



**EAST STAFFORDSHIRE BOROUGH COUNCIL**

**REPORT COVER SHEET**

<b>Title of Report:</b>	Selective Licensing Scheme Evaluation – Year 3	To be marked with an 'X' by Democratic Services after report has been presented
<b>Meeting of:</b>	Corporate Management Team – 20 October 2020	X
	Leader and Deputy Leaders - 26 October 2020	X
	Leader's / Leader of the Opposition's Advisory Group / Independent Alliance Advisory Group – 4 <sup>th</sup> November 2020/ 5 <sup>th</sup> November 2020	X
	Cabinet – 16 November 2020	
	Scrutiny Audit and Value for Money Council Services Committee [DATE] / Scrutiny Community Regeneration, Environment and Health and Well Being Committee [DATE]	



Is this an Executive Decision:	YES	Is this a Key Decision:	YES
Is this in the Forward Plan:	YES	Is the Report Confidential:	NO
If so, please state relevant paragraph from Schedule 12A LGA 1972:	N/A		

**Essential Signatories:**

**ALL REPORTS MUST BE IN THE NAME OF A HEAD OF SERVICE**

Monitoring Officer: **Angela Wakefield**

Date ..... Signature .....

Chief Finance Officer: **Sal Khan**

Date ..... Signature .....

**EAST STAFFORDSHIRE BOROUGH COUNCIL**

**Report to Cabinet**

**Date: 16 November 2020**

**REPORT TITLE: Selective Licensing Evaluation – Year 3**

**PORTFOLIO: Regulatory Services**

**HEAD OF SERVICE: Mark Rizk**

**CONTACT OFFICER: Rachel Liddle Ext. No. x1838**

**WARD(S) AFFECTED: Anglesey**

**1. Purpose of the Report**

- 1.1. To provide an update to members on the third year of operations of the Selective Licensing Scheme Pilot.
- 1.2. To provide an annual review of the Selective Licensing Fees.

**2. Executive Summary**

- 2.1. Selective Licensing was designated in September 2017 following Cabinet approval in June 2017. It aims to improve the condition and management of privately rented accommodation in the eastern area of Anglesey.
- 2.2. The Selective Licensing Policy 2017 sets out requirements for the monitoring and review of the scheme which includes an annual review to establish whether it is having the desired effect and achieving its aims and objectives.
- 2.3. This report aims to provide an update to members on the operation and implementation of the scheme.
- 2.4. The first three years of the scheme have demonstrated ongoing compliance with the licensing requirements of the scheme with the majority of properties being granted a licence. The third year of the scheme aimed to focus on compliance in properties that had improvements identified; however this has been significantly impacted by Covid-19. However, remote compliance checks have been undertaken which has identified a number of unlicensed premises for which enforcement action is being considered for those that are failing to comply with the licensing requirements.

- 2.5. Homelessness continues to be unaffected by selective licensing and the average fee has also remained low despite an increase to fees in 2018 and 2019 and the expiry of early discounts that were available at the start of the scheme.
- 2.6. To consider the future expansion of the scheme a consultation was commenced in January 2020 to tackle high concentrations of poor property conditions in specified streets within Anglesey, Burton, Eton Park and Shobnall wards. The consultation concluded on 30 March 2020, however the consultation has been put on hold in accordance with government advice on proposed licensing schemes issued on 28 March 2020.

### **3. Background**

- 3.1. The Selective Licensing Scheme Pilot was approved by Cabinet in June 2017 to improve housing conditions and management of privately rented accommodation in the eastern area of Anglesey. Following a mandatory three month standstill period the designation became active on 12 September 2017 and is effective until 11 September 2022.
- 3.2. Selective licensing was introduced to protect the welfare of tenants, provide confidence in the rented sector, and ensure that standards are met. It is more conducive to good landlords but provides an environment that is less opportunistic and attractive for poor and criminal landlords. It also assists landlords in dealing with tenants that choose to cause anti-social behaviour.
- 3.3. A Selective Licensing Policy was adopted setting out how the scheme will be delivered to ensure that the Council effectively:
  - Implements the selective licensing scheme, ensuring that all licensing functions are carried out in accordance with the provisions of the Housing Act;
  - Monitors and enforces any licences granted during the selective licensing scheme;
  - Ensures any future proposals for introducing licensing designations are given due consideration in accordance with the statutory requirements;
  - Implements and delivers existing and future schemes in cohesion with other related strategies and initiatives: particularly those in place to tackle issues of empty properties, flytipping and anti-social behaviour.
- 3.4. The policy set out an annual review of the operation of the selective licensing scheme along with a review of the licence fees to measure whether it is having the desired effect and achieving its aims and objectives. Should the review indicate that the designation has worked and the issues that it intended to resolve have been resolved then the local authority may consider that the designation is no longer needed and may be revised or revoked. Alternatively if the designation is failing to tackle the issues then the designation may be revised or revoked and alternative measures may be considered to address the issues.

- 3.5. The delivery of the scheme has been monitored on a monthly basis and regularly reported to the Head of Service and Deputy Leader. A briefing on the Selective Licensing Scheme was presented to members on 21<sup>st</sup> June 2018 giving an overview of the delivery and implementation of the scheme, and this was fed back to landlords through the landlord forum. The administration of the Scheme was reviewed by Internal Audit in 2017/18 which identified a number of recommendations which have since been implemented.
- 3.6. The first review completed in November 2018 reported that inspections of rented accommodation had identified numerous hazards which resulted in improvements to the living conditions and the management of properties within the selective licensing area. At this time there was no identified increase in homelessness which was one of the main concerns raised by stakeholders and the average fee also remained low due to a high take-up of the discounts for early compliance with the scheme.
- 3.7. The second review in November 2019 reported on enforcement work to increase compliance, ensuring that valid applications had been submitted followed by inspections to check on the standards of accommodation prior to licences being granted. Enforcement action was taken on cases that had failed to comply with the scheme through the issuing of Civil Penalty Notices.
- 3.8. Average rental prices were reported to determine whether rental fees had been increased following the designation of the scheme. The average rental price was reported as £491.97 which is lower than the median monthly rental price of £575.00 for East Staffordshire.
- 3.9. During inspections officers identified the following management issues which selective licensing has addressed:
  - 3.9.1. Poor conditions where the landlord is not present at the inspection
  - 3.9.2. Poor communication between the landlord and the tenant
  - 3.9.3. Poor communication between letting agent and landlord whereby letting agents have failed to notify landlords about the scheme
  - 3.9.4. Issues whereby landlord has an incorrect mortgage type for the property and landlords unaware of how the property is being let
  - 3.9.5. A number of tenants reported that repair works previously raised with the landlords have been completed prior to the inspection.
- 3.10. One of the most common hazards identified in properties has been fire and following the introduction of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 the mandatory conditions for selective licensing were amended. This has since enabled a Remedial Action Notice to be served on a property that did not meet the requirements; which has since been complied with.
- 3.11. It was agreed by Cabinet that the selective licensing designation remain in place subject to revised licensing fees to incorporate inflation, and a further annual review be undertaken in 2020 in accordance with the Selective Licensing Policy. The decision was also made to consult on a Selective Licensing designation to tackle high concentrations of poor property conditions in specified streets within

Anglesey, Burton, Eton Park and Shobnall wards. This commenced in January 2020 and has since been put on hold following Government advice issued by the MHCLG in March 2020 in relation to Covid-19.

#### **4. Contribution to Corporate Priorities**

- 4.1. Environment and Health & Wellbeing: The improvement of housing conditions will contribute to the provision of a strong, healthy and vibrant private sector housing market that offers security, stability and decency to tenants and landlords.

#### **5. Selective Licensing Evaluation- 3<sup>rd</sup> Year**

- 5.1. The third year of the selective licensing scheme had planned to focus on revisits to properties to check on compliance with housing standards. However following guidance issued by the MHCLG on 28<sup>th</sup> March, proactive inspections were put on hold, which has had an impact on compliance checks. These restrictions have reduced the number of inspections and revisits that were undertaken, however officers have continued to remotely investigate and identify properties that have not applied for a Licence and have continued to grant licences where a valid application has been received.
- 5.2. A total of 90 interventions have been undertaken in year 3. This includes 20 initial inspections for new applications and 14 revisits to check compliance with schedules of work that have been served, detailing the hazards identified and the remedial action that is required to remove the hazards. To date no further enforcement action has been required for compliance.
- 5.3. The Selective Licensing Policy requires ongoing monitoring and review of the scheme. The following statistics have been collated to provide an annual update of the selective licensing scheme, and have been broken down to show the statistics reported for years 1-3:

Monitored Activity for Selective Licensing			
	Year 1	Year 2	Year 3
Number of licence applications received (Cumulative Total)	258	327	346
Number of valid licence applications received (Cumulative Total)	203	322	333
Number of invalid/unpaid applications (at year end)	55	5	13
Number of licenses granted (Cumulative Total)	107	244	333
Number of licenses revoked (per year)	0	0	3
Number of temporary exemptions	1	4	4

Monitored Activity for Selective Licensing			
(Cumulative Total)			
Number of licenses varied	0	0	0
Number of Cat 1 hazards identified (Cumulative Total)	4 properties	6 properties	8 properties
Number of high Cat 2 hazards identified (Cumulative Total)	10 properties	25 properties	26 properties
Number of lower Cat 2 hazards identified (Cumulative Total)	57 properties	209 properties	226 properties
Review of anti-social behaviour complaints (ESBC records per year)	3	1	2
Review of number of vacant properties (per year)	1 property vacant due to the service of a prohibition order in August 2018		0
Review of complaints regarding overgrown gardens/rubbish (per year)	21 complaints. (Increased reporting from 7 complaints in previous period)	16 Complaints	18 Complaints
Review of enforcement action taken per year:			
○ Number of notices served	1 Prohibition Order	1 Prohibition Order 1 Improvement Notice	2 Improvement Notices 1 Remedial Notice
○ Number of management orders	0	0	0
○ Number of prosecutions/ Civil Penalties	0	3 <sup>1</sup>	1

5.4. The average licence fee paid has continued to rise slightly from £345 in year 1 to £379 in year 2 and £384 in year 3 following an increase of fees due to inflation in April 2019 and the lack of discounts available for valid applications received in years 2 and 3. This ranges from £250 as the minimum fee to £569 as the maximum dependent on the type of property and the type of discounts applicable. The number of introductory or accredited landlord discounts have not increased in year 2 or 3, however the number of multiple property discounts have slightly increased from 127 in year 2 to 130 in year 3 (108 in year 1). To date, the following discounts have been granted:

- 143 Introductory discounts
- 130 Multiple property discounts

<sup>1</sup> 4 Civil Penalties have been issued as an alternative to prosecution

- 39 Accredited landlord discounts (12 individual accredited landlords)
- 5.5. A total of 319 inspections have been undertaken in properties, for which 64%<sup>2</sup> have identified hazards that affect the health and safety of the occupants. The most common hazards identified include:
- 5.5.1. Fire (110 properties)
  - 5.5.2. Damp & Mould (111 properties)
  - 5.5.3. Electrical Hazards (89 properties)
  - 5.5.4. Falls between the level (88 properties)
  - 5.5.5. Falls on stairs (49 properties)
  - 5.5.6. Excess Cold (45 properties)
  - 5.5.7. Structural Collapse (29 properties)
  - 5.5.8. Falls on level (21 properties)
  - 5.5.9. Entry by Intruders (16 properties)
- 5.6. 2 properties have been served with an improvement notice due to high risk hazards such as a lack of heating, electrical hazards and damp and mould.
- 5.7. 1 property has been served with a remedial notice due to non-compliance with the Smoke and Carbon Monoxide Alarm Regulations.
- 5.8. Since the beginning of the scheme 8 properties have been identified with category 1 hazards and 26 properties have identified high category 2 hazards which require remedial action to remove the hazards.
- 5.9. The first two years of the scheme were reported to have had a relatively positive uptake of the selective licensing scheme, with 327 applications received at the end of the second year, however 5 of these were invalid and 27 properties were still to apply for a licence. In year three the number of applications has increased to 333, with a total of 346 applications received to date. 100% of valid applications have been granted a Selective Licence.
- 5.10. This is a result of ongoing investigative work to identify landlords that had failed to provide valid licence applications and warnings of enforcement action. Whilst this has increased the level of compliance to 99%<sup>3</sup>, there are still 13 properties that have not submitted valid applications and 2 properties that are being investigated for breaching the legislative requirements of the scheme.
- 5.11. The MHCLG have updated the guidance on proactive visits to enable inspections to recommence using a risk-based approach subject to other priorities, staffing resources and public health advice. The forthcoming year will therefore pick up from the previous year to focus on revisits to properties that have been issued with schedules of works to assess compliance and the inspection of any properties that were unable to be inspected prior to a licence being granted, subject to Covid-19 restrictions. Enforcement action will be considered for any landlords that have not complied with the schedule of works or have failed to apply for, or submit a valid licence.

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<sup>2</sup> 205 out of 319 inspections have identified hazards

<sup>3</sup> Number of valid applications received (333) compared to total number of properties currently known to require a licence (348)

- 5.12. Whilst there has been a reduction of inspections and revisits due to Covid-19 restrictions, compliance with the scheme has increased, and there has been no significant increase of complaints within the area or an increase in homelessness figures.
- 5.13. This review demonstrates that the designation is tackling the poor housing conditions within the selective licensing area, with the vast majority of rented properties being licensed, or in the process of a licence being issued. Four landlords are subject to legal action due to non-compliance with the scheme. Whilst all valid applications have been granted a licence a number of properties have not had an initial inspection undertaken due to covid-19 restrictions. Such restrictions have also impacted on the ability for revisits to be undertaken to check on compliance with required improvement works. As covid restrictions have reduced revisits are being undertaken, and this will continue to be the priority for the next year. It is therefore recommended that the selective licensing designation remains in place and a further annual review is undertaken in 2021 in accordance with the Selective Licensing Policy.

## **6. Future Expansion of Selective Licensing**

- 6.1. On 20 January 2020 a consultation for the expansion of selective licensing was commenced to consider the designation of specific streets where the highest amount of housing complaints are received. This included Shobnall Street, Waterloo Street, Goodman Street, Branston Road and Uxbridge Street.
- 6.2. The consultation period continued for 10 weeks and ended on 30 March 2020, however this was put on hold in accordance with Guidance issued by the MHCLG on 28 March 2020.
- 6.3. Two online questionnaires were created to gather opinions and feedback in relation to the selective licensing proposal and the area that has been proposed for the scheme to be implemented. Council officers also attended consultation meetings on 10th & 11th February and 4th March 2020 within the affected streets, to present information about the proposals and answer questions. This meeting was attended by landlords owning properties within the area.
- 6.4. A total of 209 responses were received; 139 from Residents and Tenants and 70 from Landlord and Letting Agents. A review of the feedback received demonstrates that the majority of residents are in support of the scheme to improve housing conditions, reduce anti-social behaviour and improve the area whereas the majority of landlords and letting agents strongly disagree to the proposal, indicating that there are no issues with property conditions in the proposal areas and that the proposal will not improve property standards.

## **7. Financial Considerations**

*This section has been approved by the following member of the Financial Management Unit: Anya Murray*

- 7.1. The main financial issues arising from this Report are as follows:
- 7.2. The selective licensing scheme identified fees to recoup the total costs of the scheme adopted over the schemes 5 year duration.
- 7.3. To date the following income has been received through Selective Licensing Fees.

Selective Licensing Income	2017/18	2018/19	2019/20	2020/21
Selective Licensing Fee Income	£36,662	£64,047	£24,148	£5,536

- 7.4. The costs have been reviewed and continue to reflect the time taken to complete all the identified aspects of the work required for the licensing scheme profiled over the 5 year duration of the scheme and recover associated costs and that this year there is no need to increase the fees associated with the scheme.

## **8. Risk Assessment and Management**

- 8.1. The main risks to this Report and the Council achieving its objectives are as follows:
- 8.2. Positive (Opportunities/Benefits):
- 8.2.1. Improved housing conditions and a reduction in overcrowding
  - 8.2.2. Improved image and perception of the area making it a more desirable place to live
  - 8.2.3. Improved ability and assistance for landlords to deal with rogue tenants
  - 8.2.4. Reduction in crime and anti-social behaviour
  - 8.2.5. Improved waste management/reduction in overgrown gardens
  - 8.2.6. Increased number of compliant landlords
  - 8.2.7. Higher standards of management by ensuring landlords and agents are clear about their responsibilities
  - 8.2.8. Identification of non-compliant/rogue landlords
- 8.3. Negative (Threats):
- 8.3.1. Impact on neighbouring areas due to unprofessional landlords or challenging tenants moving into surrounding areas
  - 8.3.2. Increase in rented properties sold to avoid licence fee
  - 8.3.3. Increase in rent due to fee being passed onto the tenant
  - 8.3.4. Insufficient fee to cover costs.
  - 8.3.5. Lack of compliance from landlords
  - 8.3.6. Insufficient management and monitoring of the scheme
  - 8.3.7. Large numbers of appeals are made to the Residential Property Tribunal Service
- 8.4. The risks do not need to be entered in the Risk Register. Any financial implications to mitigate against these risks are considered above.

## **9. Legal Considerations**

*This section has been approved by the following member of the Legal Team:  
Angela Wakefield*

- 9.1. The main legal issues arising from this Report are as follows.
- 9.2. All properties within the Selective Licensing area are continually being reviewed to identify unlicensed properties. A combination of land registry data, council tax information and tenancy deposit scheme data is used to identify the location of owners and a proportionate enforcement approach is followed to ensure landlords comply with the scheme. Where this is unsuccessful further investigations are undertaken with a view to taking enforcement against those that flout the law in relation to selective licensing.
- 9.3. It is a criminal offence to let a privately rented property in a designated area without a licence and failure to apply for one could lead to an unlimited fine. Failure to comply with any of the conditions of the licence could lead to a fine of up to £5,000. It is also a criminal offence to make a false statement in an application for a licence or fail to comply with any condition of a licence.
- 9.4. Additional enforcement powers are in place through the Housing and Planning Act which aims to continue to drive up safety and standards in the private rented sector, and drive out rogue landlords. Additional powers include the introduction of banning orders to remove the worst landlords or agents from operating, a rogue landlord database and the introduction of civil penalties that can be issued by Councils to landlords as an alternative to prosecution. These powers do not assist with proactive enforcement but will assist in the enforcement of the scheme, further reducing the costs of any required legal action due to non-compliance following the introduction of civil penalties and banning orders for those that persistently fail to comply with housing legislation.
- 9.5. Following an amendment to the Housing Act 2004 in 2018, some properties in the selective licensing area now fall under the definition of a licensable HMO. At the end of the Selective Licence period, these properties will transition over to the HMO Licence process and will be required to apply for a HMO Licence.

## **10. Equalities and Health**

- 10.1. Equality impacts: The subject of this Report is not a policy, strategy, function or service that is new or being revised. The original equality and health impact assessment was completed prior to the approval of the scheme which has been reviewed.
- 10.2. Health impacts: The Health Impact Assessment was completed prior to the approval of the scheme which identified positive health impacts due to the improvement of housing conditions. Para. 5.11 details the types of hazards that are being reduced to improve the health and wellbeing for tenants.

## **11. Human Rights**

11.1. There are no Human Rights issues arising from this Report.

12. **Sustainability** (including climate change and change adaptation measures)

12.1. Does the proposal result in an overall positive effect in terms of sustainability (including climate change and change adaptation measures) No

13. **Recommendation(s)**

13.1. To approve the ongoing designation of the selective licensing pilot scheme for the remaining 2 years until 11 September 2022 and annual review to be undertaken in 2021 in accordance with the Selective Licensing Policy.

14. **Background Papers**

15. **Appendices**