stock in the City, 4 of which are indicators of poor property conditions.

For all stock The City performs worse than the English Housing Survey average for England in all indicators (with the exception of excess cold which is slightly better). Focusing on the tenures within the private sector stock, the private rented stock is worse than the owner occupied stock across all housing condition indicators. The Council's own analysis of the data concluded that the PRS has a disproportionate incidence of all the categories of deficiencies and the rate of incidence per property is highest in the PRS. The BRE data showed that properties in the private rented sector were more than twice as likely to experience disrepair as those in owner occupation, and those properties in LSOAs with a high proportion of private rented sector property are more than twice as likely to experience issues of disrepair as LSOAs with a lower proportion. The Council's own data on reports of property disrepair showed that for every 3 reports made in LSOAs with a high proportion of PRS, there would be 2 made in areas with a low proportion.

The Council also sought out the views of landlords and tenants. Evidence from tenants showed poor property conditions to be an issue, particularly with delays to repairs being carried out or not being carried out at all. Landlords are sometimes slow to respond to complaints and there was felt to be a lack of ownership of problems. This was borne out in the discussions with the multi-agency Neighbourhood Action Teams (NATs)²⁷ who found it difficult to track down landlords and get issues resolved. 60% of respondents to an online questionnaire reported poor property conditions associated with the PRS to be an issue, with properties in the PRS being in a poor state of repair or empty for a long period of time. This contributed to the area looking unkempt was felt to be contributing to the overall decline of an area and inviting further instances of ASB and Crime

Tenants and NATs felt that a scheme would combat the issues identified with the PRS in the City and in particular would help to resolve problems with ASB and disrepair in the area. Landlords were also overall broadly in favour of a scheme as they too recognised that there are issues with some landlords.

Conclusion

In arriving at the proposed designation the Council has closely followed the requirements of the legislation and the accompanying guidance issued by DCLG. No blanket-approach has been taken to making an authority-wide designation. An area-by-area approach has been taken, with different conditions being met in different parts of the City. The evidence for the various conditions taken as a whole shows that the designation is both justifiable and necessary.

²⁷ Neighbourhood Action Teams comprise representatives of the Police, the Council, Nottingham City Homes and other stakeholders with an interest in dealing with issues in neighbourhoods. There is a NAT in each ward of the City.

Detailed evidence to support the proposal

The following sections show the statistical analysis for each of the conditions on which the Council believes a designation of selective licensing is justified; together with a summary of the evidence and analysis of the qualitative evidence collected by the Council

- A. High proportion of property in the private rented sector**
- B. A significant and persistent problem caused by anti-social behaviour**
- C. Poor property conditions**
- D. High levels of deprivation**
- E. High levels of crime**
- F. Summary of Evidence**
- G. Qualitative evidence to support the proposal**

A. High proportion of property in the private rented sector

Establishing the level and concentration of private rented sector properties in Nottingham

The methodology used to establish the location and proportion of private rented sector properties in Nottingham was based on a Lower Super Output Area (LSOA) level breakdown of BRE’s stock and tenure figures for 2016, figures that matched Local Land and Property Gazetteer (LLPG) records to Experian data for tenure as well as Council held data regarding social housing and HMOs.

The private rented sector figures for each LSOA were adjusted in line with the Selective Licensing Guidance²⁸ (herein referred to as Guidance) in order to capture the relevant properties and thresholds more accurately.

The baseline tenure split for Nottingham is as follows:

Tenure	Number	%
Owner Occupied	56416	41%
Social Rented	35619	26%
Private Rented	43364	32%
<i>Of which HMO</i>	7748	6%
Total	135,399	100%

The four statutory conditions which allow for selective licensing specified in the 2015 Order²⁹ (housing conditions, migration, deprivation and crime) can only be considered where:

- The area contains a high proportion of properties in the private rented sector in relation to the number of properties in the area and
- Those properties are occupied under either assured tenancies or licences to occupy

There is no statutory definition of what constitutes a “high proportion” and it is therefore open to the Council to make its own reasonable determination having regard to the Guidance:

“Nationally the private rented sector currently makes up 19% of the total housing stock in England. The actual number of privately rented properties in a given area may be more or less than this, and if it is more than 19%, the area can be considered as having a high proportion of privately rented properties. 19% is the figure as of March 2014. This figure will vary from time to time, so local authorities are strongly advised to consult the latest available English Housing Survey when considering whether an area has a high proportion of privately rented properties”

This was taken as the starting point for the assessment for what constituted a “high proportion” however, as with any guidance it is not legally binding and the Council,

²⁸

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418551/150327_Guidance_on_selective_licensing_applications_FINAL_updated_isbn.pdf

²⁹ http://www.legislation.gov.uk/ukdsi/2015/9780111131435/pdfs/ukdsi_9780111131435_en.pdf

so long as regard is had to it, may depart from that guidance if it has good reason to do so. The Council has taken the following approach:

BRE stock figures:

The BRE matched 135,399 LLPG residential property records to tenure information provided by Experian in September 2016.

The LLPG records included properties with the following residential property classifications:

RD	Residential Dwellings
RD02	Residential Dwellings, Detached
RD03	Residential Dwellings, Semi-detached
RD04	Residential Dwellings, Terraced
RD06	Residential Dwellings, Flats
RD08	Residential Dwellings, Sheltered Accommodation
RH01	Houses in Multiple Occupation (shared houses)
RH02	Residential Dwellings, Houses in Multiple Occupation (self-contained Bedsits or flats resulting from property subdivision)

The LLPG records excluded the following residential property classifications

RI01	Residential, Residential Institutions, Care/Nursing Home
RI02	Residential, Residential Institutions, Communal Residential
RI03	Residential, Residential Institutions, Residential Education

Of these 135,399 properties, 43,364 were identified as private rented tenure via BRE’s methodology and this figure will be used as the baseline for the stock of private rented property in the City.

Houses in Multiple Occupation

Selective Licensing schemes provide for the regulation of “houses” as defined by section 99 of the Housing Act 2004. Most HMOs as defined by section 254 of the Act are unlikely to fall within the definition of a “house”.

Furthermore, Houses in Multiple Occupation (HMOs hereafter) that are licensed under the Council’s existing Additional and Mandatory licensing schemes would not be required to be licensed under selective licensing (section 85 of the Act).

HMOs have therefore been omitted from the private rented sector totals when calculating the proportion of properties comprised by private rented tenure in an

area. All licensed, licensable and known/suspected HMOs currently outside of licensing scheme were subtracted from the total number of private rented sector properties for each LSOA.

HMOs licensable under section 257 of the Housing Act 2004 (i.e. properties that have been subdivided into self-contained flats pre 1991 building regulations), were not been included as HMOs in this regard nor were they been subtracted from the total number of private rented properties. Though they require a licence under additional licensing schemes, section 257 properties do not comprise a habitable unit in of themselves and where the flats were recorded as HMOs also, would have meant double counting.

Council records indicate 7,748 HMOs (as per the above parameters) in Nottingham, which accounts for 6% of Nottingham's housing overall and 18% of Nottingham's private rented stock.

89% of HMOs in Nottingham are already subject to either mandatory or additional licensing schemes.

ANUK Properties

ANUK (Accreditation Network UK) accredited properties are purpose built student properties in a parent block/building. Properties can be in single (studio flat) or multiple (cluster flat) occupation.

Though the buildings are occupied solely by students, they are privately rather than institutionally operated and therefore do not meet with the specified exemptions for student occupied buildings under Selective Licensing.

The properties are included in BRE's baseline having been classed as residential flats (RD06) rather than as intuitionally owned and operated halls of residence (RI02/03).

ANUK accredited cluster flats fall under the definition of HMO for Additional Licensing, though the Council has exercised the discretion made available to it and exempted these properties from the Additional Licensing Scheme. As HMOs, they are also exempt from Selective Licensing.

There are 3,927 records contained in BRE's list of private rented addresses that correspond to properties in ANUK accredited student schemes.

Of these, it appears that approximately, 60% are studio, single or dual occupancy properties that would be licensable under selective licensing.

All ANUK properties have remained included in the baseline figures that determine a high proportion of private rented sector properties and in the criteria data on account of licensable properties being collocated with those that are exempt.

Assured Shorthold and Regulated Tenancies

Assured Shorthold tenancies are the most common form of contract in the private rented sector and, along with properties let under licence, are licensable under a selective licensing scheme.

The main, documented alternative to assured shorthold tenancies and licences is regulated tenancies; tenancies which were established prior to 1991 and which have not been re-let since, whereby they would default to an assured shorthold tenancy.

Valuation Office records at June 2016 showed 470 properties in Nottingham City were let by private providers/individuals on regulated tenancies, the equivalent of 1% of the private rented stock, indicating that 99% of the private rented sector in Nottingham will be let subject to a tenancy agreement or licence compatible with selective licensing.

Given the very low occurrence of regulated tenancies and their continued phasing out, no adjustment was made to the baseline as a result.

Threshold for “high proportion”

The English Housing Survey 2014/15 established that the private rented sector comprised 19%³⁰ of housing nationally, however this figure did not distinguish between single and multiply occupied properties, as a Selective Licensing scheme must.

The survey’s headline report identified that 14% of all households resided in multi person households³¹, and this is deducted from the overall figure of 19%. Given the likelihood that the majority of multi-person households will reside in the private rented sector this was considered to be a reasonable adjustment

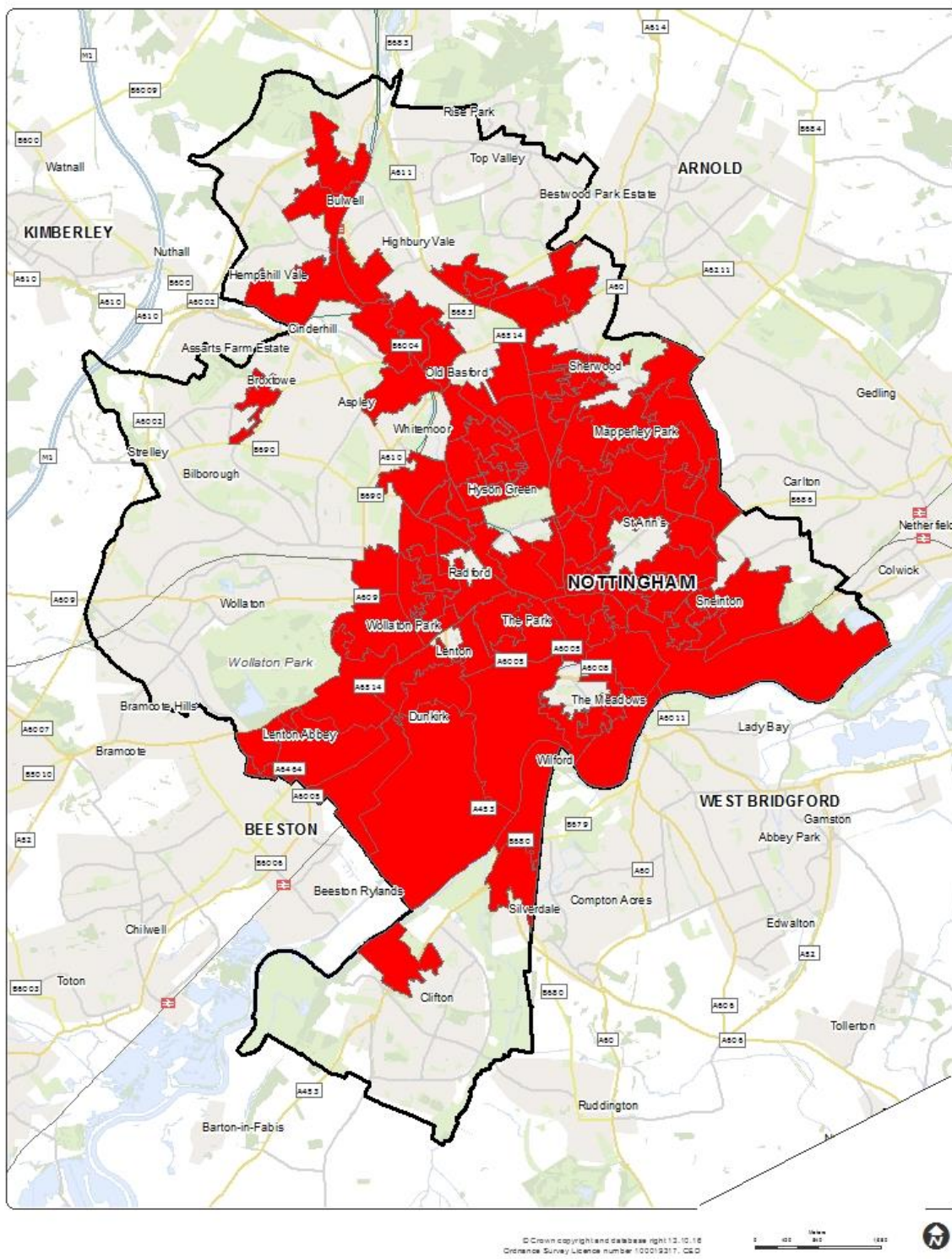
For the purposes of this evidence report therefore, LSOAs where private rented sector properties (excluding HMOs) comprise 16.3% or more of the total residential properties, were considered to have a high proportion of private rented sector property and be eligible for examination against the four statutory conditions outlined previously.



³⁰ English Housing Survey Headline Report 2014-15 Section 1: Tables, Figures and Annex Tables, Annex Table 1.1: Trends in tenure, 1980 to 2014-15

³¹ English Housing Survey Headline Report 2014-15, p.11

88 of Nottingham's 182 LSOAs have a high proportion of private rented sector properties using this methodology as identified on the map below.

Nottingham LSOAs with High Proportion of Private Rented Sector Properties



-  LSOA with 16.3%+ Private Rented Sector excluding HMOs
-  City Boundary



B. Anti-Social Behaviour

Introduction & Method

Local Authorities may include in a selective licensing designation an area that is suffering from a significant and persistent problem caused by anti-social behaviour (ASB), where some or all private sector landlords in the area are failing to take appropriate action to combat it and it is felt that the making of the designation will (together with other measures) lead to a reduction in the problem. This section of the evidence report looks at the geographic coincidence of reported antisocial behaviour against the location of private rented sector property and the correlation between rates of reported ASB and the prevalence of housing tenures.

LSOAs that have an ASB or noise-related ASB rate above the City average for either the Police or Nottingham City Council data sets will be considered as suffering from significant and persistent issue of ASB.

As the residential property baseline (2016) data does not overlap chronologically with either the Police or Council’s ASB datasets, which cover 2013 -15, and the amount of private rented sector property has increased, it is reasonable to assume that the rates of ASB are a conservative representation or even an underrepresentation of current levels.

Police Data:

All ASB

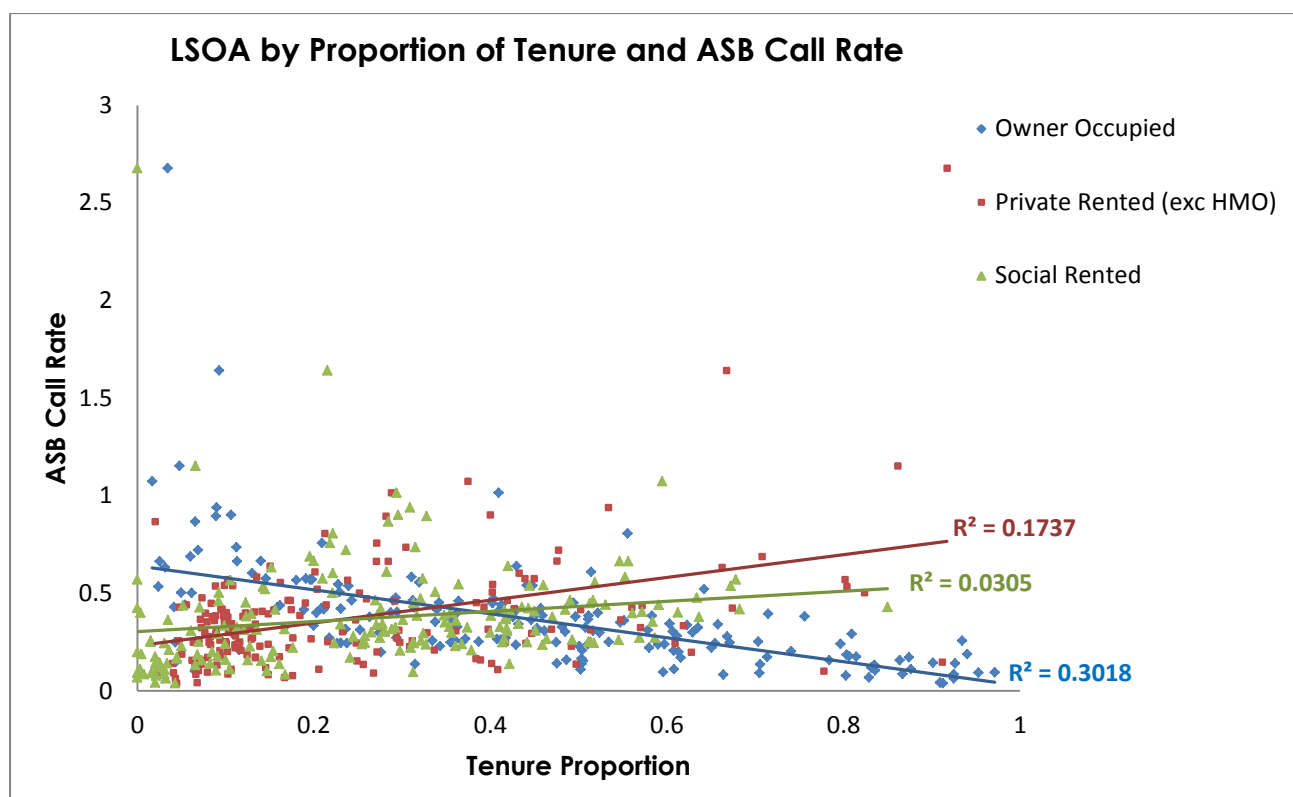
Nottinghamshire Police recorded 51,580 calls regarding ASB in Nottingham between January 2013 and December 2015. Dividing the calls recorded over this period by number of properties (baseline 2016) gives a per property rate of 0.38. On average, this means 1 call per 3 properties.

Splitting the LSOAs between those with a high proportion of Private Rented Sector properties (single occupancy private rented comprises 16.3% or more of total stock) and the remainder with a lower proportion, found that on average for every 2 calls made in an LSOA with a low proportion of PRS, 3 would be recorded in an LSOA with a high proportion of PRS.

	ASB Calls	No. Properties	Rate	Rate Ratio
Nottingham City	51580	135099	0.38	
High Proportion PRS LSOA	32746	71715	0.46	1.53
Low Proportion PRS LSOA	18834	63684	0.30	

A regression analysis of the rate of ASB calls per property over the period and proportion of the three main tenures, showed a positive correlation to be between the rate of ASB calls and the proportion of private rented properties in a LSOA. The strongest correlation overall was negative between the rate of ASB calls and the proportion of owner occupied properties. Both correlations were Statistically Significant.

The analysis showed that 17% of the variance in the rate of ASB calls can be attributed to the proportion of private rented sector property and that for every unit increase in the proportion of private rented properties, ASB would increase by 0.58 units.



Correlation with rate of ASB calls:

Tenure	R squared	Coefficient	Slope	p-value
Private Rented (exc. HMOs)	0.17	0.23	0.58	4.86E-09*
Owner Occupied	0.30	0.63	-0.60	9.73E-16*
Social Rented	0.03	0.30	0.25	0.02

*Statistically significant <0.05

Noise related ASB

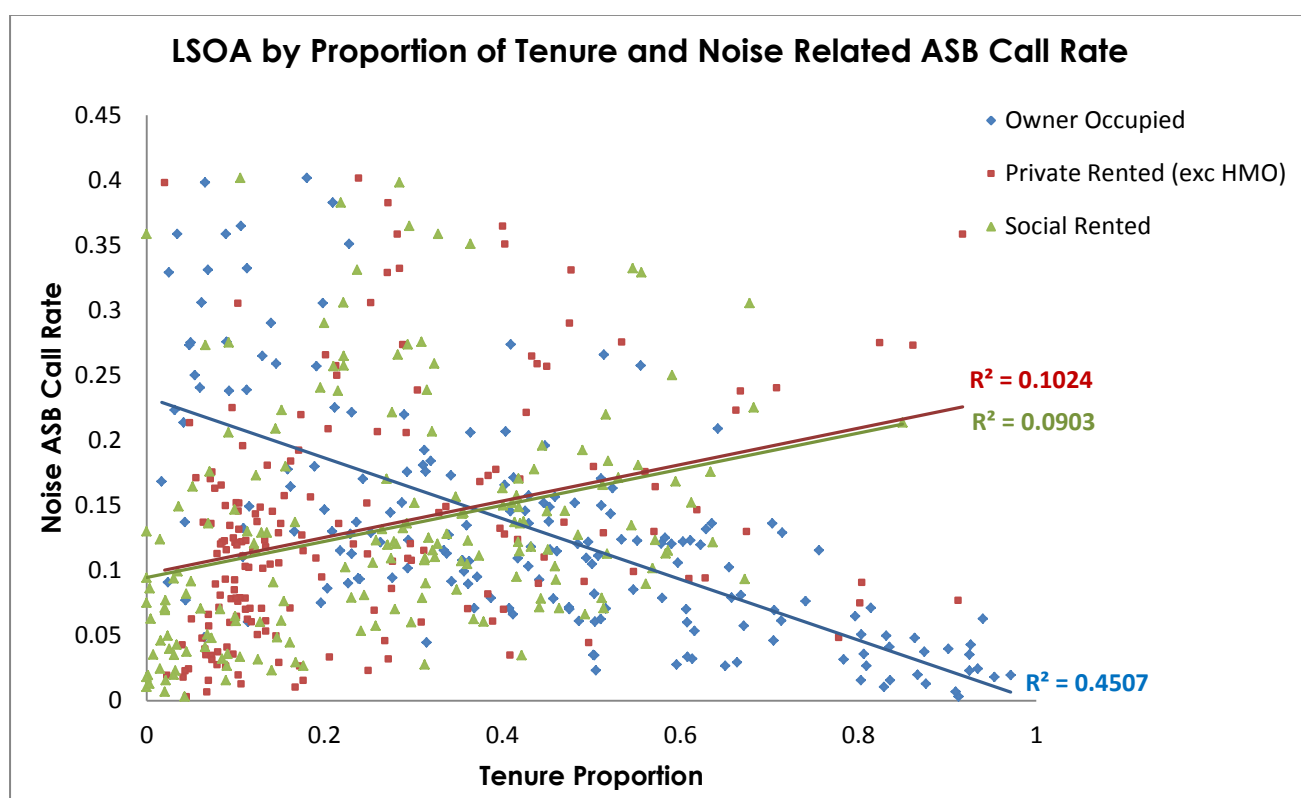
Nottinghamshire Police recorded Nottinghamshire Police recorded 18,350 calls regarding Noise related ASB in Nottingham between January 2013 and December 2015. Dividing the calls recorded over this period by number of properties (baseline 2016) gives a per property rate of 0.14. On average, this means 1 call per 7 properties.

Splitting the LSOAs between those with a high proportion of Private Rented Sector properties and the remainder with a lower proportion, found that on average for every 3 calls made in an LSOA with a low proportion of PRS, 5 would be recorded in an LSOA with a high proportion of PRS.

	Noise ASB Calls	No. Properties	Rate	Rate Ratio
Nottingham City	18,350	135,399	0.14	
High Proportion PRS LSOA	11,559	71,715	0.17	1.70
Low Proportion PRS LSOA	6,791	63,684	0.10	

A regression analysis of the rate of noise related ASB calls per property over the period and proportion of the three main tenures, showed a positive correlation between the rate of noise related ASB calls and the proportion of private rented properties in a LSOA. The strongest correlation is negative one between the rate of noise related ASB calls and the proportion of owner occupied properties. Both correlations were statistically significant.

The analysis showed that 10% of the variance in the rate of ASB calls can be attributed to the proportion of private rented sector property and that for every unit increase in the proportion of private rented properties, noise related ASB would increase by 0.14 units.



Correlation with rate of noise related ASB calls:

Tenure	R squared	Coefficient	Slope	p-value
Private Rented (exc. HMOs)	0.10	0.10	0.14	1.07E-05*
Owner Occupied	0.45	0.23	-0.23	3.37E-25*
Social Rented	0.09	0.09	0.14	3.78E-05*

*Statistically significant <0.05

Crime and Drugs Partnership Report³²

A 2016 Nottingham CDP report concluded “that a positive correlation exists between the proportion of households in the private rented sector and the rate of crime and antisocial behaviour”

The report looked at the rate of calls made to Nottinghamshire Police regarding ASB over the 36 months of January 2013 to December 2015, but is instead broken down to Output Area (OA) and correlated with the proportion of private rented sector households per the 2011 Census. The report defined high proportion of private rented as 16.6% of households (excluding HMOs)

The report found that:

- The crime and antisocial behaviour rate was significantly higher in output areas with a proportion of private rented households above the City average compared to other output areas
- A one percentage increase in private rented households (excluding HMOs) is expected to increase anti-social behaviour by 7%.
- The rate of noise related ASB calls for outputs areas with a high proportion of private rented households was 1.31 times higher than the remaining output areas.

ASB reported to Nottingham City Council:

All ASB

Nottingham City Council recorded 22,743 reports of ASB in Nottingham between January 2013 and December 2015; a combination of FLARE,³³ Nottingham City Homes and Community Protection Notices and Warnings. Dividing the reports recorded over this period by number of properties (baseline 2016) gives a report per property rate of 0.17, equivalent to 1 report per 6 properties.

Splitting the LSOAs between those with a high proportion of Private Rented Sector properties and the remainder with a lower proportion, found that on average for every 2 reports made in an LSOA with a low proportion of PRS, 3 would be recorded in an LSOA with a high proportion of PRS.

	ASB Reports	No. Properties	Rate	Rate Ratio
Nottingham City	22,743	135,399	0.17	
High Proportion PRS LSOA	14,259	71,715	0.20	1.53
Low Proportion PRS LSOA	8,484	63,654	0.13	

A regression analysis of the overall rate of ASB reports and proportion of private rented sector property (excluding HMOs), showed a positive correlation indicating that for every unit increase in private rented sector properties, ASB increased by 0.13 units.

³² Keenan. C , Exploring the role of private rented households on rate of crime and anti-social behaviour in Nottingham, May 2016

³³ Flare is the Council's database that supports a range of services provided by Environmental Health and Safer Housing including service requests made by citizens and online applications for licences

Tenure	R squared	Coefficient	Slope	p-value
Private Rented (exc. HMOs)	0.07	0.12	0.13	0.0002

*Statistically significant <0.05

Of these reports, 11,377 pertained to private, single occupancy properties³⁴, a per property rate of 0.12.

Splitting the LSOAs between those with a high proportion of private rented sector properties and the remainder with a lower proportion found that on average, for every 3 reports made in a LSOA with a low proportion of private rented property, 5 would be made in a LSOA with a high proportion.

	ASB Reports	No. Properties	Rate	Rate Ratio
Nottingham City	11,377	92,032	0.12	
High Proportion PRS LSOA	7,463	49,825	0.15	1.67
Low Proportion PRS LSOA	3,914	42,207	0.09	

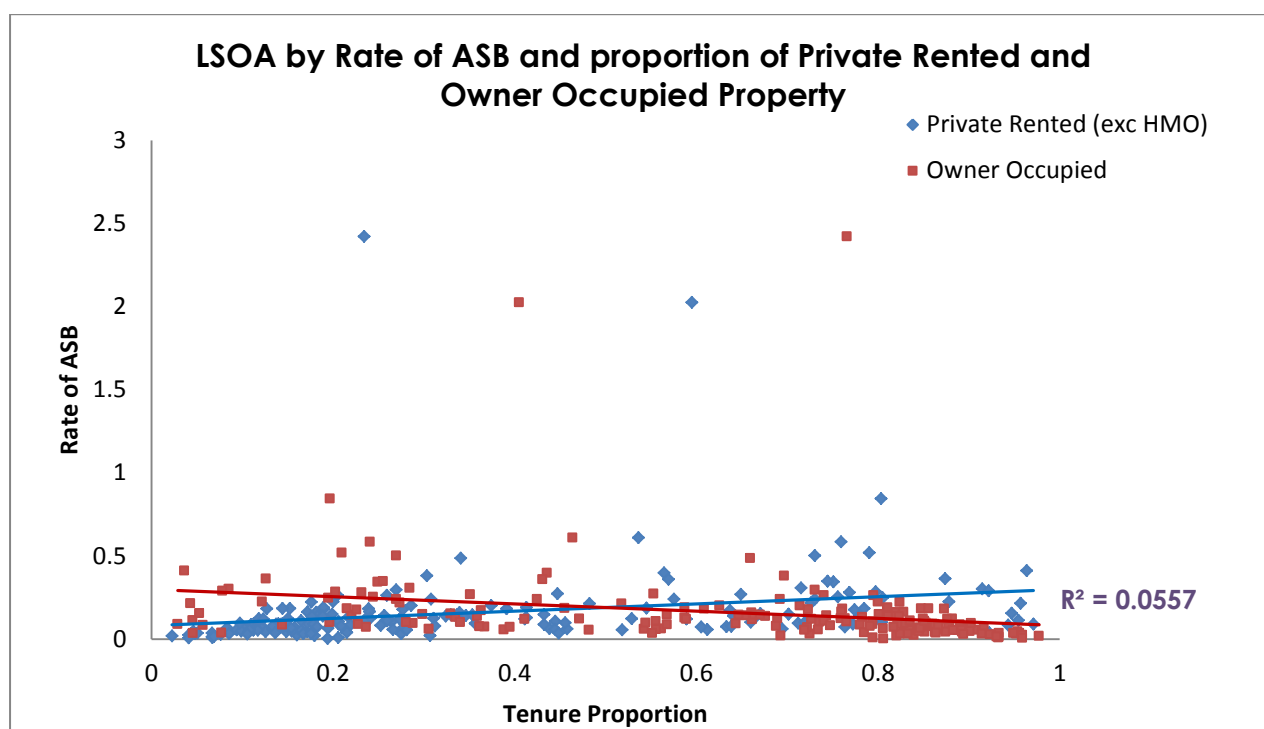
A simple regression analysis comparing the rate of ASB pertaining to single, private occupancy properties to the relative proportions of owner occupied and private rented (excluding HMO) property in a LSOA, showed that for every unit increase in the proportion of private rented property and owner occupation, ASB would increase or decrease by 0.22 unit respectively.

Correlation with rate of ASB reports:

Tenure	R squared	Coefficient	Slope	p-value
Private Rented (exc. HMOs)	0.06	0.08	+/- 0.22	0.001*
Owner Occupied		0.27		

*Statistically significant <0.05

³⁴ Data available at address point. Private sector (owner occupied and private rented) derived by removing social rented and HMO addresses.



Noise related ASB

Of the 22,743 recorded reports of ASB, 10636 (48%) were noise related. Dividing the reports recorded over this period by number of properties (baseline 2016) gives a per property rate of 0.08. On average, this means 1 report per 13 properties.

Splitting the LSOAs between those with a high proportion of Private Rented Sector properties and the remainder with a lower proportion, found that on average for every 3 reports made in an LSOA with a low proportion of PRS, 4 would be recorded in an LSOA with a high proportion of PRS.

	Noise ASB Reports*	No. Properties*	Rate	Rate Ratio
Nottingham City	10636	135399	0.08	
High Proportion PRS LSOA	6170	71715	0.09	1.28
Low Proportion PRS LSOA	4466	63864	0.07	

A simple regression analysis of the overall rate of noise related ASB reports and proportion of private rented sector property (excluding HMOs), showed a positive correlation indicating that for every unit increase in private rented sector properties, ASB increased by 0.04 units.

Tenure	R squared	Coefficient	Slope	p-value
Private Rented (exc. HMOs)	0.06	0.07	0.04	0.0004

*Statistically significant <0.05

Of the 10,636 reports of noise related ASB, 5,541 pertained to private, single occupancy properties³⁵, a per property rate of 0.06

³⁵ Data available at address point. Private sector (owner occupied and private rented) derived by removing social rented and HMO addresses.

Splitting the LSOAs between those with a high proportion of private rented sector properties and the remainder with a lower proportion found that on average, for every 5 reports made in a LSOA with a low proportion of private rented property, 6 would be made in a LSOA with a high proportion.

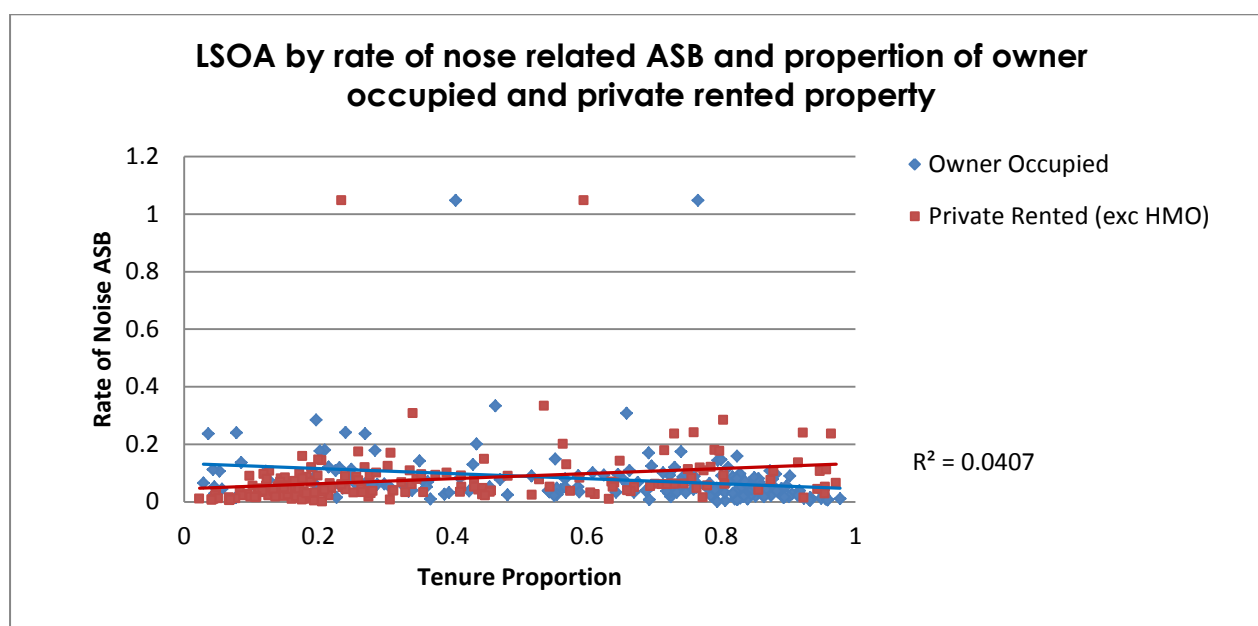
	ASB Reports	No. Properties	Rate	Rate Ratio
Nottingham City	5,541	92,032	0.06	
High Proportion PRS LSOA	3,345	49,825	0.07	1.2
Low Proportion PRS LSOA	2,106	42,207	0.05	

A simple regression analysis comparing the rate of Noise related ASB pertaining to single, private occupancy properties to the relative proportions of owner occupied and private rented (excluding HMO) property in a LSOA, showed that for every unit increase in the proportion of private rented property and owner occupation, ASB would increase or decrease by 0.08 unit respectively.

Correlation with rate of ASB reports:

Tenure	R squared	Coefficient	Slope	p-value
Private Rented (exc. HMOs)	0.04	0.05	+/- 0.08	0.006*
Owner Occupied		0.13		

*Statistically significant <0.05



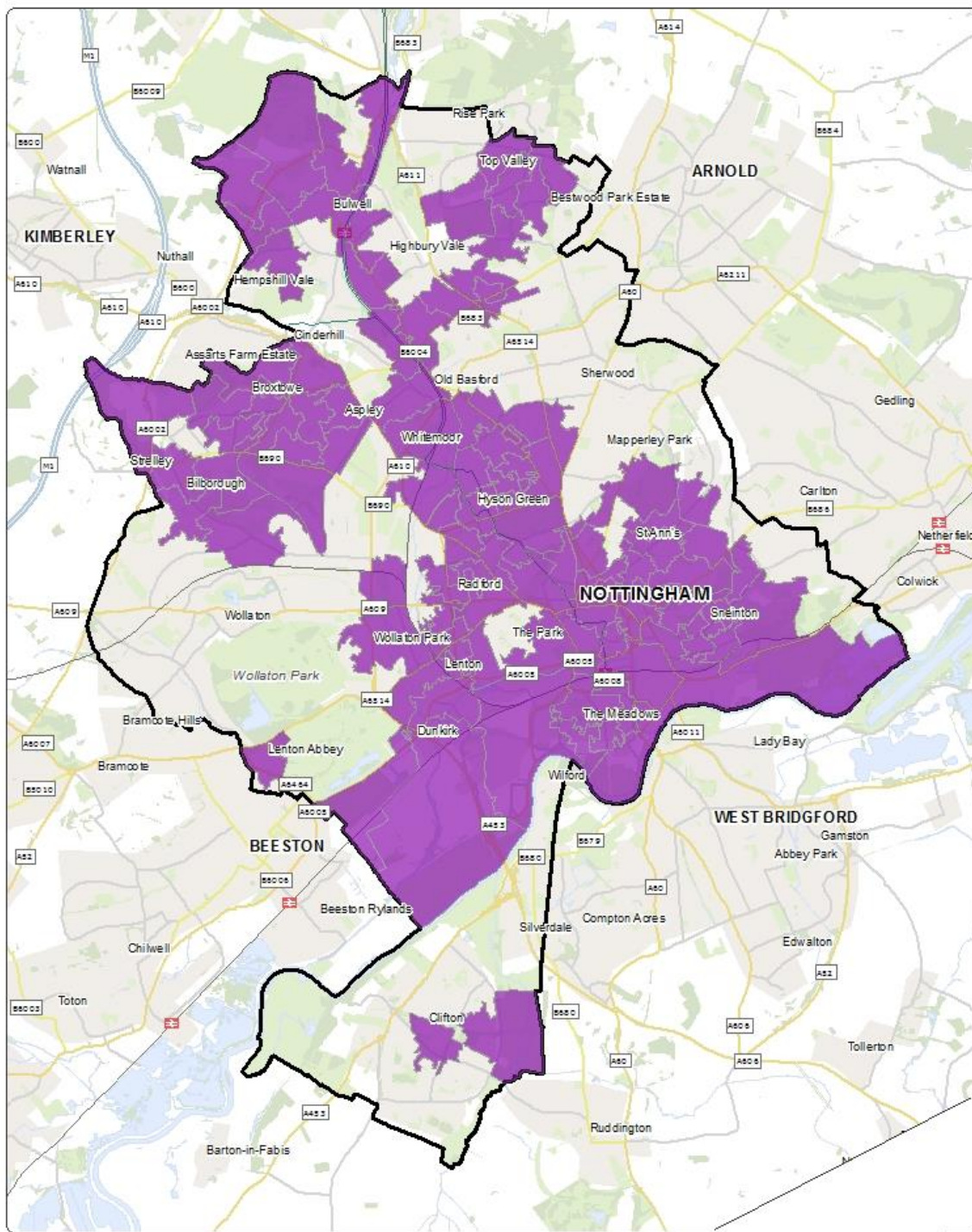
LSOAs meeting Criteria:

102 LSOAs experienced an above City average rate of ASB or noise related ASB according to either or both of the Nottingham City Council and Nottinghamshire Police data sets.

Above Nottingham Average Rate for:	No. LSOA with High Proportion PRS
Nottingham City Data:	
<i>ASB</i>	76
<i>Noise ASB</i>	24
Nottinghamshire Police Data:	
<i>ASB</i>	72
<i>Noise ASB</i>	63

Of the 38 LSOAs with an above average rate of ASB but without a high proportion of private rented property, the private rented sector (excluding HMOs) comprises between 2% and 16.2% of the overall housing stock. For 3 of the included LSOAs, the private rented sector levels excluding HMOs is low because HMOs comprise 55%, 88% and 97% of the LSOAs' private rented stock.

Nottingham LSOAs with above average ASB



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- LSOA with above average ASB
- City Boundary



C. Poor Property Conditions

Introduction & Method

Local Authorities may include in a selective licensing designation an area that has a high proportion of private rented sector property and where a review of housing conditions has indicated that it would be appropriate to inspect a significant number of properties for Category 1 and 2 Housing Health and Safety Rating System (HHSRS hereafter) hazards, and that a selective licensing scheme would significantly assist the undertaking of these inspections and the pursuit of subsequent enforcement action.

This section of the evidence report has looked at the geographic coincidence of reported property disrepair, poor conditions and hazards against the location of private rented sector property and the correlation between incidence rates and the prevalence of private rented sector using both Nottingham City records and survey information from Nottingham's Stock Condition Survey.³⁶

The guidance indicates that in the context of the statutory test a "significant number" means more than a small number although it does not have to be a majority of the private rented property. Therefore LSOAs that have a high proportion of private rented properties (excluding HMOs) and a the rate of property condition problems or deficiencies in the private rented sector that exceeds the rate for the City's stock overall will be considered as suffering from poor property conditions and considered worthy of inspection.

Poor Property Conditions reported to Nottingham City Council:

Nottingham City Council received 7,106 service requests regarding property disrepair or poor/sub standards between 2009 and 2015, of which two-thirds (4,717) were attributed to private, residential properties that were not HMOs.

Properties with a recorded usage as a HMO, category of complaint pertaining to HMOs or non-residential premises were excluded. No social or registered provider addresses were contained in the reports.

Requests concerned disrepair, urgent disrepair, general conditions and damp and mould and were collated by LSOA then divided by the number of private residential properties in that LSOA (excluding HMOs) to give a rate of 0.05 or 1 report per 20 properties.

These requests provide an indication that a property would require an inspection as to the presence of category 1 and 2 HHSRS hazards.

Comparing LSOAs with a high proportion of private rented sector property against those with an average or low proportion showed that for every 2 requests made in the latter, 3 would be made in the former.

³⁶ BRE PSSCS 2016

	Service user requests	No. Properties	Rate	Rate Ratio
Nottingham City	4,717	92,032	0.05	
High Proportion PRS LSOA	3,223	49,825	0.06	1.5
Low Proportion PRS LSOA	1,494	42,207	0.04	

A simple regression analysis comparing the rate of service requests pertaining to single, private occupancy properties to the relative proportions of owner occupied and private rented (excluding HMO) property in a LSOA, showed that for every unit increase in the proportion of private rented property and owner occupation, disrepair reports would increase or decrease by 0.07 unit respectively.

Correlation with rate of Poor Property Condition service requests:

Tenure	R squared	Coefficient	Slope	p-value
Private Rented (exc. HMOs)	0.12	0.03	+/- 0.07	1.41E-06
Owner Occupied		0.10		

*Statistically significant <0.05

BRE Report

The survey data from the BRE Report detailed the incidence or projected incidence of All Category 1 HHSRS Hazards, Category 1 HHSRS Fall Hazards, Category 1 HHSRS Excess Cold Hazards and Disrepair.

The data and report provides the City with its most recent review of property conditions and will focus efforts to address HHSRS hazards and disrepair and support a risk-based inspection programme.

Disrepair was determined as properties projected; on account of their age and building (walls, roofs) or utility (heating) components; to fail Decent Homes Standard criteria and therefore not be in a reasonable state of repair.

The Private Rented Sector, at 32% of the overall housing stock, has a disproportionate incidence of all the aforementioned deficiencies and rate of incidence per property is also highest in the Private Rented Sector.

Distribution of incidence by tenure:

	Owner Occupied	Private Rented	Social Rented
% Tenure	42%	32%	26%
% All Category 1 Hazards	45%	41%	14%
% Category 1 Hazards Falls	46%	41%	12%
% Category 1 Hazards Excess Cold	43%	46%	11%
% Disrepair	33%	57%	10%

Rate of incidence by Tenure:

	All Stock	Owner Occupied	Private Rented	Social Rented
All Category 1 Hazards	0.17	0.18	0.21	0.09
Category 1 Hazards Falls	0.12	0.14	0.16	0.05
Category 1 Hazards Excess Cold	0.03	0.03	0.04	0.01
Disrepair	0.08	0.06	0.14	0.03

The data showed that for every HHSRS or HHSRS fall hazard occurring in owner occupied properties 1.18 would occur in private rented properties, roughly equivalent to 5 hazards for every 6 respectively.

The data also showed that properties in the private rented sector were more than twice as likely to experience disrepair as those in owner occupation at a rate of 1:2.33, meaning that for every 3 owner occupied properties experiencing disrepair, 7 would be in disrepair in the private rented sector.

Comparing the overall incidence of the 4 indicators with LSOAs with a high proportion of Private Rented Sector Property (excluding HMOs) and the remainder, showed that properties in LSOAs with a high proportion of private rented sector property are more than twice as likely to experience issues of disrepair than LSOAs with a lower proportion and 1.5 times as likely to experience Excess Cold.

LSOA comparison rate of incidence in all stock:

	High Proportion PRS LSOA	Low Proportion PRS LSOA	Rate Ratio
All Category 1 Hazards	0.19	0.14	1.36
Category 1 Hazards Falls	0.14	0.11	1.27
Category 1 Hazards Excess Cold	0.03	0.02	1.5
Disrepair	0.11	0.05	2.2

Conducting the same comparison but for private rented sector properties only (i.e. the rate for the private rented stock only) however, showed a less variation in per property rate with the exception of Excess Cold.

This suggests that private rented sector properties are more likely to experience housing condition issues or problems as a result of tenure not as a result of tenure concentration, though incidence at LSOA level is positively correlated to the proportion of private rented sector property in that area.

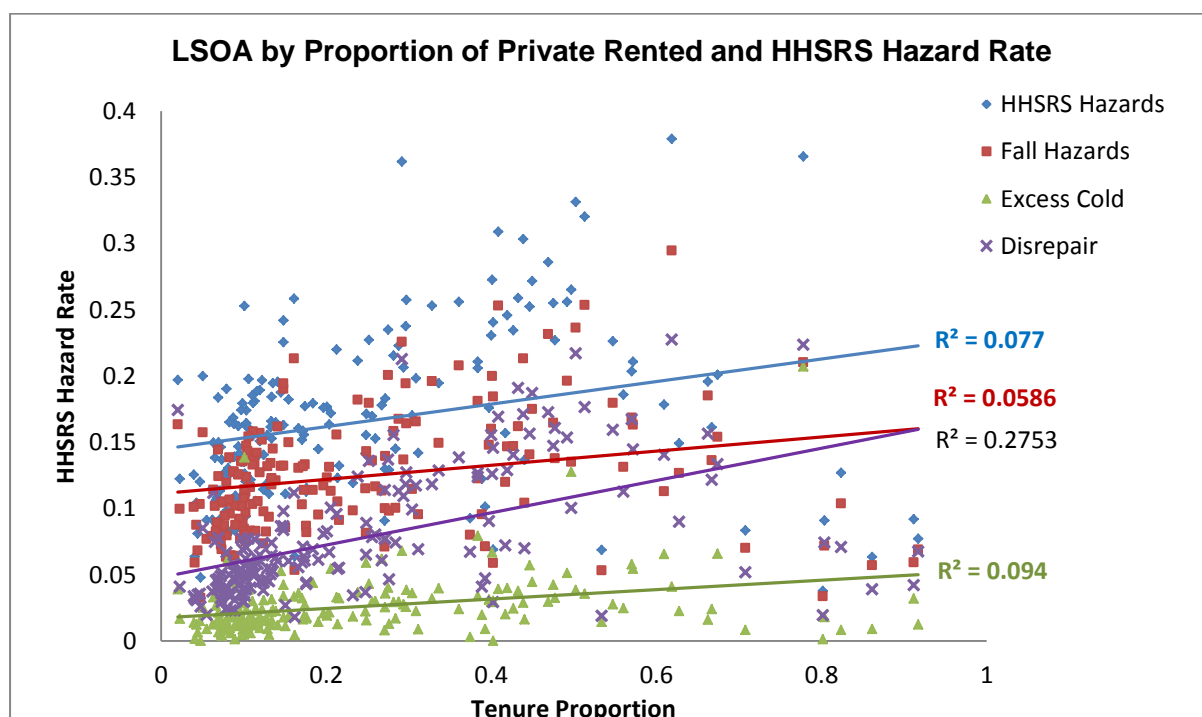
LSOA comparison rate of incidence in private rented sector:

	High Proportion PRS LSOA	Low Proportion PRS LSOA	Rate Ratio
All Category 1 Hazards	0.22	0.20	1.1
Category 1 Hazards Falls	0.16	0.16	1
Category 1 Hazards Excess Cold	0.04	0.02	2
Disrepair	0.14	0.11	1.27

Correlation between Proportion of Private Rented Sector Property and Incidence of property conditions problems:

	R square	Coefficient	Slope	p-value*
All Category 1 Hazards	0.08	0.14	0.09	0.00015
Category 1 Hazards Falls	0.06	0.11	0.05	0.00099
Category 1 Hazards Excess Cold	0.09	0.02	0.04	2.56E-05
Disrepair	0.28	0.04	0.12	2.89E-14

*Statistically significant <0.05

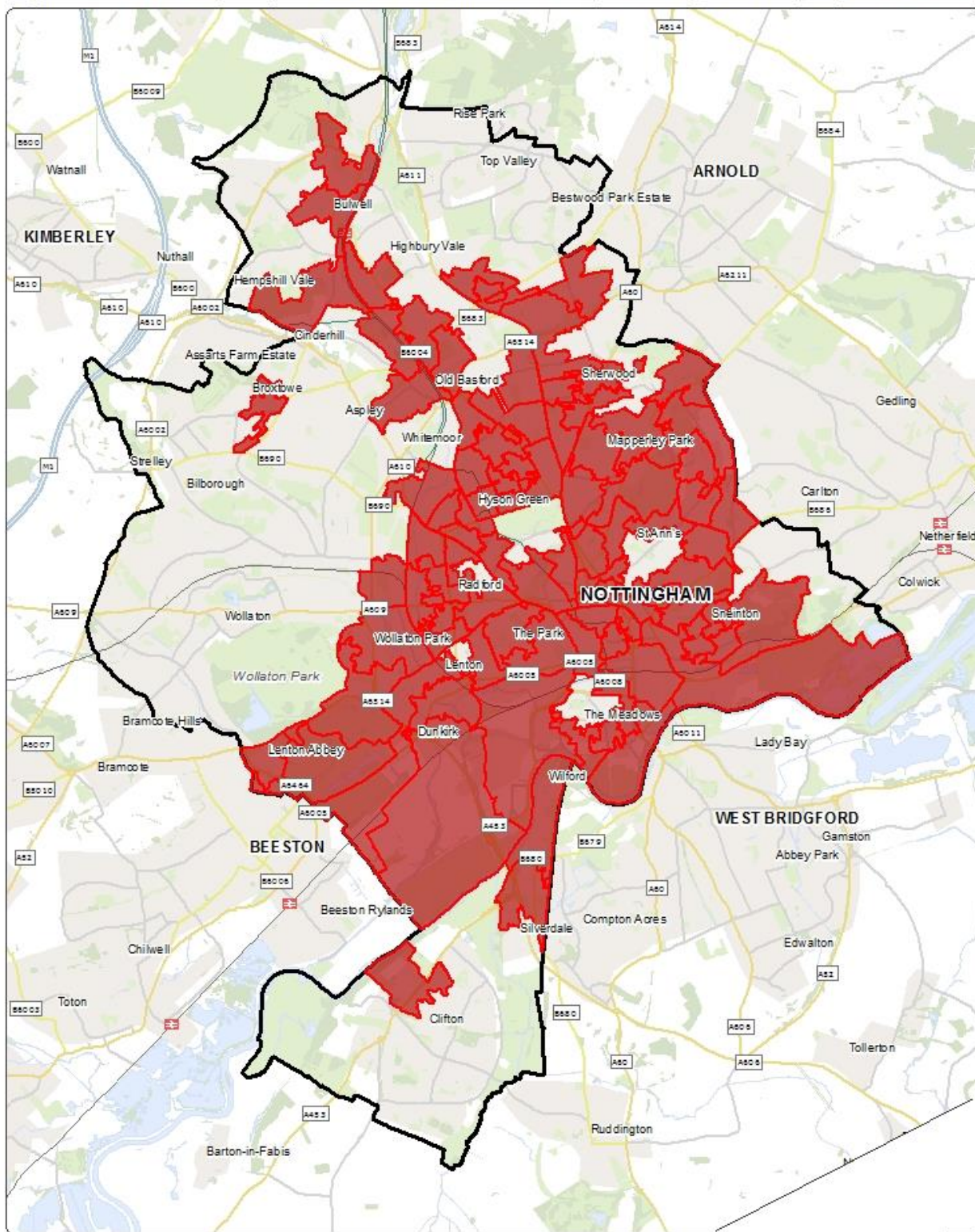


LSOAs meeting criteria:

Of the 88 LSOAs with a high proportion of private rented sector property, all have demonstrated an above Nottingham average rate for one or more of the aspects of poor property condition (i.e. HHSRS hazards or disrepair) and all contain a significant number of properties that will be inspected as to the presence of these hazards under the risk-based inspection programme.

Above Nottingham Average Rate for:	No. LSOA with High Proportion PRS
All Category 1 Hazards	63
Category 1 Hazards Falls	64
Category 1 Hazards Excess Cold	47
Disrepair	88

Nottingham LSOAs with High Proportion of Private Rented Sector Properties & Significant Property Condition Issues



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- LSOA with 16.3%+ Private Rented Sector excluding HMOs
- LSOA with 16.3%+ Private Rented Sector and significant property condition issues
- City Boundary



D. High Levels of Crime

Introduction & Method

Local Authorities may include in a Selective Licensing designation an area that has a high proportion of private rented sector housing and is suffering from high levels of crime that affect those living in those private rented properties as well as other households or businesses in the area. There is no statutory definition of what constitutes a “high level of crime”.

The Guidance indicates that in assessing whether an area with a high proportion of private rented sector properties is suffering from high levels of crime, comparison to local or national rates of crime be explored.

Therefore, LSOAs that had a high proportion of private rented sector property and a rate for all crime, burglary, criminal damage or violence that exceeds the Nottingham average have been considered as suffering from high levels of crime, as have LSOAs with a high proportion of private rented sector property that have an Indices of Multiple Deprivation rank below the City average for the Crime domain.

As the residential property baseline (2016) data does not overlap chronologically with the Police’s Crime dataset (2013 -15) and the amount of private rented sector property has increased, it is reasonable to assume that the rates of crime are a conservative representation or even underrepresentation of current levels.

Police Data:

All Crime:

There were 38,230,083 crimes recorded in England and Wales between January 2013 and December 2015³⁷ and 24.9 million properties according to the most recent dwelling stock estimates for both^{38 39}, giving a rate of 1.3 crimes per property. Over the same period, there were 92,183 crimes (excluding ASB) recorded in Nottingham and 135,399 properties, giving a rate over this period of 0.68 crimes per property.

Splitting the LSOAs between those with a high proportion of Private Rented Sector properties and the remainder with a lower proportion, found that LSOAs with a high proportion were almost twice as likely to experience crime as the remainder.

48 of the 88 LSOAs with a high proportion of private rented sector property had a per property crime rate in excess of the Nottingham average, with 5 also exceeding the national average.

³⁷ Police recorded crime 2013 - 2015

³⁸ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/519475/Dwelling_Stock_Estimates_2015_England.pdf

³⁹ <http://gov.wales/docs/statistics/2016/160420-dwelling-stock-estimates-2014-15-en.pdf>

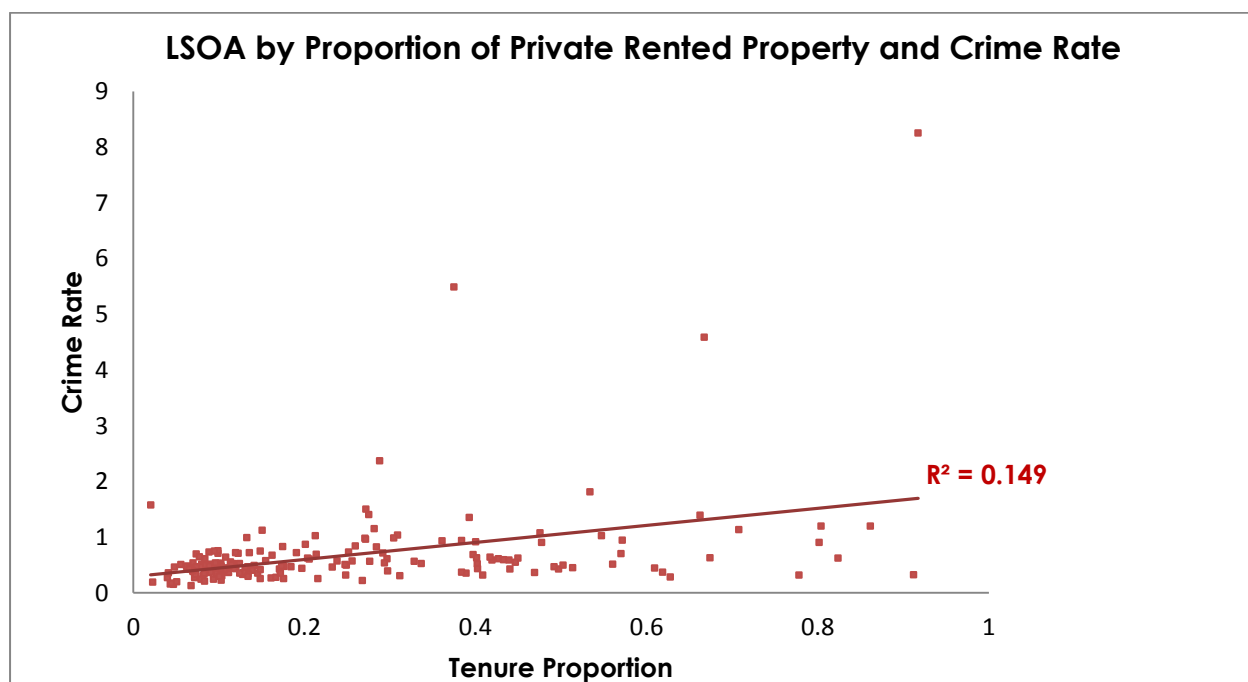
	Crimes	No. Properties	Rate	Rate Ratio
National (England & Wales)	32,230,083	24,900,000	1.53	
Nottingham City	92,183	135,399	0.68	
High Proportion PRS LSOA	62,090	71,715	0.87	1.89
Low Proportion PRS LSOA	29,593	63,684	0.46	

A regression analysis of the rate of all crime and proportion of private rented sector property in an LSOA showed a positive correlation between the two; as the proportion of private rented property increase so does the rate of crime and for every unit increase in private rented sector property the crime rate would be expected to increase by 1.53 units and 15% of the variance in crime rate could be attributed to the proportion of private rented sector property.

Correlation with All Crime Rate:

Tenure	R squared	Coefficient	Slope	p-value
Private Rented (exc. HMOs)	0.15	0.29	1.53	7.34E-08*

*Statistically significant <0.05



Burglary, Criminal Damage and Violent Crime:

There were 41,632 incidences of burglary, criminal damage and violence in Nottingham between January 2013 and December 2015 and LSOAs with a high proportion have a higher rate of incidence for all three types of crime compared to Nottingham overall and the remainder of LSOAs with a lower proportion of private rented sector property.

Burglary		No. Properties	Rate	Rate Ratio
Nottingham City	9,641	135,399	0.07	
High Proportion PRS LSOA	5,647	71,715	0.07	1.17
Low Proportion PRS LSOA	3,994	63,684	0.06	
Criminal Damage		No. Properties	Rate	Rate Ratio
Nottingham City	11,881	135,399	0.09	
High Proportion PRS LSOA	6,643	71,715	0.09	1.16
Low Proportion PRS LSOA	5,238	63,684	0.08	
Violence		No. Properties	Rate	Rate Ratio
Nottingham City	20,110	135,399	0.15	
High Proportion PRS LSOA	13,044	71,715	0.18	1.64
Low Proportion PRS LSOA	7,066	63,684	0.11	

A simple regression analysis between the proportion of private rented sector property in a LSOA and the incidence rate for the three crimes showed a positive correlation, that is where the proportion of private rented property increases so does the incidence of burglary, criminal damage and violence.

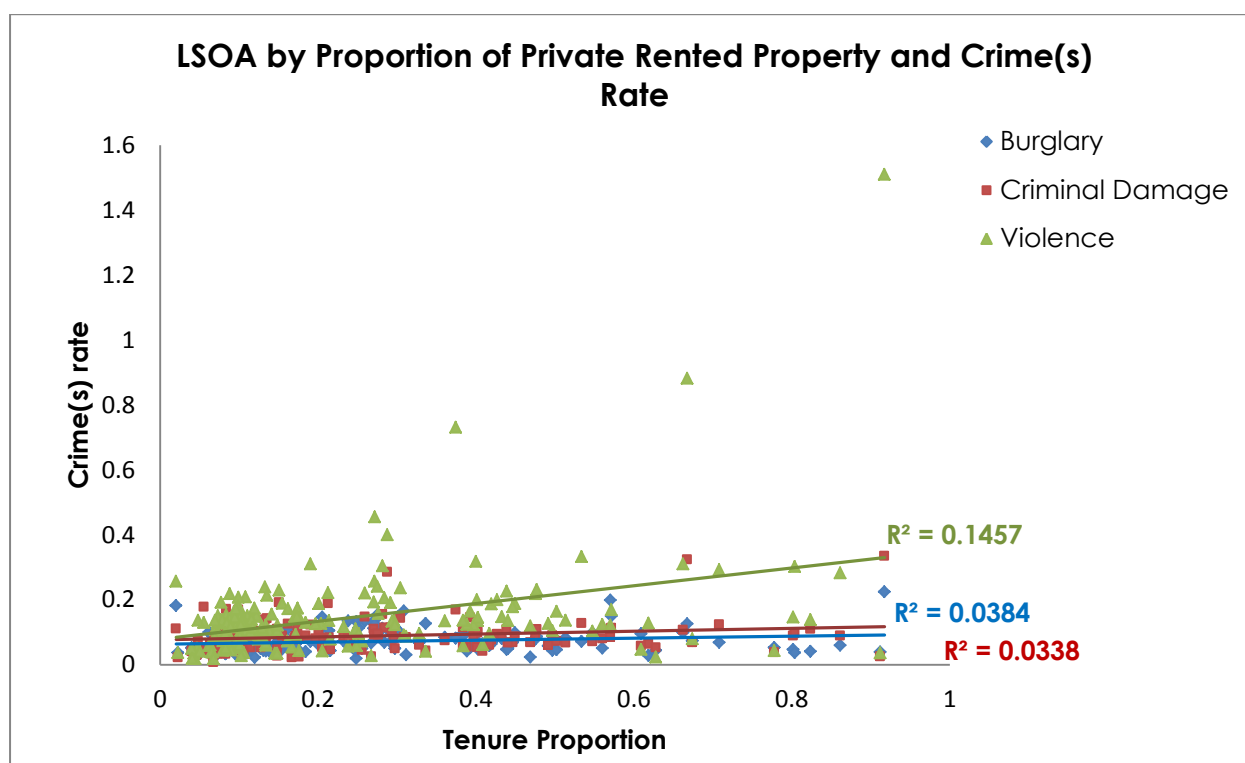
Correlation with proportion of Private Rented Property:

Crime	R squared	Coefficient	Slope	P-value
Burglary	0.03	0.06	0.03	0.01
Criminal Damage	0.04	0.08	0.04	0.008
Violence	0.15	0.08	0.27	1.06E-07

*Statistically significant <0.05

For every unit increase in private rented sector property in an LSOA, burglary, criminal damage and violence will increase with 6%, 8% and 8% of a unit respectively.

3% of the variation in burglary rates, 4% in criminal damage rates and 15% in violence rates can be attributed to the proportion of private rented sector property.



Crime and Drugs Partnership Report

A 2016 Nottingham CDP report concluded “that a positive correlation exists between the proportion of households in the private rented sector and the rate of crime and antisocial behaviour”

The report looked at the rate of calls made to Nottinghamshire Police regarding crime over the 36 months of January 2013 to December 2015, but is instead broken down to Output Area (OA) and correlated with the proportion of private rented sector households per the 2011 Census. The report defined high proportion of private rented as 16.6% of households (excluding HMOs)

The report found that:

- The crime and antisocial behaviour rate was significantly higher in output areas with a proportion of private rented households above the City average compared to other output areas
- A one percentage increase in private rented households (excluding HMOs) is expected to increase crime by 2%”.
- The rate of crime and specific crimes recorded for output areas with a high proportion of private rented households was higher than that for the remaining output areas.

Crime	LSOA High Proportion PRS Households	LSOA Lower Proportion PRS Households	Rate Ratio
All	1.15	0.55	2.09
Burglary	0.09	0.07	1.29
Criminal Damage	0.11	0.09	1.22
Violence	0.23	0.13	1.77

Indices of Multiple Deprivation

The IMD works by ranking all LSOAs in England as to their individual performance in each domain (themed dataset) from 1 – 34,743; the lower the rank the worse the performance. The IMD guidance identifies the data as being able to be used for “comparing small areas”⁴⁰.

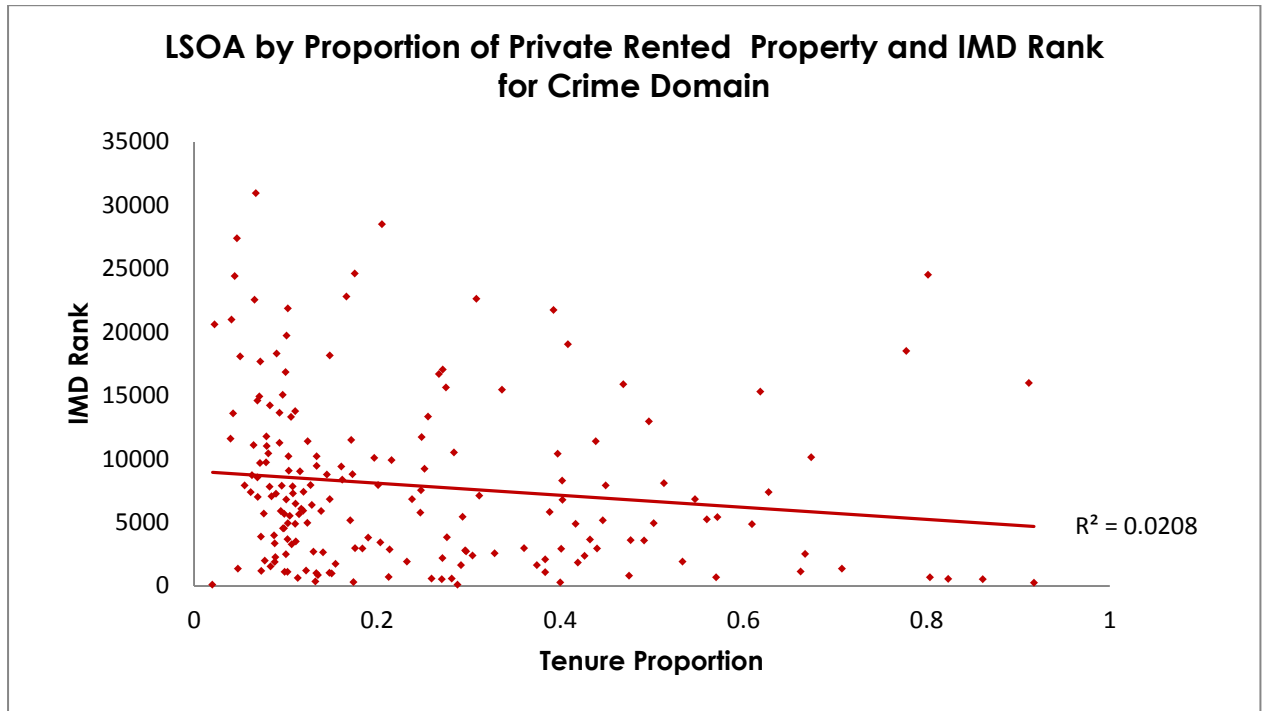
Comparing the average and median rank for the Crime domain of LSOAs with a high proportion of private rented property with the remainder of LSOAs with a lower proportion, showed that the former have a worse overall performance than the latter.

	Average Rank	Median Rank	LSOAs ranked below Nottingham Median
Nottingham City	7897	6404	
High Proportion PRS LSOA	7145	5041	51 (58%)
Low Proportion PRS LSOA	8601	7319	41 (44%)

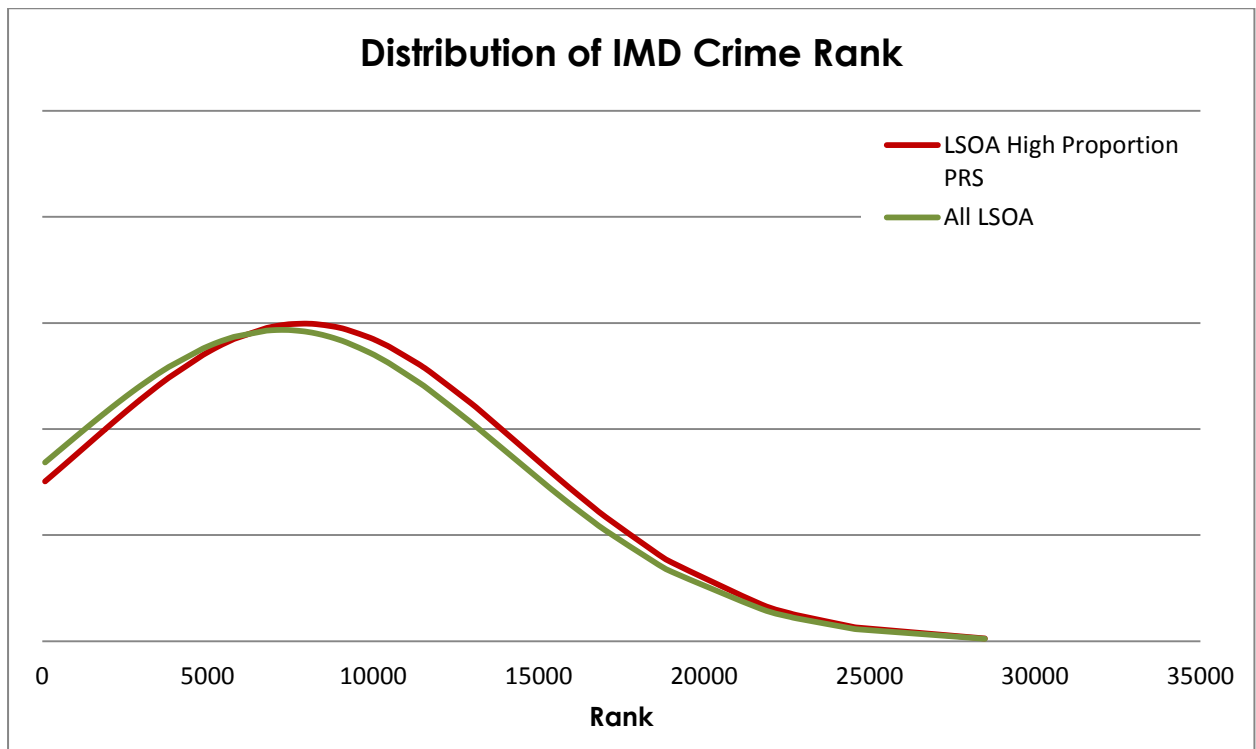
A simple regression analysis showed that there was a negative correlation between the proportion of private rented property (excluding HMOs) and the LSOA rank for Crime domain in the IMD 2015.

⁴⁰

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/464431/English_Index_of_Multiple_Deprivation_2015_-_Infographic.pdf



LSOAs with a high proportion of private rented sector property (excluding HMOs) are more distributed towards the lower ranks than LSOAs overall, indicating that perform worse on average.

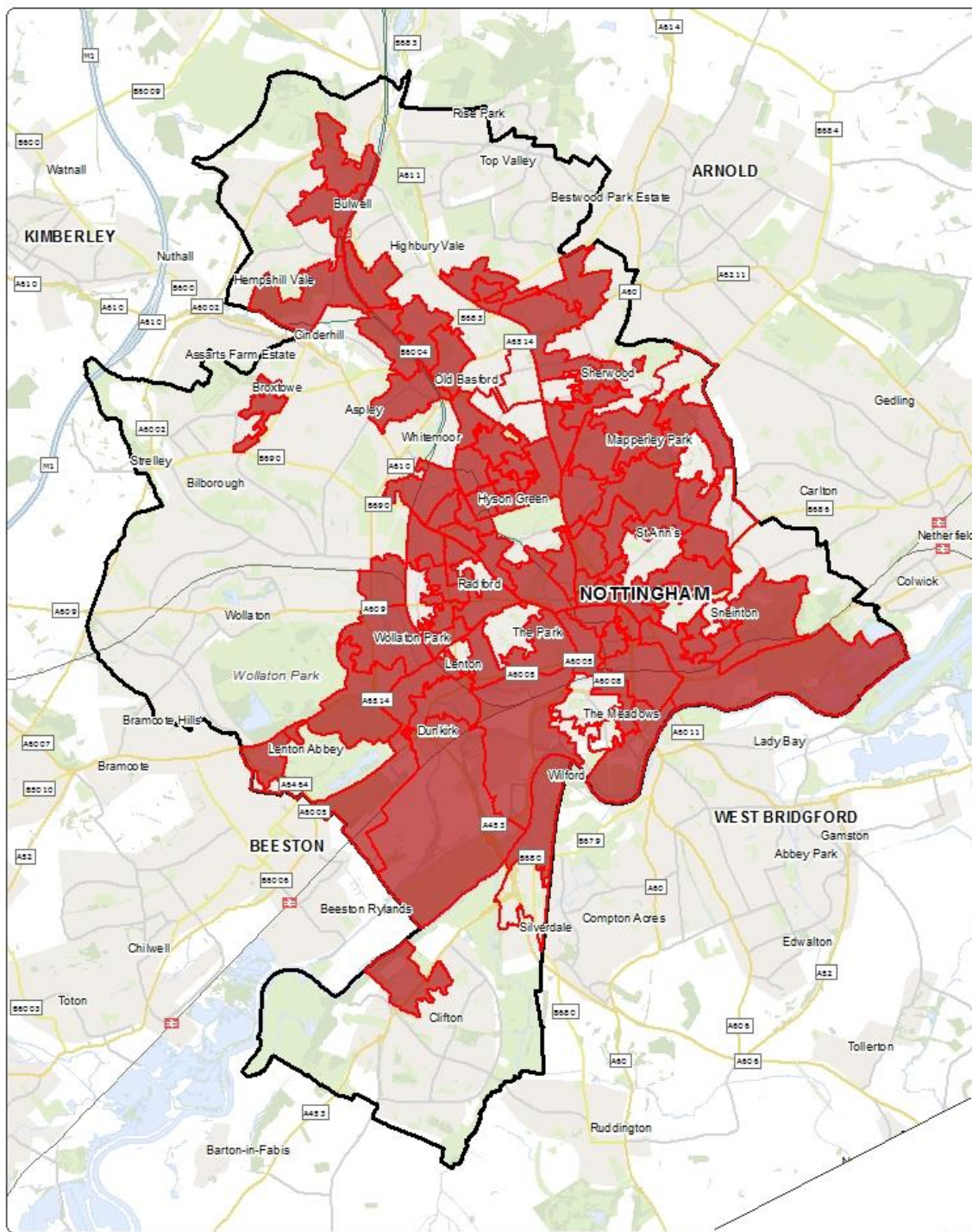


LSOAs meeting criteria

Of the 88 LSOAs with a high proportion of private rented sector property, 74 have an above Nottingham average rate of crime, crimes, or a below Nottingham median rank for the IMD Crime Domain.

Above Nottingham Average Rate for:	No. LSOA with High Proportion PRS
All Crime	44
Burglary	62
Criminal Damage	56
Violence	51
<i>1 crime category</i>	<i>24</i>
<i>2 crime categories</i>	<i>12</i>
<i>3 crime categories</i>	<i>12</i>
<i>4 crime categories</i>	<i>19</i>
IMD Rank	51

Nottingham LSOAs with High Proportion of Private Rented Sector Properties and High Levels of Crime



- LSOA with 16.3%+ Private Rented Sector excluding HMOs
- LSOA with high levels of crime
- City Boundary



E. High Levels of Deprivation

Introduction & Method

Local Authorities may include in a Selective Licensing designation an area that has a high proportion of private rented sector properties that is suffering from a high level of deprivation affecting a significant number of occupiers. There is no statutory definition of what constitutes a “high level of deprivation”. The Guidance recommends that the following criteria are considered:-

- the employment status of adults;
- the average income of households;
- the health of households;
- the availability and ease of access to education, training and other services for households;
- housing conditions;
- the physical environment;
- levels of crime

The domains in the Indices of Multiple Deprivation (IMD), 2015 either reflect these aspects identically or provide a satisfactory proxy for them.

Recommended in Selective Licensing Guidance	Domain in IMD 2015
Employment Status of Adults	Employment
Average Income of Households	Income
Health of Households	Health
Access to Education, Training or Other Services	Education
Housing Conditions	Barriers to Housing and Other Services
Physical Environment	Living Environment
Levels of Crime	Crime

The IMD ranks all LSOAs in England as to their individual performance in each domain from 1 – 34,743; the lower the rank the worse the performance. The IMD guidance identifies the data as being able to be used for “comparing small areas”⁴¹

Therefore, LSOAs that had a high proportion of private rented sector property and a below Nottingham average rank for any of the aforementioned IMD domains will be considered a suffering from high levels of deprivation.

Comparison of Average and Median Rank

LSOAs with a high proportion of PRS have a lower average and median rank for 3 of the 7 IMD domains and between 35% and 80% of these LSOAs have a below median rank in at least one of the IMD domains.

In total, 87 of the 88 LSOAs with a high proportion of private rented properties had a below Nottingham median rank in one or more IMD domains.

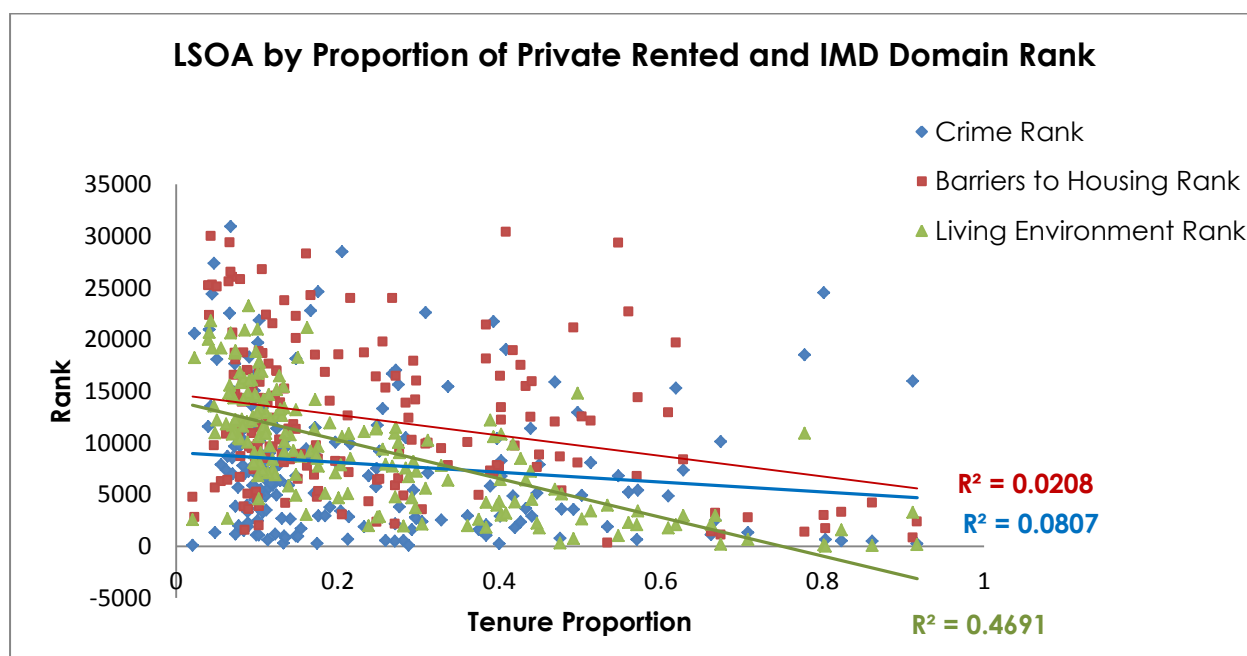
⁴¹

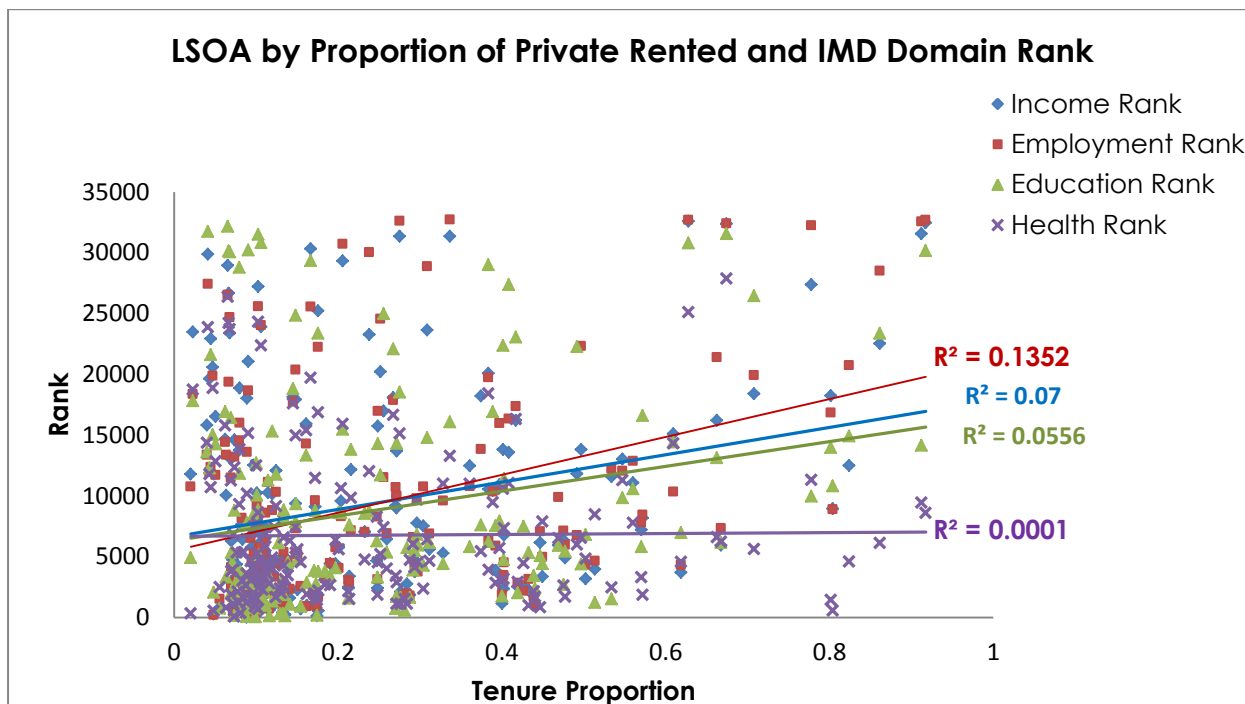
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/464431/English_Index_of_Multiple_Deprivation_2015_-_Infographic.pdf

Domain	Nottingham Rank		LSOA High Proportion PRS		LSOA Low Proportion PRS	
	Average	Median	Average	Median	Average	Median
Income	9372	6829	10923	7960	7920	5170
Employment	9290	6433	11570	8367	7155	4523
Education	8789	5460	10214	7237	7455	3105
Health	6774	4638	6765	5328	6783	4343
Crime	7897	6404	7145	5041	8601	7320
Barriers to Housing	12280	11295	10900	9600	13572	12336
Living Environment	9750	9680	5803	5072	12922	12565

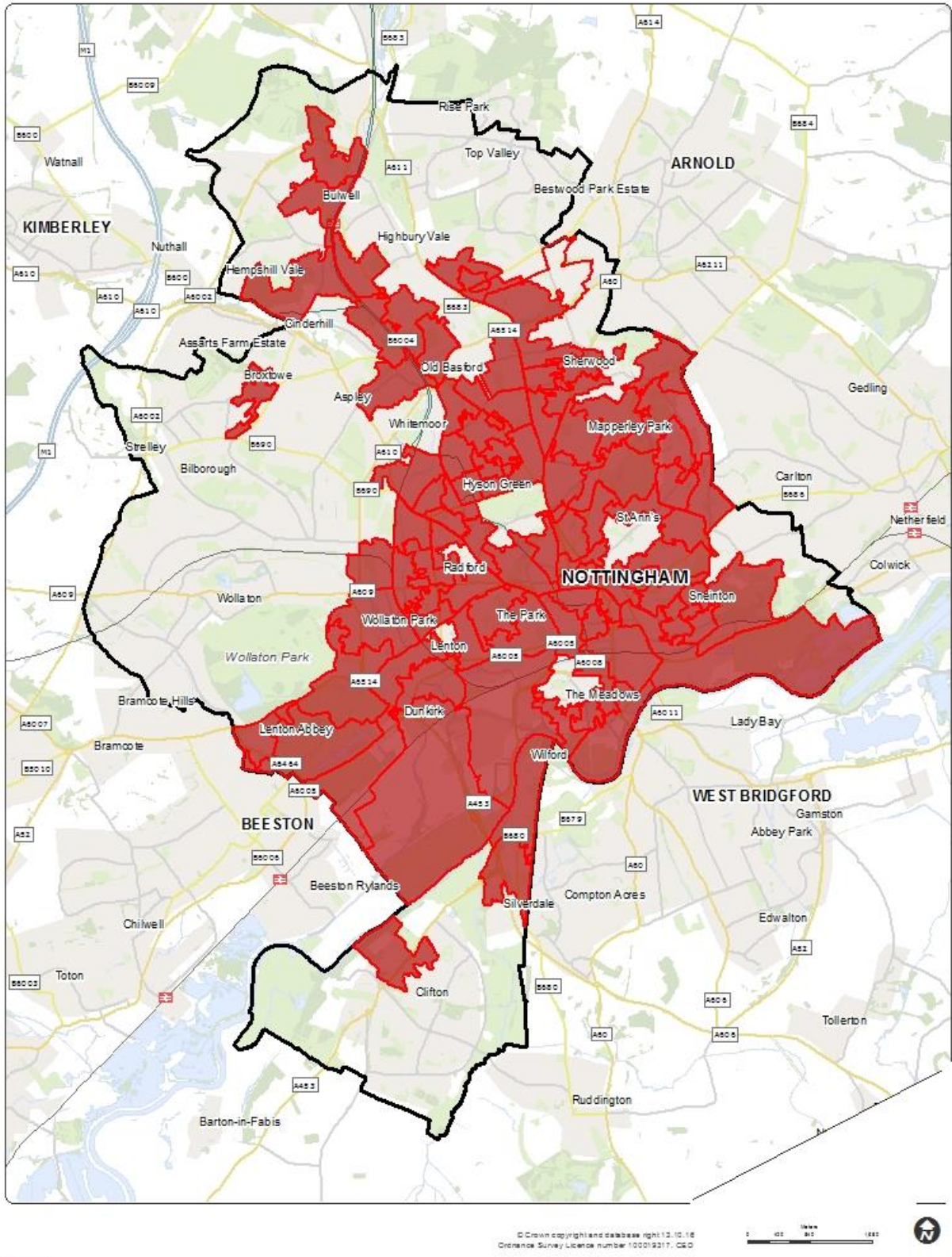
Domain	LSOA with High Proportion PRS & below Nottingham Median Rank	
	No.	%
Income	37	42%
Employment	32	37%
Education	31	35%
Health	39	41%
Crime	51	58%
Barriers to Housing	50	57%
Living Environment	70	70%

A simple regression analysis of the relationship between the proportion of private rented sector property in an LSOA and the rank for each of the IMD domains shows a negative correlation with Crime, Barriers to Housing and Living Environment domain ranks and a positive correlation with Income, Employment and Education domain ranks. There is almost no correlation (slope) between Health domain rank and the proportion of private rented sector property.





Nottingham LSOAs with High Proportion of Private Rented Sector Properties and High Levels of Deprivation



- LSOA with 16.3%+ Private Rented Sector excluding HMOs
- LSOA with high levels of deprivation
- City Boundary



F. Summary of Evidence

Of the 182 LSOAs in Nottingham City, 126 can be considered eligible for inclusion in a selective licensing scheme based on their performance against the criteria outlined in the selective licensing guidance.

Of the 88 LSOAs that had a high proportion of private rented sector property, all have met with at least one of the three restricted (to LSOAs with high proportion Private Rented Sector) criteria of property condition, deprivation, crime or the fourth criteria of ASB.

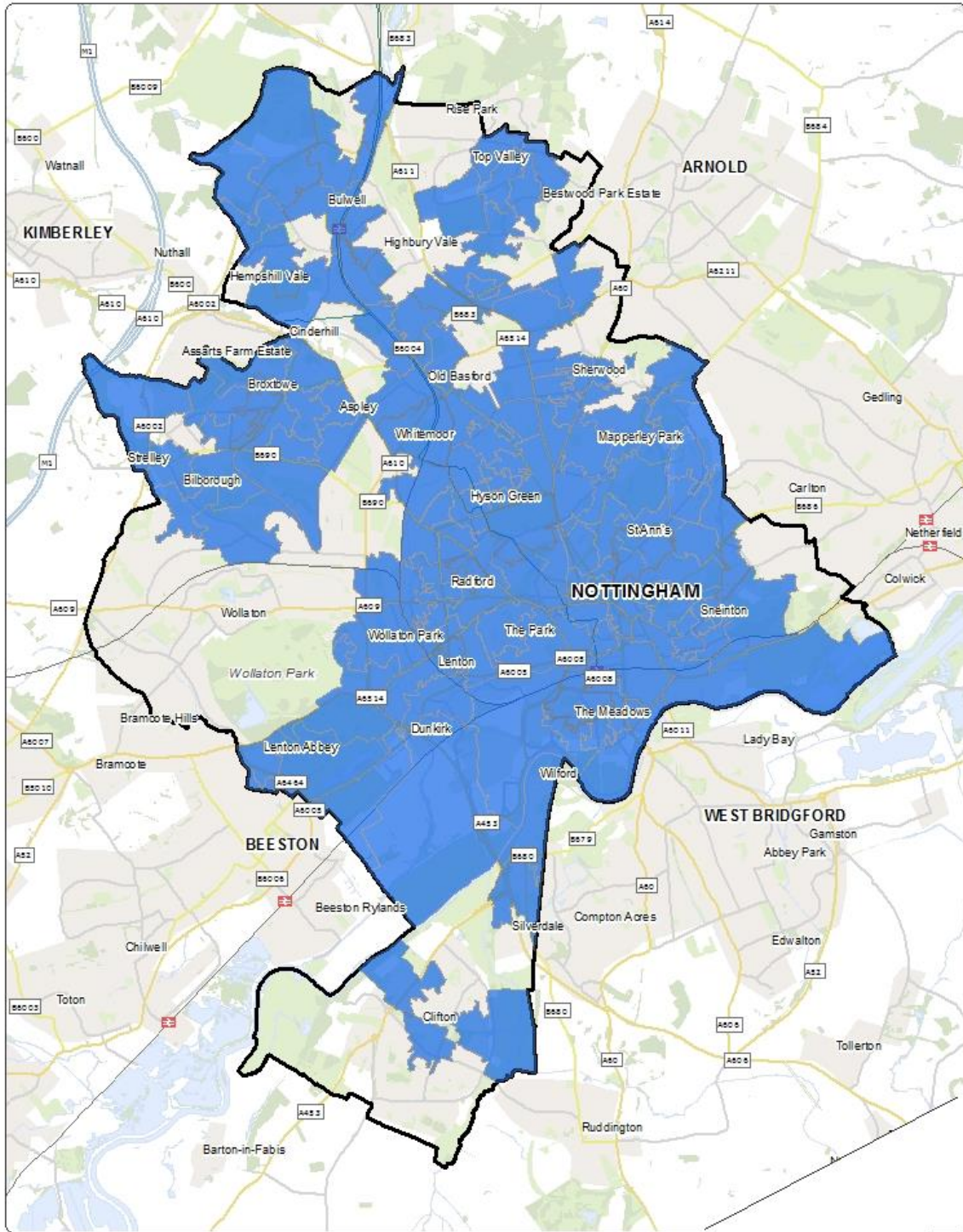
A further 38 LSOAs which do not have a high proportion of private rented sector properties, met the criteria relating to ASB.

Criteria	LSOAs	High Proportion PRS	Lower Proportion PRS
Property Condition	88	88	
Deprivation	87	87	
Crime	74	74	
ASB	102	64	38

This equates to 70% of LSOAs, 67% of Nottingham geographic area and 90% of the private rented sector properties (excluding HMOs).

When the maps are overlaid it is clear that the vast majority of the City meets one or more of the conditions. On this basis it is logical, reasonable and appropriate to designate the entire district of Nottingham City Council for the purposes of selective licensing giving a coherent scheme which is easily defined for landlords and tenants alike.

Nottingham LSOAs meeting Selective Licensing Criteria



- LSOA meeting SL Criteria
- LSOA with 16.3%+ Private Rented Sector excluding HMOs
- City Boundary

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G. Qualitative Evidence to support the Proposal:

The Project Team attended the monthly Neighbourhood Action Team (NAT) Meetings held for 18 of the City's 19 wards over the period June to July 2016. The meetings involved representatives from the Police, Community Protection, Nottingham City Homes (NCH) Housing Patch Managers and Family Services from NCC. The meeting were chaired by the local Neighbourhood Development Officer.

The aims of the attending the meetings were:

- To find out what issues are faced in different areas of the City in relation to the Private rented sector
- What impacts these issues have on neighbourhoods
- Look at how these issues could be addressed
- Explore what impact a licensing scheme could have on these areas, the City's private rented sector and the City in general.

In addition, an online survey was circulated to NAT attendees and their partners working in the area.

Reponses to the survey were received from 12 out of the 19 wards and of those that responded 85% reported that they have experienced problems or issues with the Private Rented Sector in their ward. The most frequently cited issues with the Private Rented Sector were related to ASB and poor property conditions.

Respondents were asked to "select all that apply" from a list of issues, with ASB being the most selected. 85% of respondents who reported at least one issue with the private rented sector in their area:

Issue	% of respondents indicating issue
Noise, rowdy or nuisance behaviour	64%
Litter and waste	48%
Intimidation and harassment	40%
Poor property condition	60%

Other specific problems reported were fly tipping and untidy gardens.

These issues are putting pressure on already stretched services with a number of different service areas - NCH, Community Protection, Police and other Nottingham City Council teams - having to deploy significant resources to resolve the issue.

The responses to the survey echoed the discussion at the NAT meetings, where the primary issue raised by attendees was poor property conditions. Landlords' not undertaking repairs is seen as a key issue and is felt to be having a significant impact on communities. Poor housing conditions are considered to have a disproportionate effect on those who are already vulnerable and whose accommodation in poorly maintained private rented sector properties reflects existing issues of deprivation and poverty. I.e. the low rents that can be afforded entail low property standards.

Properties in the private rented sector that are in a poor state of repair or empty for a long period of time contributed to the area looking unkempt and were felt to

exacerbate existing levels of ASB and Crime, something that is often compounded by increased incidences of fly tipping, untidy gardens and rubbish dumping in neighbourhoods.

NCH staff reported that in one ward, poor property conditions are increasing the pressure on the social housing waiting list as tenants are requesting to be rehoused. The area of the ward in which this issue is occurring comprises 2 LSOAs, both of which have a high proportion of private rented sector property and high levels of ASB, crime, poor property conditions and deprivation.

Significant problems with ASB associated with private rented sector property were reported both in the on line survey and in the discussions at the NAT meetings. Whilst the biggest issue reported in the online survey was noise and rowdy behaviour affecting people living in or visiting the vicinity, the single biggest issue brought up at the NAT meetings was rubbish and waste, such as problems with fly tipping, the accumulation of rubbish around properties or in shared alleyways between properties and overflowing bins being left on the street.

The City Council offers a free bulky waste service to help combat these problems, but this simple and free solution is not being utilised due to tenants leaving the responsibility to landlords and/or landlords not taking responsibility for their properties. This issue was most significant when properties came vacant and it was felt that this was quite a difficult issue to resolve on account of the tenant having left and the landlord being difficult to trace and contact. Neighbourhood Development Officers reported significant problems with trying to establish who was responsible for a property and getting landlords to take action.

71% of respondents to the on line survey said it was difficult to identify if properties are privately rented or owner occupied and NATs found issues associated with the PRS particularly difficult to solve compared to other tenures. This discussion further highlighted the difficulty officer had in establishing responsibility for private rented sector properties and all survey respondents said they used their local community contacts to try and establish tenure and ownership.

Another barrier to resolving issues in the private rented sector that was identified had to deal with both landlords and tenants - who often held the other responsible. Tenants often lacked information or were not sufficiently empowered to take action themselves, whereas landlords were often reluctant to take ownership of what they see as their tenants' problem. There was also felt to be a general lack of cooperation from some landlords. Officers also cited language barriers or fear of intimidation/retaliation as causing problems when speaking to tenants.

Discussions also highlighted that officers are seeing an increasing number of vulnerable people being housed in the private rented sector, who are not being supported in the ways they would be in social housing. This in turn, is increasing the amount of ASB and therefore the requirement for Police and Community Protection to address it. Housing Patch Managers are also called upon to deal with ASB when tenants in the private rented tenants are causing problems for NCH tenants.

A number of wards highlighted the changing nature of communities and the transitions in tenure from social rented and owner occupied to private rented, transitions that are putting pressures on services. A predominantly owner occupied ward had pockets of private rented with problems of deprivation that is largely hidden

from the rest of the community. Another ward that was once predominantly social housing but became owner occupied through right to buy is seeing an increase in PRS due to the improvement of transport links.

All respondents felt that a register of landlords and the ability to establish tenure would help in resolving problems much more efficiently and effectively. The need for standards and improved conditions in the sector was also identified, as was the enforcement to ensure that landlords of problem properties take responsibility.

Conclusion

The feedback gathered through the survey and NAT meetings offers a finer grain and more tangible level of detail regarding the experience of issues with the private rented sector in the City. It also offers an insight into the exponential or exacerbating effects that unresolved issues can have, as well as the difficulties entailed with resolution and the pressures that these issues put on services.

The qualitative evidence supports and complements the correlations established in the quantitative evidence and also highlights some direct examples of where selective licensing would enable issues in the private rented sector to be more effectively and efficiently remedied. This in turn would reduce pressure on services, release precious resources, and allow improved standards to be maintained.

v. The Proposed scheme, how it will help to tackle problems, and the outcomes we seek.

Proposed operating model and business plan

Highlight Summary

- Proposed online applications, with presumption to issue licences, unless valid reasons to refuse
- Proposed fee of £600 for non-accredited and £460 for accredited landlords
- Requires landlords to be proactive in managing their properties
- Estimate 35,000 properties will be licensable
- Team of 74 staff (5 year average) to successfully deliver the scheme, including licensing, enforcement and tenant and landlord liaison staff
- Other fees for applicants and landlords who cause extra work ensuring maximum cost recovery
- Signposting for benefits beyond licensing i.e. fuel poverty

Operation of the proposed scheme

The introduction of selective licensing will bring an estimated 35,000 privately rented properties into the licensing framework over the 5 year licence period. The operational delivery of HMO licensing is delivered by the Community Protection Environmental Health and Safer Housing team.

The principles of the operation of the scheme once applications are received is to :

- Assess if the landlord is fit and proper
- Issue the licence with the standard conditions. The licence conditions are the key to achieving improvements in property conditions and management that will be the major driver to achieve the scheme outcomes
- Refuse licences or reduce the licence period if there are concerns about the proposed licence holder and or manager not being fit and proper, or property conditions and management
- Encourage and require landlords to adhere to the property conditions
- Carry out compliance checks and hazards safety assessment
- Advise and support landlords and tenants
- Take enforcement action as appropriate
- Work with partners and stakeholders to add value and benefit

The scheme is for 5 years and there will be a cycle of activity through the 5 year period

Proposed Scheme Annual Priorities

Year	Promote	Process	Engage	Enforcement	Compliance	Review
1	X	X	X	X (6 months after start)		
2		X	X	X	X	X
3			X	X	X	
4			X	X	X	X
5			X	X	X	

The proposed scheme will operate on the basis of issuing licences based mainly on the information contained in the application form and the applicant's self-declaration. This will require the landlord to provide a fee and good quality application containing all required information and documents, including certificates (e.g. gas safety, electrical safety, energy performance certificate) and annotated property plans. This will be supported by the Council undertaking a desk top assessment, putting the onus on the landlord to provide the appropriate information necessary to issue or refuse the licence. The objective is to issue licences efficiently so licence conditions are in place as it is compliance with licence conditions that will secure improved housing standards and management. Where it appropriate inspection may be made before application

The Council will write to tenants to make them aware when a licence has been granted (and annually thereafter) about how to make a complaint should there be concerns that the landlord is not addressing. Licence holders will be required to provide a copy of the licence to the tenants detailing the conditions the licence holder has to comply with.

Licence holders will be notified that they should be proactive in managing their properties and should assess their house, taking action to remove hazards to an acceptable level. The licence conditions will require landlords to be proactive in managing their properties and will require them to have written procedures and processes in place, as well as safety certificates where required to ensure safety and adequate management.

Processing licences efficiently and effectively coupled with appropriate enforcement of the licence conditions through risk based compliance inspections and enforcement against those not applying are vital to the success of the scheme. This will allow the Council to focus resource on non-compliant and criminal / rogue landlords that can be investigated to ensure that appropriate action is taken. Properties operated by these landlords are likely to be the worst managed and maintained properties, posing the greatest risks to the tenants. This will ensure a robust scheme that should be supported by those good landlords who want to see the whole sector improve.

Accreditation of private rented sector properties has been in place in the City for a number of years and is now branded as the 'Nottingham Standard' accreditation scheme. Numbers of accredited properties increased when the additional licensing scheme was introduced. The accreditation schemes are managed outside of the Council and form a voluntary and market driven approach for improving housing standards. It is anticipated that applications for properties that are accredited will take a reduced time to process and it is proposed this is reflected in the licence fee.

A review of the mandatory and additional licensing scheme can be found in Appendix iii "Review of Nottingham City Council's Existing Licensing Schemes". These reviews and the lessons learnt from implementing and operating the schemes will be used to ensure the selective licensing scheme is successful.

Success of the scheme

To ensure the scheme is successful the following will be undertaken:

- 1. Communication and engagement**
- 2. Effective licensing process**
 - a. Applications processed in a reasonable time**
 - b. Licence conditions**
- 3. Enforcement**
 - a. Risk based compliance inspections and checks**
 - b. Proactive action**
- 4. Scheme outcomes**
 - a. Reduction in crime and ASB**
 - b. Improved housing standards and management**
 - c. Reduced deprivation and health inequality**

1. Communication and engagement

The Council will develop an effective communications and marketing strategy and work with partners to ensure maximum awareness and publicity opportunities. This will include working with a range of partners, but in particular our accreditation providers, managing agents, landlords' groups and current holders of HMO licences. The Council will continue to support the Nottingham Standard accreditation scheme which assists landlords who want to provide a higher quality of property standards than the legal minimum. The Council will also ensure suitable information will be available to landlords, managing agents, tenants, and other interested parties.

2. Effective licensing process

a. Applications processed in a reasonable time

The proposed staffing structure in Table 2 and budget plan will enable applications to be processed in a reasonable time. The Council will aim to determine licence applications within 6 months of a valid application being received. Depending on volume and rate of applications received this may be challenging. The staffing and recruitment plan needs to be flexible to accommodate this with a phased approach to staff recruitment and staff on both permanent and temporary contracts.

Staffing levels will be monitored to ensure applications will be processed in a reasonable time. Table 2 is based on an average 5250 applications being received and processed each year. It is anticipated that there will be an initial spike in the number of applications received. Plans will be drawn up to consider how best to resource and facilitate a team based on the experience of implementing the additional licensing scheme. If there is a spike in applications early on staff numbers will have to increase to ensure adequate resource available to process these and then reduce down over the latter parts of the 5 year scheme to balance this out. There will be a budget impact on overheads etc. that is incorporated into the 5 year budget plan.

b. Licence conditions

To ensure the scheme meets the aims it is set out to achieve the licence conditions proposed in the appendix ii “Proposed licence conditions for privately rented houses” will be used. Some of these are statutory conditions required by the Housing Act 2004 and others are proposed conditions that have been developed to ensure improved housing standards and landlord competency, pro-active management, and to reduce anti-social behaviour. The conditions also include reference to other guidance and information directing licence holders to relevant duties and obligations imposed by other relevant legislation. The conditions will be subject to review during the course of the scheme.

3. Enforcement

a. Risk based compliance inspections and checks

Once licences are granted then a risk based inspection programme and desk based assessment system will be used to check compliance with the licence conditions. This risk based inspection will consider targeting resources at areas with highest levels of ASB, crime, deprivation and poor property conditions. Where standards fall below the appropriate level, enforcement action may be taken. Where licence holders fail to comply with licence conditions and it is necessary for a further inspection a charge will be made to cover the officer time. During the compliance check a hazard assessment under part 1 of the Housing Act 2004 is likely to be undertaken. The Council will move automatically to enforcement action where landlords are found to be letting properties that are unsafe and contain serious hazards affecting the health, safety or welfare of the occupants. This may also lead to licence revocation or reduction in licence length. Undertaking inspections as part of the licensing process will help improve property conditions and ensure that the properties are safer for the occupants. The Council will expect works to be completed following service of a legal notice or order, in a reasonable time. Where there is non-compliance the Council will seek to undertake works in default and or prosecution. Some costs for inspection, compliance and enforcement are covered in the fee, some are not and are borne by the Council or are charged back to the landlord as detailed in Table 1, below. Costs to the Council are as detailed in Table 1 in the Executive Board Report. The scheme priorities are as shown in the proposed scheme annual priorities as shown in the above table.

b. Proactive action

Appropriate enforcement will be taken against those not licensing their properties. A team will be put in place to support enforcement of the scheme and undertake proactive, risk based investigations, working with partners to target unlicensed properties. Where properties containing category 1 or 2 hazards are identified appropriate enforcement action using Part 1 of the Housing Act 2004 will also be undertaken. This will help ensure a robust scheme is developed and act as a deterrent for those rogue landlords that fail to co-operate. This will include staff as shown in Table 2.

4. Scheme outcomes

a. Reduction in crime and ASB

Any scheme implemented will be reviewed during its proposed 5 year life span and evidence gathered to consider how it has impacted on ASB and crime. With the appropriate conditions on licences, risk based compliance checks and the engagement that will be undertaken there will be a positive impact on crime and ASB reduction linked to private rented sector homes.

b. Improved housing standards and management

The inspections for hazards, the conditions placed on licence holders to ensure good property conditions, the empowerment of tenants, the landlord training and the partnership approaches to encourage and create opportunity for improvement will all contribute to improved housing standards and management. This will again be monitored over the 5 year period.

c. Reduced deprivation and health inequality

In terms of deprivation, Nottingham scores particularly poorly on income, health, crime, and living environment. Introducing licensing with its relevant conditions and inspection regime, signposting for wider benefit and proposals for joint working and opportunistic approach for supportive funding for improvement such as energy initiatives will assist with matters such as reducing fuel poverty, increased health and wellbeing, less sickness absence from work and school all of which will support increased household income and health.

Assessing the resources and fee

The proposed fee structure and is laid out in Table 1. The Council proposes to set the fee at a level that ensures full cost recovery for the scheme and is a balance between a reasonable cost for landlords, whilst also seeking to ensure the scheme is successful, properly funded and appropriately resourced. The fee has been calculated using a bespoke spreadsheet which is a streamlined version of the original toolkit created by the Local Government Association (LGA) in 2006 (used for additional and mandatory licensing) and stands up to an assessment of value for money. This spreadsheet calculates the following elements as suggested by the LGA in their November 2015 publication 'Open for Business: LGA Guidance on locally set fees' and is based on the number of licensable houses. They include the following:

- **Administration** – the actual costs of producing the licence; staff costs, photocopying, paper, postage
- **Visits** – time spent inspecting the premises including travel to and from
- **On costs** – e.g. accommodation, heating, lighting, supplies and services, IT services and equipment, Finance and Legal Support
- **Local democracy costs** – committee meetings and production of associated papers
- **Fee setting and review** – attending courses, reading, understanding and interpreting guidance and legislation and at least an Annual Review
- **Enforcement & compliance costs** – number of staff to be recruited to undertake compliance/enforcement

Previous evidence (from our existing Additional Licensing scheme has shown that an estimated 75% of known properties will apply from the designated area if implemented. This percentage forms part of the estimated income which is found in Table 2. The allowable costs that are being recovered through the fee include costs to establish an enforcement team to ensure the scheme is effectively enforced and 2 colleagues to work proactively to engage with landlords and tenants in tackling ASB. The fee may go up or down before implementation due to various influencing factors. So, whilst the fee is indicative, any changes in the fee are likely to be no more than 20% of fee proposed.

It is proposed that a moratorium of 6 months be established from the start of the scheme to ensure as many landlords as possible apply prior to the enforcement team proactively targeting unlicensed properties. This would also allow staggering of recruitment to this phase of the work too.

Following the consultation and subject to Secretary of State approval resources will be required to establish these teams as detailed within the fee structure plan as set out in Table 1. This will include costs for set up, marketing and communication in the initial phases of the scheme, before income is received. The number of Nottingham Standard accredited properties in Nottingham is approximately 2500, which makes up approximately 6% of the private rented sector properties. The majority of accredited landlords are HMO landlords and already fall within the mandatory or additional licensing schemes operating in Nottingham. It is therefore estimated that a relatively low number (approximately 600) of non-HMO properties will be eligible for the reduced accredited fee. There is on-going work to understand how the Council and partners can continue to increase the engagement with good landlords who want to provide a quality private rented sector. The fee income and staffing resource required is based on standard fee for all applications. The number of accredited landlords may vary and this may impact on the income and therefore budget and will be monitored to ensure staffing resources reflect this.

Table 1: Proposed fees

	Fee	Comments
Standard fee	£600	For non-accredited landlords
Accreditation fee	£460	The proposed licence holder is accredited with either Unipol or DASH (the Nottingham Standard)
Paper application form	Additional £100	A paper form, rather than submitting online.
Missed inspections	£50	Failure to attend an agreed inspection a charge shall be levied
Re-inspection charge	£150	If a second inspection is needed due to non compliance as additional staffing resource is required
Charge for a Caution	£350	An administrative charge where a caution is given as an alternative to being prosecution.
Finder's fee	£150	Where the Council has to do more than the normal amount of work to ensure a licence application/renewal is made.
Part 1 Housing Act 2004	£350	Not all costs can be recovered from the licence fee. Under Part 1 of the Housing Act 2004 (section 49) the Council can charge for relevant costs linked to enforcement work. NB Once an invoice is issued, this charge becomes a local land charge on the property.
Application to vary a licence	No charge	Includes applications to change the manager, address, number of occupants.
Extra correspondence	£30	Where the Council has to e.g. do more than normal to obtain further information to secure a valid licence application or provide copies of documents requested.

The Council will only give a refund if:

- a duplicate application has been made
- an application has been made for an exempted property by mistake

It is estimated that the staffing requirement will be for an average of 74 staff to undertake licence processing and compliance work, enforcement and support for landlords and tenants over the 5 year period. The team will comprise of a number of different posts as detailed in Table 2. The staffing level currently shown in this report is based on an average of 5250 licence applications being made each year, however, depending on the profile and quality of applications made staffing is likely to significantly increase and decrease as the scheme moves forward. Extra work is required to ensure those landlords comply with their legal requirements.

Where licences are issued, they shall not be issued beyond the date of the end of the scheme, which is no more than 5 years once the scheme comes into force. This will ensure there is no benefit gained by those applying late and will run in line with the length of the scheme.

Table 2: Officers required and total costs

	Number of staff Per year	Salaries including on costs (£m)	Overhead costs (£m)	Set up costs * ² (£m)	Total (£m)* ³
Processing and compliance Licensing Support Officers / Supervisors, Enforcement & Environmental Health Officers, Licensing Support Team Leader Principal Environmental Health Officers Operations Manager	62 * ¹	9.885	2.930	0.639	13.454
Enforcement Support Officers Enforcement Officers, Environmental Health Officers, Principal Environmental Health Officer, Police Constable, Solicitor	10	1.790	0.475	0.103	2.368
Support Landlord and Tenant Liaison	2	0.390	0.095	0.020	0.505
Totals	74				

*¹ average number of staff based on the standard Fee £600

*² Set up costs within the fee include support from HR for recruitment, support from Facilities Management, publicising the scheme, outlay for new starters and exit costs

*³ these costs are based on 75% of licence recovery. Should there be a higher recovery, additional resources will be provided and will be covered by the increase in income above the 75% recovery rate.

The income will not be received uniformly throughout the 5 year period. An earmarked reserve will be created to be drawn down on as required.

Potential legislative changes in 2017

In April 2016 the Housing and Planning Act received royal assent. There are possible changes that may impact on licensing schemes such as:

- requirements for DBS checks for licence holders,
- changes to the licence application process,

- extending the definition of mandatory licensable HMOs to include large HMOs, regardless of the number of floors, (as HMOs are not included within this scheme this is not expected to have an effect).
- a national register / black list of rogue / criminal landlords,
- civil enforcement notices for certain Housing Act 2004 offences.

Should the above or other changes come into force in the coming months before or during the selective licensing scheme being implemented, the proposed licence application fee and operation of the scheme may need to change to reflect these.

vi. Conclusion

Why making a selective licensing designation will significantly assist the Council to achieve its objectives

Section ii Introduction - The background to the private rented sector in Nottingham shows that whilst Nottingham is a vibrant, attractive and thriving multi-cultural City with a growing population and strengthening economy it suffers disproportionately from issues of deprivation and low income, crime and ASB. The issues of low income are reflected in Nottingham's significant low levels of home ownership, which mean that a scheme that is aimed at tackling these issues in the private rented sector is of strategic significance to the City as a whole.

The evidence to support the proposal demonstrates a clear link showing that tenure type is strongly associated with these issues. The analysis shows there is a relationship between areas of the City with high levels of PRS and poor property conditions, crime and deprivation, and overall a relationship exists between ASB and PRS across the City. Issues within the PRS are often compounded, and the majority of areas with high levels of PRS suffer from issues associated with all 3 of the criteria of ASB, crime and deprivation. Whilst the Council acknowledges that not all areas of the City meet all four conditions, the Council believes there is strong evidence that the vast majority of the City meets one or more of the conditions listed below on which it is seeking to implement a scheme.

- High levels of crime
- A significant and persistent problem caused by anti-social behaviour
- Poor property conditions
- High levels of deprivation

In pursuing a scheme on these grounds the Council seeks to:

- further reduce crime and antisocial behaviour
- Ensure high standards of accommodation for all by driving up standards in the PRS and protect tenants across the City
- Include more of its citizens in its prosperity and reduce the high levels of deprivation in the City.

Crime and antisocial behaviour

The evidence shows that there is a strong correlation between levels of crime and ASB and private rented properties. Selective licensing (through the conditions to be attached to a licence) will make it a requirement for landlords to manage their properties more effectively, particularly by ensuring that tenancy conditions are clear and set out in proper tenancy agreements. Conditions will require landlords to deal with breaches effectively, giving greater assurance to local communities that private rented homes in neighbourhoods are being properly managed. In letting out properties landlords must take responsibility for the potential impact on neighbouring properties. Licensing will bring a far greater onus on landlords to ensure this. From this shift towards greater landlord responsibility for the conduct of their tenants it is hoped to see a significant reduction in antisocial behaviour. Where landlords do not adhere to their conditions the Council will use a proportionate approach to

enforcement to seek to ensure compliance as detailed in its enforcement and compliance guide

It is known from the Council's DCLG-funded rogue landlord initiative that the private rented sector is can be a base for criminal activity, and the data the Council has analysed shows a correlation between crime and the PRS. The requirement for a landlord to be a fit and proper person will ensure that those with criminal background are precluded from letting out properties to rent. As with antisocial behaviour, there will also be an expectation that through more effective enforcement of tenancy conditions, criminal activity involving PRS tenants will reduce. Therefore through licensing the Council expects to see a reduction in the level of crime associated with private rented properties.

Poor Property Conditions

The Council's evidence, obtained through a robust stock condition survey suggests a higher level of disrepair and incidence of HHSRS category one hazards than in both the owner occupied and social rented sectors. The licence conditions which will apply to the scheme will require landlords to be proactive in ensuring that their properties are well maintained. There are powers under the Housing Act 2004 to enforce compliance and tackle poor property conditions, but these rely on reporting, something which tenants are often reluctant to do for fear of retaliatory action by landlords. Licensing gives a clear statement of what is expected, both for landlords and tenants. Through the increased proactivity required by licensing and compliance with licence conditions, the Council hopes to see a significant improvement in property conditions in the PRS, one which matches its ambition for high quality homes for everyone in Nottingham, irrespective of tenure.

The reviews of the implementation of the Council's existing licensing schemes in *Appendix iii, Review of Nottingham City Council's Existing Licensing Schemes. Mandatory and Existing Licensing schemes October 2016* illustrates the effect licensing can have in improving property conditions and demonstrates the track record that the Council has in using licencing schemes as an effective tool to improve property conditions.

The review of both schemes highlights that less than half of landlords (44% mandatory and 45% additional licensing scheme) are not compliant with standards on the first compliance inspections. We know that when the Council inspects properties compliance levels increase and therefore property conditions are improved. This is evidenced through the relatively low level of enforcement actions taken by the Council. The review also highlights that of the licences issued under additional licensing, 72% required additional conditions or had restrictions placed on the licence. This demonstrates how licensing allows the Council to impose additional conditions to address specific problems that are identified with properties. Licensing has also increased the number of properties that are compliant with gas and electrical safety certificates. Through additional licensing the Council found that a number of applications for safety certificate were only done because of the requirement under the licensing scheme (even though it was already a legal requirement), with a number only being issued the day before for a licence application was made. It is not unreasonable to assume that similar improvements in the wider PRS will be likely if selective licensing is introduced.

Deprivation

In large parts of the proposed designation, the Council is relying on the City's high levels of deprivation as a condition for introducing a selective licensing scheme. Selective licensing alone will not improve the City's performance in terms of deprivation, but it can play a part. Poorly maintained and ineffectively managed homes will inevitably have a negative impact on the range of indicators used to measure deprivation. For example, poor housing leading to ill health, or low educational achievement. Having a good quality, stable home helps jobseekers. If housing conditions are improved and the overall quality of housing rises, it will contribute to the Council's overall ambition to reduce deprivation and ensure that all of its citizens can enjoy the City's prosperity.

Closing summary: Selective Licensing - the right thing for Nottingham and its citizens

Generally, it is acknowledged that selective licensing is not a “silver bullet”. It has been shown in the strategic case for licensing above that it needs to be used alongside a number of other tools and within an overall partnership framework.

Whilst the review of existing licensing schemes shows that to date there has not been a significant reduction in complaints that the Council receives that relate to ASB, licensing is a long term strategy and will not provide an instant solution. This is especially the case when dealing with long term issues such as ASB, crime and deprivation. The Council though can clearly demonstrate the effect its existing schemes have had on improving property conditions, where it is easier to effect shorter term improvements, in the HMO sector. The outcomes of this are evidenced through the decrease in complaints relating to housing conditions. The Council believes that these improvements in property conditions will directly lead in the longer term to a reduction in deprivation being experienced not only in the properties that are licensed but in the wider community. Living environment is an important indicator of deprivation and one that Nottingham performs comparatively poorly on. The evidence shows there is correlation with this and the PRS. The Council is able to evidence through the improvements to property in the social rented sector that improvements in property conditions lead to improvement in health. The Council believes that further licensing via the proposed scheme will also enable the Council to improve conditions in the wider PRS where they are clearly needed.

The proposed scheme of selective licensing fits entirely with the Council’s vision that every neighbourhood is safe, clean and a great place to live. It will also make a major contribution to the key objective of:

enabling Nottingham residents to have access to a high standard of accommodation, whether renting or buying.

In summary it is the right approach for Nottingham because:

- There is robust and compelling evidence to show that it is needed
- Its implementation will tackle the problems which the evidence reveals and significantly help the Council to achieve its objective of improving the quality of the PRS
- It is a wholly complementary tool to use alongside the other initiatives the Council has in place to achieve a better private rented sector
- The track record of the City in implementing licensing schemes and getting results shows what can be achieved

Existing initiatives and the exercise of available powers have not brought about the improvement in the City’s PRS which is needed: there is no practical and beneficial alternative to the proposed scheme

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Appendix 2i

Proposed property licensing enforcement and compliance guide

Introduction

The private rented sector plays a significant and important role in the housing market helping to create a vibrant and diverse City. The Council seeks to work closely and engage positively with the range of those involved in providing housing to a growing population including:

- owners
- landlords
- licence holders
- managers and
- other partners

Where these individuals or companies are failing in their responsibilities and duties the Council may take enforcement action. This document provides a guide to what landlords and other partners can expect when dealing with the Council's Safer Housing and Housing Licensing and Compliance team.

When considering taking enforcement action under the Housing Act 2004 the Council shall have regard to its own enforcement policy 'Nottingham City Council Enforcement Policy 2015' available at:

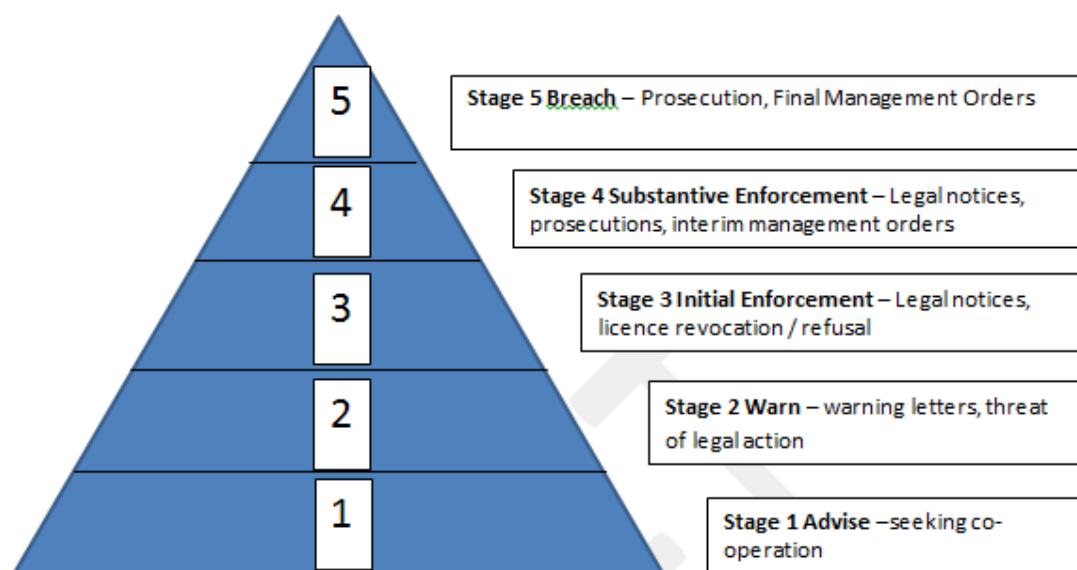
<http://beta.nottinghamCity.gov.uk/business-information-and-support/better-business-regulation/>

The Council's enforcement policy has been developed in line with the principles of the Regulators Code, published by the Department for Business Innovation and Skills, 2014, available at:

<https://www.gov.uk/government/publications/regulators-code>

Summary of Enforcement Policy

The Safer Housing and Housing Licencing and Compliance teams are based in Community Protection. This service operates a 5 stage model of enforcement (shown below), recognising that the majority of issues the Council deal with can be resolved through advice and informal action. As the degree and level of enforcement activity increases, the number of cases reduces.



Where for example issues present an immediate risk or there is a history of non-compliance the right is reserved to move directly to higher stages of enforcement.

The Council deals with a range of activity under the Housing Act and associated legislation, the key areas of licensing activity are listed below. This is not a definitive list, but gives an overview of how the Council will seek to work with landlords. The Council will seek to ensure it recovers appropriate costs from those landlords who are not being proactive in managing their properties or are letting unsafe houses. For example the Council will charge for 2nd inspections where landlords do not comply with their licence conditions or where the Council has to take other enforcement action.

Unlicensed properties

After promotion of the scheme it is expected landlords will make application for a licence. Where applications are not made the Council will investigate those properties which there is reason to believe should be licensed but are not. Failure to licence properties can lead to a prosecution. It may also affect any decision regarding existing or future licences.

Other actions may be taken if there are concerns about the property revealed during the investigation, e.g. a safety inspection under part 1 of the Housing Act 2004, to deal with category 1 or 2 hazards that have been identified at the inspection, therefore improving property conditions. Currently the Council charges where it has to serve statutory notices under this legislation such as improvement notices, or prohibition orders. Breach of these notices may result in prosecution or charges being made if works in default have to be carried out. Again there may be an impact on decisions regarding suitability to hold a licence.

Licence applications

- **Application stage**

Applicants should ensure they apply in good time. The Council will aim to determine applications within 6 months of a valid applications being made.

Applications shall be made online, where online applications are not made, paper forms are available but an additional administration charge is made.

Where an application is missing information that is required as part of the application process, one opportunity will be offered to supply the correct information. Where information is still not supplied as required to comply with the requirements of an application the application will be returned. The applicant will be deemed to have not made a valid application and may be at risk of further investigation for failing to licence the property.

Where applications are poor and there are issues that may raise questions about the suitability of the property or management of the property further investigation will be undertaken and possible inspection, prior to any licence being determined, which may include taking action under Part 1 of the Housing Act 2004.

- **Determining the licence**

The Council will grant a licence where it is satisfied that the statutory requirements of part 3 of the Housing Act 2004 have been met. The licence will usually be granted for the duration of the scheme. Where the Council has concerns, and is not fully satisfied with regards to the licence holder, manager or other relevant person meeting the necessary provisions within the legislation the Council may choose to:

- Propose to grant a licence for a shorter term.
- Propose to refuse the licence.

Licences may be considered for refusal in the following circumstances

Not fit and Proper	The applicant is not deemed fit and proper based on information contained within the application or otherwise known about the applicant
Prosecutions	Proposed licence holder or manager has been prosecuted in the past 5 years for a housing related offence
Non-compliant Notices	Proposed licence holder or manager have failed to comply with a relevant notice in the past 3 years, This includes notices which may have been served under the Housing Act 2004, Building Act 1984, Environmental Protection Act 1990, Prevention of Damage by Pests Act 1949
No or 'unsatisfactory' certificates	No or unsatisfactory gas or electric certificates supplied No Energy Performance Certificate supplied
Refused licences	Applications for Licences have been refused in the last 2 years
No Plans	No or inadequate plans provided, e.g. insufficient information provided within the property e.g. no measurements, no kitchen / bathroom facilities information, smoke alarms not labelled, rooms not labelled etc.
Non-compliance	Failed to comply with previous licence conditions

previous licence conditions	
Licence revoked	Previous licences revoked within last 2 years, e.g. due to non-compliance with conditions or no longer fit and proper.
Other significant issue	<p>Any other significant issue identified and evidenced that is of such concern that it would not be appropriate to issue a licence to a proposed licence holder (within legislative requirements). These people, companies etc. will be reviewed on a monthly basis. It may include the following:</p> <ul style="list-style-type: none"> • Not fit and proper (identified from another source) • Evidence of associates not being fit and proper • Person / company under investigation for contraventions under relevant legislation. • Consistent / repetitive interventions by the Council or other partners. E.g. ASB / police intervention • Planning permission refused • Evidence of insufficient funds to maintain property • Managing Agent not part of a redress scheme • Proposed licence holder based abroad and insufficient ability to manage the property • Landlords / companies 'of interest' to be drawn from Planning, Building Control, Council Tax, Revenue and Benefits, Debtors, Trading Standards, Office of Fair Trading, other local authorities, accreditation partners, Gangmasters Licensing Authority, Police, Fire and Rescue Service, Housing Aid, Law Centre and any other partners

- **During the term of the licence**

It is expected that licence holders will ensure properties are well managed, safe and comply with all relevant conditions. The licence fee covers inspection of a proportion of licensed properties to check on compliance during the scheme. The number checked will partly be dependent on the outcome of the initial inspection. If a licence holder has failed to comply with any condition and further work is required, the Council will charge for a re-inspection.

Where the Council is made aware of any issues related to the property, licence holder, manager, or potential breaches of the licence conditions or any other issue the Council may investigate to determine if there is any appropriate action to be taken. The Council may take into consideration the following factors when determining the most appropriate course of action:

Number of properties, length of time has been a landlord / manager / licence holder etc. willingness to engage / rectify issue, previous history, confidence in management,

Appropriate action that could be taken includes:

- Verbal warning
- Written warning

- Using statutory notices or orders under part 1 of the Housing Act 2004 e.g. improvement notice, prohibition order, etc. The Council may levy a charge when taking action under part 1.
- Varying the licence
- Revoking the licence
- Issuing a caution
- Criminal proceedings
- Undertaking an interim or final management order.

One or more of the above actions may be taken simultaneously depending on the circumstances of the case.

- **Compliance enforcement scoring model**

The Council will consider developing a scoring system to assist in encouraging good management. The system would reflect those landlords and properties where there are repeated lower level problems that on their own would not warrant enforcement action or a change to a licence but when considered cumulatively have a negative impact on the tenant, neighbourhood or are associated with ASB. This would demonstrate evidence of poor management over time, which may show they are not suitable to be the licence holder and there are breaches of the licence conditions or they are no longer fit and proper.

- **Querying a licence decision**

The licensing process allows for a period of time for the licence holder to make a representation to the Council against a proposed condition of licence, refusal, revocation or variation of licence. Where a representation is made to the Council the decision will be reviewed and this will be determined by a senior officer. The matter will be considered on a case by case basis, but an indication of the type of approach that may be taken for certain typed of proposed refusal are shown below:-

Proposed Refusal - Fit & Proper

Licence holder will need to prove by providing evidence to show they are or their associates are fit and proper person(s). Guidance on fit and proper persons will be issued by the Council

Proposed Refusal - Unsatisfactory Application

Licence holder will need to demonstrate improvements in the way they manage their properties. Any further information provided should be given promptly and must be of an acceptable standard and quality to enable a final decision to be made without any further information.

Proposed Refusal - Not the Most Appropriate Person to hold the licence

The licence holder will need to demonstrate they have active involvement with the property and that they receive rent on that property and proposed licence holder to provide evidence of such.

Proposed Refusal - Unsatisfactory Management Arrangements

The following factors may be considered:

- Is the property accredited to the Nottingham Standard or actively seeking such accreditation?
- Is the applicant an active member of a landlord organisation or in the process of becoming so
- Relevant training or a willingness to attend relevant training
- No further contraventions over period of the licence
- Evidence of improved management
- Certificates provided promptly (within 7 days of request)
- Supporting documents provided promptly (within 7 days of request)
- Local Authority arrangements complied with for example, planning permission, Article 4 Direction, HMO amenity standards (if holding HMO licensees), Letting Board Policy.
- Meeting all legal requirements not just Housing Act 2004, e.g. redress scheme, deposit protection, EPC, right to rent
- Detailed policy plans or documents available for dealing with complaints, addressing ASB, repairs and maintenance, inspection program, inspection logs, tenants information packs etc. Evidence of Proactive management.

On review the proposed licence decision may be followed or an alternative decision may be made. Once a final decision has been made a dissatisfied applicant may appeal to the Property Chamber – 1st Tier Tribunal. This guide will be reviewed regularly to take into consideration relevant changes to legislation or other guidance that may affect it.

Appendix 2ii

Proposed licence conditions for privately rented houses

**Indicates a statutory condition as prescribed by the Housing Act 2004*

A. Gas, Electrical and Fire Safety

Gas Safety

1. Where gas is supplied to the house the licence holder shall ensure that all gas installations and appliances are in a safe condition at all times and that an annual gas safety check is carried out by a Gas Safe registered engineer. The licence holder shall provide a copy to all tenants/occupiers at the beginning of their tenancy and keep a written record that it has been provided.*
2. The licence holder shall produce the gas safety certificate issued in respect of the house within the previous 12 months for inspection within 7 days of the Council's demand.*

Details of Gas Safe engineers can be found at www.gassaferegister.co.uk

Safety of Electrical Appliances

3. The licence holder shall ensure that electrical appliances made available in the house by them are kept in a safe condition and proper working order at all times.*
4. The licence holder shall ensure a record of visual inspections and tests of such appliances is maintained and shall submit this record to the Council within 7 days of the Council's demand.
5. Within 7 days of the Council's demand, the licence holder shall supply a declaration as to the safety of electrical appliances made available by him at the house.*

Safety of Electrical Installations

6. The licence holder shall ensure that the electrical installation in the house is kept safe and in proper working order at all times. The licence holder shall ensure that a satisfactory Electrical Installation Condition Report (EICR) or Electrical Installation Certificate (EIC) is produced at intervals of no more than 5 years or more frequently if indicated on the previous report and supply the most recent EICR or EIC to the Council within 7 days of the Council's demand.

Smoke Alarms / Fire Detection Systems

7. The licence holder shall ensure that at all times a suitable fire detection and alarm system is installed in the house and is maintained in proper working order. As a minimum there must be a smoke alarm installed on each storey of the house on which there is a room used wholly or partly as living accommodation. For the purposes of this paragraph, a bathroom or lavatory is to be treated as a room used as living accommodation.*

8. The licence holder shall ensure that where the current BS 5839 (or any British Standards which subsequently replaces this) requires the fire alarm system to be tested in accordance with it that the system is so tested, inspected and serviced by a competent person and that copies of testing certificates shall be supplied to the Council within 7 days of the Council's demand.
9. The licence holder shall supply a declaration as to the condition and position of any smoke alarms/detectors in the property within 7 days of the Council's demand.*

Emergency Escape Lighting

10. The licence holder shall ensure that any emergency escape lighting in the house is inspected, tested and serviced by a competent person in accordance with BS 5266-1:2011 (or any British Standard which subsequently replaces this). Copies of testing certificates shall be provided to the Council within 7 days of the Council's demand.

Furniture and Furnishings (Fire Safety)

11. The licence holder shall ensure that the furniture made available by them at the house is kept in a safe condition at all times.*
12. The licence holder shall supply a declaration as to the safety of the furniture made available by him at the house within 7 days of the Council's demand.*

Carbon Monoxide Alarms

13. The licence holder shall ensure that a carbon monoxide alarm is installed in any room in the house which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance. Any such alarm must be kept in proper working order. For the purposes of this paragraph, a bathroom, lavatory, hall or landing are all treated as being a room used as living accommodation.*
14. The licence holder shall supply a declaration as to the condition and position of any carbon monoxide alarms in the property within 7 days of the Council's demand.*

B. Property Management

15. The licence holder must ensure all reasonable and practical steps are taken to respond to repair and maintenance issues at their property and that any works to deal with repairs are undertaken within a reasonable period of time after they are notified, and within the timescales notified to occupiers under condition 22.
16. The licence holder must ensure that:
 - a) The property is kept in a good state of repair and free from significant hazards that could affect the health and safety of tenants, occupiers and visitors to the property (as required by part 1 of the Housing Act 2004)

- b) The exterior of the property is maintained in a reasonable decorative order, and in a good state of repair.
- c) The exterior of the property and boundary walls, fences and gates etc. are kept free from graffiti.
- d) Gardens, yards and other external areas within the boundary of the property are kept in a clean and tidy condition and free from rodent infestations at all times.

17. The licence holder shall ensure the property is secure by complying with the requirements of paragraphs a) to g) below:

- a) So far as reasonably possible, any emergency works necessary to protect the security of the property are undertaken within 24hrs of notification e.g. damage to windows/entrance points to the property.
- b) The security provisions for the access to the property (locks, latches, deadbolts and entry systems etc.) are maintained in good working order at all times;
- c) Where window locks are fitted that keys are provided to the occupant(s) of the property;
- d) Where a burglar alarm is fitted to the house, that the occupant(s) is (are) made aware of the code, how the alarm is operated and the circumstances under which the code for the alarm can be changed;
- e) Where previous occupiers have not surrendered keys, arranging for a lock change to be undertaken, prior to new occupiers moving in;
- f) Where alley gates are installed to the side or rear of the licensed property, taking responsibility for holding a key and making satisfactory arrangements for the occupiers' access;
- g) The main escape route (usually the front door) must be fitted with a thumb turn mortice lock, or equivalent, to five-lever security level. The lock must comply with fire safety requirements in that it shall be openable from the inside without the use of a key.

Dealing with rubbish

18. The licence holder shall at the beginning of a tenancy, provide written information to the occupiers of the property indicating:

- what day refuse collections take place,
- what type of bins to use for household and recycling waste,
- details of the Council's bulky waste collection service,

- the occupiers responsibility to put bins out no earlier than 4pm on the day before collection and to return refuse containers within the boundary of the property by 8am the day after they are emptied,
- that occupiers should make arrangements for any extra rubbish that cannot fit in the bins to be collected and/or disposed of as soon as is reasonably possible and ensure that such rubbish, where possible, is stored at the rear of and within the boundary of the property until collection/disposal
- The Licence Holder shall ensure so far as is reasonably possible that the occupiers make arrangements for the collection of waste in accordance with these provisions and, when the property is unoccupied, adhere to these provisions him/herself.

19. The licence holder shall ensure that suitable and adequate provision for refuse storage and collection is made at the house. This shall include a closable bin(s) of suitable capacity as specified by the Council.

Property inspections

20. The licence holder must ensure that the tenant's right to quiet enjoyment of the property is respected. Where entry is required the licence holder must ensure that any notice requirements contained in the tenancy agreement are complied with. Where the tenancy agreement does not contain any such requirements, the licence holder must ensure that the tenant receives at least 24 hours written notice of intention to enter the property specifying the reason entry is required. The only exception when it would not be reasonable to give such notice and access is urgent, e.g. in an emergency.

21. The licence holder shall ensure that inspections of the property are carried out at least every six (6) months to identify any problems relating to the condition and management of the property. The records of such inspections shall be kept for the duration of this licence. As a minimum requirement the records must contain a log of who carried out the inspection, date and time of inspection and issues found and action(s) taken. Copies of these must be provided within 7 days of the Council's demand.

C. Tenancy management

22. At the beginning of a new tenancy, the licence holder must provide the occupier(s) with written information, including contact details, explaining how they can make a complaint about the property and the arrangements in place to deal with emergency and other repairs. The contact and telephone number details should be applicable for contact between 9am – 5pm Monday to Friday, and should also include an out of hours contact number for use in emergencies. Any change in contact and/or telephone number details should be provided to occupiers within 24 hours of the changes being made. Copies of the written information provided to tenants must be provided within 7 days of the Council's demand.

23. The licence holder shall indicate to the occupier(s) how they intend to respond to the complaint including a timescales for the steps they intend to take.
24. The licence holder shall respond to any complaint within a reasonable timescale. Copies of all correspondence relating to complaints shall be retained during the currency of the occupation and for 6 months thereafter and shall be provided to the Council within 7 days of the Council's demand.
25. The licence holder must provide the tenant with an information pack containing the following details:
 - a) A true copy of the licence to which these conditions apply.
 - b) A notice with the name, address, day time and emergency contact number of the licence holder or managing agent.
 - c) Where appropriate, true copies of the current gas, electrical safety and energy performance certificates.
 - d) The information required by conditions 18, 22 and 26.
26. The licence holder shall supply to the occupiers of the house a written statement of the terms on which they occupy it. This statement shall be provided within 7 days of the occupancy beginning and the licence holder shall supply a copy of the written statement within 7 days of the Council's demand. *
27. The licence holder shall comply with all relevant landlord and tenant law and shall ensure that all legal processes are followed when requiring occupiers to leave. If a complaint of illegal eviction is made to the Council the licence holder shall provide information as to the steps taken to evict an occupant within 7 days of the Council's demand.
28. The licence holder shall demand references for new occupiers before entering into any occupancy agreement with them or allowing them to occupy the premises. Copies of these references shall be kept for the duration of this licence and made available to the Council within 7 days of the Council's demand.*
29. The licence holder shall ensure there is suitable and sufficient buildings insurance in place for the duration of this licence. This should cover the costs of re-housing occupiers in the event of a need arising.
30. Before a new tenancy is issued the licence holder / agent should carry out an inventory and document it with photographs (where appropriate). Both the licence holder and the tenant shall date and sign the inventory and each retain a copy.
31. Where a deposit is taken the licence holder must provide any tenant with the relevant information about the deposit scheme to which it relates and any

other information required under section 213 of the Housing Act 2004. This information must be provided to the Council within 7 days of the Council's demand.

D. Tackling Anti-Social Behaviour

32. The licence holder shall ensure that all reasonable and practical steps are taken to prevent and respond to anti-social behaviour. These include written tenancy management arrangements to prevent or reduce anti-social behaviour by persons occupying or visiting the property. Copies of these must be provided to the Council within 7 days of the Council's demand. If the licence holder or manager / agent receive complaints of anti-social behaviour that concern the occupiers of, or visitors to the property or that result from their actions they must comply with requirements (a) to (i) below:

- a) Any letters, relating to anti-social behaviour, sent or received by the licence holder, or agent of the licence holder, must be kept by the licence holder. True copies of the original document should be provided to the Council within 7 days on demand.
- b) Ensure that written notes are kept of any meetings or telephone conversations or investigations regarding anti-social behaviour.
- c) If a complaint is received, or anti-social behaviour is discovered, within 7 days the tenant must be informed of the allegations of the anti-social behaviour in writing and of the consequences of its continuation.
- d) From the date of receipt of the complaint of anti-social behaviour, monitor any allegations of anti-social behaviour and take all necessary steps to establish if it is continuing.
- e) Where the anti-social behaviour is continuing after 14 days from receipt of the complaint, the licence holder, or his agent must, within 7 days visit the premises and give to the tenant, or leave at the property marked for their attention, a warning letter advising them of the possibility of eviction.
- f) Where the licence holder or his agent has reason to believe that the anti-social behaviour involves criminal activity the licence holder must ensure that the appropriate authorities (e.g. Police, Council etc.) are informed.
- g) If after 14 days of giving a warning letter the tenant has failed adequately to address the anti-social behaviour so that it is continuing, the licence holder must take appropriate formal steps under the tenancy agreement, whether to enforce its terms or to terminate it, including, where necessary, by taking legal proceedings against the occupier(s).
- h) Where the obligation under (g) has arisen, the licence holder must, within 7 days, provide to the Council in writing a plan setting out the steps he proposes to take, and the timescale for taking those steps, in order to resolve the problem.
- i) If the licence holder is invited to do so, they must attend a case conference or Multi-Agency Meeting arranged by the Council or Police (whether following the provision of a plan referred to at (h) above, or generally.)

There may be instances where anti-social behaviour occurs more than once, but not continuously and possibly several months apart. In such circumstances the licence holder would still be expected to take all

reasonable and practical steps to ensure it is effectively dealt with, up to and including eviction.

E. Change of Details or Circumstances

33. The licence holder must inform the Council within 21 days of any material change in circumstances including:
- a. Change of their address
 - b. Change of manager, management arrangements or ownership.
 - c. Any changes to their, the manager's or any associate's circumstances which could affect their fit and proper person status, i.e. any cautions or convictions for any offence involving fraud, dishonesty, violence, drugs, sexual offences (under Sexual Offences Act, schedule 3) discrimination or breach of housing or landlord / tenant law.
 - d. Any proposed changes to the layout of the house that would affect the licence or licence conditions.

F. Licence Holder Training

34. Where the licence holder has not attended relevant training in the previous 3 years, they must as a minimum attend suitable training on the law and legal requirements relating to managing privately rented housing within 12 months of the date the licence is issued. This requirement can be satisfied in one of the following ways:
- a. by attending a one-day training course arranged and delivered by the Council or our accreditation partner DASH Services and submitting a certificate to the Council following this training. Visit www.dashservices.org.uk or call 01332 641111 to arrange this;
 - b. by completion of the accreditation training of the National Landlords Association (NLA) or Residential Landlords Association (RLA) and submitting the pass certificates to the Council for confirmation;
 - c. by completion of other suitable training on the law and legal requirements relating to managing privately rented properties subject to approval by the Council in advance and subject to submitting a pass certificate or similar document to the Council for confirmation.

G. Interpretation

35. Where reports, certificates, declarations or other documents are required to be produced or supplied to the Council, this shall mean sending by email (preferred method), post or delivering by hand, declaration to the Council's offices for the attention of the Housing Licensing and Compliance team.
36. Any reference to tenant or tenancy can also be interpreted to include occupancy by licence or other form of written agreement for the purposes of these conditions.
37. Where electrical works / certificates are required they shall be carried out by a suitably qualified electrical contractor who should be registered / member of

an approved scheme such as NICEIC, ECA, NAPIT etc. or registered to undertake electrical works in accordance with Part P of the Building Regulations. Electrical contractors that are on a relevant competent person scheme can be found at www.competentperson.co.uk

Failure to comply with any licence conditions may result in legal proceedings including unlimited fine and loss of the licence.

Guidance information

These do not form part of the licence conditions, but you may still be under an obligation to comply with this legislation

Gas Safety

If gas is supplied to the house the licence holder shall ensure the Gas Safety (Installation and Use) Regulations 1998 (or any Regulations which subsequently replace these) are complied with.

Electrical Safety

The licence holder shall ensure that the Electrical Equipment (Safety) Regulations 1994 (or any Regulations which subsequently replace these) are complied with.

Smoke Alarms/Fire Detection Systems

Depending on the size, layout and occupancy of the property the licence holder may need to go over and above the legal minimum required in legislation to adequately protect the tenants from fire. When doing this the licence holder should have regard to the current Building Regulations; another useful guide is the LACORS Fire Safety Guide. Further information can be found in the LACORS Fire Safety Guidance. This guidance is available at www.nottinghamCity.gov.uk/environmental-health-and-safer-housing/private-sector-housing/

Emergency Escape Lighting

The licence holder should have regard to the current Building Regulations covering emergency escape lighting. Another useful guide is the LACORS Fire Safety Guidance. This guidance is available at www.nottinghamCity.gov.uk/environmental-health-and-safer-housing/private-sector-housing/

Furniture Safety

The licence holder shall ensure that the Furniture and Furnishings (Fire Safety) Regulations 1988 (or any Regulations which subsequently replace these) in respect of any upholstered furniture supplied by them, including chairs, sofas, beds, upholstered head boards, mattresses, cushions, seat pads, pillows and upholstered garden furniture etc. are complied with.

Safety and Security of Property

It is recommended that licence holders work towards improving the safety and security of their property by complying with the Security and Standards of HMO and Rented Properties guide issued jointly by Nottinghamshire Police and Nottingham City Council, available at www.nottinghamCity.gov.uk/HMO.

Property Management

More information on dealing with waste can be found at www.nottinghamCity.gov.uk/bin-and-rubbish-collections/. Licence holders may find it useful to include this link in the documentation provided to occupiers under condition 18

Training

The training requirement in conditions 34 is a minimum requirement and depending on the level of responsibility and complexity of properties involved the licence holder should consider undertaking further relevant training in line with the extent of their liabilities.

Deposits

The licence holder shall ensure that any deposit taken as security for a tenancy is protected as appropriate by placing it in an approved tenancy deposit scheme. The tenant must be given the prescribed information about the scheme being used within 30 days of giving the deposit.

Variations to licence

Where the licence holder or a relevant person applies to vary a licence they should do so at the earliest opportunity. The original licence shall stay in force until the point that the variation is determined, as they can be granted or refused.

Right to rent

Only people with permission or a right to be in the UK have a right to rent property. As a landlord, you have a responsibility to restrict illegal immigrants accessing the private rented sector. If you are found letting to someone who does not have the right to be in the UK, and you cannot show that you have made right to rent checks, then you could face a penalty of £3000. For more information visit www.gov.uk/check-tenant-right-to-rent-documents

Energy Performance Certificates (EPCs)

Licence holders shall ensure they comply with relevant legislation, ensuring tenants have sight of a current EPC for the property at the appropriate time. From 1st April 2018 domestic properties in England and Wales must have an EPC certificate with a minimum E rating for energy efficiency.

Planning

Converting family housing to HMOs

Licence holders proposing to convert properties from single occupancy into HMOs should be aware that planning permission is required. More information is available at www.nottinghamCity.gov.uk/planning-and-building-control/planning-applications/do-i-need-planning-permission/

To Let boards

In Nottingham there are controls on to let boards in certain parts of the City. More information is available at www.nottinghamCity.gov.uk/planning-and-building-control/planning-applications/do-i-need-planning-permission/controls-on-to-let-ad-boards/

Appendix 2(iii)

Review of Nottingham City Council's Existing Licensing Schemes

Mandatory Licensing Scheme October 2016

Introduction

This report is an update on the operational delivery of Nottingham City Council's mandatory licensing scheme which has been operational since the Housing Act 2004 became operative in 2006. Licence applications were first received in summer 2006. This review covers performance for the whole period of licensing (unless otherwise specified).

Highlight summary

- 518 properties improved
- Positive working with the majority of landlords and excellent standards in some properties
- 45 HMOs and 28 landlords prosecuted for failure to licence
- 2990 licences issued, 94 refused
- Over 2000 properties with gas and electric safety certificates and licence conditions requiring the licence holder to be pro-active in dealing with issues such as anti-social behaviour.
- 44% of landlords compliant with licence conditions at first inspection
- Increase in mandatory licensable HMOs from 1,700 to 2,000 since 1st Jan 2014 (additional licensing came into force)
- Increase from 28% to 32% of licensable / licensed HMOs receiving a housing complaint
- Improved working with key stakeholders
- Greater knowledge and expectations of tenants and those involved in the Private Rented Sector (PRS).
- Innovative working with partners utilising licensing powers to respond to rogue landlords, safeguarding, crime, exploitation etc.
- Successful burglary reduction project

Mandatory Licensing Outcomes

Table 1: Summary of mandatory licensing work 2006 to 1st October 2016:

Estimated number of mandatory licensable HMOs at 1 st Oct 2016	2000
Prosecutions for failure to licence	45 HMOs 28 landlords
Licences refused	94
Licences revoked	97
Licences varied (since records began Nov 2011)	192
Cautions issued for failure to licence or breach of licence conditions	13 HMOs / 8 landlords
HMO Licensing appeals to property tribunal	23
Properties improved	518
Organisations and partners regularly worked with	17

Commentary

Table 1 shows the significant level of activity that mandatory licensing has generated, not just in processing and granting licences, but in improving properties prosecuting, refusing, revoking and refusing licences. The Council has had a significant number of tribunal cases (including some at Upper Chamber level and currently one at the Court of Appeal), with a number of cases not being clear cut. The Council monitors and reviews its approach and its application of the legislation and guidance.

Table 2: Summary of mandatory licence compliance work to 1st October 2016

Compliance inspections (since Nov 2013)	385 *
Number compliant with licence conditions	170
% compliant at first inspection	44%
Properties improved (total since 2006)	518

*The number of compliance inspections by officers that are not dedicated compliance officers but who may have inspected the property for other reasons are not all included.

Table 2 shows 385 compliance inspections have been undertaken since November 2013. Where non-compliance is found the Council seeks to work informally with landlords, giving verbal and written advice / warnings. Where this fails and / or there are significant concerns the Council takes more formal action, usually with enforcement as a final resort. To date the Council has issued 13 formal cautions to 8 landlords / companies, for failure to licence or not complying with licence conditions. The level of compliance work to date is expected to rise over the coming 18 months due to the cyclical nature of the licensing process.

Table 2 shows that only 44% of properties were fully compliant with licence conditions at first inspection, which is a similar level for additional licensing. This is a

concern with licence holders not being proactive in managing properties. When the Council inspects, compliance levels increase and there is generally positive engagement with landlords. This is shown in the low number of formal enforcement actions the Council has to take. Some landlords welcome compliance inspections; pleased to see the Council are not just issuing licences with no further involvement with the property.

Housing complaints

The number of complaints about private rented housing received by the Safer Housing team over the period 1st Jan 2010 to 31st Dec 2015 has been compared against those for mandatory licensed / licensable HMOs. The number of complaints has been broken down into two, 3 year periods for comparison to try and identify if the licensing of HMO's show a reduction in the number of complaints received.

Table 3: Comparison of all housing complaints made to the Council and related enforcement action between Jan 2010 – Dec 2012 and Jan 2013 – Dec 2015 and relationship with mandatory licensable HMOs.

	1 st Jan 2010 – 31 st Dec 2012	1 st Jan 2013 – 31 st Dec 2015
Total number of complaints made	2869	3423
Number of complaints made against mandatory licensable / licensed HMOs	879	1148
% of complaints that were against licensed / licensable HMOs	31%	34%
Number of licensed / licensable HMOs at 31 st Dec 2015	1744	2013
Number of individual HMOs complained against	485	640
% of licensed / licensable HMOs that received complaints	28%	32%

Commentary

There is a continued increase in housing complaints received by the Council. For licensable HMOs there has been an increase from 28% to 32% receiving a complaint. The increase is disappointing as it indicates failure to manage and maintain good property conditions. Positively the increase is likely to be linked to increased awareness due to the rogue landlord campaign, our one stop shop approach for reporting poor housing, tenants having copies of licences and an increased awareness of the Council's responsibility in dealing with complaints as well as focussed work with key groups and organisations on expectations and reporting i.e. students, student unions universities, community groups and organisations visiting and having involvement with HMOs. As there has been an increase in the number of mandatory licensable properties coming into the market these properties may not have been licensed at all, or until very recently, so longer

term, as compliance is undertaken on these properties, it is expected that this figure will reduce.

Continuing to ensure licence applications are made

The Council continues to respond to complaints about poor property conditions and undertakes pro-active investigations to identify unlicensed HMOs, under the mandatory and additional licensing scheme. This includes:

- 1. Investigations and prosecutions**
- 2. Funding opportunities - Rogue landlord funding**

1. Investigations and prosecutions

The Council continues to identify mandatory licensable HMOs that are unlicensed. Since 1st January 2014 there have been 5 prosecutions against landlords for failing to apply under the mandatory licensing scheme. Until the property is investigated and occupants identified it is not possible to know whether a property falls within the mandatory or additional licensing scheme, or is licensable at all. On occasions some properties suspected of being HMOs are singly occupied. The market continues to change as does the dynamic between those properties which are licensable under the mandatory and additional licensing schemes. This will continue to be a challenge.

The Council writes to licence holders to remind them before the expiry of their licence, with the majority of landlords making a timely renewal application. Where landlords fail to renew further investigation follows, which ensures applications are made. If renewals are not made further investigation may lead to a prosecution.

2. Funding opportunities - Rogue landlord funding

The Council has been successful on 2 separate occasions in applying to CLG for support in tackling rogue landlords. This has enabled the Council to undertake proactive work in identifying unlicensed HMOs along with other poorly maintained and managed properties. Whilst these investigations sometimes reveal that the property in question is not a HMO they may reveal other significant hazards or areas of poor management which leads to other types of enforcement. This includes prosecutions for failure to licence and breaches of management regulations and failing to comply with Housing Act notices. Since 2014 such investigations have led to the following interventions in both HMO and non HMO properties:

- 591 Part 1 Housing Act 2004 and other Environmental Health related enforcement actions taken
- 238 Extra inspections / raids supported
- 11 Prosecutions
- 58 Multi- agency raids

- Improved and greater intelligence sharing with Nottinghamshire Police, Nottinghamshire Fire Authority, HMRC, Gangmasters Licensing Authority, Community Voluntary Sector and other Local Government partners.
- 84 landlords trained at dedicated events
- 34 delegates trained from New and Emerging Communities
- Enforcement Officers trained in best practice
- Improved communications and marketing

Conclusions

The Mandatory Licensing regime has contributed to improving property standards and management. There are now over 2000 properties that fall within this licensing regime, with an increase of 300 over the last 3 years. There are clear benefits that have been achieved so far through the Mandatory Licensing scheme including:

- 518 properties improved.
- Over 2000 properties with gas and electric safety certificates and licence conditions requiring the licence holder to be pro-active in dealing with issues such as anti-social behaviour.
- Improved facilities and amenity provision in properties following property specific conditions / restrictions on licences.
- A 5 year cycle of licence holders and managers having to be re-considered under the criteria in place for issuing licences to them.
- Positive working relationship with accreditation partners.
- Increased awareness of licence holders responsibility and the Council's role in intervening and ensuring compliance.

On-going challenges

- Table 2 shows only 44% of landlords are compliant at first inspection of the property. Compliance is an essential element to ensuring licence holders are proactive in managing their properties; left to their own devices, this figure could be even lower.
- Developing knowledge, understanding and a robust response to dealing with criminality in the private rented sector including serious and organised crime, modern day slavery, safeguarding issues and rogue landlords.
- Increasing awareness amongst tenants about licensing and what it means for them. The Council actively promotes licensing at relevant events, particularly amongst students, as a significant proportion of students live in mandatory licensable HMOs.
- Number of HMOs is expected to continue to fluctuate over time as this sector is a continuously changing market and there may be changes to legislation in 2017 that will increase the number of mandatory licensable HMOs.

Additional Licensing Scheme October 2016

Introduction

This report is an update and interim review of Nottingham City Council's additional licensing scheme agreed on 17th September 2013. The scheme began on 1st January 2014 and unless revoked shall run until 31st December 2018. It is a requirement within the Housing Act 2004 s60 that the housing authority must review the designation from time to time. A more detailed and up to date review will be carried out prior to the additional licensing (AL) scheme reaching the end of its lifespan and the Council making any decision on whether any further scheme is required/appropriate.

Highlight summary

- Judicial Review in March 2015, successfully defended by the Council
- At 1st October 2016, 2236 licence applications received, 1543 issued
- 30 applications still being made each month
- 72% of licences issued with extra conditions
- Only 45% of HMOs compliant at first inspection
- 124 properties improved to date (anecdotal information provides unquantifiable information on improvements made prior to application). 2900 HMOs estimated to fall within the scheme
- Decrease in number and proportion of housing complaints against licensed HMOs
- Churn of properties between additional, mandatory and family housing
- More action to support landlords, tenants and tackle rogue landlords
- Final phase will be focused on compliance, enforcement, delivery of scheme outcomes and how the positive benefits will be maintained.

Whilst the scheme came into force in January 2014, there was a legal challenge from East Midlands Property Owners (EMPO), which was not determined until March 2015. During the first 15 months of the scheme being operational, the team staffed up conservatively to manage the risk should the Council's defence have been unsuccessful.

Changes in the housing market

At the start of the scheme it was anticipated that 3202 HMOs would fall within the AL scheme. However, with an increase of 300 mandatory licensable HMOs (since January 2014), it is now anticipated that 2900 HMOs will fall within the AL scheme. This figure may continue to vary over the remaining period such is the complex and continuously changing nature of this market. There are likely changes to legislation in 2017 which will increase the number of mandatory licensable HMOs, reducing the number of additionally licensable HMOs.

Progress to date

Applications received

At 1st October 2016 2236 additional licence applications have been received. There are still an estimated 664 HMOs where no application has been made. The action the Council is taking to ensure that these properties are brought into the licensing scheme is outlined under the heading 'Ensuring licence applications are made'.

Applications processed

Table 1: Summary of licensing applications progress to 1st October 2016:

Licence applications received	2236
Licences issued	1543
Issued with extra, property specific conditions / restrictions	945
% of with extra, property specific conditions / restrictions	72%
Licences refused	96
Licences revoked	19
Licences varied	61
Appeals to property tribunals	19

As shown in Table 1 above, 72% of licensed properties have required conditions to improve the property or restrict the use of certain rooms and to ensure that the property is suitable for the number of households in it. Conditions range from prohibiting use of a small bedroom through to requiring additional electrical sockets to safely use appliances. The current focus is ensuring that pending applications are processed to allow the transition to compliance and improvement activity

Key Outcomes

- It is being found that where landlords have been required to provide gas and electrical safety significant number of applications had only done them because of the Council's requirement for licensing, with certificates issued the day before. Also, anecdotal information has been given that a positive outcome of licensing has been properties have been improved prior to application being made.
- A delay in delivery of licences issue has been due to poor quality applications with missing documentation or certificates showing faults. Focus has been given to 500 of these, delaying licences being issued, but ensuring the properties are safe.
- Approximately 1100 accredited and other landlords provided good applications

Licence compliance update

Table 2: Summary of licence compliance work to 1st October 2016

Compliance inspections	243
Number compliant with licence conditions	109
% compliant at first inspection	45%
Revisits	17 #
HMO improved through HMO Management Regulations	71
HHSRS inspections	34
HMOs improved	176

in some cases landlords send photos and other confirmation of works being completed, so a revisit is not required.

Table 2 shows 243 compliance inspections have been undertaken with less than half of the properties inspected being compliant. The level of compliance work will continue to rise as the scheme progresses.

The Council works informally and formally with licence holders and managers. Where there has been a pattern of lower level non-compliance the Council will try to engage positively with landlords. This approach has been well received and has often brought about changes to behaviour, which did not require formal action. Some landlords have welcomed compliance inspections and were pleased that the Council is not just issuing licences with no further involvement with the property.

During the remaining period of the additional licensing scheme there will be an increased move to more compliance work as the majority of licences will soon be determined. This will seek to ensure that licence holders are being proactive in managing their property and issues such as ASB. Further enforcement action may be required if licence holders are failing in their responsibilities.

Housing complaints

The number of complaints about private rented housing received by the Council since the additional licensing scheme has been in force (2 ½ years) has been compared with the 2 ½ years prior to the scheme coming into force. (Table 3)

Table 3 – Comparison of housing complaints before and after the scheme came into force.

Period	1 st July 11 – 31 st Dec 13	1 st Jan 14 – 30 th June 16
Total number of complaints	2085	2116
Number of properties complaints relate to	1843	1867
Number and % of HMOs complained against where licence application received between Jan 14 – June 16	120 7%	108 6%
Number and % of HMOs complained against that were HMOs licensed between Jan 14 – June 16	79 4%	56 3%
Number of licensed HMOs	n/a	1321
Number of applications received	n/a	2154

Overall for all 2154 HMOs that have applied for a licence under this scheme, there were 120 complaints over 2 ½ year period prior to the scheme coming into force, out of total 1843 complaints. Since the scheme has been in force there have been 108 complaints about properties where licence applications have been received out of a total 1867 complaints. Where the properties were licensed over the same period the number of complaints was lower. As can be seen from Table 3 above there is a reduction in housing complaints about licensed and licensable HMOs since the scheme has been in force. Out of the 1321 HMOs licensed under the scheme, there were 79 complaints about them in the previous 2 ½ years before the scheme was introduced, reducing down to 56 for the 2 ½ year period since the scheme was introduced.

Complaints about additionally licensed HMOs are at a lower level when compared to the period when licensing was not in force. Overall there has been a reduction in complaints about properties where applications have been received or have been licenced. There has been a drop in complaints, but it is not as big as the Council would have hoped for, indicating that, whilst the scheme is having some benefit it is still currently needed.

Anti-social Behaviour (ASB) complaints

The Council has reviewed the ASB complaints received by the Council where a house was identified using the same complaint types it used to evidence the scheme of additional licensing in 2013. It then compared these ASB complaints for the 2 ½ years since the additional licensing scheme has been in force against the 2 ½ years prior to the scheme coming into force (Table 4).

Table 4: Comparison of ASB complaints before the scheme came into force and after the scheme came into force.

	July 2011 – Dec 2013	Jan 2014 – June 2016
Total number of complaints	5562	4498
Number of properties complaints relate to	4263	3478
Number and % of HMOs complained against where HMO application received between Jan 14 – June 16	157 3.7%	158 4.5%
Number and % of HMOs complained against that were HMOs licensed between Jan 14 – June 16	94 2.2%	95 2.7%
Number of licensed HMOs	n/a	1321
Number of applications received	n/a	2154

Outcomes

Overall for all 2154 HMOs that have applied for licence, there were 157 complaints over 2 ½ year period prior to the scheme coming into force, out of a total 4263 complaints. Since the scheme has been in force there have been 158 complaints about properties where licence applications have been received out of a total 3478 complaints.

Where the properties were licensed over the same period the number of complaints was lower. Out of 1321 licensed HMOs, there were 94 complaints about those HMOs in the previous 2 ½ years before the scheme was introduced, increasing by one to 95 for the 2 ½ year period since the scheme was introduced.

ASB complaints about additionally licensable HMOs show an increase of one, (which is disappointing,) and are currently at a similar level when compared to the period when licensing was not in force. The proportion of HMO properties complained against (where licence applications were made) has shown a slight increase from 3.7% to 4.5%, less than 1%. Where the property was licensed the increase was only 0.5%.

There has not yet been a significant difference between the number of ASB complaints in the period prior to licensing coming in compared to the period since licensing has been in force. This may be down to more proactive work being undertaken in these areas and an increased awareness of licensing as a tool to respond to complaints of ASB. Not all licences have been issued and operationally that is the current focus. However, as more licences are issued there will be an increase in compliance work it is anticipated that this will be likely to result in a reduction in ASB linked to licensed HMOs. The Guidance (March 2015 p21) indicates that licensing may have to be a long term strategy and that it will not provide instant solutions. While the result are not at present showing a significant outcome in changes to ASB this is expected to change as more compliance work is undertaken and landlords are asked respond to ASB through their tenancy agreements. In this context there is a general progression towards meeting the aims of the scheme

Ensuring licence applications are made

The Council has and continues to undertake a range of activity to take all reasonable steps to ensure applications are made under the additional licensing scheme. This includes:

1. **Enforcement**
 - a. **Desktop enforcement activity**
 - b. **Investigations and prosecution**
2. **Communication and Engagement**
 - a. **Linking with the universities and student unions**
 - b. **Use of website, social and other media**
 - c. **Wider partnerships (Fire, Polish, Roma and voluntary groups, Gangmasters Licensing Authority, Law Centres, Police, Councillors)**
 - d. **Rogue landlord funding**

1. Enforcement

a. Desktop enforcement activity

Since the start of the additional licensing scheme the Council has targeted suspected unlicensed HMOs where there is information suggesting that they are licensable. To the end of June 2016, the team has undertaken:

- Investigations regarding failure to licence where the Council has commenced the desktop enforcement process with targeted interventions in 3 areas of the City.

	Meadows	Sneinton	Arboretum	Totals
Properties investigated	178	290	615	1083
Applications made / already in place	29	26	129	184
Referred for further investigation	12	27	14	53
No licence required	137	237	381	755
Cases still awaiting response			91	91

Summary of desktop enforcement work

Desktop enforcement is an initial investigation to identify unlicensed HMOs. It utilises information from sources such as Council Tax, Housing Benefit and Land Registry to identify properties that may be subject to licensing. Legal notices are served on owners, leaseholders' etc. requiring information to assist in identifying probable HMOs. In 2015-2016 desk top enforcement work generated 201 licence applications (out of 1083 properties investigated). This shows the significant level of change there has been within these areas of the City where the Council had information about properties being HMOs, but which no longer appear to be. There are 75 properties

that are being taken forward for inspection and possible enforcement, where information indicates a failure to licence. Experience for targeted action on properties where there has been failure to licence is there is likely to be poor standards of safety and management.

The Council will continue its proactive work in identifying and targeting suspected HMOs that have failed to licence under the additional licensing scheme. An outcome of AL work is that properties move between licensing types and there is some movement to family accommodation. Whilst a property may be suspected of falling within the additional licensing scheme it is not until the visit that this is identified. Investigations carried out since January 2014 as to whether properties required a licence under the AL scheme have led to the successful prosecution of 5 landlords for failing to apply under the mandatory licensing scheme which may otherwise have gone undetected.

b. Investigations and prosecutions

There have been two prosecutions for failure to licence under the additional licensing scheme, with other investigations on-going. Now in its 3rd year the level of compliance and enforcement activity against unlicensed (additional) HMOs is increasing and this is set to continue with an increased focus over the coming months on.

- over 75 properties that are known to be additionally licensable HMOs,
- prioritised inspections for properties
 - 500 where poor application and certification has been provided
 - landlords are unknown
 - that have the greatest number of licence conditions
 - that complaint or intelligence indicates poor conditions, risks to tenants including safeguarding, exploitation, impacts on neighbourhoods such as repeat noise and ASB,

The Council works well with colleagues in the Police and other partners to identify suspected unlicensed HMOs. Work continues to develop in identifying risks to tenant's safety linked to serious and organised crime, modern day slavery, vulnerable persons and safeguarding issues.

2. Communication and Engagement

a. Linking with the universities and student unions

The Council has strong engagement with both universities and student unions, attending events and looking at opportunity to link into students and those likely to be living in AL HMOs. This helps ensure the message gets across that properties may need to be licensed and where they are licensed the conditions the licence holder has to comply with.

b. Use of website, social and other media

Since AL was launched the Safer Housing and Housing Licensing and the Compliance teams have promoted their twitter and Facebook accounts. They

promote activity, housing matters and are particularly used to publicise prosecutions, along with issuing press releases. The aim is to use this to act as a deterrent to other landlords and to raise awareness with tenants of landlords' legal obligations and to try and identify other rogue landlords that are operating within the sector. The website(www.nottinghamcity.gov.uk/environmental-health-and-saferhousing/private-sector-housing/) promotes the work of the Council's private sector housing work, signposting to information about licensing and to support tenants and landlords enabling the provision of good quality, well managed housing and support for dealing with matters such as ASB.

c. Wider partnerships (Notts Fire and Rescue, Polish, Roma and other community groups, Gangmasters Licensing Authority, Law Centres, Police, Councillors)

There is continued and developing dialogue with partners to ensure better sharing of intelligence and information in tackling rogue landlords and supporting vulnerable tenants. Following a complaint about overcrowding in a property, an investigation was undertaken initially by the Council, which led to joint work with the Police and two people have been charged for offences under modern day slavery legislation.

d. Rogue landlord

The Council has been successful on 2 separate occasions in applying to central Government (Communities and Local Government Department) for support in tackling rogue landlords. This funding utilising the additional licensing framework has enabled the Council to undertake proactive work in identifying unlicensed HMOs and tackling rogue landlords.

Operation Yellow Gold is a joint Council and Police operation in an area of the City with what was believed to be a high number of unlicensed HMO's, some of the poorest property conditions, health inequality, higher levels of crime and community information indicating support for a proactive approach.

The outcome was some HMOs coming into licensing and discovering that potential HMOs had moved to large family occupation. Some landlords, after receiving initial requests to improve their properties, did so proactively, improving to above the legal minimum standard. Without licensing this operation would have not been undertaken.

General: Rogue landlord funding linked with licensing

Whilst these investigations sometimes reveal that the property in question is not a HMO they may reveal other significant hazards or areas of poor management which leads to other types of enforcement. Since 2014 such investigations have led to the following interventions in both HMO and non HMO properties.

- 591 Part 1 Housing Act 2004 and other Environmental Health related enforcement actions taken
- 238 Extra inspections / raids supported
- 11 Prosecutions
- 58 Multi- agency raids

- Improved and greater intelligence sharing with Nottinghamshire Police, Nottinghamshire Fire Authority, HMRC, Gangmasters Licensing Authority, Community Voluntary Sector and other Local Government partners.
- Property improvement
- Positive relationships with landlords and tenants & landlord training
- Engagement with community and voluntary sector
- 84 landlords trained at dedicated events
- 34 delegates trained from new and emerging communities
- Enforcement Officers trained in best practice
- Improved communications and marketing

Conclusions

In summary there are some clear benefits that have been achieved so far though the additional licensing scheme:

- Over 2236 properties where safety certificates are in place.
- 72% of licences have additional conditions / restrictions which will secure improvement over the period of the scheme.
- Reduction in housing complaints against licensable properties.
- Improved facilities and amenity provision in properties following extra conditions / restrictions place on HMO licences.
- Improvement in housing conditions
- Compliance work shows the majority of landlords are not compliant at first intervention, however, when they engage with us, the Council has not (to date) had to take formal action.
- Awareness raised amongst HMO occupants by providing a copy of the licence conditions to them.
- Improved relationships with other services in the community and voluntary sector re housing

The scheme is running well with an evidenced reduction in housing complaints about licensed and licensable HMOs. There continues to be work to do in determining applications and the Council continues to review and implement plans to ensure the scheme is a success. As the scheme continues there will be increased compliance checks to ensure that licence holders are complying with their conditions and improvements are made to benefit tenants and the wider community. The scheme is designed to be for 5 years and all indications are that the whole period will be required to make sure the outcomes of the scheme, i.e. improved property conditions, management and reductions in ASB are achieved.

An on-going challenge is about changing the behaviour of licence holders, landlords and agents. As the scheme enters its 4th year in January 2017, it is anticipated that there will be continued improvements in HMOs and how they are managed because of licensing. However, it is disappointing that the Council has identified only 45% of properties being compliant at the first inspection, and to date it appears the majority of landlords only improve when the Council prompts action. This is a concern and suggests that a significant proportion of licence holders and landlords are not as proactive in managing their properties. This shows that licensing and the associated compliance work is an important tool in raising standards and management in the

private rented sector. Some landlords have welcomed the increased dialogue which the additional licensing regime and compliance inspections have brought.

A further review of Additional licensing will be carried out towards the end of the scheme so that an informed decision can be made as to its effect and future.

Key conclusions from the reviews of Mandatory and Additional licensing which support the introduction of selective licensing

- It is being found that where landlords have been required to provide gas and electrical safety certificates, a noticeable number of applications had only done them because of the Council's requirement for licensing, with certificates issued very recently. Also there is anecdotal information that a positive outcome of licensing is that properties have shown to have been improved prior to an application being made.
- Compliance rates when inspecting licensed HMOs under the mandatory and additional licensing schemes show that only 44% (mandatory) and 45% (additional) are compliant at first inspection. So, whilst licensing is leading to improvements it is clear that a significant proportion of those licensed still need pressure/persuasion to comply with their duties. It seems reasonable to conclude that left to their own devices compliance rates would be even lower. Introducing a selective licensing scheme with appropriate levels of compliance checks is an important part of improving property management.
- 72% of additionally licensed properties have required extra conditions to improve the property, restrict the use of certain rooms, and to ensure that the property is suitable for the number of households in it. This illustrates a high level of properties will be improved or made safer during the period of the scheme.

Appendix 2(iv)

Detailed Evidence to Support the Proposal

Glossary

Additional Licensing	A local scheme whereby both section 254 and section 257 HMOs in certain parts of Nottingham, if not covered by Mandatory Licensing, are required to be licensed.
BRE	Building Research Establishment; a former government body that conducts research, consultancy and testing for construction and built environment sectors.
Designation	The geographic area covered by the Scheme
HHSRS Disrepair	HHSRS hazards relating to the disrepair of dwelling fixtures, appliances, utilities or the building itself that pose a threat to a person's health and safety.
HHSRS Excess Cold	HHSRS identified risk of threat to health from sub-optimal indoor temperatures
HHSRS Falls Hazards	HHSRS hazard or dwelling deficiency that poses a threat to a person's health and safety via the potential to fall.
HHSRS Hazards	One of 29 categories of hazard or residential dwelling deficiency identified by the HHSRS as posing a threat to a person's health and safety.
High proportion private rented sector (PRS LSOA)	An area (LSOA) 16.3% or more of the total residential properties are private rented tenure but not HMOs.
House in Multiple Occupation, HMO	A property rented out by at least 3 people who are not from 1 'household' (e.g. a family) but share facilities like the bathroom and kitchen. These properties are covered in Section 254 of the Housing Act 2004.
Housing, Health and Safety Rating System (HHSRS)	A method of assessing housing conditions. It employs a risk assessment approach to enable risks from hazards to health and safety in dwellings to be minimised.
Local Land and Property Gazetteer, LLPG	A database, maintained by local authorities, containing addresses, property type and location information.

Low Proportion private rented sector (PRS LSOA)	An area (LSOA) where 16.2% or less of the total residential properties are private rented sector tenure but not HMOs.
Lower Super Output Area, LSOA	Constructed out of Output Areas, a statistical unit or census data capture area containing between 1000 and 3000 residents and 400 to 1200 households. There are 182 Lower Super Output Areas in Nottingham City.
Mandatory Licensing	A national scheme where HMOs that have 3 or more storeys or contain 5 or more people are required to be licensed.
Output Area, OA	A statistical unit or census data capture area containing at least 100 residents and 40 households, with a target of 125 households. There are 996 Output Areas in Nottingham City.
Regression Analysis	A statistical modelling technique used to estimate the relationship between variables.
Scheme	The framework by which properties are licensed, including standards, assessments and fees.
Section 257 HMO	A building (or part of a building) which has been converted into, and consists of, self-contained flats where the conversion took place pre 1991 building regulations and less than 2/3 of the flats are owner occupied.
Statistically significant	In statistics, a p-value is a number between 0 and 1 that indicates the significance of results, in this case the relationship indicated in regression analysis. A small p-value (typically ≤ 0.05) indicates strong evidence against the null hypothesis, so you reject the null hypothesis. A large p-value (> 0.05) indicates weak evidence against the null hypothesis, so you fail to reject the null hypothesis

Appendix 3

The Nottingham City Council Designation of an Area for Selective Licensing 2017.

Nottingham City Council in exercise of its powers under section 80 of the Housing Act 2004 (“the Act”) hereby designates for selective licensing the area described in paragraph 4.

CITATION, COMMENCEMENT AND DURATION

1. This designation may be cited as the Nottingham City Council Designation for an Area for Selective Licensing 2017.
2. This designation is made on [] and shall come into force on [***This date will not be earlier than three months after the designation has been confirmed by Communities and Local Government – leave blank as it will be inserted by Communities and Local Government in consultation with the applicant authority***]
3. This designation shall cease to have effect on [***Date to be inserted by Communities and Local Government – normally five years from the date the designation came into force, unless the applicant authority has requested approval for a scheme of a shorter duration***] or earlier if the Council revokes the scheme under section 84 of the Act.

AREA TO WHICH THE DESIGNATION APPLIES

4. This designation shall apply to the entire district of the City of Nottingham as delineated and edged red on the map at annex a.

APPLICATION OF THE DESIGNATION

5. This designation applies to any house¹ which is let or occupied under a tenancy or licence within the area described in paragraph 4 unless –
 - (a) the house is a house in multiple occupation and is required to be licensed under Part 2 of the Act²;
 - (b) the tenancy or licence of the house has been granted by a registered social landlord³;

¹ For the definition of “house” see sections 79 and 99 of the Act

² Section 55 of the Act defines which Houses in Multiple Occupation are required to be licensed under the Act. See also The Licensing of Houses in Multiple Occupation (Prescribed Descriptions) (England) Order 2005 (SI 2006/371)

³ Section 79 (3) of the Act. For the definition of a Registered Social Landlord see Part 1 of the Housing Act

- (c) the house is subject to an Interim or Final Management Order under Part 4 of the Act;
- (d) the house is subject to a temporary exemption under section 86 of the Act; or
- (e) the house is occupied under a tenancy or licence which is exempt under the Act⁴ or the occupation is of a building or part of a building so exempt as defined in annex b;

EFFECT OF THE DESIGNATION

- 6. Subject to sub paragraphs 5(a) to (e) every house in the area specified in paragraph 4 that is occupied under a tenancy or licence shall be required to be licensed under section 85 of the Act.⁵
- 7. Nottingham City Council will comply with the notification requirements contained in section 83 of the Act and shall maintain a register of all houses registered under this designation, as required under section 232 of the Act.⁶

Date and authentication by the Council. [***The date is the date the Council resolved to make the scheme***]

The Secretary of State for Communities and Local Government under the power conferred by section 82(2) of the Act hereby confirms the scheme described above.

Signed

An officer authorised by the Secretary of State

Date

1996

⁴ Section 79 (4) of the Act and SI 370/2006

⁵ Section 86 of the Act provides for certain temporary exemption. As to suitability see section 89. Note, if the house is not suitable to be licensed the Council must make an Interim Management Order-see section 102.

⁶ Section 232 of the Act and paragraph 11 of SI 373/2006

Annex a – Paragraph 4: Map of Designated Area

Annex b – Paragraph 5(d): Exempted Tenancies or licences¹

Prohibition of occupation by law

1. A tenancy or licence of a house² or a dwelling³ within a house where the house or the dwelling is subject to a prohibition order made under section 20 of the Act the operation of which has not been suspended under section 23.

Certain tenancies which cannot be assured tenancies

2. A tenancy which cannot be an assured tenancy by virtue of section 1 (2) of the Housing Act 1988 comprised in Part of Schedule 1 of the Act and which is:
 - (a) a business tenancy under Part II of the Landlord and Tenant Act 1954
 - (b) a tenancy under which the dwelling-house consists of or comprises premises, which, by virtue of a premises licence under the Licensing Act 2003, may be used for the supply of alcohol (within the meaning of Section 14 of that Act) for consumption on the premises⁴
 - (c) a tenancy under which agricultural land, exceeding two acres, is let together with the house⁵
 - (d) a tenancy under which the house is comprised in an agricultural holding or the holding is comprised under a farm business tenancy if it is occupied (whether as tenant or as a servant or agent of the tenant), in the case of an agricultural holding, by the person responsible for the control of the farming of the holding, and in the case of a farm business tenancy, by the person responsible for the control of the management of the holding⁶.

Tenancies and licences granted etc by public bodies

3. A tenancy or licence of a house or dwelling within a house that is managed or controlled⁷ by:
 - (a) a local housing authority
 - (b) a police authority established under section 3 of the Police Act 1996 or the Metropolitan Police Authority established under section 5B of that Act

¹ See The Selective Licensing of Houses (Specified Exemptions) (England) Order 2006 SI 370/2006

² Sections 79 (2) and 99 of the Act

³ For the definition of a dwelling – see section 99 of the Act

⁴ See paragraph 5 of Schedule 1 of the 1988 Act as amended by section 198 (1) and paragraph 108 of schedule 6 of the Licensing Act 2003

⁵ For the meaning of “agricultural land” section 26 (3) (a) of the General Rate Act 1967

⁶ See paragraph 7 of Schedule 1 of 1988 Act as amended by section 40 and paragraph 34 of the Schedule to the Agricultural Tenancies Act 1995

⁷ For the definition of “person managing” and “person having control” see section 263 of the Act

- (c) a fire and rescue authority under the Fire and Rescue Services Act 2004;
- (d) a health service body within the meaning of section 4 of the National Health Service and Community Care Act 1990.

Tenancies, licences etc regulated by other enactments

4. A tenancy, licence or occupation of a house which is regulated under the following enactments:

- (a) sections 87 to 87D of the Children Act 1989
- (b) section 43 (4) of the Prison Act 1952
- (c) section 34 of the Nationality, Immigration and Asylum Act 2002
- (d) The Secure Training Centre Rules 1998⁸
- (e) The Prison Rules 1999⁹
- (f) The Young Offender Institute Rules 2000¹⁰
- (g) The Detention Centre Rules 2001¹¹
- (h) The Criminal Justice and Court Service Act 2000 (Approved Premises) Regulations 2001¹²
- (i) The Care Homes Regulations 2001¹³
- (j) The Children's Homes Regulations 2001¹⁴;
- (k) The Residential Family Centres Regulations 2002¹⁵.

Certain student lettings etc

5. A tenancy or licence of a house or a dwelling within a house –

- (i) which is managed or controlled by a specified educational establishment or is of a specified description of such establishments and

⁸ SI 472/1998 as amended by SI 3005/2003

⁹ SI 728/1999 as amended by SI 1794/2000, SI 1149/2001, SI 2116/2002, SI 3135/2002. SI 3301/2003 and SI 869/2005

¹⁰ SI 3371/2000 as amended by SI 2117/2002, SI 3135/2002 and SI 897/2005

¹¹ SI 238/2001. Section 66 (4) of the Nationality, Immigration and Asylum Act 2002 provides that the reference to a detention centre is to be construed as a reference to a removal centre as defined in Part VIII of the Immigration and Asylum Act 1999

¹² SI 850/2001

¹³ SI 3965/2001 as amended by SI 865/2001. SI 534/2003, SI 1590/2003, SI 1703/2003, SI 1845/2003, SI 664/2004, SI 696/2004, SI 1770/2004, SI 2071/2004 SI and SI 3168/2004

¹⁴ SI 3967/2001 as amended by SI 865/2002, SI 2469/2002, SI 664/2004 and SI 3168/2004

¹⁵ SI 3213/2002 as amended by SI 664/2004, SI 865/2004 and SI 3168/2004

- (ii) the occupiers of the house or dwelling are undertaking a full time course of further or higher education at the specified establishment¹⁶ and
- (iii) the house or dwelling is being managed in conformity with an Approved Code of Practice for the management of excepted accommodation under section 233 of the Act¹⁷

Long leaseholders

6. A tenancy of a house or a dwelling within a house provided that –

- (i) the full term of the tenancy is for more than 21 years and
- (ii) the tenancy does not contain a provision enabling the landlord (or his successor his in title) to determine it other than by forfeiture, earlier than at the end of the term and
- (iii) the house or dwelling is occupied by a person to whom the tenancy was granted or his successor in title or by any members of either of those person's family.

Certain family arrangements

7. A tenancy or licence of a house or a dwelling within a house where –

- (i) the person who has granted the tenancy or licence to occupy is a member of the family of the person who has been granted the tenancy or licence and
- (ii) the person who has granted the tenancy or licence to occupy is the freeholder or long leaseholder of the house or dwelling and
- (iii) the person occupies the house or dwelling as his only or main residence (and if there are two or more persons at least one of them so occupies).

Holiday lets

8. A tenancy or licence of a house or a dwelling within a house that has been granted to the person for the purpose of a holiday.

Certain lettings etc by Resident Landlord etc

9. A tenancy or licence of a house or a dwelling within a house under the terms of which the person granted the tenancy or licence shares the use of any amenity with the person granting that tenancy or licence or members of that person's family. An "amenity" includes a toilet, personal washing facilities, a kitchen or a living room but excludes any area used for storage, a staircase, corridor or other means of access.

¹⁶ See the schedule to The Houses in Multiple Occupation (Specified Educational Establishments) (England) (No 2) Regulations 2006 for the list of specified bodies

¹⁷ The relevant codes of practice are approved under SI 646/2006 – The Housing (Approval of Codes of Management Practice) (Student Accommodation) (England) Order 2006

Interpretation

10. In this annex:

- (a) a “person” includes” persons”, where the context is appropriate
- (b) a “tenancy” or “licence” includes “a joint tenancy” or “joint licence”, where the context is appropriate
- (c) “long leaseholder” in paragraph 7 (ii) has the meaning conferred in paragraphs 6 (i) and (ii) and in those paragraphs the reference to “tenancy” means a “long lease”
- (d) a person is a member of the family of another person if –
 - (i) he lives with that person as a couple
 - (ii) one of them is the relative of the other; or
 - (iii) one of them is, or is a relative of, one member of a couple and the other is a relative the other member of the couple

and
 - (iv) For the purpose of this paragraph –
 - (1) “couple” means two persons who are married to each other or live together as husband and wife or in an equivalent arrangement in the case of persons of the same sex
 - (2) “relative” means a parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin
 - (3) a relationship of the half-blood is to be treated as a relationship of the whole blood and
 - (4) a stepchild of a person is to be treated as his child

The Nottingham City Council Designation of an Area for Selective Licensing 2017



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Equality Impact Assessment Form (Page 1 of 7) – Appendix 4

Title of EIA: Proposed Designation for Selective Licensing of the Private Rented Sector

Name of Author: Graham De Max and Lisa Ball

Department: Development & Growth and Commercial & Operations

Director: Andy Vaughan and David Bishop

Service Area: Housing Strategy and Partnerships and Environmental Health

Strategic Budget EIA Y/N (please underline)

Author (assigned to Covalent): Lisa Ball

Brief description of proposal being assessed:

Selective licensing is a regulatory tool provided by the Housing Act 2004. Part 3 of the Housing Act 2004 sets out the scheme for licensing private rented properties in a local housing authority area. Under section 80 of the Act a local housing authority can designate the whole or any part or parts of its area as subject to selective licensing. Where a selective licensing designation is made it applies to privately rented property in the area.

The Council is proposing to implement a selective licensing scheme in a designated area – see map Appendix Three

Under the proposed designation, all privately rented houses will require a licence; and applications will need to be made to the Council by landlords.

One of the key benefits which licensing is perceived to bring is an improvement in housing standards in a sector of the housing market in which a large number of vulnerable citizens are housed.

A further EIA will be carried out on the final scheme proposal should it progress through the various approval stages.

As part of the consultation process a Communities of Interest event will be held in order to engage with the harder to reach communities and those identified as part of this EIA who may potentially be impacted by these proposals.

During the course of consultation on the proposal (which will take place if the proposal is approved by Councillors) it is possible that other issues will be raised in relation to equality, and these will be carefully considered in the EIA of the final proposal.

Information used to analyse the effects on equality:

The Project Team held an informal focus group discussion in August 2016 and invited representatives from different communities in Nottingham to discuss experiences of living in and renting out properties in Nottingham. The aim of the session was to find out what issues are faced by different equality groups, explore what impact a licensing scheme may have on the city's different communities and equality groups, and explore options for future consultation and engagement. In addition data from the 2011 census was used to map areas with a high proportion of PRS and areas with a high concentration of bad health, age group, BME and minority ethnic population and disability and a high proportion of PRS. Learning from the existing licensing schemes has also been used.

	Could particularly benefit X	May adversely impact X (although may be only short term)	How different groups could be affected (Summary of impacts)	Details of actions to reduce negative or increase positive impact (or why action isn't possible)
People from different ethnic groups.	X	X	<p>A Focus Group was held with representatives from different communities who identified potential impacts on different sections of the community. It was acknowledged that Selective Licensing could, along with a wider set of measures, address issues associated with the Private Rented Sector (PRS) such as antisocial behaviour (ASB), poor property conditions, high levels of deprivation and crime. These may have a disproportionate effect on different types of communities. Participants agreed that there should be some form of control over landlords and that they should be accountable for the conditions in their properties</p> <p><u>People from different ethnic groups</u></p> <p>The population of those living in the City's PRS comprises people from a range of different BME communities. Mapping shows that there are high concentrations of BME citizens in areas of the city where there is a high concentration of PRS properties; furthermore areas with an above average PRS also have an above average % of the population that are from a BME background</p>	<p>Positive impact can be continually improved by on-going enforcement action against non-compliant landlords.</p> <p>It is hoped that the scheme will help to tackle ASB issues in the PRS</p> <p>It is felt that overall the benefits of selective licensing outweigh the potential disadvantages; it is believed will have a positive impact on disadvantaged groups who are over-represented in many of the communities where it will be implemented</p> <p>There is no data set which links property ownership to ethnic origin, so it is not possible to quantify this impact. It is however acknowledged that there is a high level of ownership amongst the Asian community, and therefore the Council must have regard to this potential adverse impact. Licence applications will provide an opportunity to capture ethnic</p>
Men	X	X		
Women	X	X		
Trans	X	X		
Disabled people or carers.	X	X		
Pregnancy/ Maternity	X	X		
People of different faiths/ beliefs and those with none.	X	X		
Lesbian, gay or bisexual people.	X	X		
Older	X	X		
Younger	X	X		
Other (e.g. marriage/ civil partnership, looked after children, cohesion/ good relations, vulnerable children/ adults).				
<i>Please underline the group(s) /issue more adversely affected or which benefits.</i>	X	X		

Overcrowding is likely to be an issue in some areas and illegal conversions of properties particularly affect new and emerging communities.

Potential benefit: Improved quality and safety of accommodation for BME tenants in the rental market due to the compliance with licensing conditions. Life chances/opportunities are affected by housing. As accommodation improves outcomes should improve. May also improve health and wellbeing as homes are improved.

Potential adverse impact:

(a) Landlords

Background: Property investment by the Asian community is the foundation of their financial interests. Property portfolios seen as ‘pension schemes’ and a means to support families (within the UK and back in Pakistan and India), communities and faith institutions. Life savings are often invested in property. Great concern that the proposals will seriously damage property portfolios having a ‘knock-on’ effect of reducing ‘yields’ and lowering income that can be used to support families, the community etc. Representatives of this community perceive that landlords in their community have already been disproportionately affected by the additional licensing scheme and another scheme may have a big impact on their portfolios

(b) Tenants

monitoring data and provide better data on ownership of PRS. This was introduced as part of the Additional Licensing scheme. Out of 1379 Licence Holders, 105 declared their ethnicity. Of these 105 40% are White British/Irish, 47% Asian and 13% Black/Other. Of the Asian landlords to declare their ethnicity the majority, 62% are Asian Pakistani, and make up 35% of landlords where ethnicity is known.

It is also acknowledged that this is a highly complex issue which will require a lot of support and explanation to certain sections of the community so that they fully understand what is expected of them and are able to comply with the requirements. Such a role should be carried out by the Housing Strategy and Environmental Health teams.

Overall, the additional costs to landlords over five years is considered to be small, although it is acknowledged that those with larger portfolios needing to pay multiple licence fees will have a large upfront outlay.

It is intended that accredited landlords will receive a discount on the fee.

There is a risk that Selective licensing will result in rent increases, but this impact would not

The effect of large cohorts of renters in a community was discussed. Different areas of Nottingham have different amenities that attract people from different ethnic groups. This leads to a concentration of particular ethnic groups in an area. This can put pressure on services in that area as the community is less diverse. It can also mean tension between different communities.

Overcrowding in the PRS was discussed. People from new and emerging communities may be particularly affected by overcrowding or illegal/substandard conversions. Issues of subletting were identified as a key issue that needs to be addressed. This is a particular problem amongst new and emerging communities.

Concern that landlords will inevitably increase rents to cover licensing costs and costs of works to comply with licensing conditions. One of the unintended consequences of a scheme may be to push tenants further into food and fuel poverty. People from BME communities may be more likely to earn less than non BME communities.

Poor standards of accommodation are often at the lower end of the market and landlords may have to do more to their properties at this end to meet the standards required.

The scheme may cause landlords to withdraw properties from the sector and lead to less homes being

be fully understood until the scheme had been implemented. Consideration has been given to the potential impact of the cost of licensing being passed on to tenants through higher rents. It is felt that over the five year term of the scheme the proposed licence fee will not constitute more than a few pounds per week. The evidence from the Council's additional licensing scheme suggests that although rents in student HMOs (which make up a significant proportion of the city's HMOs) increased after the introduction of additional licensing, this was part of an upward trend in student rents that was also experienced by other cities with large student populations. It is therefore a risk that the Council should be aware of, but one which is based on speculation.

The Council does not believe that standards of accommodation should be compromised in the interests of greater affordability. These are standards that the Council believes landlords should already be meeting. Outcomes of the scheme that are designed to tackle excess cold will result in lower heating bills and reductions to fuel poverty releasing income to tenants

available for renters.

Disabled people or carers

Mapping shows no apparent overlap between areas of high PRS and population experiencing disability. This may be due to the small cohort. Focus group identified that tenants with disabilities often face particular problems when renting properties. They may have problems with security of tenure. Landlords are reluctant to facilitate property adaptations and getting these agreed with landlords was highlighted as a particular difficulty. Tenants with health issues are also much more likely to be affected by problems with damp and housing disrepair issues. They may face problems with getting repairs done quickly. Disabled tenants are much more impacted by the cold and issues such as no heating or hot water affect them more. Disabled tenants have also highlighted problems renting properties when they have assistance dogs, as these are seen as pets and they are not pets.

Potential benefit: An improvement in property standards which it is believed licensing will bring will have a positive impact on the lives of such people

Potential adverse impact: Tenants in this equality strand could be affected by rent rises and other adjustments to the PRS market that might result from licensing changes.

People from different faith groups

Potential adverse impact: Issues already stated regarding Asian landlords could apply to this equality strand. It should be noted that the Muslim community cannot receive, for religious reason, 'interest' from investments and therefore property is a preferred investment, hence this makes this community sensitive to any matters that could affect property prices or yields.

Lesbian, gay or bisexual people; and

Men, women (including maternity/pregnancy impact), transgender people

Although the proposals are not believed to specifically have an adverse impact on these groups, the risk already mentioned of rent increases could have an impact on all sections of the community.

Older or younger people

Although the proposals are not believed to specifically have an adverse impact on these groups, the risk already mentioned of rent increases could have an impact on all sections of the community.

Outcome(s) of equality impact assessment:

- No major change needed X
- Adjust the policy/proposal
- Adverse impact but continue
- Stop and remove the policy/proposal

Arrangements for future monitoring of equality impact of this proposal / policy / service:

If the proposal proceeds to a final decision by the Council to implement, a further review of this EIA will take place. It may be possible to use referral data to agencies such as Housing Aid, Notts Housing Advice etc to see what specific impacts the scheme is having if it is implemented.

Approved by (manager signature):

Graham de Max

Housing Strategy and Partnership Manager

Graham.demax@nottinghamcity.gov.uk

Tel 0115 8763538

Date sent to equality team for publishing:

Send document or link to:

equalityanddiversityteam@nottinghamcity.gov.uk

Before you send your EIA to the Equality and Community Relations Team for scrutiny, have you:

1. Read the guidance and good practice EIA's
<http://www.nottinghamcity.gov.uk/article/25573/Equality-Impact-Assessment>
2. Clearly summarised your proposal/ policy/ service to be assessed.
3. Hyperlinked to the appropriate documents.
4. Written in clear user friendly language, free from all jargon (spelling out acronyms).
5. Included appropriate data.
6. Consulted the relevant groups or citizens or stated clearly when this is going to happen.
7. Clearly cross referenced your impacts with SMART actions.

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**EXECUTIVE BOARD - 22nd November
2016**

Addendum to Report

Subject:	Proposal for a Scheme of Selective Licensing for Privately Rented Houses
Corporate Director(s)/Director(s):	David Bishop Corporate Director Development & Growth/Deputy Chief Executive Andy Vaughan, Corporate Director for Commercial & Operations
Portfolio Holder(s):	Councillor Jane Urquhart, Portfolio Holder for Planning and Housing Councillor Nicola Heaton, Portfolio Holder for Community Services
Report authors and contact details:	Graham de Max, Housing Partnership and Strategy Manager Lorraine Raynor, Head of Community Protection, Chief Environmental Health and Safer Housing Officer
Summary of issues (including benefits to citizens/service users):	
Paragraph 4.3 of the Report refers to an ongoing European Court case relating to fees. The Judgement of the European Court was issued on 16 th November and further work is required as regards its potential impact of that decision on the operational proposals for this scheme. On that basis it is recommended that Recommendation 1 of the Report be amended as shown below	
Recommendation(s):	
<ol style="list-style-type: none"> 1. To approve in principle to pursue a scheme of selective licensing as outlined in the report and to delegate authority to the Portfolio Holder for Planning and Housing and the Portfolio Holder for Community Services, in consultation with the Corporate Director for Commercial & Operations and the Corporate Director for Development and Growth, to make any amendments to the scheme prior to consultation. 	

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51 PROPOSAL FOR A SCHEME OF SELECTIVE LICENSING FOR PRIVATELY RENTED HOUSES - KEY DECISION

The Portfolio Holder for Planning and Housing introduced a proposal for a scheme of selective licensing for privately rented houses.

Data collection and analysis work has been completed, informing a decision on proposals for a selective licensing scheme for privately rented houses.

An addendum to the report highlighted an ongoing European Court case relating to fees – further work will be required with regard to its potential impact on the operational proposals for this scheme.

Officers involved with the report were thanked for their hard work.

RESOLVED to:

- (1) approve in principle to pursue a scheme of selective licensing as outlined in the report and to delegate authority to the Portfolio Holder for Planning and Housing and the Portfolio Holder for Community Services, in consultation with the Corporate Director for Commercial and Operations and the Corporate Director for Development and Growth, to make any amendments to the scheme prior to consultation;**
- (2) approve the draft designation contained in Appendix 3 of the report for consultation in accordance with the statutory requirements and Department for Communities and Local Government guidance document *Selective Licensing in the Private Rented Sector: A Guide for local authorities*;**
- (3) bring back the results of the consultation to a future meeting of the Executive Board to consider and determine if the proposed scheme and designation should be made and submitted to the Secretary of State for Communities for confirmation;**
- (4) note the requirement to establish a ring fenced reserve for this scheme (detailed in approval 5);**
- (5) approve the use of reserves to fund setup costs of £0.080m should the scheme be approved (contained within paragraph 4.1 of the report).**

Reasons for decisions

The designated area has been chosen because evidence, gathered in accordance with the Department for Communities and Local Government (DCLG) guidance suggests that relevant statutory tests have been met and that selective licensing of privately rented houses in the area would be an appropriate tool to resolve problems. Ward Councillors have been consulted on the scheme and designation.

Other Options considered

The Council has operated a range of schemes and initiatives to improve property conditions and management of private rented sector properties for a number of years. These initiatives and work with other partners have ensured ongoing engagement with landlords. However problems still exist with a large number of landlords and properties which the Council believes can appropriately be addressed using selective licensing powers alongside existing initiatives and legislative provision. Details of these initiatives, work and considerations can be found in “Nottingham City Council: The Strategic case for Selective Licensing” – Appendix 2 of the report.

There could have been a decision to not pursue a selective licensing scheme; however the evidence that is presented within Appendix 2 of the report supports the view that the proposed scheme is needed. If the scheme is not implemented the City will continue to experience the significant problems in the private rented sector which have been identified.

52 EXCLUSION OF THE PUBLIC

RESOLVED to exclude the public from the meeting during consideration of the remaining item(s) in accordance with Section 100A(4) of the Local Government Act 1972 on the basis that, having regard to all the circumstances, the public interest in maintaining the exemption outweighs in the public interest in disclosing the information.

53 PROPOSAL FOR A SCHEME OF SELECTIVE LICENSING FOR PRIVATELY RENTED HOUSES - EXEMPT APPENDICES

The Board considered the exempt appendices to the Portfolio Holder for Planning and Housing’s report.

RESOLVED to note the information contained within the exempt appendix.

Reasons for decision

As detailed in minute 51.

Other options considered

As detailed in minute 51.

Nottingham City Council
Executive Decision Call-In Request Form

This form should be submitted to the Governance Manager, Constitutional Services, Resources by midnight on the fifth working day after the decision publication date. The signed form should be submitted in original hard copy. If the form is being submitted after the office has closed on the fifth working day, it should be signed, scanned and emailed to *all* of the following individuals:



Senior Governance Officers
 jane.garrard@nottinghamcity.gov.uk
 rav.kalsi@nottinghamcity.gov.uk
 laura.wilson@nottinghamcity.gov.uk

The original hard copy of the form must then be provided to the Governance Manager on the following morning.

For further information about the call-in procedure please see the Overview and Scrutiny Guide to Call-In and/ or contact the Senior Governance Officers on 0115 8764315 or 0115 8763759.

Date of decision publication:	22 nd November 2016
Portfolio Holder Decision reference number:
<u>or</u> Executive Board minute number:	7
<u>or</u> Executive Board Sub Committee minute number:
<u>or</u> Area Committee minute number:
<u>or</u> Officer Decision reference number:
Description of decision:	
Proposal for a Scheme of Selective Licensing for Privately Rented Houses	

The following signatories request that the above decision be called in.

1. Signature  Print name Jim Armstrong
2. Signature  Print name Georgina Culley
3. Signature Print name N/A

Reason for requesting the decision be called in

The request for call-in must be based on one or more of the following reasons below.
[Tick the appropriate box or boxes and provide details for the reason, appending additional sheets if necessary]

<u>Reason for requesting call-in:</u> a) The decision is outside the budget/ policy framework	

<u>Reason for requesting call-in:</u> b) Inadequate consultation relating to the decision	✓
<ul style="list-style-type: none">• The Decision outlines the ways in which the introduction of the Scheme will help the Council to meet its objectives. However these do not include sufficient detail to outline how the Scheme will work in practise and how therefore the Scheme will allow the Council to meet its objectives. For example, 'landlords have to be assessed as fit and proper to manage' – it does not provide information regarding the criteria to meet this standard• The Decision makes clear that there is a danger that some Landlords may move out of the City boundary and into neighbouring districts in order to avoid being subject to the Scheme. The Decision states that conversations will take place in future which will consider this matter but it appears no consultation has taken place prior to the Decision being taken with Local Authorities and others to assess the impact on the Scheme• The initial consultation included an online survey for which just 12 out of 19 wards submitted responses. it also does not provide a list of the questions included, it includes prompted questions ('select all') rather than unprompted questions (which may have primed responses) and does not make clear if private rented sector homes were studied in isolation or if other property types were included such as owner-occupied or social housing to provide a comparative perspective	

<u>Reason for requesting call-in:</u> c) Relevant information not considered	✓
<ul style="list-style-type: none">• There is limited information regarding the success or otherwise of previous (and current) Licensing Schemes. The review of Mandatory Licensing for example refers to 'positive working relationship with accreditation partners' and 'increased awareness of licence holders responsibility and the Council's role in intervening and ensuring compliance' but little or no evidence as to how these conclusions have been reached. And the review of the Additional Licensing Scheme states 'the results are not at present showing a significant outcome in changes to ASB'. There does not appear to be any conclusions drawn as to what impact these reviews and the resulting disappointments, if any have had on the proposed Scheme• This decision will have to be authorised by the Secretary of State. The Decision does not outline what factors are likely to be considered by the Secretary of State, the likelihood that the proposals thus far would be accepted and what further work will be taking place, during the consultation or afterwards in order to ensure that the proposal has the greatest chances of being accepted• There is no evidence that there has been a review of the proposed consultation and whether the means of advertising the consultation will reach a sufficient number of target respondents. Nor is there any evidence that online and paper surveys are the appropriate methodology for reaching a sufficient number	

- of target respondents
- The Decision acknowledges that the Scheme will place pressure on current Council services (e.g. Community Protection and Housing Aid) – however it does not appear any consultation and/or research has been carried out regarding what the impact will be
- The Decision makes clear that there may be difficulty in finding the staff necessary to administer the Scheme and therefore there may have to be a resort to ‘recruitment consultants (and) agency staff’. There does not appear to be an assessment of the financial implications that this would have
- The Decision does not appear to have reviewed the experiences of other Local Authorities which have introduced Selective Licensing and what this means for this proposed Scheme
- The Decision acknowledges that rents increased for tenants following the introduction of an Additional Licensing Scheme in 2014. However, only cursory references have been made, there is no assessment regarding the extent to which this increase in rents was a result of the introduction of the Additional Licensing Scheme (as opposed to other factors) and no consideration appears to have been given to the impact on tenants in practise should rents rise following the introduction of a Selective Licensing Scheme
- The Decision makes clear that research has taken place prior to this Decision being announced. This apparently includes (but may not be confined to) focus groups and an online survey. It is not clear what this research involved in practise (the items discussed in the focus groups, who moderated, the structure of the online survey, how the respondent sample was selected etc), how many were consulted (and if this provided a robust basis for feeding into the Decision) or the results of this research

<p>Reason for requesting call-in: d) Viable alternatives not considered</p>	✓
<ul style="list-style-type: none"> • The Scheme will apparently ensure an ‘increased ability to provide information to landlords about good practice’ and ‘increased ability to signpost tenants to wide range of support as well as empowering tenants on standards they should expect’ – there does not appear to be any consideration of why this is the case nor whether this could be achieved without the introduction of a Selective Licensing Scheme • There is insufficient information regarding how they have arrived at the proposed charges and whether alternative charges would suffice • The Decision will apply to the entire City. It states that ‘it is clear that the vast majority of the City meets one or more of the conditions’. Some parts of the City do not meet any of the criteria and yet will be subject to the Scheme. It does not appear the alternative of applying the Scheme only to those parts of the City where there is a problem has been considered • The Decision outlines sixteen policies which have been in place (and continue to be in place) but which it is felt have been insufficient in dealing with the issues identified. However, there is insufficient information as to what extent these Schemes have been successful or unsuccessful or what could be done to improve them (which could potentially mean the Selective Licensing Scheme would need to be adapted to ensure these complementary approaches work more effectively together or may not be needed at the present time) • The sixteen policies which are currently in place have been listed as the alternatives proposed. However, these appear to have been in place prior to this Decision meaning that no new alternative Decision (whether updates/reforms to the current Schemes and/or an entirely new Scheme) has been considered • The Decision states that there has been a relatively low take up of the Accreditation Scheme for Landlords but no consideration is outlined stating what could be done to increase take up and how an updated Accreditation Scheme which leads to increased take up might mean the proposed Selective Licensing Scheme should be updated (or may not be necessary in some or all areas) • A Court Case is currently pending which could apparently have a bearing on the proposed financial structure of the Scheme, as well as the Housing and Planning Act which gained Royal Assent this year. The Decision acknowledges the importance of these but does not appear to have considered delaying the Decision until the results are known • The Decision does not appear to have taken into consideration the possibility of targeted Local Strategies (as opposed to a blanket, City-wide approach) 	

<p>Reason for requesting call-in: e) Justification for the decision open to challenge on the basis of evidence considered</p>	✓
<ul style="list-style-type: none"> • As outlined above the Decision will apply to the entire City despite the fact that its own research shows 	

that some parts of the City do not meet any of the criteria and yet will be subject to the Scheme, such as large portions of Clifton and Wollaton

- Some of the data provided is potentially misleading and shows less of a difference between owner-occupied properties, private rented sector properties and social housing than a reader could reasonably expect from the conclusions. For example:
 - The Decision states that 'the analysis showed that 10% of the variance in the rate of ASB calls can be attributed to the proportion of private rented sector property and that for every unit increase in the proportion of private rented properties, noise related ASB would increase by 0.14 units' – although the data is presented elsewhere the summary does not mention that the same is true of social rented (i.e. social rented – 0.14 unit increase)
 - It consistently looks at data which only takes into account raw number of incidents (such as anti-social behaviour) and not the number of properties (and hence the overall rate or percentage). For example, it states that 'splitting the LSOAs between those with a high proportion of Private Rented Sector properties and the remainder with a lower proportion, found that on average for every 2 reports made in an LSOA with a low proportion of PRS, 3 would be recorded in an LSOA with a high proportion of PRS'. These conclusions are potentially misleading as they do not draw attention to the proportions or percentages which provide a much more valid evidence base. Rather the data is simply presented elsewhere
 - Information is not consistently presented. For example, comparisons are made between Nottingham City, High Proportion PRS LSOA and Low Proportion PRS LSOA and Private Rented (exc. HMOs), Owner Occupied and Socially Rented. However whilst in some cases figures are presented for all in others only Private Rent data is presented (e.g. Private Rented (exc. HMOs), Owner Occupied and Socially Rented data is provided for ASB calls but not for all ASB or noise-related ASB, which only shows Private Rented (exc. HMOs)
 - The Decision looks at whether Nottingham City has a high proportion of private rented sector properties, as required by the Department for Communities and Local Government (DCLG) Guidance. It however has measured private rented sector properties as a proportion of total properties at a Lower Super Output Area (LSOA) level (concluding that a large number of LSOAs have a high proportion of these private properties – 88/182 or 48%) rather than a City level despite the fact that the Scheme will be applied across the City

Suggestions for Call In Panel meeting

If the call in request is valid a meeting of the Call In Panel will be held. Please list below any evidence and/ or contributors that you think should be made available to the Call In Panel.

[Please note that these will be considered as suggestions only and the final decision on evidence and contributors will be made by the Chair of the Call In Panel.]

Suggested list of evidence to be provided/ contributors to attend the Call In Panel meeting

For office use only:

Received on behalf of the Governance Manager by: N. Bamard (signature)

Name: Nancy Bamard

Date: 29/11/16

Time: 9:45am

Validation Check:

Governance Manager

Date of publication: 24/11/16 Date of call-in: 29/11/16 In time: YES / NO

Office checks that call-in is valid against requirements as set out in the Constitution:
 YES / NO

Reason: See Attached

Completed by: N. Bamard (signature)

Nancy Bamard (name)

Date: 02/12/16 Time: 16:00

Validation Check: (if necessary)

Monitoring Officer

Valid: YES / NO

Reason:

Completed by: (signature)

..... (name)

Date: Time:

Referrals:

Date copied to Corporate Director / Portfolio Holder

29/11/2016

Name of Corporate Director

DAVID BISHOP

Name of Portfolio Holder

ANDY VAUGHAN

CLL R. URQUHART

CLL R. NICOLA HEATON

Date copied to Chair of Overview and Scrutiny Committee:

29/11/2016

Governance Manager Validation check

Call-in reasons – Proposal for a Scheme of Selective Licensing for Privately Rented Houses

1. The call-in request is in time, in writing, signed by the required number of councillors and identifies reasons for the call-in, as required under the call-in procedure.
2. The call-in is also valid in that the decision is not one exempted from call-in under the call-in procedure rules and is a relevant decision for call-in under those rules.
3. In terms of the reasons for call-in, I am satisfied that the request is valid in respect of reasons c) Relevant information not considered, d) viable alternatives not considered and e) Justification for the decision open to challenge on the basis of evidence considered.
4. In terms of reason b) Inadequate consultation relating to the decision, this is considered an invalid reason for call-in because the decision taken was to go out to full consultation and therefore the assertion that the consultation was inadequate is premature.

Nancy Barnard, Governance Manager
02/12/2016

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OVERVIEW AND SCRUTINY – CALL-IN PANEL
4 JANUARY 2017
CONSIDERATION OF CALL-IN REQUEST RELATING TO AN EXECUTIVE BOARD DECISION (MINUTE 51) – PROPOSAL FOR A SCHEME OF SELECTIVE LICENSING FOR PRIVATELY RENTED HOUSES
REPORT OF CORPORATE DIRECTOR FOR STRATEGY AND RESOURCES

1 Purpose

- 1.1 To consider the call-in request relating to an Executive Board Decision (Minute 51) Proposal for a Scheme of Selective Licensing for Privately Rented Houses.

2 Action required

- 2.1 The Committee is asked to:
- a) consider the information provided in relation to an Executive Board Decision (Minute 51) Proposal for a Scheme of Selective Licensing for Privately Rented Houses, and the reasons given for requesting a call-in of that decision and use that information to inform questioning and discussion;
 - b) focusing on the reasons for the call-in as given in the call-in request form, and based on the evidence from the Portfolio Holder, his supporting colleague(s), and the Councillors who requested the call-in, decide to either:
 - i) require that the decision is reconsidered, and make recommendation(s) as to what should be taken into consideration; or
 - ii) agree that the decision does not need to be reconsidered and can be implemented.

3 Background information

- 3.1 The minutes of the Executive Board meeting held on 22 November 2016 were published on 24 November 2016. Councillor Jane Urquhart, as the lead Portfolio Holder, supported by Lisa Ball, Strategic Planning and Performance Consultant, David Bishop, Deputy Chief Executive/Corporate Director for Development and Growth, Graham De Max, Housing Strategy and Partnerships Manager, Lorraine Raynor, Chief Environmental Health and Safer Housing Officer, and Andy Vaughan, Corporate Director for Commercial and Operations, as relevant colleagues, have been invited to attend the meeting to outline details of, and reasons for the decision and answer questions from the Panel regarding this.

- 3.2 The call-in request form was signed by Councillors Jim Armstrong and Georgina Culley.
- 3.3 Focusing on the valid reasons for the call-in as given in the call-in request form, and based on the evidence from the Portfolio Holder, supporting colleagues, and the Councillors who requested the call-in, the Panel needs to decide to either:
 - a) require that the decision is reconsidered, and make recommendation(s) as to what should be taken into consideration; or
 - b) agree that the decision does not need to be reconsidered and can be implemented.

In both cases, the Panel needs to provide reasons for its decision.

- 3.4 If the Panel agrees that the decision should be reconsidered it can:
 - a) refer the decision back to the Portfolio Holder for reconsideration; or
 - b) refer the decision to full Council if it feels that the decision made is contrary to the Council's policy and/or budgetary framework.
- 3.5 In addition, the Panel can make other relevant recommendations which will be referred to the relevant Portfolio Holder, or the Executive Board for response.

4 List of attached information

- 4.1 Appendix 1 – written response from Organisational Planning and Performance

5 Background papers, other than published works or those disclosing exempt or confidential information

- 5.1 None

6 Published documents referred to in compiling this report

- 6.1 Executive Board report and minute - Proposal for a Scheme of Selective Licensing for Privately Rented Houses – 22 November 2016.

7 Wards affected

- 7.1 All wards

8 Contact information

Laura Wilson, Senior Governance Officer
0115 8764301
laura.wilson@nottinghamcity.gov.uk

Nottingham City Council

Executive Decision Call in Request

Proposal for a scheme of Selective Licensing for Privately Rented Houses

Executive Board Decision 22nd November

Responses to Call in Request

Reasons for requesting the call in:

- a) The decision is outside the budget/policy framework

The decision has not been called in under this criteria however it should be noted that the decision is in accordance with a key objective of the Council Plan 2015-19

Reasons for requesting the call in:

- b) Inadequate consultation relating to the decision

No response provided as reason for call in not valid

Reasons for requesting the call in:

- c) Relevant information not considered

- There is limited information regarding the success or otherwise of previous (and current) Licensing Schemes

There has been a review of both the additional and mandatory licensing schemes. When the reviews were undertaken the additional licensing scheme was mid-way through year 3 of a 5 year scheme. A further review of additional licensing will be undertaken in due course as the Council considers the future of additional licensing prior to the scheme end in December 2018.

To add further clarification to the 2 comments highlighted in the call in document in relation to the mandatory scheme.

- i) 'positive working relationship with accreditation partners'

There has been increased up take of the accreditation scheme and on-going, positive dialogue with DASH and Unipol. DASH supports the Council with training and the officer (working for DASH) initially involved in supporting the scheme was co-located with the Council and worked very well with the Council Officers.

- ii) 'increased awareness of licence holders responsibility and the Council's role in intervening and ensuring compliance'

In the report it was stated that approximately 2000 HMOs are now covered by licensing. When licences are issued they detail what the licence holder's responsibilities are and therefore there is increased awareness of these. During inspections of properties officers will often re-iterate the licence holder's responsibilities, particularly when issues are identified. The HMO team have continued to undertake compliance inspections as part of the licence process (as noted in the report). The Council has and will continue to intervene where necessary to ensure compliance and therefore the success of the scheme.

To add further clarification to the comment highlighted in the call in document in relation to

the additional scheme.

- iii) 'the results are not at present showing a significant outcome in changes to ASB'
The scheme is in year 3 of a 5 year duration. At the time of writing the report 243 compliance inspections had been undertaken. This compliance work will continue to increase during the final 2 years of the scheme as officers move from issuing the remaining licences and move to more compliance work.

The mandatory and additional licensing schemes have been referred to under "Selective Licensing as a Complementary Tool (pages 14 and 15) Appendix 2" – Proposals for a scheme of selective licensing for privately rented houses (Executive Board Report) and are recognised as a tool to improve housing. There has been a reduction in complaints arising from HMOs covered by the additional licensing scheme.

The reviews of the current licensing schemes and central Government recognise licensing as a long term tool to improving housing conditions and reducing ASB, not a quick fix. The additional licensing scheme is in year 3 of a 5 year scheme and there will be further reviews in the future.

- This decision will have to be authorised by the Secretary of State:

The Executive Board Report outlines the factors that are likely to be considered by the Secretary of State. Paragraph 2.5 of the report lists the 6 statutory grounds that have to be met and paragraph 2.6 details the grounds that the evidence gathered supports a designation for the Council to seek approval on. Further details of these requirements are discussed in Appendix 2 to the report *section iv The evidence to support the proposal* and the methodology applied in order to gather the evidence to support the proposal and demonstrates that Council has met the requirements of the DCLG in order to obtain Secretary of State approval.

Paragraph 2.7 refers to the Act and the DCLG guidance and details the other considerations the authority has to take into account before embarking on a consultation. The Council has considered all of these, details of which are contained in Appendix 2 to the report *section iii The Strategic Case for Selective Licensing*

The need for councillors to have considered this is included in section 5 and the likelihood that the proposal may not be accepted and the implications of this is detailed as a risk in section 5.3.

Paragraph 2.11 of the report details the consultation process. The Council will use this to gather views about its proposals and this will form the basis of the extra work that will be undertaken to ensure that the proposal has the greatest chance of being accepted.

- There is no evidence that there has been a review of the proposed consultation and whether the means of advertising the consultation will reach a sufficient number of target respondents:

The basis of the report is approval to go out to consultation therefore no review of the consultation has so far taken place.

As part of the consultation proposals as detailed in paragraph 2.11 the Council has considered the consultation requirements as detailed in the DCLG guidance and the requirements of the Act. These requirements have been carefully considered as the Council

is aware that this may be potential area of challenge from landlords and is also a consideration in the DCLG granting approval of the scheme.

Taking this into account and in planning the consultation the Council recognises the scale of the proposed scheme and the number of different stakeholders and interested parties to be engaged with. Careful consideration has been made to ensure that the consultation reaches sufficient numbers. The consultation will be citywide with a mass rather than targeted campaign to advertise the consultation as widely as possible. In view of the potential for displacement the Council will consult and work with neighbouring authorities and partners to promote the consultation beyond Nottingham. A stakeholder matrix has been used as part of the Engagement Plan to ensure that all stakeholders have been identified and are engaged with as part of the consultation strategy and regard has been had to existing case law and guidance on consultation requirements.

In order to comply with the guidance the Authority has to have a mechanism for capturing all views in order for it to consider and respond to them. The results will be published showing a summary of responses. Surveys are widely accepted as the most appropriate methodology for achieving this. The mass advertising campaign of the consultation will ensure that sufficient numbers are reached and are encouraged to give their views.

- The decision acknowledges that the scheme will place pressure on current Council Services.

This is to some extent an unknown as the Council has not undertaken a scheme of this scale before. The private rented sector market is not well regulated and there is therefore limited information about how the private rented sector is operated in Nottingham and who by.

Some of the aims of the selective licensing scheme are to reduce ASB, crime, deprivation and to improve property conditions. Raising awareness with tenants of their landlords responsibilities may increase demand for services (e.g. for the Safer Housing team within Environmental Health,) as tenants may notify the Council where a landlord is not complying with their responsibilities.

The selective licensing scheme will expect licence holders to be proactive in managing their properties and it will be expected that longer term demand should drop as the private rented sector improves and rogue landlords are driven out of the market through effective enforcement and compliance work.

Depending on what is found when inspections of properties are undertaken there may be occasions where properties are so unsafe that properties have to be prohibited (closed) and tenants may need to seek rehousing.

Initially there may be increased complaints about ASB where tenants realise the Council and / or Police may intervene as tenants understand that licensing can play a part in helping to tackle this issue.

The proposals to signpost tenants to Council and partner services may also increase pressure on services.

All of the above are difficult to quantify, but longer term an effective licensing scheme should see reductions in ASB, crime and deprivation and improvements to property conditions which will lead to positive benefits for tenants in terms of health, safety,

education, and improvements to the neighbourhoods too. It is expected that a successful scheme would lead to (longer term) reduced demand for Council services.

- The decision makes clear that there may be difficulty in finding the necessary staff.

The proposals for the scheme will include a robust staffing plan. The scale of this task is recognised as being a risk and will be managed as part of the operational delivery plan. It would be anticipated that use of agency staff would be limited and short term. Some use of agency staff does give flexibility and ability to get people in post quickly, which will be an important element of this time limited scheme. In certain cases as they don't have holiday, sick pay they can be a cost effective solution in certain circumstances.

The proposed scheme annual priorities table on page 66 of "Appendix 2 Proposals for a scheme of selective licensing for privately rented houses"(Executive Board Report) will help to manage recruitment too.

- The decision does not appear to have reviewed the experiences of other Local Authorities which have introduced Selective Licensing.

The Council has visited Liverpool City Council and the London Borough of Newham, both of which have introduced city / borough wide licensing schemes. Ideas and lessons learnt from those schemes have been built into the proposals for Nottingham where these have been appropriate / relevant.

All schemes are different and the criteria upon which schemes can be sought were amended in 2015. Nottingham is relying on evidence around deprivation, crime and poor property conditions, (which were introduced as new criteria) which have helped shape the scheme proposals.

None of the existing schemes of selective licensing have been based on the new 2015 criteria so their impact in those areas is going to be limited. Nottingham will be one of the first (if not the first) Council to seek approval for a district wide scheme on the new criteria.

- The decision acknowledges that rents increased for tenants following the introduction of an Additional Licensing scheme in 2014.

Additional licensing is solely for HMOs. The only way of knowing if rents have gone up for HMOs is to look at room/bedspace rates. The Council's key data source for rents is Hometrack. The smallest property type/size for which rental data is available is one bedroom flat, so it is not possible to track rents for rooms in HMOs. Data was therefore obtained from Unipol to look at the trend in student bedspace rents (given that a large proportion of the HMOs within the additional licensing designation are occupied by students). This data showed an increase which coincided with the introduction of additional licensing, but could not conclusively be put down to licensing as the reason for this. Bradford and Leeds have also seen increases at various times, but these did not coincide with licensing schemes. Housing markets are far too complex for increases in rents or house prices to ever be put down to one factor.

- The decision makes clear that research has taken place prior to this decision being announced.

Paragraph 2.13 of the Executive Board Report refers to the listening and engagement exercises that have already been undertaken. Appendix 2 to the report *section iv The evidence to support the proposal* takes the outcomes of this exercise into account. The outcomes were also considered as part of the scheme proposal as detailed in *section v*.

The on line survey was part of the Councils engagement with its partners and the methodology applied and the results gathered for this is shown Appendix 2 to the report *section iv The evidence to support the proposal*, Section G Qualitative Evidence to support the Proposal.

Pre consultation is over and above the requirements of the legislation and Guidance; however the Council recognises that as part of its considerations it is important to engage with all interested parties at an early stage in order to gather their views to help it understand the issues. Responses from all groups have been captured and a response document for each group has been prepared.

Reasons for requesting the call in:

d) Viable alternatives not considered

- The scheme will apparently ensure an 'increased ability to provide information to landlords about good practice' and 'Increased ability to signpost tenants to wide range of support as well as empowering tenants on what they should expect'

The objective of the Council Plan around selective licensing is to achieve outcomes in relation to housing safety, standards and management, reduction in ASB and deprivation and improvements in health. It is a great opportunity with potentially over 35,000 homes coming into a licensing framework to provide positive benefits for both landlords and tenants.

For landlords

Landlords that do not have training will be asked to undertake this as part of the proposed conditions. There will also be conditions on licences that relate to safety and good practice and there will be housing safety inspection work from which advice will be given on any matters necessary to remove and reduce risks to safety.

The Council will proactively be able to keep landlords advised of opportunities for them in relation to their homes such as energy efficiency initiatives, changes in law and guidance, information from partners that might provide benefit i.e. crime prevention, information from landlords associations or from the regional organisation that supports landlord's DASH (Decent and Safe Homes).

For tenants

It is proposed that tenants are advised of the licence that is in place and that it is an opportunity for them to see what conditions and responses are expected as well as providing advice to visit the Council's web site and that of DASH which give further information. Tenants having knowledge of what is expected will enable them to have conversations with their landlord with a level of reasonable expectations it will also enable tenants to make informed future choices about properties to rent. It is proposed the tenant will receive annual correspondence to advise that if there are any concerns relating to the licence and standards to discuss these with their landlord but if this does not result in the required improvement to contact the Council.

To support tenants it is proposed that visiting officers are trained on signposting schemes (and that we build on existing ones) so that every contact counts and officers can identify some risks beyond housing safety, this may be a small number of key questions or though observations. Outcomes will include proportionate referrals, to the fire service for fire safety advice, DWP for matters such as benefit advice, falls prevention, ESOL for English speaking, crime prevention measures to reduce fear of burglary, energy reduction measures, to respond to exploitation etc. This builds on existing good practice and models that have been used by other authorities that have achieved success.

- There is insufficient information regarding how they arrived at the proposed charges

The information about how the proposed fee was determined is found under 'Assessing the resources and fee' (page 70) within Appendix 2 – Proposals for a scheme of selective licensing for privately rented houses (Executive Board Report).

The details provided are clear and transparent about how the fee has been determined.

- The decision will apply to the entire city.

Officers have spent a considerable amount of time gathering evidence relating to the conditions that a scheme is intended to address. Appendix 2 to the report *section iv The evidence to support the proposal* sets out the analysis undertaken and shows that a vast majority of the district meets at least one of the statutory criteria for introducing a scheme. The report acknowledges that not all areas within the designation meet all four conditions identified but they do not have to. A scheme could be justified if only one criteria was met. Any scheme needs to be coherent, legible and with boundaries easily understood (This proposition was accepted by the High Court when the Council's Additional Licensing Scheme was judicially reviewed).

The evidence for the scheme covers the vast majority of the city's entire Private Rented Sector (PRS). The evidence covers 67% of the cities geographical areas but represents over 90% of the city's PRS.

On this basis it is felt that a city wide scheme can be justified. In any event the designation is only a proposal at this stage and the extent of the proposed scheme will form part of the consultation that the Council will take views on.

- The Decision outlines 16 policies which have been in place/The 16 policies which are currently in place have been listed as the alternatives proposed.

It is clear from the evidence that the policies currently in place are insufficient. All of them have been successful to various degrees, but none either on their own or combined give the comprehensiveness, nor the proactive approach that selective licensing brings.

The guidance states that selective licensing should only be considered where "...there is no practical and beneficial alternative to the proposed scheme" The Council believes this to be the case.

- Decision states there has been a relatively low take up of the accreditation scheme.

The DASH accreditation scheme has been in place for eight years and has been free during that time. Since 2013, under The “Nottingham Standard” initiative, the Council has provided financial support to DASH in order to try and bring a step-change in the number of properties covered by accreditation in the City. Numbers have increased considerably, and the marketing of the scheme has been intensive at times – however there is a feeling that it is very unlikely to achieve the coverage the Council wants to see. It is a very useful tool and it will be used in conjunction with selective licensing, but it is clear that even when offered free and with the many benefits accreditation brings it does not achieve the level of take up needed to significantly raise standards

- A court case is currently pending which could apparently have bearing on the proposed financial structure of the scheme

A recent European court case concerning sex shop licence fee charges was determined in November 2016. An addendum to the Exec Board report was confirmed at the Executive Board meeting, as the Court decision was determined after publishing the report, but prior to the meeting. The implications of the court decision are potentially significant, and extend further than just fees charged by local authorities. In addition the matter will need to go back to the High Court for further consideration regarding the compatibility of UK and EU legislation in light of the response from the European Court. It is anticipated there will be national guidance from the LGA, but it is not known when this will be published, or what the Governments response will be to this. As such the Council is proposing to continue to consult on the proposals as they are,(indicating that the feel level may change but is unlikely to be higher) and await further guidance.

Likewise the Housing and Planning Act 2016 received royal assent, but it is anticipated elements of it will only be effective from April 2017 onwards. The Government is due to issue regulations and guidance to support implementation of this Act in due course. Until these are issued the Council cannot fully evaluate the implications of this.

- The decision does not appear to have taken into consideration the possibility of targeted local strategies

In considering the alternatives the Council has considered alternative strategies some of which are local strategies. These are detailed in “Appendix 2 *section iii The Strategic Case for Selective Licensing*”. However as outlined in the Evidence to support the proposal the Council believes the only way to address the problems that still exist is through a Selective Licensing scheme and the best option is a citywide designation for the reasons detailed above.

Again this is a proposal that will be consulted on and views on if this is the case will be carefully considered.

Reasons for requesting the call in:

- e) Justification for the decision open to challenge on the basis of evidence considered

- As outlined above, the Decision will apply to the entire City despite the fact that its own research shows that some parts of the City do not meet the criteria and yet will be subject to

the Scheme, such as large proportions of Clifton and Wollaton.

The Decision allows officers to formally consult on the proposed scheme. Neither the proposed scheme nor its geographic coverage is solely dictated by the statistical analysis contained in the supporting evidence.

The designation should be practical and legible as indicated above. Given the extent of the designation indicated by the statistical analysis, the qualitative evidence gathered from remaining areas and the inconsistent approach that would result for tenants and residents by not covering the remainder of the private rented sector, the proposed designation is justified.

- Some of the data provided is potentially misleading and show less of a difference between owner-occupied properties, private rented properties and social housing than a reader could reasonably expect from the conclusions

The purpose of the statistical analysis is to demonstrate whether or not a correlation exists between the incidence of the issues/criteria outlined in the statutory tests and guidance and the presence/concentration of private rented sector properties.

There is no requirement for the proposals to demonstrate how the private rented sector performs in comparison to other tenures as properties in other tenures cannot be licensed under this scheme. The statutory aim of such schemes is to tackle issues in the private rented sector and therefore provide overall improvement to an area.

Descriptions of the comparative likelihood of experiencing in an LSOA with a high proportion of private rented sector properties compared to an LSOA with a low proportion of private rented sector properties are accompanied by a table that shows the per property incidence issue for each and the ratio between the two.

Data is presented differently or more extensively in the cases of some criteria. This is because data sets produced by NCC (i.e. ASB reported to Nottingham City Council and Poor Property Conditions reported to Nottingham City Council), unlike those produced externally, are available at address level, allowing HMO and Social Rented addresses to be extracted and the relationship examined at a more granular level, as well as the overall figure against the proportion of different tenures.

Private Rented Sector properties (excluding HMOs) make up 26.9% of Nottingham's housing stock overall. Basing the statistical analysis at a lower level of geography allowed for a more local assessment and matching with established data sets arguably makes the analysis more robust.

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