



Community and Wellbeing Scrutiny Committee

4 February 2020

Report from the Strategic Director of Community Wellbeing

Additional and Selective Licensing for the Private Rented Sector

Wards Affected:	All
Key or Non-Key Decision:	Non-key
Open or Part/Fully Exempt:	Open
No. of Appendices:	2 Appendix 1 – Conditions for the selective property licensing scheme Appendix 2 - Conditions for the mandatory/additional HMO property licensing scheme
Background Papers:	None
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1.0 Purpose of the Report

- 1.1 To update the scrutiny committee about the performance of Additional and Selective Licensing for the Private Rented Sector and the effect of renewing or extending these schemes during 2020.

2.0 Recommendation

- 2.1 Members of the Community Wellbeing Scrutiny Committee are asked to note the content of this report.

3.0 Background

- 3.1 There are 3 type of property licences; Mandatory licensing for larger HMOs, Additional Licensing for smaller HMOs and Selective Licensing for rented properties that are not HMOs. In Brent, throughout the Borough, all HMOs both large and small need to be licenced but only non-HMO properties in specified wards need a Selective Licence.

- 3.2 Brent has been operating discretionary licencing schemes for 5 years since the introduction of Additional Licensing, for small HMOs across the borough and Selective Licensing within the wards of Harlesden, Willesden Green and Wembley Central in January 2015.
- 3.3 In 2017 Brent made an application to the Government to extend Selective Licensing to other wards in the borough and following that application in June 2018 introduced Selective Licensing to the 5 wards of Dudden Hill, Kensal Green, Kilburn, Queens Park and Mapesbury.
- 3.4 In 2018/19 we commissioned the British Research Establishment (BRE) to undertake a piece of work to assess the condition of the private rented sector (PRS) in Brent and in 2019 undertook a public consultation with the intention of renewing Additional Licensing once the scheme came to an end on 31 December 2019, renewing Selective Licensing in the wards of Harlesden, Willesden Green and Wembley Central once that scheme came to an end on 31 December 2019 and look to extend Selective Licensing to other areas in Brent.
- 3.5 On 14 October 2019, Cabinet agreed to renew Additional and Selective Licensing schemes for the Private Rented Sector in Brent and to extend Selective Licensing to all other wards with the exception of Dollis Hill, Kenton, Stonebridge and the Wembley Park area of Tokyngton in 4 designations. Whilst Additional Licensing was able to be introduced as a consequence of the Cabinets approval, an application has had to be submitted to MHCLG for the introduction of and renewal of Selective Licensing.
- 3.6 This application was submitted to MHCLG on 4th November 2019 and we await the outcome of that application. However, it is worth pointing out that there are no guarantees that the Government will approve all or any of the designated areas in our application. Only last month (January 2020) Liverpool Council had their application to renew their Selective Licensing scheme that had been operating for 5 years, rejected by the government. It is worth noting however, that Liverpool applied for a borough-wide scheme, which Brent has not.
- 3.7 When considering introducing Selective Licensing in to particular areas, certain criteria has to be met. The most fundamental being the percentage of PRS properties within those areas. Dollis Hill, Kenton and Stonebridge fell below this threshold as illustrated below in table 5. In addition to this criteria our application was on the basis that in those areas that had high percentages of PRS properties were affected by high levels of disrepair and/or ASB. In the Wembley Park area of Tokyngton this was clearly not the case. The properties are new, well managed and maintained and we therefore felt it was appropriate to exclude it from our application as to have included it could have jeopardised our application.

- 3.8 Finally in addition to Selective and Additional Licensing, since 2006 Brent has been operating the mandatory licensing scheme for larger HMOs.

4.0 Detail

Operationally, how the licensing schemes works

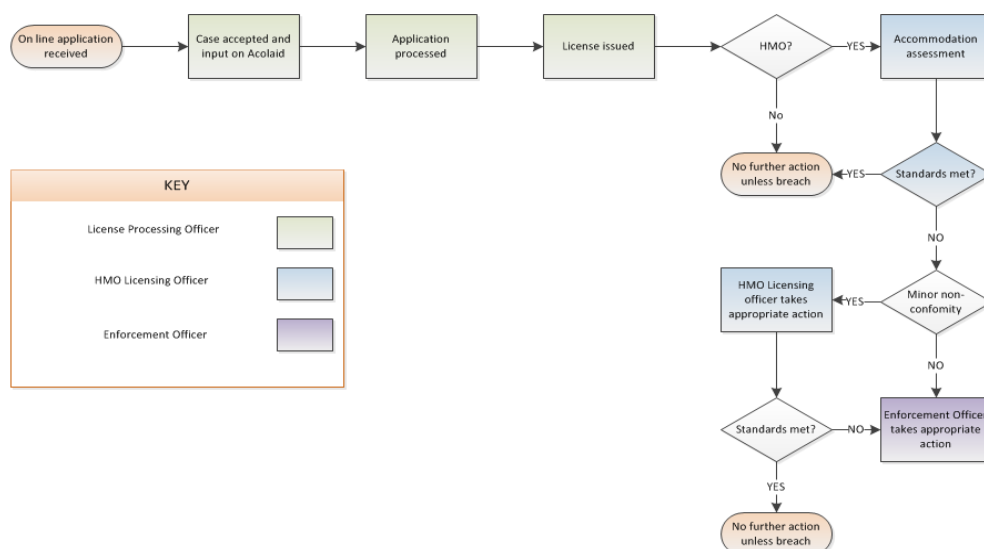
- 4.1 Private Housing Services has ISO 9001:2015 accreditation and this standard applies to our current approach to licence applications. Our approach is recognised for both the experience the applicant has in submitting their application and the way in which the applications are processed by us, bearing in mind the legislative requirements.
- 4.2 PHS has an online application form with online payment system that is fully integrated with our case management system. The dynamic process automatically assesses the application and depending on certain mandatory criteria being met, a full licence is issued for compliant applications or a one-year licence for non-compliant applications.
- 4.3 This approach has allowed us to target properties of concern i.e. those issued with a one-year licence, and prioritise these for a compliance inspection. In addition, properties that are of a greater concern, either because of the way an application presents or because of intelligence that we have received are prioritised for an inspection. The factors that would alert us and lead to a prioritised assessment include;
- Missing safety certificates, such as gas safety certificates
 - Councillor complaints – statutory duty to inspect
 - Referrals from other regulatory bodies e.g. Fire Brigade, Police
 - Internal referrals e.g. from the Enforcement Practitioners Group, ASB Action Group or Housing Homelessness Team
- 4.4 In addition to some properties being prioritised for and inspection due to us having concerns as highlighted in 4.3 above, the Council's inspection commitment is that all HMOs will be checked in line with the requirements of the law, for compliance with the licence conditions, during the life of the licence. As is explained in more detail later in this report, there is not a requirement to routinely inspect Selective licenced properties as part of the application process and, on the whole, they are only inspected on receipt of a request for service (complaint) from tenants, other agencies or residents.
- 4.5 At present there are 5 PHS Licence Compliance Officers responsible for carrying out HMO compliance inspections. Visits are proactive in the main, via a formal process and are done with the knowledge of the Landlord.

- 4.6 Each application for property licence is required to be accompanied by a licence fee. The fee charged takes into account the Council costs incurred in carrying out all licensing functions under parts 2 and 3 of the Housing Act 2004, and management orders under part 4 of the Housing Act in relation to HMOs. The functions include undertaking physical licence checks but also covers desktop checks, audit inspections and monitoring the licence conditions.
- 4.7 However, it should be made clear that property licensing is not about introducing an inspection regime or the Council taking on the management responsibility of the private rented sector. It is about the designation of areas to help tackle concerns of poor property management, poor property conditions, anti-social behaviour, and high levels of crime, deprivation and migration, and therefore by introducing licensing and licence conditions it gives the Council additional enforcement powers to take action for non-compliance.
- 4.8 The licence contains conditions, which the licence holder and manager must comply with throughout life of the designation. Should the landlord fail to do this the Council has additional powers which we can use in order to make sure that the property is properly managed. Any breaches of the conditions, in particular with regards to HMOs are identified at the compliance inspection and the Landlord is given an opportunity to attend to them or face enforcement or prosecution. If major non-conformities are found, this can lead to immediate enforcement or prosecution. To complement this regime and to make sure there is compliance, our proactive team of Enforcement Officers are key to the licensing scheme in that their unannounced inspections (raids) and robust enforcement ensures that both licences are applied for, held, and PRS properties are improved.
- 4.9 The Act does not require selective licensed properties to be inspected as part of the licence application. However, the Act does require HMO licensed properties to be inspected “as soon as is reasonably practicable” as part of the licence application and granting process. This inspection does not need to take place before the licence is granted.
- 4.10 HMOs are typically occupied by young and lower-income families and single people, including some particularly vulnerable and disadvantaged groups and where maintenance and management standards are often low. HMOs present the following risks which are higher than average in other residential dwellings i.e. Selective Licence properties;
- fire hazard,
 - overcrowding,
 - electrical safety,
 - gas safety and
 - falls between levels

- 4.11 Many authorities operate additional HMO schemes, with fewer because of the implementation criteria and approval consent requirement, having Selective Licensing schemes. As of the 1st of January 2019, 44 local authorities reported operating one or more such schemes. Only four local authorities operate borough-wide schemes, and nine further authorities, including Brent, operate schemes that cover more than 20% of the local area.
- 4.12 The variation in schemes nationally and regionally makes it impossible for local authorities to establish consistency, especially in the absence of Government best practice/guidance. Nevertheless, the differences offer local authorities the facility to provide frameworks to reflect their local circumstances.
- 4.13 In relation to HMOs every local housing authority have the following general duties which include;
- a. to ensure that all applications for licences are determined within a reasonable time; and
 - b. to satisfy themselves, as soon as is reasonably practicable, that there are no Part 1 functions (more traditional housing enforcement) that ought to be exercised by them in relation to HMO applications made.
- 4.14 The Housing Act is clear that we do not need to inspect single household homes covered by Selective Licensing as part of the licence application process. However, as part of our application to MHCLG, for introducing Selective Licensing to specified wards, is on the basis of poor property conditions, we will inspect approximately 10% of selective licensed properties so that we are able to measure general improvements in the PRS stock as a consequence of the scheme.
- 4.15 Key to any scheme and in particular with regards to HMOs is an inspection and enforcement regime that ensures that licences are applied for, valid applications are processed and that there is compliance with the conditions of licences issued. An effective scheme relies on robust enforcement and our powers include prosecution for failure to license or breach of licence conditions, revocation and variation of a licence, rent repayment orders, civil penalties, management and banning orders.
- 4.16 Where enforcement is necessary, the Act allows Councils an element of discretion. Section 67 (4) (a) requires that enforcement under Part 1 should be carried out separately from the licensing procedure (under Parts 2) but Section 67 (4) (b) and (c) does not prevent the authority from dealing with Part 1 issues by including these in licence condition and using this framework to remedy the hazards. It is possible to attach conditions to the licence requiring works to be carried out, but the general position is that the local authority cannot generally take enforcement action in respect of hazards that are discovered during the

course of licensing application inspections. Nevertheless, any breaches identified at a licence inspection will form part of the licence conditions specifying a time for compliance.

- 4.17 The types of officers involved in processing licensed properties and enforcement are as follows;
- 4.18 PHS Licensing & Enforcement Processing Officer – These officers are office based staff tasked with processing the large volumes of license applications but in addition are required to handle service request and other complaints in relation to landlord and tenant issues including property disrepair, arrange appointment between members of the public and visiting officers and to support the service in the large scale implementation and administration of Civil Penalty Notices.
- 4.19 HMO Licensing officers –These officers predominantly tasked with inspecting HMO's post application although also inspect Selective Licenced properties that only are issued a 1- year licence or an application to renew that licence. These officers are to ensure compliance and are responsible for dealing with minor non-conformities found during the compliance inspection as well as referring major non-conformities on to the enforcement officers.
- 4.20 Enforcement Officers – There is a reactive team of officers who continue with a more traditional enforcement approach with regards to managing standards within the PRS on non-licensed properties (Part 1 Enforcement), Proactive officers who are charged with carrying out unannounced visits and raids predominately on unlicensed HMOs (Part 2 Enforcement) and Enforcement officers responsible for investigating breaches in licence conditions and more complex nonconformities found in compliance inspections (Mostly part 3 but some part 2 enforcement).



- 4.21 The above illustrates the high-level process adopted for the administration and management of licensed properties in Brent

- 4.22 An issue that is regularly raised is when the property compliance inspection should take place. We have looked at various options concerning when this inspection should be undertaken whilst also considering factors such as resourcing these inspections as well as having regard to processing applications without delay.
- 4.23 The following options have been considered;
1. Inspect all properties (HMOs and non-HMOs) before granting licences
 2. Inspect a proportion of all properties before granting licences
 3. Inspect all properties in order of the licence issue date
 4. Inspect all HMOs based on a priority risk rating programme after granting licence
 5. Programmed inspection of a proportion of non-HMO, coupled with a 100% reactive complaint investigation
- 4.24 With the Cabinet approving Additional Licensing borough wide, we know that there will be additional demand on the service as there will be in the region of 2300 HMO licence renewals that will need to be processed and all these properties will need an inspection . We anticipate that we would receive the majority of these applications between December 19 and February 20 as we already have the licence holders' details and have sent them reminder correspondence.
- 4.25 These renewal applications need to be added to other new applications received throughout the year and it is there for incumbent on us to have a regime that makes sure that applications are processed without delay but that properties we think are higher risk are prioritised for an inspection. Licence conditions cannot be imposed and enforced until a Licence is granted. We therefore believe that it is far more advantages to issue a licence, in most cases, rather than delay the issuing of a licence whilst we wait for an inspection.
- 4.26 To illustrate this, compliance officers, who carry out these inspection, complete 25 cases per officer per month or 300 cases per year. We have a duty to process applications without delay yet if we had 8 officers solely working on this initial 2300 renewal applications it would take a year to process them all. In addition, we would expect to receive a further 100 applications per month requiring a further 4 officers to process these applications. It would therefore be best practice to issue all these licences as soon as possible so that all are within the scheme and therefore enforceable under the licence conditions and then prioritise cases for inspection.
- 4.27 Inspecting properties prior to granting a licence also builds in additional delays. Analysis has shown that on average it takes 16 weeks to complete the inspection process. This is the time measured from the officer making the formal request to the landlord to inspect the property

by serving a section 239 notice, to the office being able to confirm that the property is fully compliant with the conditions of the licence.

- 4.28 Over the 5 year duration of the designation, at the current rate of applications, we would anticipate receiving and processing in the region of 8400 HMO licences requiring the equivalent of 28 FTE inspection officers.
- 4.29 We therefore considered how we might recourse inspecting these 8400 HMOs. The table below looked at 2 possible inspection regime, one that inspects all properties in year and a second that makes sure that all properties are inspected within the life time of the licence.

	App. Received	Inspection regime 1		Inspection regime 2	
		HMO Officers	Properties inspected in year	HMO Officers	Properties inspected in year
Year 1	3500	12	3600	5.5	1650
Year 2	1200	4	1200	5.5	1650
Year 3	1200	4	1200	5.5	1650
Year 4	1200	4	1200	5.5	1650
Year 5	1200	4	1200	5.5	1650
Total	8300	28 FTE	8400	27.5 FTE	8250

- 4.30 Both options required near enough the same officer resource to process the inspections over a 5 year period but as is evident, regime 1 required front loading the scheme with 12 inspection officers in year 1 then reducing this to 4 for the remaining 4 years. Regime 2, on the other hand, has an establishment of officers comparable to the current establishment and maintains this over the life of the scheme. It is also worth noting that whilst regime 1 attempts to inspect properties prior to issuing a licence it could take up to 12 months to issue many. Inspection regime 2 would see all applications being processed without delay.
- 4.31 It should be noted that both regionally and nationally qualified/experienced housing enforcement officers are extremely difficult to recruit. HMO inspection officers are officers that are recruited and trained by us to carry out the quite specific function of compliance inspections. This approach has been successful and has seen a number of these officer progress to an enforcement officer role after gaining the relevant knowledge and experience. Nevertheless, it would be impracticable to recruit and train an additional 7 HMO compliance officers on short-term contracts and from experience we know that it is virtually impossible to recruit via an agency. This would therefore make it difficult/impractical to implement inspection regime 1.
- 4.32 As a consequence, we consider inspection regime 2 as the most feasible option, it has to be conceded that it would be impossible to inspect all

HMOs at the time of application without there being significant delays in processing those application and therefore not meeting the requirements of the legislation to ensure that all applications for licences are determined within a reasonable time.

- 4.33 Clearly resourcing timely inspections is critical but more importantly is making sure that HMOs that present a greater risk are inspected before those which do not. For example a converted Victorian, 3 storey HMO with 10 tenants would present a greater risk to the occupants than a HMO in a new development that has 3 friends sharing. Both are HMOs but we would prioritise the first for a visit over the second. Having concluded that it is more advantages to issue HMO licences without delay it is important to make sure that we have a scheme that prioritises those needing to be inspected sooner as they are higher risk HMOs. We therefore aim to prioritise HMOs inspections according to the risk rating system below.

	Category of HMO (P1 Highest risk)	Compliance inspection to be carried out;	Likely time from granting licence to inspection (weeks)	Likely time from app to licence granted (weeks)
P1	Any mandatory HMO that is 3 storeys or more and/or 10 or more occupants	Within 2 Months	8	6
P2	Any other mandatory HMO	Within 4 Months	16	6
P3	Any Additional HMO that is 3 storeys or more	Within 8 Months	32	6
P4	All other HMO applications	Within 12 Months	52	6

- 4.34 As stated previously, licensing is not purely about introducing an inspection regime and whilst inspecting selective licensed properties would give us a greater understanding of the PRS it is not critical to the scheme in terms of securing outcomes. Notwithstanding this, for the reasons highlighted above it would be practically impossible to resource this without considerably increasing fees to cover the cost of employing more officers and that this additional cost would likely to be passed on to the tenants by the landlord. Nevertheless, a regime for these inspections is currently being developed to inspect in the region of 10% of the selective licenced properties within the 2018 scheme and a successful bid to MHCLG will be used to fund the initial stages of this project.

Alternative Options

- 4.35 In terms of the decision taken in October 2019, the Council considered other courses of action and other alternative options available.
- 4.36 In addition, as a consequence of the 2019 public consultation, notably via the written submissions, consideration was given to other alternative courses of action as alternatives to introducing licensing. These suggestions included the;
- introducing a registration scheme,

- reliance on inspection and utilisation of the existing enforcement tools already available
- decision to include/exclude Wembley Park area from the schemes
- neither to renew the additional or selective schemes

4.37 The conclusion was that we do not believe that the alternative courses of action and others such as accreditation, co-regulation, or small scale Selective Licensing are options which will provide an effective method of achieving the objectives that the designations are intended to achieve. By not using the discretionary powers, the Council will need to use other legislation where there is a statutory duty, i.e. *Housing Health and Safety Rating System Part 1*, thus losing (a) the additional powers that licensing gives us, (b) income to fund and support private renting regulation, and (c) the connection achieved with the thousands of licenced landlords.

Number of properties licensed by ward

4.38 At 31st December 2019, 12,421 properties were licensed. Table 1 below compares the count to the number of properties which were estimated to be licensable in the scheme proposal as a whole. The table does not show the total number of properties that have been licenced but a snapshot of the number of properties licenced on 31st December 2019.

		Properties licenced	Est of licensable Properties	As a % of estimate
	Mandatory (Borough wide)	1350	4831	28%
	Additional (Borough wide)	2314	12153	19%
Selective	Dudden Hill	672	4360	92%
	Kensal Green	783		
	Kilburn	807		
	Mapesbury	966		
	Queens Park	768		
	Harlesden	1620	2830	168%
	Willesden Green	1810		
	Wembley Central	1331		

Table 1: Licences per scheme and ward at 31st December 2019

4.39 Before the changes in the definition of a Mandatory HMO it was estimated that there were in the region of 300 licensable mandatory HMOs. Clearly there were more as the figure above shows. Taking into consideration the changes of definition the BRE now estimates that there are 4,831 mandatory HMO and therefore we estimate that 12,153 properties will fall under the Additional Licensing. It is also worth noting that there was no requirement to revoke and reissue properties that had

an additional licence but subsequently became mandatory when the definition changed. We therefore expect to see the number of mandatory licenced properties increase as we start to renew HMO applications with the ending of the additional scheme in December,

- 4.40 The table shows good achievement made against the targets for the estimated licensable mandatory and selective properties, with over 100% take up for each of the three wards in the 2015 Selective Licensing, and 92% of the 2018 scheme, the latter achieved within 18 months of the June 2018 scheme commencement date.

Enforcement Activity

- 4.41 Enforcement is only one outcome as a consequence of our intervention and whilst it is important to be able to take enforcement action and send a message to landlords that Brent Council is not a soft touch, our overall aim is to improve the condition of properties within the PRS.
- 4.42 Tables 2 shows the number or PRS properties improved as a consequence of our direct action in the past 5 years up to 31st December 2019*.

Year	2015	2016	2017	2018	2019*
Totals	1,281	968	1,008	1,167	798

Table 2. The total PRS properties Improved (yearly out-turns)

- 4.43 What we also know as a consequence of some work we undertook with the London Fire Brigade is that even without our direct intervention properties are improved once a licence is issued and a landlord is clear on what the conditions are and what we expect from them in terms of how the property is managed and maintained.
- 4.44 Notwithstanding this Table 3 summarises some of the achievements we have had as a result of introducing licencing and the more proactive approach we now take.

Activity	Output	Outcome
Compliance Inspections	2184	<ul style="list-style-type: none"> • Properties improved • Compliance - Part 1 hazards or parts 2-3 breaches • Failure to license compliance • Reduction in ASB
Compliance schedules issued	1830	
Unannounced inspections (raids)	1558	
Planned Inspections	1181	
One year licenses issued as a consequence of concerns at time of	879	10.8% of properties licensed to address mainly gas safety certificates, overcrowding, and terms of tenancy agreement conditions

application		
No. of warning letters sent	>3000	High level confidence of failure to licence
Successful Prosecutions (since 1/1/16)	170	£1.5m in court fines and cost. 2x prison sentences issued
Civil Penalty Notices completed and paid	92	Robust application of the Housing and Planning Act 2016. Income generated for reinvestment in to PRS Enforcement £450,000
Proceeds of Crime Act 2002 awarded	2	£365k in confiscation order, fines and costs In December 2018, Brent became first LA to be granted a Confiscation Order under the H. Act 2004
Linking licensing with Council Tax and Housing Benefits	>£100k reclaimed	Increase in c/tax revenue and HB from landlords
Landlord training and accreditation	857 landlords accredited	8th highest number of accredited landlords of all London boroughs (at January 2019)

Table 3: Enforcement action for housing conditions and minimum standards Jan 2015- December 2019

Supporting good landlords

- 4.45 The scheme has achieved its aims of improving landlord engagement and intelligence. A database of over 4000 landlords and agents operating in Brent has been compiled, supporting better communication and engagement with the sector through a regular PHS e-newsletter and a landlords' forum where over 400 people register and over 250 landlords attend on a twice yearly basis. The knowledge and management skills are being improved by monthly landlord accreditation training courses.

Supporting private rented sector tenants

- 4.46 A key objective of licensing was to change the way the Housing Enforcement Service operated and dealt with disrepair moving away from a reliance on a customer complaints and on reactive work. The service is now set up to deal with the administration of the scheme and processing of licences, teams to achieve compliance and to deal with non-compliance, and to offer advice and support. The team's work is now driven proactively. Landlords are understanding their responsibility to properly manage their properties, and tenants are more aware of their rights. In promoting tenant's rights and responsibilities, the service has carried out action points recommended by the "Impact of Licensing" study which was commissioned in 2017 and reported by Future of London (Brent FoL, 2017).

- 4.47 Our action, in particular, on grossly overcrowded properties clearly does inevitably lead to some tenants being displaced. However this has not led to an increase in applicants presenting to the council in need of housing. Regrettably, a significant proportion of overcrowded properties we inspect, are occupied by young men who have made a conscious decision to reside on this type of a basis so that they can minimise their expenditure on rent. Whilst this might be their choice, it does present a significant risk to the occupants and causes a substantial nuisance to neighbouring residents.

Working with internal stakeholders

- 4.48 The introduction of this scheme has not only seen a fundamental change in the way that housing enforcement and regulation has changed in Brent but it has also influenced the way that other services in the Council operate taking a far more robust stance against issues concerning the PRS. Services such as Planning Enforcement, Environmental Health and Trading Standards are now far more proactive and robust in their dealings.

The rationale for renewing Additional Licensing

- 4.49 The Council has proposed to do so for the entire area of Brent because it considers that a significant proportion of such HMOs in the area are being managed sufficiently ineffectively as to give rise, or to be likely to give rise, particular problems either for those occupying the HMOs or for members of the public. Additional Licensing applies to HMOs only with the aim of improving conditions for local occupiers and the surrounding communities.
- 4.50 Table 4 below summarises the results of proportion of HMOs, additional and mandatory, found in the private rented stock in Brent at ward level. HMOs account for 38% of the PRS, with smaller, additional licensable properties accounting for 27% of the PRS stock.
- 4.51 The BRE report 2019 now estimates that there are 4,831 mandatory HMO in Brent under the new definition, and therefore we estimate that 12,153 properties will fall under the Additional Licensing.

Ward	Dwellings - private rented stock	HMOs	Mandatory Licensable HMOs	Additional Licensable HMOs
Alpertown	1,776	699 (39%)	144 (8%)	555 (31%)
Barnhill	1,481	798 (54%)	137 (9%)	667 (45%)
Brondesbury Park	2,316	1,063 (46%)	201 (9%)	862 (37%)
Dollis Hill	937	394	152	242

		(42%	(16%)	(26%)
Dudden Hill	2,271	1,058 (47%	432 (19%)	626 (28%)
Fryent	1,088	486 (45%	117 (11%)	369 (34%)
Harlesden	3,433	811 (24%	249 (7%)	562 (17%)
Kensal Green	3,154	1,169 (37%	454 (14%)	715 (23%)
Kenton	776	315 (41%	70 (9%)	245 (32%)
Kilburn	3,871	1,232 (32%	339 (9%)	893 (23%)
Mapesbury	3,948	1,661 (42%	437 (11%)	1224 (32%)
Northwick Park	795	409 (51%	107 (13%)	302 (38%)
Preston	1,660	751 (45%	213 (13%)	538 (32%)
Queens Park	3,334	1,163 (35%	367 (11%)	796 (24%)
Queensbury	1,164	411 (35%	127 (11%)	284 (24%)
Stonebridge	1,106	426 (39%	89 (8%)	337 (31%)
Sudbury	1,869	804 (43%	183 (10%)	621 (33%)
Tokington	2,444	900 (37%	241 (10%)	659 (27%)
Welsh Harp	1,219	527 (43%	177 (15%)	350 (29%)
Wembley Central	2,312	600 (26%	158 (7%)	442 (19%)
Willesden Green	3,962	1,307 (33%	437 (11%)	870 (22%)
Totals	44,916	16,984 (38%	4,831 (11%)	12,153 (27%)

Table 4: Number of HMOs – Additional and mandatory licensable HMOs by ward

4.52 The table shows that HMOs are scattered across the borough in high numbers with a slight tendency towards the south east. The data in the table shows that the wards with the highest percentages of licensable

additional HMOs are Barnhill (45%), Northwick Park (38%), Brondesbury Park (37%), Fryent (34%) and Sudbury (33%).

- 4.53 Our research found that there was a high level and even distribution of HMO across the borough. It further indicated that ASB and poor property condition are closely correlated. We were able to confirm that HMOs are present in all wards and that many had a high proportions of hazards or were in disrepair. This evidence was instrumental in our proposal for a borough wide Additional HMO licensing scheme.

The rationale for renewing and extending Selective Licensing

- 4.54 Designation 1: The Selective Licensing scheme to renew the designation in the wards of Harlesden, Wembley Central and Willesden Green is made on the grounds of poor housing (property) conditions and ASB.

- 4.55 The Application to extend Selective Licensing to the following areas of the borough is for the reasons as follows:

- Designation 2: Queensbury, Fryent and Brondesbury Park – This is along the A5 corridor and on the Grounds; Poor Housing (Property) Conditions and ASB
- Designation 3: Barnhill and Welsh Harp – Grounds; Poor Housing (Property Conditions), Deprivation and ASB
- Designation 4: Northwick Park, Preston, Tokyngton (Excluding Wembley Park), Alperton and Sudbury on the Grounds; Poor Housing (Property) Conditions and ASB

- 4.56 The four designations are being made together and are partly concurrent with an existing scheme and will cumulatively cover 58.4% of the privately rented homes in Brent, and 80.1% of the Brent's total geographical area. Both the proportion of PRS properties and the geographical area percentages are greater than the 20% rule, therefore making it necessary to require Secretary of State approval for the designations.

- 4.57 Table 5 below gives a breakdown of the elements of poor property conditions (Hazards and Disrepair) for each ward where found. The “√ and Yes” indicates the criteria are met. In indicating ASB at ward level, we have also ranked the ward to show significance the persistence.

Conditions for licensing			
% Dwellings of in the PRS	Poor Property Conditions	Deprivation	ASB

Ward	Dwellings - private rented stock >20%	All Cat 1 > regional average (9%)	1 no. Cat 1 > regional average for Excess Cold Falls or	High Cat 2 > regional average (42%)	Disrepair > regional 5% average	Has one or more elements of poor property condition	Deprivation % in 20% IMD	Persistent & Significant ASB with wards Ranked	
Alpertown	YES		√			YES		YES	13
Barnhill	YES		√	√		YES	YES	YES	10
Brondesbury Park	YES	√		√	√	YES		YES	19
Dollis Hill	NO 19%	√		√		YES	YES	YES	17
Dudden Hill	YES	√		√	√	YES	YES	YES	8
Fryent	YES	√		√	√	YES		YES	18
Harlesden	YES	√		√	√	YES	YES	YES	2
Kensal Green	YES	√		√	√	YES	YES	YES	5
Kenton	NO 19%	√		√		YES			21
Kilburn	YES		√	√	√	YES	YES	YES	3
Mapesbury	YES	√		√	√	YES	YES	YES	3
Northwick Park	YES	√		√		YES			20
Preston	YES		√			YES		YES	15
Queens Park	YES	√		√	√	YES		YES	7
Queensbury	YES		√			YES		YES	12
Stonebridge	NO 16%						YES	YES	9
Sudbury	YES		√			YES		YES	14
Tokington	YES	√			√	YES		YES	11
Welsh Harp	YES	√		√	√	YES	YES	YES	15
Wembley Central	YES	√		√		YES		YES	6
Willesden Green	YES	√		√	√	YES	YES	YES	1

Table 5: Summary of findings for Selective Licensing scheme conditions in Brent

The rationale for adopting a large scale scheme (>20%)

- 4.58 The data is analysed at ward and COA level. Each ward areas contains a high proportion of properties in the private rented sector which (according to the findings of the Brent 2019 Housing Stock Condition (HSCD) provided for Brent by the Building Research Establishment [BRE]) is above the latest national average reported by the English Housing Survey of 20%).
- 4.59 The proposals exclude the wards of Dollis Hill, Kenton, Stonebridge and the Wembley Park area of the Tokington ward. These areas did not meet the criteria for Selective Licensing in that Dollis Hill, Kenton and Stonebridge were under the 20% average, and that the Wembley Park area could not be shown to fail housing condition, ASB or other conditions required to demonstrate the need for of Selective Licensing.

The number of new properties expected to be brought into the scope of Selective Licensing

Electoral Wards (21)	Dwellings – all stock	Dwellings - Private		HMO Dwellings	Selective Dwellings
		Count	%		
Alperton	5,137	1,776	35%	699	1,077
Barnhill	5,824	1,481	25%	798	683
Brondesbury Park	5,759	2,316	40%	1,063	1,253
Dollis Hill	5,009	937	19%	394	543
Dudden Hill	5,684	2,271	40%	1,058	1,213
Fryent	4,622	1,088	24%	486	602
Harlesden	7,069	3,433	49%	811	2,622
Kensal Green	6,243	3,154	51%	1,169	1,985
Kenton	4,170	776	19%	315	461
Kilburn	8,155	3,871	47%	1,232	2,639
Mapesbury	6,779	3,948	58%	1,661	2,287
Northwick Park	3,916	795	20%	409	386
Preston	5,698	1,660	29%	751	909
Queens Park	6,473	3,334	52%	1,163	2,171
Queensbury	5,457	1,164	21%	411	753
Stonebridge	6,983	1,106	16%	426	680
Sudbury	5,439	1,869	34%	804	1,065
Toknygton	6,050	2,444	40%	900	1,544
Welsh Harp	5,106	1,219	24%	527	692
Wembley Central	5,066	2,312	46%	600	1,712
Willesden Green	6,611	3,962	60%	1,307	2,655
	121,250	44,916		16984	27,932

Table 6: Count and Percentage of estimated PRS dwellings across Brent

4.60 Table 6 above give the ward counts for Selective Licensing. Table 7 below confirms the total of **15,983** PRS properties are covered in total by the agreement to **renew (7,019)** and to **extend (8,964)**. Table 5 also shows the counts for each designation.

Designation	Ward Areas	Designation Count / % of PRS	PRS Cumulative % of Brent stock	PRS cumulative % of Brent Area*
2018 Designation	Dudden Hill, Kensal Green, Kilburn, Mapesbury and Queens Park	10,295 / 8.5%	8.5%	15.3%
Designation 1	Harlesden, Wembley Central and Willesden Green	6,989 / 5.8%	14.3%	25.2%
Designation 2	Queensbury, Fryent and Brondesbury Park	2,608 / 2.1%	16.4%	40.0%
Designation 3	Barnhill and Welsh Harp	1,375 / 1.1%	17.5%	52.3%
Designation 4	Northwick Park, Preston, Tokyngton (Excluding Wembley Park*), Alperton and Sudbury	4,981 / 4.1%	21.6%	80.1%
Totals	18/21 Brent wards covered	26,248	21.6%	80.1%

Table 7: Count and Percentage of estimated proposed designated areas

(* The Wembley Park site is 85 acres, or 0.34Km². Approximately 3,000 properties have been completed so far)

Anticipated Improvements as a result of renewal and extension to licensing

4.61 Overall licensing will help us to work with landlords to drive up management standards for private rented properties in the whole borough and in summary we believe that this will:

- Provide an improved strategic approach to managing the sector
- Help us to identify all properties that are rented out privately and to Establish a register of landlords operating in Brent
- Give us the opportunity to inspect the properties to assess living conditions and to advise landlords, managing agents and tenants about their obligations
- Impose the Housing Act mandatory conditions and a set of local conditions as a minimum letting standard in Brent
- Redefine how the service operates by shifting the emphasis from a customer complaints led, reactive service
- Address issues resulting from the movement of new and emerging communities and to preserve or improve the socio-economic conditions of the area
- Ensure that a proper standard of management of privately rented property is maintained and that properties do not become overcrowded
- Reduce the levels of anti-social behaviour in the borough and take action against those whose properties or tenants cause persistent ASB
- Reduce enviro-crime locally including improvement in the management of waste
- Strengthen enforcement action to tackle the small minority of rogue landlords in the sector

4.62 We will focus on poor property conditions and across a wide range of anti-social behaviour, including littering and dirty front gardens, noise nuisance and the use of privately rented homes for illegal activities. We will also address sub-standard conversions of and subletting of homes.

Anticipated Improvements in housing conditions, ASB and Deprivation

4.63 We will focus on poor housing conditions, across a wide range of anti-social behaviour and on deprivation. The annual scheme targets and objectives are summarized below in table 8 below.

Objective	Performance indicator	Outcome
Improvement in Single family dwellings	<ul style="list-style-type: none"> • Improve 1500 properties annually • Undertake compliance inspection in 25% of licences granted 	<ul style="list-style-type: none"> • Achieve 100% licensing • Reduce Cat 1 and high cat 2 hazards • Achieve a general improvement of property conditions in the designated area within the lifetime of the designation.
Reduction in Antisocial behaviour in	<ul style="list-style-type: none"> • Ward level analysis annually • Complete 10 cases annually police reported ASB 	<ul style="list-style-type: none"> • Reduction in ASB incidents • Reduce ASB concerns by residents over 5 years

single family dwellings	<ul style="list-style-type: none"> • Complete 60 cases per year Council reported ASB 	<ul style="list-style-type: none"> • Reduce ASB in 200 licensed properties annually
Combat problems of Deprivation	<ul style="list-style-type: none"> • 25 cases per year regarding excess cold and fuel poverty • 100 incidences of tenant homelessness advice 	<ul style="list-style-type: none"> • Combat deprivation in the 10 most deprived areas • Supporting the most vulnerable tenants e.g. benefits assessments

Table 8: Selective scheme targets and objectives

Licensing conditions

- 4.64 The revised licensing conditions for both selective and HMO licensing have been consulted upon and amended and are attached as an appendix.
- 4.65 It is worth noting that we have amended our licence conditions so that all new licences will contain a mandatory condition requiring the licence holder to “comply with the council’s storage and waste disposal scheme”.
- 4.66 HMOs, occupied by separate and multiple households, generate more waste and rubbish than single family homes and HMO landlords are already under a duty to ensure that adequate refuse facilities are provided, and to ensure that arrangements are made for the disposal of refuse under the HMO Management Regulations. However, the government has expressed their view that HMOs are residential properties and so the council’s waste collection service should be offered free of charge. It would not be appropriate for local authorities to levy commercial waste charging on such residential properties, or seek to impose such charging via any scheme or direction.
- 4.67 A licence holder’s failure to comply with the scheme condition is a breach of the licence and criminal offence. Below we have expanded the condition to state the actions we expect to be taken;
- a. Ensure that there are adequate arrangements for the storage and disposal of waste.
 - b. Ensure that the occupiers of the HMO are given the information in writing about waste and recycling within 7 days of the start of their occupation:
 - c. Ensure that a sufficient number of suitable external rubbish bins for the occupiers to dispose and recycle waste.
 - d. Ensure that any kind of refuse which the Council will not ordinarily collect (e.g. large items of bedding, furniture, hazardous waste etc.) are disposed of responsibly and appropriately.
 - e. Actively respond to complaints of poor waste practices associated with the property. The Licence holder must keep a record of the action taken and provide this to the Council within 14 days on demand.
- Information on Recycling and waste can be found at <https://www.brent.gov.uk/services-for-residents/recycling-and-waste/>

- 4.68 We are addressing the waste management problem by increasing working with our Waste Management and Pest Control Services, Veolia, our Enforcement Practitioners Group partners and with tenants and property licence holders. We aim to;
- Promote the waste management policy to landlords by linking Brent's waste collection policies on the licensing webpage, including the recycling procedures.
 - Work with partners to address illegal dumping, waste and pest (rats) infestation hotspots e.g. Chichele Road
 - Waste teams to inform the housing or licencing department where collection crews suspect a property is being let as an unlicensed HMO; and repeated contravention of collection service rules
 - Collaborate with HMOs above high street shops projects e.g. Harlesden and Queensbury
 - Tenants education through Veolia and Waste Enforcement Teams e.g. a welcome leaflet tailored to the waste collection service (depending on property type) is sent within a few weeks of notification of Communications a change to the council tax register.
 - Communication about dealing with extra waste at the end of a tenancy, and for student HMOs at the end of an academic year
 - Engaging with Brent's recent *Alcohol Licensing* and *Article 4 HMO Direction* policies being introduced by the Council.
 - Requiring HMO landlords to provide bin stores in certain cases.
 - Undertaking dirty and untidy front garden street surveys, which may also be indicative of the state of the rear gardens and communal areas.

Performance management

- 4.69 Applications, processing and compliance checks are supported by a fully on-line tool. In addition to the licensing performance being part of the corporate KPIs which are reported quarterly, Cabinet have agreed the recommendation for the regular review of licensing. The Community Wellbeing Scrutiny Committee will be provided with update reports as requested.
- 4.70 The licensing processes and management systems (QMS) receive regular ISO 9001 audits by Lloyds. Between May 2019 and August 2019, the Licensing of Landlords review was carried out by PricewaterhouseCoopers (PwC UK). The review has been undertaken as part of the 2019-20 Audit Plan as agreed by the Council's Audit Committee in March 2019. The Audit Plan was developed following an assessment of the main risks facing the Council.

Measures to ensure compliance with the new designations

- 4.71 Whilst we are proud of our application processing and enforcement achievements so far, we will seek to adequately resource the new designations and to deal with non-compliance robustly by;

- Having a staffing structure and compliment to deal with application processing and enforcement activities
- Using of data analytics e.g. BRE database
- Having proactive inspection programmes to address housing conditions and deprivation
- Reviewing service targets and objectives
- Revising the IT reporting
- Having an agreed licensing audit programme

Delivery of strategic priorities (in the Borough Plan and Policy Framework).

- 4.72 The Brent Housing Strategy 2017-22 sets out the Council's priorities and objectives. A key aim is for all privately rented properties in the borough to achieve minimum standards of management and condition by 2019, through licensing schemes.
- 4.73 The Licensing schemes have considered the homelessness and housing regeneration strategies

Consultation with Ward Members/Stakeholders

- 4.74 The consultation exercise was undertaken over 11 weeks starting on 10 June 2019 and closing on 25 August 2019 with the assistance of Opinion Research Services (ORS). The consultation received 1,110 responses to its online/paper questionnaire. ORS separately conducted 707 face-to-face interviews with residents between 20th June and 18th July 2019, of which 605 were conducted inside Brent and 102 in neighbouring boroughs.
- 4.75 Other activities completed were: -
- a) Brent Landlord, Investor and Developer Forum. The Forum is co-hosted by Midas Property Group which has a wide reach to the business market in Brent.
 - b) JCDecaux boards were deliberately placed in our high streets and business areas
 - c) Town Centre Manages assisted with the flyers and communications in centres e.g. Harlesden High Street.
 - d) Brent consultation Portal links through to several mailing groups.
 - e) The Consultation linked with the Council's main consultation vehicle - The Brent Connects programme
 - f) The Council carried out a range of publicity and engagement with residents and tenants. ORS recruited and facilitated the two events in different parts of the borough (Willesden Green Library and Brent Civic Centre). We targeted 50 attendees in total across the two events, targeting recruitment across all wards in the borough, and across a mix of demographics including age, ethnicity and tenure [including tenants of HMOs]. Around 170 privately renting tenants were also engaged via the consultation questionnaire.

- g) 2 x Drop-In sessions (Open) – Wembley Civic Centre and Willesden Green Library
- h) Stake holder forum (Closed invitation attended by RLA, NLA, Fire Brigade, Brent CAB, Shelter, Quintain/Tipi) on 14th August 2019, facilitated by ORS and documented in the ORS Findings report
- i) Brent Council Members Learning and Development session, 14th August 2019

4.76 As a recent example of how we have listened to and act on feedback; For landlords and agents as well as other stake holders the level of fees charged is a big issue. As a Council we have reasonably balanced the level of fee so that it covers our cost but that it is not so high that it unreasonably increases rents. At a landlord's meeting held during the consultation exercise, considerable attention was focused on the perceived unfairness of having to pay full fees when the licence purchased would only cover part of the licensing period, with many landlords applauding to show their agreement with these points:

“When a new landlord enters the market, they have to pay the full amount even if they're only using it for one year and then you have to pay the same amount to extend the licence”.

“You're charging me for admin fees whereas for other people admin fees have become illegal, especially for agencies, whereas the Council is still allowed to charge that same amount for a licence that either lasts 5 years or 1 year if you're in that last year period”.

4.77 The Council has the discretion to grant or vary the licence for a duration of up to the full five years from the date of when a licence is granted.

4.78 Landlords and their representatives have argued in opposition to fees charged for the reduced term when licensing or re-licensing. Some authorities have attempted to circumvent this problem by adopting a pro-rata approach to the enforcement portion of the licence (the cost of processing and application does not change). Obviously, this prorating of the licence fee is only appropriate in cases where there has been no deliberate attempt to avoid or delay application, such as in the case of a property purchased midway through a designation for purposes of rental.

4.79 Taking in to account the representations we have received it is our intention that by the end of the month, under his delegated powers the Strategic Director of Community and Wellbeing will introduce a policy for duration of licences whereby licences will be awarded for up to the maximum 5 years, extending beyond the end of the designation period.

Planning and HMOs

4.80 In pursuing the use of Article 4 Directions, the Planning Service sought Cabinet approval to remove permitted development rights for change of

use from residential dwellings and houses in multiple occupation to the whole borough.

- 4.81 HMO powers under the Housing Act are different to those found under the Town and Country Planning Act. The HMO Licensing and HMO Article 4 Direction will assist in a complementary and co-ordinated approach between the Housing and Planning functions in regulating HMOs in the borough, for which clear policies will be developed.

5.0 Financial considerations and Fees

- 5.1 The Council is entitled to cover the costs associated with the scheme through a fee but is not allowed to make a surplus or to use the fee income for purposes unrelated to licensing. As long as the conditions are complied with, the licence would remain valid for 5 years. To meet these conditions, fees have been costed and set at £840 for an additional HMO licence, and at £540 for five years for a Selective Licence, payable in two parts – Part 1 for the processing and administration, and Part 2 for the enforcement of the scheme. The fees include a discount for certain accredited landlords.
- 5.2 The administration of the scheme is such that it is intended to be self-financing over a five-year period with higher levels of income from years 1 and 2 put into a specific reserve to fund expenditure over the full 5 years.
- 5.3 It is estimated that 7,400 Additional HMO licences will be issued in the 5-year period generating income in the region of £5.98m. This assumes 2,400 licences being processed as renewal licences at a reduced rate of £740.
- 5.4 It is estimated that if MHCLG renew Selective Licensing in Harlesden, Willesden Green and Wembley Central, 4,800 licences will need renewing at a cost of £440 per licence, generating an income in the region of £2.1m.
- 5.5 It is estimated that if MHCLG approve all other areas designated for Selective Licensing a further 6,800 licences will be issued in the 5-year period generating total income of £3.7m over 5 years.
- 5.6 Income will be closely monitored, and management will employ an appropriately sized team to match the demand. The licensing scheme will cover the cost of processing applications, compliance monitoring and enforcement against licensed properties. It will not fund the cost of any enforcement action on non-licensed properties.

6.0 Legal considerations

The Legal framework for Additional and Selective Licensing schemes

- 6.1 *Additional Licensing:* Section 56 of the Housing Act 2004 provides a power to licence HMOs not covered by mandatory licensing; defined as properties containing 3 or 4 people forming 2 or more households. Under Additional Licensing, local authorities can designate an area for an initial term of up to 5 years but must be satisfied that a significant proportion of the HMOs in the area are being managed sufficiently ineffectively as to give rise to one or more particular problems, either for those occupying the HMOs or for members of the public. The use of Additional Licensing has to be consistent with the local authority's housing strategy and should be co-ordinated with the authority's approach on homelessness, empty properties and antisocial behaviour. In respect of consent from the Secretary of State for the Ministry of Housing, Communities and Local Government, a general approval was issued by the said government department in 2010 to enable local authorities to make such designations for Additional Licensing and to rely on that approval without obtaining the Government's specific consent, provided that there is a minimum 10-week consultation period before the designation is made.
- 6.2 *Selective Licensing:* Under Part 3 of the Housing Act 2004, local authorities can introduce Selective Licensing schemes that focus on improving the management of privately rented housing properties accommodating households under a single tenancy or licence as well as HMOs, which are not subject to additional and mandatory licensing. Before introducing a Selective Licensing scheme, the Council (in this case, the Council's Cabinet) must consider that the area is suffering from and would reduce or eliminate one or more of the following specific housing problems: significant and persistent ASB, low housing demand, poor housing conditions, or high levels of migration, deprivation or crime.
- 6.3 Since 2015, the regulations regarding Selective Licensing stipulate that where a designation in relation to Selective Licensing would cover more than 20% of the local authority area or more than 20% of the private sector stock, consent to a scheme must be sought from the Secretary of State for the Ministry of Housing, Communities and Local Government. The 20% total would include any areas already designated, meaning that any significant extension of Selective Licensing in Brent would require consent. The regulations also stipulate that where a licensing designation in relation to Selective Licensing would cover more than 20% of the local authority area or more than 20% of the privately rented homes in the local authority area, consent to a designation must be sought from the Secretary of State. The 20% total would include any areas already designated, meaning that any significant extension of Selective Licensing in Brent would require consent.

7.0 Equalities considerations

- 7.1 A full Equality Analysis has been undertaken. The findings of the analysis show that the vulnerable groups that are over-represented in PRS.
- 7.2 If the licensing schemes are introduced, all equality groups are likely to benefit from improvements in engagement, communication and signposting information between the Council, landlords and tenants and other service providers. Information would relate to such matters as changes in the law affecting the PRS, energy efficiency measures and grants availability, information on local organisations and agencies which may be able to provide support.
- 7.3 The Equality Analysis, however, has also identified some potential negative consequences for over-represented equality groups in the affected landlord, agent and tenant cohorts. The main risks identified are;
- Landlords may face increased business costs and potential financial penalties.
 - Some landlords – particularly those likely to struggle to comply with licensing conditions – to withdraw from the market and evict their tenants.
 - Tenants may also potentially be affected by enforcement actions against landlords of overcrowded properties
 - Both landlord and tenant groups said that licensing will add to the problems they will face as a result of the Government’s plan to end “no-fault eviction” and have asked that the Council clearly sets how it will act with regard to section 21, should the ban be introduced.

Report sign off:

Phil Porter

Strategic Director of. Community Wellbeing