

EXECUTIVE BOARD – 17th April 2018

Subject:	Implementation of a scheme of Selective Licensing for Privately Rented Houses and approval of licence conditions and fee.
Corporate Director(s)/Director(s):	David Bishop , Corporate Director Development & Growth, Deputy Chief Executive Andy Vaughan , Corporate Director for Commercial & Operations Andrew Errington , Director Community Protection
Portfolio Holder(s):	Councillor Jane Urquhart , Portfolio Holder for Planning and Housing and Heritage Councillor Toby Neal , Portfolio Holder for Community Services
Report author and contact details:	Graham de Max , Housing Partnership and Strategy Manager Lorraine Raynor , Community Protection - Chief Environmental Health and Safer Housing Officer Anton Menzies , Community Protection - Head of Safer Housing David Hobbs , Operations Manager - Selective Licensing
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 X Capital
Total value of the decision:	£25,092,000 (gross), £992,000 (net expenditure) over five years
Wards affected:	All
Date of consultation with Portfolio Holder(s):	26th February 2018
Relevant Council Plan Key Theme:	
Strategic Regeneration and Development	<input type="checkbox"/>
Schools	<input type="checkbox"/>
Planning and Housing	X
Community Services	X
Energy, Sustainability and Customer	X
Jobs, Growth and Transport	<input type="checkbox"/>
Adults, Health and Community Sector	X
Children, Early Intervention and Early Years	X
Leisure and Culture	<input type="checkbox"/>
Resources and Neighbourhood Regeneration	X
Summary of issues (including benefits to citizens/service users):	
<p>This report informs the Executive Board of the outcomes of the submission to the Secretary of State for the Ministry of Housing, Communities and Local Government for a scheme of Selective Licensing for housing in the Private Rented sector in our city. This will mean that (subject to certain exemptions) privately rented properties in the designated area (an estimated 32,000 properties) will be required to have a licence under the scheme.</p> <p>The implementation and subsequent delivery of the scheme will provide the following benefits to the city;</p> <ul style="list-style-type: none"> • Improve the standards in the private rented sector and to ensure effective management of these properties through more extensive control; • Contribute to tackling and reducing Crime, Disorder, and Anti-Social Behaviour (ASB); • Identify vulnerable citizens that we would not have had the ability to identify or engage with without this scheme. In doing so, we can ensure that appropriate protection measures are put in place using key stakeholders that will improve their health and 	

wellbeing.

- **Engage, build and nurture positive relationships** with new and existing landlords that we may not have had the opportunity to do so without the scheme.
- **Prosecute rogue landlords** who fail to reach those standards and/or expose tenants to threat, risk and/or harm; and
- By clearly demonstrating our commitment to the above, **improve confidence and satisfaction** of our citizens living in the private rented sector.

Exempt information:

None

Recommendation(s):

- 1** To note that the area shown in the Designation contained in Appendix 1 of the report is confirmed by the appropriate national authority. Selective Licensing will come into effect in this area from the **1st August 2018**. The Director of Community Protection has published the required notices under Section 83 of the Housing Act 2004 under delegated powers.
- 2** To **approve** the operational detail of the Selective Licensing scheme outlined in the report and at Appendix 2 – Licence Conditions for Privately Rented Houses. Appendix 3 – Operational Delivery and Business Plan.
- 3** To **confirm** that the Director of Community Protection has the delegated authority to make changes to the operational delivery of the scheme during its five-year lifetime. For example, this may include changes to the expenditure from within the agreed overall budget, recruitment, licence conditions, structural service change and fee review.
- 4** To **approve** the establishment of the scheme over the five-year period, with an estimated value of £25,092,000.
- 5** To **approve** the spend as detailed in sections 4.8 and 4.13 of this report from **1st May 2018** until the end of the scheme - **1st August 2023**.

1. REASONS FOR RECOMMENDATIONS

- 1.1** Following the resolutions of Executive Board of 17 July 2017, a Designation for a scheme of Selective Licensing was submitted to the Secretary of State for Housing, Communities and Local Government for confirmation. That confirmation has now been received with the instruction that the scheme take effect in Nottingham on **1st August 2018**. The recommendations therefore ask the Board to note the confirmation of the scheme and that the Director of Community Protection has published the appropriate statutory notification under delegated powers. The remaining recommendations are necessary to ensure the implementation of the Designation and Scheme of Selective Licensing which was a priority under the Council Plan.

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 Designation for a scheme of selective licensing scheme for private rented houses and gave approval for consultation on the scheme to be

carried out. A copy of the full report (the November Report) is available here <http://committee.nottinghamcity.gov.uk/ieListDocuments.aspx?CId=177&MId=5771>

- 2.2 Following the consultation, taking into account the responses and further consideration of the evidence submitted, the case for selective licensing was still strong. As such a further report was approved by the Council's Executive Board meeting on 18 July 2017. A copy of the full report (the July Report) is available here <http://committee.nottinghamcity.gov.uk/ieListDocuments.aspx?CId=177&MId=6595&Ver=4>
- 2.3 The Board approved a revised, smaller designation, which now covers approximately 32,000 properties and approved this designation to be submitted to the Secretary of State for confirmation.
- 2.4 The submission was made on 6th October 2017 and on 8th February 2018 the Council was notified that the Designation had been confirmed to come into effect from 1st August 2018. The Council was obliged to publish this notification of confirmation to the public. On 15th February 2018 the Director of Community Protection published the notification under delegated powers.
- 2.5 This report asks the Executive Board to note and approve the operational delivery of the scheme in principle and to note that Officers already have delegated powers which may be used throughout the lifetime of the scheme. Being a five-year scheme, there may be a requirement to make further amendments on matters such as fees and conditions if necessary or appropriate.

Proposed Operating Model and Business Plan

- 2.6 The proposed licence conditions are included in Appendix 2. The final details of the operating model and business plan are found in Appendix 3.
- 2.7 Business operations including HR, Legal, Communications and Marketing, IT, Finance, Property and the operating principles of the scheme for both set up and ongoing costs for the period of the scheme have been approved. This approval was given in the previous Executive Board report in July 2017. The delegated decisions required to commence recruitment and for the set up costs required to establish the scheme are in place.

The Licence Fee: In summary the application fees are:

	1st payment (part A)	2nd payment (part B)	Total fee
Standard fee	£460	£320	£780
Fee for accredited landlords' properties	£360	£120	£480

There are further fees which may be applied; the full list of fees can be found in Appendix 3. The fee is divided into **two parts**. The first reflects the **administrative** element of the fee and the second covers **compliance and enforcement**. The ability to pay by instalments was requested by some of the consultation responses. The proposed fee complies with the Local Government Association (LGA) Guidance (May / June 2017). The Portfolio Holder, The Corporate Director for Commercial & Operations and The Director of Community Protection have existing delegated powers to approve fees and these will be subject to **annual review** throughout the duration of the five year scheme. Any revised fee will only apply to new applications.

Licence conditions

The licence conditions have been continually reviewed and updated since the Executive Board reports (November 2016 and July 2017) with minor changes made as a result. The proposed conditions can be found in Appendix 2. Once again, these conditions will be reviewed periodically and may be amended under delegated powers during the course of the scheme.

Exempted properties

Most privately rented properties in the designated area as shown in Appendix 1 will require a licence under the scheme. However, there are a number of statutory exemptions, which are reflected in the Designation. These can be found at Appendix 1.

Duration of the licence

The applications will be assessed and Landlords who reach the required standards will be issued a licence for **five years**. It needs to be noted that some may not reach those standards and that the Safer Housing team will need to take positive action to deal with those failures. To comply with the Council's Housing Enforcement and Compliance guidance, Housing Act 2004 and associated regulations, some licences may be refused, issued for a shorter period, varied or revoked. The Enforcement and Compliance guidance is available on the Council's website.

3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

- 3.1 To not pursue the scheme any further: Rejected. As outlined in earlier reports there is a justification for selective licensing which has been confirmed by the Secretary of State and to abandon the scheme would not meet the Council's priorities.

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

FINANCIAL COMMENTS

- 4.1 The estimated value of this scheme over the five-year period is £25,092,000
- 4.2 The standard fee for a licence will cost £780 per property
- 4.3 There is a reduced fee for those properties in an accredited scheme. This fee is set at £480
- 4.4 Based on research and evidence gathering, it is estimated that there are circa. 32,000 private rented properties that potentially fall within the Selective Licensing criteria
- 4.5 This is a self funded scheme. There will be no gain or loss in association with this scheme, it must remain cost neutral, therefore there will be no negative impact to the MTFP
- 4.6 The fee has been calculated by using an updated Local Government Association (LGA) toolkit to ensure value for money, but also to ensure that all allowable costs are recovered.
- 4.7 The assumed 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.
- Overhead costs to include accommodation, IT, HR, Finance & Legal support.
- Inflation factors.

4.8 **Table 1** below is a breakdown of costs. Original approval was granted on the original fee and costs being based on 75% (24,000) turnover of properties. This decision and table below captures the costs of 100% (32,000) properties. The costs are a guide and need to be flexible throughout the 5 year period based on demand and the risks highlighted in point 4.9 of this report

Table 1: Estimated Operating Costs of scheme	£'000
Personnel Costs	17,491
Operating Costs	
Premises	1,082
Transport	83
Supplies & Services	1,120
IT Support	1,056
Other overheads inc EHO, Legal, Finance, HR , Business Analyst support functions	1,515
Operating Costs	4,856
Publicity and exit fees	1,753
Non-recoverable costs - see Table 2*	992
Total Costs	25,092

** These costs are not part of the fee

In the event that the amount of licences received varies from the estimated 32,000 properties, the income will invariably change, costs would remain in line to reflect this. In the event that the licence numbers exceed the 24,000 as estimated and up to 32,000, additional resources would be factored in and budgeted for accordingly. Likewise, if income falls below, the operating model would be reduced to reflect this. The scheme will remain self-sufficient.

4.9 Risks

The risks were highlighted in the Executive Board report in July 2017 and remain the same.

- I. There are risks to this scheme which could have an impact on the financial business model (covered below)
- 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 £300. Significant changes to accreditation numbers will affect costs and income.
 - 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, guidance changes and/or case law rulings

- 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 any 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).

4.10 The scheme will run for a **five year** period. Every year, a balanced net zero budget will be set based on projected activity. Monthly budget monitoring will ensure the budget stays on track. Periodically where necessary, the budget may be re-aligned in year to reflect changes in activity.

4.11 There is also the inevitability that applications will not be made uniformly over the duration of the scheme. As with previous similar licensing schemes, it is likely that a larger proportion of income will come in in the early years, meaning there will be no impact on borrowing from the authority. A cash flow statement is currently being developed. Due to the fact that this scheme needs to be self-financing with no gain or loss to be aligned to the Local Authority, the peaks and troughs in both income and expenditure has to be managed.

4.12 This will be done by applying the relevant accounting treatment – Receipts in Advance. This form of accounting treatment has been confirmed by CIPFA. This will ensure there is no impact on the MTFP and the scheme remains viable for the whole term.

4.13 The Selective Licencing scheme also includes non-recoverable costs, which over the five years are estimated to be at £0.992m. These are set out in **Table 2** below and are reflected in table 1.

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

The Non Recoverable costs of £0.992m are covered through the budgets already held within other departments of the council, therefore already within the MTFP, so are not included within the fee.

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

- 5.1 As outlined in the earlier reports the Council has followed the necessary statutory steps to establish a Designation for Selective Licensing and that Designation has now been confirmed by the Secretary of State. Any action to challenge the Confirmation of the Designation would primarily be made against the Secretary of State, with the Council being an interested party. So far there has been no indication that a challenge is likely.
- 5.2 The designation takes effect on **1st August 2018** and applicants for licences have a number of statutory rights to challenge operational decisions such as licence refusals, the imposition of conditions, fees etc. as they do under existing licensing regimes. Guidance, advice and reference to case law has been exercised with a view to minimising the risks of a challenge both to the making of the designation and matters arising out of the operational elements of the scheme. The Portfolio Holder 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 or updated in the future.

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

- 6.1 This report confirms that with the implementation of the selective licensing scheme a significant number of new full time posts are being created and new premises required. Property have assisted in the identification of suitable accommodation for the new team and suitable accommodation has been identified for this. A budget has been put in place to pay for accommodation costs including market rent, rates, utilities and repair and maintenance costs as well as initial fit out costs.
- 6.2 The proposal to accommodate Selective Licensing in a City Council owned property would align with strategic objectives within the Corporate Asset Management Plan.

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

X

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 November 2016 Proposal for a scheme of selective licensing for privately rented houses
Executive Board Report 18 July 2017 Proposal for a scheme of selective licensing for privately rented houses.