

Proposal for a Scheme of Selective Licensing for Privately Rented Houses

Background to the proposal

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. 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."

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 period of 11 weeks between 16th January 2017 and 31st March 2017, and 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. The proposed fee is £600 with a reduced fee of £460 for accredited landlords.

What is Selective Licensing?

The Housing Act 2004 requires local housing authorities to license houses in multiple occupation (HMOs) if they are over 3 storeys and accommodate more than five people who form two or more households. This is called **mandatory licensing**. The Act also gives authorities the power to introduce licensing schemes for other HMOs if certain conditions are met. This is called **additional licensing**, and the Council has been operating a scheme of additional licensing since January 2014. The other form of licensing within the Act (Part 3 of the Housing Act 2004) is called **selective licensing**. This enables authorities to license all other privately rented houses if certain conditions are met. By requiring landlords to apply for a licence to rent out their homes, the Council is able to ensure that the landlord is a "fit and proper person" and, through compliance with the conditions set out in the licence, is providing safe, well managed accommodation.

It is now the law that any proposed scheme exceeding either 20% of the area's private rented sector or 20% of its geographical area must be confirmed by the Secretary of State for Communities and Local Government. The scheme which the Council is proposing exceeds both criteria and will require Secretary of State approval.

Why does the Council think licensing is necessary?

The City's private rented sector (PRS) has expanded significantly in recent years. Between the 2001 census and the 2011 census, the proportion of households living in privately rented homes increased by 12%. Since 2011 the sector has increased in

size even more. The Building Research Establishment (BRE) carried out a wide-ranging stock survey for the Council in the summer of 2016 and found that the City's private rented sector comprised 43,000 properties.

The increase in the PRS shows how important the sector is as a source of accommodation for Nottingham citizens. People live in the PRS for a number of reasons: because they can't afford to buy a home; they can't access social housing; the relative flexibility and easy accessibility of the PRS suits their lifestyle or the stage in their career; they don't want the responsibility and financial commitment of home ownership. Whatever the reason for living in the sector, the Council believes that tenants should experience a good quality home. This is clearly shown in the Council Plan 2015-19. Enormous progress has been made in improving the social housing stock in the city via the decent homes programme and the Council believes that all Nottingham residents should have access to a high standard of accommodation, whether renting or buying.

As well as using all the powers it has under the legislation to tackle poor housing conditions and poor management the Council has undertaken a number of other initiatives in order to drive up standards in the PRS, most notably landlord accreditation through two major partners, Unipol and Decent and Safe Homes (DASH). Both schemes are voluntary however, and even though many good landlords have joined the schemes (together known as the "Nottingham Standard"), it remains a relatively small proportion of the sector. The Council therefore believes that much more is needed in order to get landlords to comply with their responsibilities. A scheme of selective licensing will, it is believed, enable the Council to ensure that landlords are proactive in making sure that their properties meet certain standards. Landlord's will also take responsibility for management of their properties, supporting good neighbourhoods and assisting with the prevention of crime and ASB in those neighbourhoods.

The strategic case for selective licensing

The 'Council Plan' states that it wants all Nottingham citizens to be able to access a good quality home, and sets out its key objectives for achieving this. Amongst these is a proposal to introduce a citywide licensing scheme for the private rented sector. The proposal for a scheme of selective licensing therefore forms part of a much wider ambition to deliver good quality housing in the City.

The Council believes that regardless of whether you own, are buying or renting your home that it should be safe, warm, and meet modern standards. Although there is a focus on private rented sector within the Council Plan, the plan also seeks to increase the supply of new homes and ensure that consistent standards of management and repair are maintained by housing associations. Put together, these priorities form a multi-tenure approach to housing based on achieving good quality across the city's stock.

The Council recognises the importance of the PRS within the housing market. It seeks to make use of the sector as a positive housing option for people who are homeless or threatened with homelessness. It fulfils a gap in the market in parts of the City where there is little or no social housing, but where people want to live for reasons such as their support networks. The PRS houses many people on low incomes who are dependent on housing benefit via the Council to support their

housing costs. It is quite clear, therefore, that the Council needs a well managed and well maintained PRS stock in order to meet some of its housing objectives and to be part of an overall, well-balanced housing market.

Selective licensing fits with this approach. If we genuinely support the sector and want to ensure that citizens can have a better guarantee of standards within the PRS we need a way of achieving that. The existing powers, schemes and initiatives aimed at tackling poor housing and raising standards have not been sufficient in delivering the PRS we want to see. A licensing scheme, which sets out a clear set of conditions and expectations will, it is believed, bring a step-change in the way in which the City's PRS is managed and tackle the significant problems which our evidence shows currently exist within the sector.

How the scheme will help the Council achieve its objectives.

The proposed selective licensing scheme is above all aimed at improving standards within the PRS as part of an overall objective to bring a higher quality of housing across all tenures. However, the Council believes that its positive impact will be seen beyond just housing and will help to achieve a number of wider objectives, such as:

- **Health and wellbeing:** it is well known that poor housing can contribute to ill health, and that improving housing conditions, e.g. tackling damp and cold can improve health. Poor housing can also contribute to, or exacerbate mental health problems. The Council and its partners in housing organisations and the health services are working together to achieve housing objectives which lead to a healthier and happier community. Selective licensing will be a significant part of this.
- **Crime and antisocial behaviour:** It is one of the Council's highest priorities to reduce crime and antisocial behaviour (ASB). The evidence we have compiled to support the case for selective licensing shows that there is a strong correlation, or relationship, between the PRS and crime and ASB. Licensing brings a greater responsibility on landlords to manage their properties better, including the responsibility themselves not to utilise properties for criminal behaviour as well as taking responsibility for the behaviour of their tenants. This is seen as a significant tool in tackling crime and ASB.
- **Educational attainment:** The Council wants to improve the attainment of children attending city schools. Better housing – a safe, warm and comfortable environment in which to study - can help. Many children are now living in PRS homes, and we want to ensure that the housing they live in is helping them to thrive and do well at school.
- **Economic success of the City:** The Council and its partners are ambitious for Nottingham to be a growing city economically, providing high quality jobs in thriving industries and businesses. To do this it needs a good quality housing stock which can attract and accommodate workers, particularly younger, aspirational people at the beginning of their "housing career" who are not ready to buy. A higher standard PRS with a better reputation for good quality housing will help this ambition, and a selective licensing scheme will help to achieve this.

Evidence to support the proposal

The law sets out a range of conditions to be met before a Council may implement a selective licensing scheme. Whilst Councils do not need to meet every condition, strong evidence must be shown to support the condition(s) which are being relied upon.

In simple terms the law says that a selective licensing scheme or “designation” may be made if the area to which it relates satisfies one or more of the following conditions. The area is one experiencing:

- Low housing demand (or is likely to become such an area) ;
- A significant and persistent problem caused by anti-social behaviour;
- Poor property conditions ;
- High levels of migration;
- High level of deprivation;
- High levels of crime

In considering whether to designate an area for selective licensing on the grounds of property conditions, migration, deprivation and crime the local housing authority may only make a designation if the area also has a high proportion of property in the private rented sector. It is for each Council to determine what constitutes “a high proportion of properties in the PRS”. Nottingham City Council selected all areas in Nottingham with a PRS level higher than the national average of 19% as a starting point and adjusted this to remove multi person households (which would not be covered by selective licensing) to arrive at a figure of 16.3%.

The Council considers that there are grounds for a selective licensing scheme based on the antisocial behaviour, poor property conditions, deprivation and crime conditions.

The evidence collected by the Council using a number of sources such as complaints records, Police data, the Indices of Multiple Deprivation (IMD)¹ and a comprehensive stock condition survey carried out by the Building Research Establishment can be summarised thus:

- 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.
- Research shows that crime and ASB rate is 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.

ASB

- Nottingham has higher rates of incidents of ASB compared to the national average.

¹ The Indices of Multiple Deprivation is a set of data collected at national level showing the relative levels of deprivation in all local authority areas in England

- The rate of ASB calls (especially noise related) and rates of crime is higher in areas with a high proportion of PRS.
- Combining the Police data on ASB with the Council's own data shows there is a positive correlation between the rates of all ASB and noise related ASB and areas with a high proportion of PRS.
- The PRS accounts for a 10% variance in the rate of noise related ASB calls.
- For every 2 reports of ASB received by the Council in areas with a low proportion of PRS, 3 are received in areas with a high proportion of PRS.
- When compared to the owner occupied sector the rate increases to for every 3 reports in areas with a low proportion of PRS, 5 are received in areas where there is a high proportion of PRS

Poor property conditions

- Areas with a high proportion of PRS are more than twice as likely to experience issues of disrepair and one and a half 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
- Two thirds of complaints to the Council are attributable to the PRS that are not HMOs
- For every 3 reports made to the Council for areas with a high proportion of PRS, there would be 2 made in areas with a low proportion.

Deprivation

- Nottingham has high levels of deprivation. Out of the 182 City's lower super output areas (LSOAs), 61 are in the 10% most deprived in the country, and 110 are in the 20% most deprived. Overall, Nottingham is the 8th most deprived district in the country.
- Deprivation is measured by 7 distinct elements that make up the index of multiple Deprivation (IMD)
- Areas with a high proportion of PRS have higher levels of Crime, Barriers to Housing, and Living Environment and have lower levels of Income, Employment and Education than areas with a lower proportion of PRS in an areas
- Areas with a high proportion of PRS have lower than average performance in at least one of the indices, and 87 of the 88 areas are in the lower half of the City's ranking in one or more of the types of deprivation.

Crime

- Areas with a high proportion of PRS have higher incidences of all types of crime compared to the City overall and to areas with a lower proportion of PRS.
- Police data on crime shows that areas with a high proportion of PRS are almost twice as likely to experience crime as the rest of the city.
- 45% of areas where there is a high proportion are almost twice as likely to experience a crime rate in excess of the City average, with five areas also exceeding the national average.
- For every additional unit of PRS property the rate of crime is expected to increase by more than one and half times. A 15% difference in the crime rate

can be attributed to the proportion of PRS of in an area. The biggest variation of which is for violent crime.

- Crime is also one of the elements that is a measure of Deprivation. Areas with a higher proportion of PRS have a worse overall performance for crime as an indication of deprivation, than those with a low proportion, with 58% being in the lower half of the City's rank.

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 three of these criteria.

Qualitative Evidence gathered in the neighbourhoods to support the proposal

The experiences of a number of stakeholders working in the City's neighbourhoods were sought. This included Police officers, Neighbourhood Development Officers, Nottingham City Homes Patch Managers, and Community Protection Officers. This was done by engaging with the Neighbourhood Management Team (NATS) and attending their monthly meetings. In addition, an online survey was circulated to NAT attendees and their partners working in the area.

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.

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 was having 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.

Overall, the Council believes it has the evidence to support a scheme of selective licensing on a citywide basis. Whilst a few parts of the City do not meet the statutory criteria the vast majority of the Council's area does and to omit these areas from the proposal would create boundaries for the scheme which would be difficult to understand and undermine the completeness and objectives of the scheme. The Council may also legitimately take into account the likelihood of displacement, which is a poor landlord moving from one area which is covered by licensing to an area that is not. On this basis it is felt that a City wide scheme is justifiable.

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

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 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.

As part of the proposal a review of the Council's existing licensing schemes was undertaken. This 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 highlighted 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.

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. Nottingham scores particularly poorly on income, health, crime, and living

environment. Areas where there is the greatest deprivation are also areas where some of the greatest health inequalities exist within the City. 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.

Selective licensing, also helps to tackle homelessness by providing a two pronged approach that both addresses the issues that lead to homelessness and by providing an increased supply of higher quality accommodation for those displaced by it. Raising standards of management and property conditions helps 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. Having a good quality, stable home also helps other vulnerable tenants such as 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. The Scheme will also provide an opportunity to assist other vulnerable tenants through safeguarding, prevention of exploitation and signposting tenants to services that will support improved health, for example assistance such as smoking cessation or prevention of fuel poverty.

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.

The Council can also 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. 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. 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