



Cabinet
24 October 2016

**Report from the Director of Policy,
Performance and Partnerships**

For information

Wards affected: ALL

**Recommendations to Cabinet from the Community and
Wellbeing Scrutiny Committee**

1.0 Summary

- 1.1 This report sets out the recommendations to Cabinet which the Community and Wellbeing Scrutiny Committee agreed at its meeting on 20 July 2016.

2.0 Recommendations

That Cabinet:

- 2.1 Notes the recommendations as set out in Appendix A.

3.0 Background

- 3.1 The Community and Wellbeing Scrutiny Committee requested a report to its meeting on 20 July about the selective, mandatory and additional licensing schemes and their effectiveness since each of the schemes was introduced.
- 3.2 Landlord licensing is a flagship scheme for the local authority. It started with the mandatory landlord licensing scheme which was set up more than a decade ago. Mandatory licensing is borough-wide, but applies only to properties which are three-storey or more and with five or more tenants living in the property. Selective licensing and additional licensing were both launched in November 2014. The selective licensing scheme applies to any privately rented property; but it operates in just three wards: Harlesden, Wembley Central and Willesden Green. Additional licensing operates borough-wide for houses in multiple occupation of up to two floors and is occupied by three or more households.
- 3.3 A report was presented to the committee on landlord licensing on 20 July 2016 by the Cabinet Member for Housing, Strategic Director Community Wellbeing, Operational Director Housing and Culture, and the Private Housing Licensing Manager. Members of the Community and Wellbeing Scrutiny Committee asked questions based on the report and the presentation which they heard.
- 3.4 On 27 July 2015 Cabinet voted to set up an Ethical Lettings Agency to be operated by Brent Housing Partnership. The agency's main focus is intended
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to be on securing properties from private landlords for tenants who are homeless or threatened with homelessness, and who have been nominated by the Housing Needs Team. Therefore, the successful implementation of this policy should have a positive impact on some of the most vulnerable residents.

- 3.5 Community and Wellbeing Committee requested a report to assess to what extent the Ethical Lettings Agency had been introduced by the Cabinet. A report was presented by Cabinet Member for Housing, Strategic Director Community Wellbeing, Operational Director Housing and Culture to committee on 20 July.

4.0 Detail

Landlord licensing

- 4.1 On the basis of the report presented to the committee and the testimony at the committee, the members of Community and Wellbeing Scrutiny Committee made eight recommendations about landlord licensing to the Cabinet.
- 4.2 The central recommendation was that Cabinet extends selective licensing to all 21 wards rather than just Harlesden, Wembley Central and Willesden Green. This was based on the evidence presented to committee that in the three wards where selective licensing has been introduced the number of properties licensed has exceeded the estimate of licensable properties in those areas. For example, the estimated of licensable properties in Wembley Central was 703; however, since selective licensing started 968 properties have been licensed.
- 4.3 The scrutiny committee was told that work is being done on extending the selective licensing scheme, and noted that if a borough-wide scheme was to be implemented in Brent it would require the approval from the Secretary of State.
- 4.4 Two recommendations were made to help communicate the licensing schemes to landlords, tenants and residents. This included producing an information pack for tenants, and including information about Brent's landlord licensing schemes in the annual household Council Tax bills. Data requested by the committee and provided by the Private Housing Licensing Team at the meeting suggests that a large proportion of tenants are likely to have English as a second language so the information should be produced in plain English.
- 4.5 The committee also heard about additional powers which the council can use under the Housing and Planning Act 2016 to tackle rogue landlords and agents. The scrutiny committee made a number of recommendations, including a database of rogue landlords, and a zero-tolerance approach to rogue landlords. However, the committee also heard that work is being done to work with the private rented sector to improve standards and also recommended that there is a strategy for greater collaborative working with landlords and lettings agents.

Ethical Lettings Agency

- 4.6 Committee heard that the proposal for an agency had not been viewed as viable by Brent Housing Partnership which undertook research of similar proposals in
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other boroughs which showed a mixed picture in terms of success. Officers were now waiting for details of a London-wide letting agency which was being developed by the Mayor of London and the Greater London Authority (GLA).

- 4.7 The scrutiny committee was concerned that a scheme which the Cabinet had agreed to last year had not been implemented. However, they noted that the effectiveness of similar schemes elsewhere appears to be mixed and recommended that a proper assessment of these schemes is done to better understand the viability of introducing an Ethical Lettings Agency in Brent.
- 4.8 Members of the Community and Wellbeing committee also recommended that Cabinet explores the possibility of working with the Mayor of London, and that Brent supports a pan-London Ethical Lettings Agency within the public sector.
- 4.9 Members also supported partnership working with the private rented sector and recommended a strategy is for collaborative working with estate agents to develop and promote tenancies and Brent's vision for ethical property letting.

5.0 Financial Implications

- 5.1 There are no financial implications arising from this report.

6.0 Legal Implications

Selective Licensing

- 6.1 Under section 80(2) HA 2004, before introducing a selective licensing scheme, the Council's Cabinet must consider that – (a) the first or second set of general conditions mentioned in s80(3) or (6) of the HA 2004; or (b) any conditions specified in an order under s.80(7) of the HA 2004 as an additional set of conditions are satisfied in relation to the area.
 - 6.2 The second set of general conditions is set out in section 80(6) of the HA 2004 and they are as follows:
 - (a) that the area is experiencing a significant and persistent problem caused anti-social behaviour;
 - (b) that some or all of the private sector landlords who have let premises in the area (whether under leases or licences) are failing to take action to combat the problem that it would be appropriate for them to take; and
 - (c) that making a designation will, when combined with other measures taken in the area by the local housing authority, or by other persons together with the local housing authority, lead to a reduction in, or the elimination of, the problem.
 - 6.3 In August 2014, Brent Council's Cabinet designated a Selective Licensing area to cover the three wards of Harlesden, Wembley Central and Willesden Green and this became effective from 1 January 2015. This designation currently expires on 31 December 2019.
 - 6.4 On 27 March 2015, the Government issued statutory guidance regarding selective licensing schemes. Once a proposal for selective licensing for more than 20% of the Council's area has been approved by a Council's Cabinet following a consultation period of at least 10 weeks, such a decision requires
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the approval of the Secretary of State. The Government has indicated its reluctance to agree to borough wide selective licensing schemes.

Lettings Agency

- 6.5 The general power of competence under section 1 of the Localism Act 2011 gives local authorities a broad range of powers "to do anything that individuals generally may do" subject to limits within other legislation and there are no adverse limits on the proposed scheme under the current legislation. Section 93 of the Local Government Act 2003 gives the power for local authorities and their subsidiaries to charge individuals for services but not to make a profit. As BHP is providing the service, there are no procurement issues that arise for the Council. The decision for BHP to set up and operate a lettings agency requires the approval of the Council's Cabinet
- 6.6 Furthermore, the Council has powers under section 24(1) of the Local Government Act 1988 to provide any person with financial assistance for the purposes of, or in connection with, the acquisition, construction, conversion, rehabilitation, improvement, maintenance or management (whether by that person or by another) of any property which is or is intended to be privately let as housing accommodation. Although this power is subject to consent from the Secretary of State for the purposes of section 25 of the Local Government Act 1988, in 2010 the Secretary issued a general consent under section 25 and that general consent allows, amongst other things, a local authority to provide any person with any financial assistance (other than the disposal of an interest in land or property) : (a) for the purposes of or in connection with the matters mentioned in section 24(1) of the 1988 Act;

7.0 Diversity Implications

It is anticipated that the recommendations put forward in this report will have a positive impact on and will help achieve better outcomes for some of the most vulnerable residents and individuals / groups experiencing socio-economic disadvantage, including but not limited to homeless people, low income households, people who are subject to unlawful eviction, residents living in poor conditions and/or fuel poverty.

While the recommendations are likely to in/directly benefit vulnerable residents and socio-economic groups (e.g. communication and information provided in plain English, zero tolerance approach to rogue landlords, monitoring the diversity profile of landlords, setting up an Ethical Lettings Agency, etc), there may potentially be some unintended consequences. The Council's lawful actions against landlords, for example, may have potential negative impact on some vulnerable tenants who live in overcrowded conditions because they cannot afford to pay a higher rent but do not qualify for the support provided by the Housing Needs team. Decision-makers should therefore proactively consider and monitor the equality implications of the implemented individual recommendations to ensure that any unintended negative consequences are mitigated.

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APPENDIX A

Landlord licensing, 20 July 2016

1. A policy or protocol is in place for raids, televised raids and prosecutions to ensure there is a balanced approach to such matters throughout Brent; additionally, civil penalties, as introduced by the Housing and Planning Act 2016, be incorporated into this policy or protocol.
2. The council continues with a zero tolerance approach with landlords, managing agents, lead tenants where raids have revealed the properties to be overcrowded.
3. That there be mechanism in place to collect data in relation to types of landlords (for example, multi-property or single-property landlords), ethnicity of landlords and a link made between licensing and homelessness to access the impact of the licensing and to better target resources.
4. A communication or information pack for tenants in plain English is produced which is accessible to those who have English as an additional language, as to their obligations.
5. Licensing information be included in the Council Tax bills (as opposed to the information set out in the accompanying booklets) and in replies to Local Land Searches;
6. A strategy is in place for collaborative working with estate agents and letting agents to ensure they are fully aware of their obligations under Brent's licensing schemes and that they promote the same to landlords and tenants.
7. A policy or protocol is in place to formulate a database of rogue landlords and estate agents and letting agents.
8. Introduce borough-wide implementation of selective licensing to provide an absolute assurance of Brent's commitment to raising standards and that the officers seek the necessary permission from the Secretary of State.

Ethical Lettings Agency, 20 July 2016

1. A proper assessment is done of other local authority schemes and their respective outcomes to ascertain viability of the scheme in Brent.
 2. Officers liaise with the Mayor of London's deputy mayor for housing to assess the feasibility of Brent working with the GLA on a pan-London scheme.
 4. A strategy is put in place for collaborative working with estate agents to develop and promote tenancies in supportive living and Brent's vision for ethical lettings of properties.
 4. Officers explore the possibility of a pan-London or sub-regional ethical lettings agency within the public sector on a not-for-profit basis.
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