



**Community and Wellbeing  
Scrutiny Committee**  
20 July 2016

**Report from the Strategic Director  
Community Wellbeing**

For information

Wards affected: ALL

**Additional and Selective Licensing in the Private Rented  
Sector**

**1.0 Summary**

- 1.1 This report provides an overview of progress since the implementation of borough-wide Additional Licensing and Selective Licensing in the three wards of Harlesden, Wembley Central and Willesden Green in January 2015. In addition, it identifies areas where further work is required to achieve the objectives identified at the start of the project and proposals for the future operation of the scheme.

**2.0 Recommendations**

- 2.1 Members are asked to note this report.

**3.0 Background**

- 3.1 Following extensive research and consultation, in April 2014, Executive approved the introduction of Additional Licensing and following further consultation in August 2014 approval was given for the introduction of a Selective Licensing scheme covering the three wards noted above. Since 2006 the council has operated a Mandatory scheme, requiring the licensing of larger Houses in Multiple Occupation (HMOs); this covers properties with three or more storeys and occupied by five or more people. Additional Licensing requires that landlords of all HMOs of any size should obtain a licence. This covers properties up to two floors and occupied by three or more households, including many flat-sharing arrangements. Selective Licensing requires landlords of *any* privately rented property, including self-contained accommodation, in certain areas to obtain a licence.
- 3.2 In summary, the rationale for extending the council's approach was centred on the rapid expansion of the private rented sector (PRS) and consequent concerns about the quality of accommodation and standards of management.
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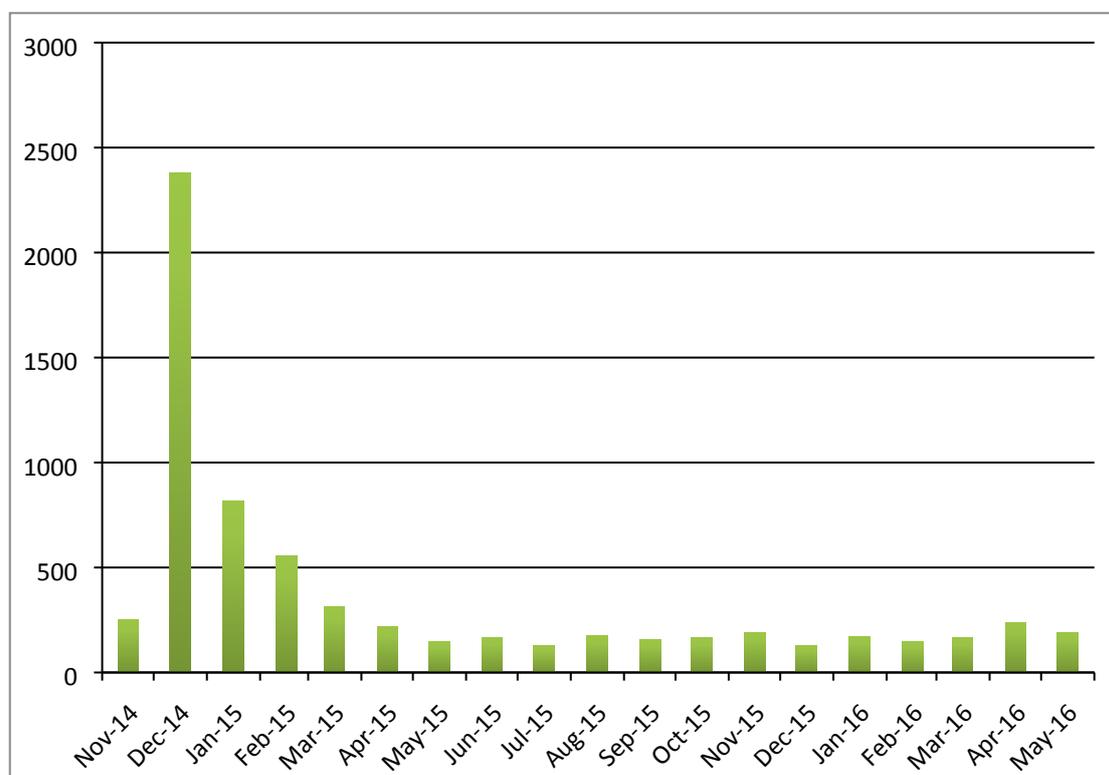
Particularly in the case of Selective Licensing, there was concern about the links between poorly maintained and managed accommodation and a range of anti-social behaviour.

3.3 Expected outcomes from the programme were expected to include an improvement in standards of maintenance and management to the benefit of tenants as well as a reduction in anti-social behaviour linked to the sector. In addition, better information about the extent and characteristics of the sector were expected to assist in supporting the development of working relationships between the council and the sector as well as a clear and firm approach to tackling rogue landlords.

#### 4. Detail

##### 4.1 Progress to Date

4.1.1 In the first year of operation, there was a strong focus on maximising applications. The chart below shows the rate of applications received to 31<sup>st</sup> May 2016, which totalled 7,000 for all schemes.



4.1.2 As expected, extensive publicity following lengthy consultation led to an initial surge in applications, which were accepted from November 2014, prior to the January launch. In the following months, the rate of applications has stabilised and issues arising from this are considered in more detail below. Since January 2016, the focus became more proactive in identifying unlicensed properties and pursuing prosecution. Key achievements since then include:

- 28 successful prosecutions against unlicensed landlords

- £115,375 of fines for landlords prosecuted by the council
- 90 raids on unlicensed properties
- 7293 properties visited in a door-knocking exercise to locate unlicensed properties
- 859 properties identified as requiring further investigation
- Televised raids with the BBC, ITV and Sky
- Between 3 and 5 cases referred to Legal Services each week for prosecution

4.1.3 The table below shows a breakdown of licences granted so far (licence applications currently being processed are not included):

	Properties Licensed	Est. of licensable properties	%
Mandatory	405	300	135%
Harlesden	1,204	1,109	109%
Willesden Green	1,374	1,011	136%
Wembley Central	968	703	138%
Additional	1,304	16,000	8%
Total	5,255		

4.1.4 There has been good take-up of Mandatory and Selective licensing, exceeding the totals estimated prior to implementation. The apparent under-estimation of affected properties is being considered as part of the review of the methodology referred to at 4.2.4 below but may also reflect the continuing growth of the sector since the first estimates were made. However, take-up for Additional licensing is well below anticipated levels. The following paragraphs consider the reasons for this and the actions under consideration for the future operation of the scheme.

## 4.2 Next Steps

4.2.1 The poor response on Additional Licensing may be attributable to several factors. Despite extensive publicity, landlords may be unaware that there is a licensing scheme because they do not live in the borough or live outside the UK. While other landlords may be aware that there is a scheme, they may not understand that it applies to them. It is significant that the response to Selective Licensing has been good and this is, at least in part, probably due to the fact that the scheme is simple to understand: if you rent a property of any

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kind in the three relevant wards (Harlesden, Wembley Central and Willesden Green), you must apply for a licence. In the case of Additional Licensing, landlords may not be aware that they are letting a HMO or that their tenants constitute more than one household. At the extreme, rogue landlords may be fully aware of the need to obtain a licence but deliberately ignore the requirement, knowingly taking the risk that they will be identified and prosecuted.

- 4.2.2 Prior to the launch of licensing in November 2014 and for the first couple of months after going live, a dedicated communications officer supported a range of activity to publicise the scheme. Private Housing Services (PHS) has subsequently employed an agency communications officer and a new communications plan has been developed with a focus on increasing applications. The plan, which is currently being implemented, aims to continue to engage with landlords, but also focus on residents who are being asked to report unlicensed HMOs. Wider engagement with the landlord community is also key to both reinforcing take-up and raising standards and the Brent Landlords' Forum event in June was attended by around 300 landlords.
  - 4.2.3 Together with the Information Technology Unit, PHS have developed an online application form and payment system. This system has worked well but is currently being reviewed and re-designed to incorporate improvements including improving clarity and adding a form for tenants and residents to report unlicensed properties.
  - 4.2.4 Desktop investigatory work undertaken by the licensing processing officers is a third strand in the approach. These officers use various data sets and referrals to investigate properties that appear to be HMOs. This draws on work undertaken by Professor Les Mayhew, a specialist in demographics and statistics who has developed a model supporting the identification of properties likely to be HMOs. This uses a range of datasets, for example Council Tax records, to predict the tenure of residential property and the likelihood of its being privately rented. Professor Mayhew's approach has been adopted by a number of authorities undertaking licensing work and was part of the research and consultation process supporting the original proposals for the scheme, identifying 36,000 potential properties. Further work is being undertaken with Professor Mayhew to update and refine the database.
  - 4.2.5 A rigorous enforcement and prosecution regime will continue to send a clear message to landlords. Additional enforcement officers have been recruited and a proactive team of six officers has been created. Using intelligence gathered by the processing officers, visits and early morning raids are carried out to identify unlicensed properties, leading to prosecution where appropriate.
  - 4.2.6 With a lower number of applications than was anticipated, most enforcement action is being executed under the Housing Health and Safety Rating System (HHSRS) set out in Part 1 of the Housing Act 2004. To accommodate this workload increase whilst minimising the draw on general funds, a charge is made for improvement notices at the point of service. Also, Works in Default have been virtually non-existent in recent years, but there are some
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circumstances where such action has to be taken in tandem with prosecution for non-compliance proceedings. There is a 30% surcharge in addition to the cost of the works levied against the landlord and these funds are allocated towards the enforcement officer costs associated with preparing and supervising the works.

- 4.2.7 Additionally, a team of five HMO licensing officers are carrying out 40 inspections of licensed properties per week. These post-licence application inspections are done in order to ensure that the licensed properties are meeting the required standards. These officers are able to deal with many of the minor non-conformities or breaches themselves but more urgent or complex Category 1 hazards or licence breaches are referred to the reactive team to deal with. All HMO (Mandatory and Additional) Licensed properties will be inspected during the 5-year period of the schemes, with a prioritisation of those where concerns are evident at the point of application or through subsequent intelligence.
- 4.2.8 A more targeted approach is also being taken with regard to specific condition breaches, where a project is underway to deal with those properties that have been licenced but have not submitted a Gas Safe certificate. The scheme allows for the grant of a one-year licence where there are identified issues that the landlord is expected to address. The majority of these cases involve overcrowding.
- 4.2.9 In dealing with overcrowding in particular, as well as other breaches of the HSSRS and licensing conditions, it is recognised that there may be unwanted consequences for tenants and this was acknowledged in the original proposals for the scheme. It was anticipated that some landlords might respond to licensing by withdrawing from the market or changing the type of letting they make, while in cases where landlords faced penalties they might respond by taking action to evict tenants. So far, there is little evidence to suggest any significant rise in homelessness as a result of landlords withdrawing from the market. Tenants have protection against retaliatory eviction in some cases (mainly for tenancies starting after October 2015) in addition to established protections against harassment and illegal eviction. In addition, where a tenant approaches the council when threatened with homelessness, the council's first response will be to contact the landlord. Similarly, there is no direct evidence that landlords have increased rents as a direct result of licensing. Although many landlords indicated in the consultation process that the costs of licensing would be absorbed in rent increases, it does not appear that this has been the case, possibly reflecting the fact that Brent's fees are the lowest in London as well as the fact that the fee constitutes an extremely small percentage of the rental income for a private rented property over the 5-year period usually covered by the licence.
- 4.2.10 However, it is recognised that cases may go unreported or are recorded as homeless approaches without identifying any link with licensing or other enforcement action. Monitoring processes are being reviewed to ensure that any relevant cases are captured in future wherever possible.
- 4.2.11 Linked to this, the council has the option to impose Interim Management Orders, which effectively allow the council to take over the landlord role in a property for a designated period and to retain the rental income to meet costs.
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So far, the council has not made use of this option, in line with the approach taken by the majority of other councils. Primarily, this is due to doubts about the effectiveness of such orders and the high administrative costs, which are rarely outweighed by rental income. However, officers are considering whether there are circumstances in which such orders could be used effectively.

4.2.12 More intensive working with lettings agents across Brent is also planned (as the number of these is a fraction of the number of landlords operating in the borough and their location and details are known) with the aim being to ensure that lettings agents discharge their responsibilities in respect of properties which are within the scope of the schemes that are let by them or where they are acting as the managing agent.

4.2.13 As noted above, the case for the introduction of Selective Licensing was based on levels of anti-social behaviour linked to private renting (although this will not be the sole criterion for future schemes – see below). As noted in the original report, this does not mean that it was necessary to be able to link anti-social behaviour to any particular property; rather, it was necessary to identify a correlation between anti-social behaviour and the extent of private renting in any area. At this stage, there is no clear evidence with regard to the impact of licensing on anti-social behaviour, for several reasons. First, the scheme has only been in place for 18 months and the focus has been on encouraging take-up and dealing with serious breaches, rather than wider research on the impact, which may only emerge over time as the scheme extends and beds in. In addition, there are many reasons why anti-social behaviour such as fly-tipping or littering may rise or fall in an area, including other actions undertaken by the council, making it difficult to attribute any change directly to licensing. As noted below, officers are considering the possible case for a further extension of licensing and, as part of this work, will be considering the impact of the scheme so far.

### **4.3 New Powers and Future Approach to Licensing**

4.3.1 As noted above, there is a huge contrast between the response to Selective and Additional Licensing from landlords. While the actions outlined are expected to increase applications, it is also appropriate to consider whether a further extension of Selective Licensing, where warranted in the context of the statutory criteria for such schemes might also offer the most effective solution to take-up.

4.3.2 Under the regulations as they stood at the time, Selective Licensing could only be introduced where a local authority could demonstrate either low demand for housing or significant anti-social behavior linked to the extent and nature of the private rented sector. Following extensive research and consultation, the evidence indicated that the ward-based approach eventually adopted was the most appropriate option. Since then, the government has moved to change the basis on which licensing can be introduced. This includes the introduction of new factors that can be taken into account in addition to low demand and anti-social behavior. Licensing can now be considered to address poor property conditions, high levels of migration (national and international), high levels of deprivation and high levels of crime. These are all factors that could be relevant in Brent.

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4.3.3 However, the regulations also stipulate that where a licensing designation would cover more than 20% of the local authority area or more than 20% of the private sector stock, permission would need to 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. Although this presents an additional hurdle, officers are considering the options for extending Selective Licensing beyond the three wards currently covered.

4.3.4 Through the Housing and Planning Act and other measures, the government has introduced a range of new powers and measures intended to tackle rogue landlords. These include:

- The Deregulation Act 2015: measures to discourage Retaliatory evictions in force from October 2015
- The Smoke and Carbon Monoxide Alarm (England) Regulations 2015: in force from 1st October 2015
- Immigration Act 2014: duty for landlords to carry out “right to rent” checks from 1<sup>st</sup> February 2016
- Housing and Planning Act 2016:
  - Database of rogue landlords and letting agents
  - Banning Orders
  - Rent repayment Orders to deter landlords who have committed offences
  - Electrical safety requirements similar to existing gas safety rules
  - Ability for local authorities to apply civil penalties and retain any resources to support further enforcement action

4.3.5 As further detail emerges through publication of regulations and guidance, officers will assess the impact of these changes for the operation of the licensing scheme. The ability to apply civil penalties could, in particular, be very effective in driving licensing take-up as it could operate much more quickly and at much greater scale than the bringing of criminal prosecutions.

## **5.0 Financial Implications**

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

## **6.0 Legal Implications**

6.1 There are no immediate legal implications arising from this report.

## **7.0 Diversity Implications**

7.1 There are no diversity implications immediately arising from this report.

## **Background Papers**

## **Contact Officers**

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