

**EXECUTIVE BOARD - 18<sup>th</sup> JULY 2017**

<b>Subject:</b>	<b>Proposal for a Scheme of Selective Licensing for Privately Rented Houses</b>
<b>Corporate Director(s)/Director(s):</b>	David Bishop Corporate Director Development & Growth, Deputy Chief Executive Andy Vaughan, Corporate Director for Commercial & Operations Andrew Errington, Director Community Protection
<b>Portfolio Holder(s):</b>	Councillor Jane Urquhart, Portfolio Holder for Planning and Housing and Heritage Councillor Toby Neal, Portfolio Holder for Community Services
<b>Report author and contact details:</b>	Graham de Max, Housing Partnership and Strategy Manager Lorraine Raynor, Head of Community Protection, Chief Environmental Health and Safer Housing Officer
<b>Subject to call-in:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
<b>Key Decision:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
<b>Criteria for Key Decision:</b>	
<b>(a)</b> <input checked="" type="checkbox"/> Expenditure <input type="checkbox"/> Income <input type="checkbox"/> Savings of £1,000,000 or more taking account of the overall impact of the decision	
<b>and/or</b>	
<b>(b)</b> Significant impact on communities living or working in two or more wards in the City <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
<b>Type of expenditure:</b> <input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital	
<b>Total value of the decision: £20.960m</b>	
<b>Wards affected: All</b>	
<b>Date of consultation with Portfolio Holder(s):</b>	
<b>Relevant Council Plan Key Theme:</b>	
Strategic Regeneration and Development	<input type="checkbox"/>
Schools	<input type="checkbox"/>
Planning and Housing	<input checked="" type="checkbox"/>
Community Services	<input checked="" type="checkbox"/>
Energy, Sustainability and Customer	<input checked="" type="checkbox"/>
Jobs, Growth and Transport	<input type="checkbox"/>
Adults, Health and Community Sector	<input checked="" type="checkbox"/>
Children, Early Intervention and Early Years	<input checked="" type="checkbox"/>
Leisure and Culture	<input type="checkbox"/>
Resources and Neighbourhood Regeneration	<input checked="" type="checkbox"/>
<b>Summary of issues (including benefits to citizens/service users):</b>	
<p>This report informs Executive Board of the results of the consultation that has been completed following the Board's resolution of 22 November 2016 in respect of a proposed scheme of selective licensing for privately rented houses. Following consultation it is still proposed that a scheme of selective licensing be introduced but that it cover a reduced area. Some operational changes are also proposed. If the recommendations are approved the Scheme is still of a size to require submission to the Secretary of State for Communities and Local Government for confirmation before the scheme can be implemented.</p> <p>Use of selective licensing powers will provide the following benefits:</p> <ul style="list-style-type: none"> <li>• An opportunity to effectively influence higher standards of privately rented houses and to ensure effective management through more extensive control;</li> <li>• A key tool in contributing to the overall reduction of Crime, Disorder, and Anti-Social Behaviour (ASB); and</li> <li>• Lead to higher levels of customer satisfaction with private rented sector accommodation within the City</li> </ul>	

**Exempt information:**

Appendix 3 to this report contains 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 the Designation contained in Appendix 1 of the Report as being subject to selective licensing and confirm that Board is satisfied:-
  - that the statutory grounds for making a designation outlined in paragraph 2.6 of this report and all other statutory requirements have been met
  - that it has considered the other courses of action available to it that might provide an effective method of achieving the objective(s) that the designation would be intended to achieve, and
  - that it considers that making the designation will significantly assist it to achieve that/those objective(s)
- 2** To approve in principle the revised operational detail of the scheme of selective licensing outlined in the report
- 3** To agree that a submission be made to the Secretary of State for Communities and Local Government requesting confirmation of the Designation
- 4** To delegate to the Portfolio Holder for Planning, Housing and Heritage the power:-
  - to finalise and approve the submission documentation and operational scheme to be submitted to the Secretary of State for confirmation, and
  - to liaise with Officers and the Department for Communities and Local Government in relation to the Confirmation of the Scheme and make any subsequent determinations that may be necessary in relation to it arising from that process.
- 5** To note the requirement to establish a ring fenced reserve, as detailed in paragraph 4.4, for this scheme.
- 6** To approve spend of £0.139m for set up costs and note in paragraph 4.1. how this will be funded
- 7.** To approve the financial application of the set up costs if DCLG do not approve the scheme
- 8.** To note the use of the Council's Firmstep system as the on line portal for the operational delivery of the scheme

**1 REASONS FOR RECOMMENDATIONS**

- 1.1 Having given full consideration to the consultation responses there is still believed to be a case for selective licensing in Nottingham. It is however no longer recommended that a Citywide scheme is pursued, but that the focus of the scheme should be on those areas which contain a high proportion of Private Rented Sector (PRS) properties. This is felt to be more proportionate to the problems being experienced in Nottingham and will provide a targeted response which can be reviewed and assessed. The reasons for proposed reduction in the size of the designation are outlined more fully in section 2 below.
- 1.2 Because the proposed designation still exceeds both 20% of the City's private rented sector, and 20% of its geographical area, it will still be necessary to apply to the Secretary of State for Communities and Local Government for confirmation of the scheme.

## **2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)**

- 2.1 At its meeting of 22 November 2016 Executive Board approved in principle a proposal for a Citywide selective licensing scheme for private rented houses and gave approval for consultation on the scheme to be carried out. The report (the November Report) is available here including the “Draft Scheme” (Appendix 2) and “Draft Designation” (Appendix 1):  
<http://committee.nottinghamcity.gov.uk/ieListDocuments.aspx?CId=177&MId=5771&Ver=4>
- 2.2 The consultation ran for 11 weeks from 16 January until 31 March 2017, and followed the requirements as set out in the DCLG document *Selective Licensing in the Private Rented Sector: A Guide for Local Authorities*. The consultation primarily took the form of an online questionnaire, with a number of events giving the opportunity for the scheme to be discussed and comments made. A full summary of the consultation programme (appendix 2iv) and the findings of the consultation (appendix 2 iii) are attached.
- 2.3 The responses received via the online survey, plus those submitted separately and in the meetings and written submissions have been analysed. The key findings from the consultation are set out in the main consultation report at appendix 2. Additionally, the main comments and suggestions about the proposal have been themed and responses indicated for consideration (appendix 2vi). Particular regard should be had to this latter appendix as the responses have in many cases shaped the revised proposal currently before the Board.
- 2.4 It is still believed that the case for a scheme of selective licensing remains strong and that the reasons for making a scheme and the objectives the Council aims to achieve by doing so remain as indicated in the Draft Scheme. However, taking the consultation responses into account and on further consideration of the evidence base it is now recommended that a smaller designation be submitted to the Secretary of State for confirmation. The reasons for this recommendation and an indication of the changes which will need to be made to the Draft Scheme before it is submitted to the Secretary of State are outlined below. It is anticipated that the Designation will now cover approximately 32,000 properties within the City.

### **Proposed changes to the Draft Scheme and Draft Designation**

- 2.5 Although some changes are being proposed significant sections of the Draft Scheme will not be materially affected. In particular the chapters on the background to the PRS in Nottingham, the Strategic Case, and reasons why it is felt a Scheme will help tackle the problems and the outcomes the Council seek still hold true and the evidence base is still considered (subject to the proposed amendments outlined in paragraph 2.7 below) to be fundamentally sound. Some textural amendments will however be required to reflect the reduced scheme and the reasons for the changes. In addition other amendments will need to be made (for example to amend operational documents such as conditions and compliance guidance) and to bring the documentation up to date. For this reason Board is asked to delegate power to the Portfolio Holder for Planning, Housing and Heritage to approve the submission documentation once those changes have been made. The significant changes are as follows

## **Designation and Evidence base**

- 2.6 Board will recall that a scheme can only be based on statutory grounds and that there are a number of statutory tests which have to be met before a scheme can be implemented (paragraphs 2.5 to 2.7 of the November Report). A City-wide scheme was originally proposed on the grounds of:-
- significant and persistent problem caused by anti-social behaviour;
  - poor property conditions;
  - high level of deprivation and;
  - high levels of crime
- It is still considered that there is an evidential and strategic basis for the currently proposed designation based on those grounds.
- 2.7 A number of consultation responses were received about the proposed Citywide coverage of the scheme, particularly pointing out that although some areas (e.g. Wollaton, Rise Park, Clifton South) did not meet the grounds for inclusion in the scheme they were still in the Draft Designation. These areas had primarily been included in the consultation proposal in order to produce a coherent and cohesive scheme boundary which could be easily understood by landlords, tenants and those enforcing the scheme. Given that most of the City area was felt to meet one or more of the statutory grounds it seemed appropriate at that time to include all of the City in the Draft Designation especially bearing in mind the potential for displacement.
- 2.8 There were also comments in the consultation responses querying why areas of the City which are predominantly social housing estates were being included within the proposed designation. In the evidence gathering these areas had exhibited high levels of ASB and whilst the other 3 grounds examined do, the ASB ground does not. However, in light of a number of consultation responses received on this point, it is considered that these areas should be omitted from the Designation. The most significant change to the shape of the designation therefore is omission of the estates in the north west of the city.
- 2.9 Whilst a more focused approach is being taken and those areas which only met the ASB ground have been removed from the Designation a considerable proportion of the area to be designated still meets the ASB criteria in addition to one or more of the other statutory grounds. ASB will still therefore form a ground for the Designation in those high PRS areas where it is present.
- 2.10 In order to create a coherent, precisely definable basis for the Designation the boundaries have once again been drawn by reference to natural or physical boundaries (such as arterial roads) to provide an easily legible and understood scheme.
- 2.11 There are to be 2 changes made within the evidence itself, specifically relating to the ASB Criteria.
- When presenting the material to November Board, in assessing whether areas qualified for inclusion in the designation based on the Council's ASB data, the wrong threshold was used for Lower Super Output Areas (LSOAs) with a higher incidence of noise related ASB

than the city average. The report contained the correct average rate threshold which was set at the rate of 0.08 incidences per property, however only areas that had a rate in excess of 0.12 were included. This brings in an additional 11 LSOAs into the coverage for ASB criteria (which were not already included under other grounds).

- The Council ASB data also contained records relating to commercial properties. The report does not suggest that the data is restricted to residential addresses; however it was not the intention that these be included. Whilst the evidence did not state it does not contain commercial premises, there is a likelihood that it would be assumed it refers to residential properties only. Commercial properties will therefore be removed from the evidence. Overall this means an additional 6 LSOAs qualify for inclusion taking the total to 140.

As previously mentioned, the ASB criteria will now only be used in conjunction with areas that have a high proportion of PRS, so although the method or approach to the data will reflect the above changes, the number of LSOAs directly included in the designation will remain at the 88 with a high proportion of PRS.

- 2.12 The Designation which Board is asked to approve is shown at appendix 1 of this report and the Draft Scheme will need updating prior to submission to the Secretary of State to reflect both the consultation responses and these changes.

### **Proposed Operating Model and Business Plan**

- 2.13 Fees - The Operating model proposed in the November report proposed a fee of £600 for non-accredited landlords and £460 for accredited landlords. During the consultation comments were made suggesting a larger discount for accredited landlords to help recognise those better landlords who are proactively managing and investing in their properties and also requesting the power to pay by instalments. Since November the Local Government Association (LGA) has updated its guidance on the calculation and application of fees following rulings by both the Supreme Court and European Courts on this issue.
- 2.14 Taking all of these issues into account it is proposed that the fee structure be changed from that proposed in the Draft Scheme. A two part fee is now proposed which complies with recent case law, in part meets requests by applicants to pay by instalments, and minimises risks to the Council around recovery of non-payment of instalments. The first part of the fee will cover the costs of processing and determining the licence application, with the second part of the fee covering remaining recoverable costs (enforcement and compliance costs). A lower fee (now £400) is still proposed for accredited landlords. This is more in line with fee levels indicated by some consultees. If an accredited landlord loses their accreditation during the duration of their licence then it is proposed that the difference in fees will become payable.
- 2.15 The proposed fees have been reviewed taking into account several factors including the reduced size of the designation, online only applications, additional staff to support stakeholder engagement, changes to staffing costs and the expectation that, on average non accredited licence applications will take longer to process.

The Council will inspect a higher proportion of non-accredited properties, compared with accredited properties. It is anticipated that 10% of accredited properties will be inspected and 50% of non accredited properties will be inspected. This is likely to mean that not all landlords may receive an inspection.

As detailed in FINANCE COLLEAGUE COMMENTS below, the anticipated non-recoverable costs have been reduced (from the November Exec Board report) based on changes to legislation which is likely to reduce the number of prosecutions, along with and an anticipated reduction in the number of interventions under Part 1 of the Housing Act, the housing, health and safety rating system (HHSRS).

The likely fees are:

	1 <sup>st</sup> payment	2 <sup>nd</sup> payment	<b>Total fee</b>
Standard fee	£375	£280	<b>£655</b>
Accreditation fee	£270	£130	<b>£400</b>

Where a licence application is refused, no refund shall be given. The second payment will be following the applicant being served with statutory notification of the intention to grant a licence. Payment of the 2<sup>nd</sup> fee will be a condition of the licence.

The Council will remove the proposed option to pay an additional £100 for a paper application form. All applications will be online.  
The Council will remove the proposed charge for issuing a Caution.

The Portfolio Holder, Corporate Director for Commercial & Operations and Director Community Protection all have existing delegated powers to approve fees and the final fee levels will be determined using these powers.

2.16 Licence conditions – A number of comments were made during the consultation about the proposed licence conditions, along with changes to the proposed operating model (e.g. online only applications) which resulted in them being reviewed. A summary of the proposed changes to the licence conditions which were presented in November are:

- **Condition 17** – Adding a further requirement that where it has been identified by the Police or Council that additional security measures are necessary, that these be undertaken in a reasonable time.
- **Condition 20** – Removing the reference to the licence holders tenancy agreement and making this condition simpler to implement, requiring a minimum of 24 hours' notice given to the tenant before inspecting the property.
- **Condition 23** – Clarifying the wording about complaints made by tenants to the licence holder.
- **Condition 26** – Ensuring the written statement of the terms upon which tenants occupy the property include details of the tenants responsibility for not causing ASB.

- **Condition 27** – removing the requirement for the licence holder to provide information to the Council about the steps they took in evicting a tenant.
- **Condition 32** – Providing a simpler condition about how licence holders tackle complaints about anti-social behaviour and how licence holders can comply with the condition. This has reduced the condition from 9 key points to 3 key points and provides a link on the Council's website to an ASB good practice guide.
- **A new condition**  
Licence holders who are accredited by a body approved by the Council shall ensure that accreditation status and / or membership of that body is maintained for the duration of this licence. If for any reason accreditation status/membership ceases the licence holder shall inform the Council in writing within 21 days and shall pay to the Council a sum representing the difference between the standard and accreditation fees for licences applicable at that time.
- **A new condition**  
Licence holders shall ensure payment of the 2<sup>nd</sup> part of the licence fee within 14 days of the licence being granted.
- **Condition 36 (was condition 34)** – Widening licence holder training to include National Approved Letting Scheme (NALS).
- **Condition 37 (was condition 35)** – Requiring reports, certificates, documents etc. to be provided electronically only via a new online portal, not by any other method.

2.17 Changes to the Housing Enforcement and Compliance Guidance – This is a mainly operational document. In light of changes to legislation (Housing and Planning Act 2016) and to provide a broader overview of how the Council operates and enforces the wide range of housing and other related legislation this guidance document now includes:

- How in general the Council undertakes it's housing enforcement and compliance activity
- How the Council works in partnership with other team and partners in tackling issues related to wider matters including ASB and crime, not just housing
- How the Council provides support and advice to develop landlords
- Details of the wider range of legislation and enforcement tools available to the Council to deal with housing and neighbourhood issues (not just housing licensing legislation)
- Details of the Council's complaints process
- Overview of publicity and media linked to enforcement actions taken
- List of legislation enforced by the Safer Housing and Housing, Licensing and Compliance teams
- Data protection statement

2.18 Changes to the how the scheme will operate including staffing

The key changes are:

- **No grace period.** Assuming that the Designation is confirmed it will come into force on a date set by the Secretary of State and from that day landlords will be expected to comply. This change has been brought about due to changes in the Housing and Planning Act 2016 which allows tenants to make applications to Tribunals for rent repayment orders (RROs), where a landlord has failed to comply with certain legal requirements, including failing to apply for a licence. Any grace period would have caused confusion amongst landlords and tenants about when such applications could be made.
- **Online only applications**  
Whilst the Council consulted on a paper application form, this will no longer be an option. Landlords will be required to apply through an online portal and submit all their required documents and fee via this portal. It is anticipated that licence documents and correspondence shall also be issued through this portal, unless there are legal or other exceptional reasons why the Council cannot do this. An assessment of Firmstep was held at the Operational Delivery Executive Group and its ability to deliver the portal required for this.
- **Officers required and total costs**  
Following updates to the designation size and fees as discussed in paragraph 2.14 staffing numbers and total costs have changed. The table below shows the updated costs and staffing numbers, based on 75% of applications being received.
- The number and roles of staff will vary through the 5 year period depending on demand and the skills required to deliver the scheme. The costs of the scheme income, expenditure and fee will be monitored and adjustments made as appropriate through the life of the scheme

#### **Officers required and total costs**

	Number of staff Per year	Salaries including on costs (£m)	Overhead costs (£m)	Set up costs * <sup>2</sup> (£m)	Total (£m)* <sup>3</sup>
<b>Processing and compliance</b> Licensing Support Officers / Supervisors, Enforcement & Environmental Health Officers, Licensing Support Team Leader Principal Environmental Health Officers Operations Manager	59 * <sup>1</sup>	9.400	2.735	0.698	<b>12.833</b>
<b>Support</b> Landlord and Tenant Liaison	2	0.377	0.093	0.024	<b>0.494</b>
<b>Enforcement</b> Support Officers Enforcement Officers, Environmental Health Officers,	10	1.895	0.370	0.095	<b>2.360</b>

Principal Environmental Health Officer, Police Constable, Solicitor					
<b>Totals</b>	<b>71</b>	<b>11.672</b>	<b>3.198</b>	<b>0.817</b>	<b>15.687</b>

\*1 average number of staff based on the standard Fee £655

\*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.

### Legislative changes in 2017

- In April 2016 the Housing and Planning Act received royal assent. The Council now has powers to issue civil penalties for certain Housing Act 2004 offences.
- Rent repayment orders (RRO). The scope of rent repayment orders has broadened to include more offences and to make it easier to apply for these.

There are other possible changes that may impact on licensing schemes in 2017/18 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,

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.

2.19 Reviews of existing licensing schemes – these will be updated and lend further support for Selective Licensing. Changes will include:

- Updating the statistics and data to recognise the schemes have moved on from the data provided in November. Statistics are now to May 2017.
- Providing more updates to the changes to the way the Council now works when dealing with tenant complaints and wider housing issues. Examples will be included of some of the work being undertaken following the successful bid from Department of Communities and Local Government (DCLG) funding known as Nottingham Together to support work cohesive communities, safer homes and response to rogue landlords
- Updates on how the Council works with partners in tackling issues related to a house, where partners may also take action and how this can have a positive impact on tackling crime and ASB, as well as improving property conditions

- Splitting into 2 separate documents (one for mandatory licensing and another for additional licensing)

### **3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS**

3.1 To not pursue the scheme any further: rejected because the evidence presented to Executive Board in November 2016 shows a clear need for the scheme. The alternative ways of dealing with the problems identified were set out in the November 2016 Board report. It was shown that although a number of initiatives, combined with the use of statutory powers had been successful, problems persisted and there was no alternative than to implement a scheme of selective licensing in order to tackle them.

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

#### 4.1 Summary

- I. The total cost of the scheme over **the five years is £20.960m** with a licence **cost per property** being calculated at **£655**.
- 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 over the five-year period. Please refer to paragraph 4.4
- III. The scheme will require set up costs before Central Government make the decision. Originally, for £0.080m but due to considerations in paragraph 4.6 **Table 3**, this may increase to £0.139m.

Submission to DCLG will be at the end of July 2017; it is anticipated that feedback will be given in October 2017. If the scheme is not approved this cost will be non-refundable and will be captured as part of the outturn process undertaking the appropriate approval process with Portfolio Holder for Resources and Neighbourhood Regeneration.

It is the requirement of the report author to keep finance and the Portfolio Holder up to date on progress of the DCLG approval process.

The £0.139m is set out in **Table 1 below**:

<b>Table 1: Estimated maximum set up costs</b>	
<b>Costs</b>	<b>£m</b>
IT costs (November Exec Board approval)	0.080
Management Staff costs (as detailed in Table 3)	0.059
<b>TOTAL</b>	<b>0.139</b>

4.2 The calculations are based on the following assumptions:

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

- 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.
  - Processing costs of each licence, application, checking etc. – this has been calculated using percentages for the amount of time taken.
  - Enforcement costs (as per recent change to legislation).
  - Management fees.
  - Start-up costs.
  - Exit costs.
  - Staff overhead costs.
  - Inflation factors.
- III. For the purposes of this report and forecasting purposes, it has been assumed that 75%, 24,000, of privately rented properties will apply.
- IV. This assumption is based on the experience of the Additional Licensing scheme which is still progressing.

### 4.3 Risks

- I. There are risks to this scheme which could have an impact on the financial business model.
- II. An example of some of the risks that could impact on the schemes financial viability and would require a resources review to mitigate are:
- Level of applications vary.
  - Landlords may gain accreditation in order to secure a lower fee. Accredited landlords could receive a reduction of £255. Significant changes to accreditation numbers will affect costs and income. The approximate number of landlords currently accredited is 767.
  - If operational activity identifies unexpected qualities of property (better or worse) which would mean staffing balance or costs are different to those that are anticipated.
  - If there is any legislative or guidance changes
  - Any other changes to service delivery which is impacted by issues for example, IT, accreditation providers, staffing accommodation etc, it may be necessary to amend the business model
- III. The valuation and sensitivity of risks above currently cannot be quantified however; these will be developed as the scheme progresses. During this time the following needs to be in place to ensure the early warning of risks and the ability to undertake corrective action mitigating an financial impact to the organisation:
- Robust performance monitoring frameworks for both operational and financial targets.
  - Staffing flexibility set up to be able to align to activity levels.
  - The business model includes full staffing exit costs (as referred to above).

### 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.

- 4.5 The Selective Licencing scheme also includes non-recoverable costs which over the five years are estimated at £0.992m and will be funded from the ring reserve; these are set out in **Table 2** below:

<b>Table 2: Estimated Non-recoverable costs</b>	
<b>Costs</b>	<b>£m</b>
Housing rating Inspection	0.525
Prosecutions of licence conditions through the courts	0.300
Tribunal costs including Legal	0.153
Locksmiths	0.014
<b>TOTAL</b>	<b>0.992</b>

These figures have been updated since November 2016 report as a consequence of the consultation. These are as follows:

- As a result of the new area of focus, the designation has been reduced from 35,000 to 32,000 properties.
- New legislation introduced for Civil penalties which is likely to reduce the number of prosecutions
- Better understanding of the likelihood of challenges to tribunal which shows a decrease

- 4.6. Due to the size and complexity of this scheme, it is proposed that number of senior officer posts will be recruited to before approval from DCLG. These incur a risk should DCLG not approve the scheme and the, initial recruitment and salary costs may not be recoverable. These are set out in **Table 3** and form part of the £0.139m as set out in section 4.1

It has been assumed that these posts will be recruited from 1<sup>st</sup> September 2017

<b>TABLE 3: 2017/18 Senior Officer Posts</b>			
<b>Positon</b>	<b>Grade</b>	<b>FTE</b>	<b>Pro-Rata Salary*</b>
HOS	SLMG 5	0.5	£15,750
Operations Manager	Grade K	1.0	£28,560
Licensing Support Team Leader	Grade F	1.0	£14,850
<b>TOTAL</b>		<b>2.5</b>	<b>£59,160</b>

- 4.7 In addition to the above there will be a number of operational posts recruited after DCLG approval but a month before the scheme commences. This is to ensure systems processes are established and to also assist with further recruitment.

It is assumed that the recruitment of these posts will commence 1 December 2017 with this being 1 month before the scheme commences and these are set out in **Table 4** below. These posts will be paid for by licence fee income and should there be a shortfall due to the timeliness of the scheme commencing and the financial year-end deadline; the appropriate accounting procedure will be applied.

<b>TABLE 4:Operational Staff Posts</b>				
<b>Positon</b>	<b>Grade</b>	<b>FTE</b>	<b>Individual Pro-Rata Salary*</b>	<b>Total</b>
Principal Environmental Health Officer	Grade I	1	£15,080	£15,080
Environmental Health Officer	Grade H	1	£13,056	£13,056
Enforcement Officer	Grade F	3	£9,896	£29,688
Licensing Support Team Leader	Grade F	1	£9,896	£9,896
Licensing Support Supervisor	Grade E	4	£8,404	£33,616
Licensing Support Officer	Grade D	21	£7,176	£150,696
<b>TOTAL</b>		<b>31</b>	<b>£63,508</b>	<b>£252,032</b>

All of the posts in **Tables 3 & 4** are included in the LGA toolkit and form part of the licence fee

All of the assumptions above are predicted on the scheme commencing 1<sup>st</sup> January 2018

Ceri Walters – Head of Commercial Finance, 7<sup>th</sup> July 2017

### **Staffing Implications**

- 4.8 On 13 June 2017 ACOS approved the establishment of a new position, Head of Safer Housing. A key element of this role will be to lead the development and delivery of the Selective Licensing Scheme. As this is a Senior Management position and in order to provide the required level of leadership for the operational delivery of the scheme, it is necessary to commence the recruitment for this position prior to approval being sought from DCLG. The financial implications associated with this are in Section 4.6.
- 4.9 The potential resource and people implications should be considered with colleagues within Human Resources (HR) to look at the most appropriate, cost efficient and timely options for filling the predicted posts.
- 4.10 It is proposed to recruit to a number of operational delivery officers pre DCLG approvals in order to ensure systems and processes are established and to support the recruitment programme. These posts are as follows (the financial implications associated with this are in Section 4.6):

<b>Positon</b>	<b>Grade</b>	<b>FTE</b>
Operations Manager	Grade K	1.0
Licensing Support Team Leader	Grade F	1.0
<b>TOTAL</b>		<b>2.0</b>

- 4.11 If the scheme is adopted, in order to ensure we can process applications immediately at go live, there will be a requirement to commence the first cohort of operational delivery officers a month prior to go live date in order to induct and train these. These posts are as follows:

<b>Positon</b>	<b>Grade</b>	<b>FTE</b>
Principal Environmental Health Officer	Grade I	1
Environmental Health Officer	Grade H	1
Enforcement Officer	Grade F	3
Licensing Support Team Leader	Grade F	1
Licensing Support Supervisor	Grade E	4
Licensing Support Officer	Grade D	21
<b>TOTAL</b>		<b>31</b>

- 4.12 Due to the scale of the recruitment, it is proposed to source focused HR recruitment support for this activity. This has been included in the initial set up costs and forms part of the fee.
- 4.13 Recruitment will commence if agreement by DCLG is given. The ability to recruit sufficient competent and, where appropriate, qualified staff in the 3 month period before going live will be difficult due to tight timescales. It is proposed that if staff cannot be recruited through the normal processes then the agreed procedures for recruiting consultants/agency staff will be used, as necessary, to ensure there is sufficient resource and capacity to adequately process licence applications if the scheme is adopted.
- 4.14 If the scheme is adopted, consideration needs to be given to the contractual status of Officers, potentially with a mix of temporary and permanent contracts.
- 4.15 As the duration of the scheme is time limited for 5 years, it is essential an appropriate exit strategy is in place in order to terminate the contract in line with NCC guidance and national legislation. Management will need to ensure appropriate timelines are in place to notify the affected employee and give appropriate contractual notice. Potential costs in any exit arrangement such as redundancy compensation has been budgeted for.

Wendy Harvey - HR Practice Advisor Community Protection, 4<sup>th</sup> July 2017

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

- 5.1 In order for the Council to make a designation it 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

The Council must not make a designation unless:-

- it has considered whether there are any other courses of action available to it that might provide an effective method of achieving the objective(s) that the designation would be intended to achieve, and;
- it considers that making the designation will significantly assist it to achieve that/those objective(s)

- 5.2 Consultation has now been carried out and Councillors should have regard to the consultation responses appended and in particular appendix 2vi which sets out officers' views and responses to the consultation comments. The matters outlined in 5.1 above were addressed in the Draft Scheme and Councillors should ensure that they are satisfied that those criteria are met. As indicated in paragraphs 2.5 above it is suggested that the evidential basis, grounds for making a designation and justification for a designation are essentially as set out in the Draft Scheme though the Designation itself has been reduced in size to focus on those areas where there are high levels of PRS and in response to the consultation.

- 5.3 Due to the size of the proposed Designation it will still have to be submitted to the Secretary of State for confirmation and if confirmed the secretary of State will determine the implementation date for the Scheme. Guidance indicates that the Secretary of State expects a number of matters to be included in submissions and whilst these were primarily covered in the draft Scheme that documentation will need to be brought up to date to reflect the changes to the Designation and various other issues including those arising from consultation. It is therefore recommended that if the Board approves the Designation that power be delegated to the Portfolio Holder for Planning and Housing and Heritage to finalise the submission documentation and deal with any issues that may arise during the Confirmation process.

- 5.4 There is a risk that the Secretary of State may take an alternative view on the evidence or approach taken by the Council and may refuse to confirm Designation. 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 public law grounds were met. Alternatively a smaller scheme or schemes which fell below the threshold requiring the Secretary of State's consent could subsequently be considered and implemented.

- 5.5 Assuming that the Designation is confirmed then any challenge to the principle of the Designation would be against the Decision of the Secretary of State (albeit the Council would be an interested Party). If the Scheme becomes operational then applicants remain entitled to challenge various operational aspects of the scheme such as conditions, fees etc. Regard has been had to up to date guidance and case law with a view to minimising the risks of challenge and Officers in any event have a series of delegated powers enabling changes to be made to the operational elements of the scheme should these need to be reconsidered in the future.

Ann Barrett - Team Leader, Planning and Environment Team 4<sup>th</sup> July 2017

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

- 6.1 This report indicates that if the proposed licensing scheme is implemented a significant number of new full time equivalent posts will be created. Property will assist in the identification and if appropriate, acquisition of suitable accommodation for the new team. However a budget must be put in place to pay accommodation costs including market rent, rates, utilities and repair and maintenance costs as well as initial fit out costs.

## **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?

No

An EIA is not required because:  
(Please explain why an EIA is not necessary)

Yes

Attached as Appendix 4, and due regard will be given to any implications identified in it.

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

10.1 None

**11 PUBLISHED DOCUMENTS REFERRED TO IN THIS REPORT**

11.1 Executive Board Report 22<sup>nd</sup> November 2016 Proposal for a scheme of selective licensing for privately rented houses