

Notice of:	EXECUTIVE
Decision Number:	EX9/2017
Relevant Officer:	Alan Cavill, Director of Place
Relevant Cabinet Member:	Councillor Mrs Christine Wright, Cabinet Member for Housing
Date of Meeting:	20 February 2017

SELECTIVE LICENSING FOR THE CENTRAL AREA

1.0 Purpose of the report:

- 1.1 This report seeks approval for a Selective Licensing scheme to be introduced in the Central area of Blackpool, covering most of Talbot ward and parts of Brunswick and Bloomfield wards. Selective Licensing requires that, other than very limited exceptions, all privately rented properties are required to be licensed. Selective Licensing schemes are designed to help reduce anti-social behaviour and improve the management of privately rented homes.
- 1.2 Following public consultation from July to September 2015 on both Selective and Houses in Multiple Occupation Additional Licensing for the Central area, Executive decided to introduce a Houses in Multiple Occupation Additional Licensing scheme on 4 April 2016 and this scheme has been in effect since July 2016. A new Selective Licensing scheme would apply to the majority of privately rented homes in the Central area that are not already covered by Houses in Multiple Occupation mandatory and Houses in Multiple Occupation Additional Licensing schemes.
- 1.3 A new Selective Licensing scheme for the Central area would require Secretary of State confirmation, which, in accordance with the regulations, would be sought after the Executive has approved the introduction of the scheme.

2.0 Recommendation(s):

- 2.1 To request the Director of Place to submit the Selective Licensing scheme for the Central area to the Secretary of State for confirmation.
- 2.2 To request the Director of Place to advertise the scheme in accordance with the regulations.

2.3 That following the implementation of 2.1 and 2.2, and subject to the Secretary of State's confirmation, to designate a Selective Licensing scheme for the Central area as set out in the report including the amendments proposed to the scheme as a result of the public consultation, with effect from at least 3 months after the published decision date in accordance with the regulations.

2.4 To agree in principle to the Council supporting a co-regulation scheme for Selective Licensing in the Central area and to receive a further report on the details of the scheme, the scheme provider, and the legal agreement before the scheme comes into effect.

3.0 Reasons for recommendation(s):

3.1 Selective Licensing is a key component of the Council's approach to address issues commonly occurring as a result of poor quality privately rented accommodation; it will improve management, reduce the impact of anti-social behaviour arising from privately rented homes and help improve the quality of life for local residents.

3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.2b Is the recommendation in accordance with the Council's approved budget? Yes

3.3 Other alternative options to be considered:

Alternative options to Selective Licensing for addressing poor conditions and anti-social behaviour are set out in the final proposal document at Appendix 3a, to the Executive report. Alternative approaches have not been considered to be sufficient given the scale and severity of issues associated with poorly managed homes in the Central area.

Executive could decide not to allow landlords the option of co-regulation, but this would be a lost opportunity to take advantage of increased input from landlords and linking licensing to broader good practice in private sector management through a Code of Practice and training.

4.0 Council Priority:

4.1 The relevant Council Priority is:

"Communities: Creating stronger communities and increasing resilience".

5.0 Background Information

- 5.1 A report was approved by Executive on the 20 July 2011 to develop work to introduce Selective Licensing to a number of inner areas of Blackpool. Following the introduction of Selective Licensing to South Beach in March 2012 and Selective and Houses in Multiple Occupation Additional Licensing to Claremont in July 2014, the remaining areas were brought together as the “Central area” and formal public consultation on a draft proposal for selective and Houses in Multiple Occupation Additional Licensing took place between 17 July and 25 September 2015.
- 5.2 While the consultation proposed both selective and Houses in Multiple Occupation Additional Licensing in the Central area, as a result of considering consultation responses, and having reviewed the proposals generally, the Council decided to introduce only a Houses in Multiple Occupation Additional Licensing scheme in the first instance, with a requirement in the Executive approval of 4 April 2016 that officers further develop Selective Licensing proposals for the Central area.
- 5.3 Part 3 of the Housing Act 2004 enables local authorities to introduce a Selective Licensing designation where they can demonstrate that there are a large number of privately rented homes that are being managed badly and that this is causing problems for the tenants or members of the public. If the scheme is approved, each affected property in the Central area will be required to obtain a licence and comply with the licence conditions. The licence lasts for 5 years.
- 5.4 The proposal demonstrates the prevalence of poorly managed privately rented homes in the Central area, and the impact that this is having on tenants and the wider community. The proposal sets out how the statutory criteria of a significant and persistent problem caused by anti-social behaviour, high levels of crime, a high level of deprivation and poor property conditions are met. It shows that selective licensing is an essential tool to help ensure that landlords comply with a minimum standard of property management, and how Selective Licensing will operate alongside other measures to address the issues within the area.
- 5.5 Since April 2015, local authorities have been required to seek Secretary of State confirmation for any new Selective Licensing schemes where more than 20% of privately rented homes in a borough will be included in Selective Licensing areas. This is the case for the Central scheme when added to the existing schemes in South Beach and Claremont.
- 5.6 The Selective Licensing proposal is now being brought forward for approval following the initial experience of the Houses in Multiple Occupation Additional Licensing scheme in the Central area. It was estimated that the Central Houses in Multiple

Occupation Additional Licensing scheme would cover around 700 Houses in Multiple Occupation properties in the Central area, but the current level of licence applications and experience from property inspections in the area suggests that approximately only 350 properties in the area are likely to be covered by Houses in Multiple Occupation Additional Licensing. This is because a significant number of converted properties in the area do not meet the minimum occupancy criteria of at least two households and at least three people.

5.7 While it is too early to determine the impact of the Houses in Multiple Occupation Additional Licensing scheme, it is clear that this scheme alone will not tackle the density of issues within the Central area of Blackpool. As well as the evidence presented in the proposal at Appendix 3a, to the Executive report, comprehensive inspections within the area suggest that issues of poor management are prevalent across the privately rented stock and not confined to Houses in Multiple Occupation. The most effective approach to tackling these issues is by the introduction of selective licensing alongside the existing Houses in Multiple Occupation Additional licensing scheme.

5.8 The Selective Licensing proposal has been further developed to reflect consultation responses. The headline results of the consultation are set out below:

Consultation results

- 1,408 completed questionnaires were received (online and postal) of which 1,141 were from residents and 267 were from landlords and managing agents
- Over 150 people attended the 8 public meetings and Fylde Coast Landlords Forum meeting at which the proposals were discussed.
- Written representations were made by the Residential Landlords Association and the National Landlords Association and a number of individual correspondents.

5.9 Separate questionnaires were sent out to landlords and managing agents and other residents within the consultation area and the headline results of the surveys are that:

Landlords and Agents

- 75.5% think that the council should intervene in areas suffering from high levels of anti-social behaviour (ASB)
- 80.6% think that poorly maintained properties contribute to the decline of an area

- 77.4% think that badly managed properties contribute to the decline of an area
- 85.0% think landlords have a responsibility to have satisfactory management arrangements in place

Landlords cited anti-social behaviour, empty properties, low rent levels, high turnover of tenants, and a poor perception of landlords, as being the 5 most significant problems in the area. These highlight the key issues that Selective and Houses in Multiple Occupation Additional Additional Licensing are seeking to tackle.

When asked if it was their responsibility to tackle nuisance and anti-social behaviour arising from either their tenants or visitors to their property, 50.4% said they thought it was, whilst 38.2% thought not.

When asked specifically about Additional and Selective Licensing their responses were largely negative, with 73.4% being against its introduction and 20.3% being in favour.

Residents

In terms of the findings from residents, the following can be highlighted:

- Residents said that their 5 biggest problems in the area were rubbish dumping, no sense of community, neglected properties, nuisance neighbours, and the use of/dealing drugs
- 96.1% felt it is a landlord's responsibility to make sure their properties are well maintained
- 82.8% think that private sector landlords should demand references from prospective tenants
- 82.1% think landlords should be responsible for dealing with nuisance tenants and anti-social behaviour caused by tenants or visitors to their property
- 60.7% feel that the Council are not effective enough in dealing with anti-social behaviour
- 64.7% would like to see additional and selective licensing and 22.2% would not, with 13.0% as don't know

5.10 Some respondents queried the robustness of Police data on anti-social behaviour and how it is recorded. Further interrogation of the data shows that anti-social behaviour is indeed strongly linked to private rented properties in the Central area. During the public meetings and through individual representations during the consultation period, a number of other suggestions and comments were made about the proposed scheme and these have been detailed in Appendix 3b, to the Executive report.

Main changes to the scheme following consultation

- 5.11 Following the consultation the Council has revised the proposal to reflect the views of residents and landlords. Many landlords were concerned about the high cost of licensing, having to pay the full costs for a 5 year licence up front, and they could not easily understand how the fees were being used. The revised proposal has sought to address these concerns by giving an alternative option to landlords of co-regulation. This is an approach that was first developed in Doncaster and has been used there for the last 12 months, and subsequently in Gainsborough in Lincolnshire.
- 5.12 Co-regulation would be enabled by allowing landlords who license their properties a choice of either paying fees up front to Blackpool Council and being inspected for compliance by Blackpool Council or to pay a much reduced fee to Blackpool Council and join a co-regulation scheme, with a monthly administration fee. A specific co-regulation scheme for Selective Licensing in the Central area of Blackpool will be set up and administered by an independent company using their systems, and with its own capacity in Blackpool. The total cost to landlords for co-regulation over a 5 year period is likely to be similar to the cost of paying fees up front to Blackpool Council.
- 5.13 If landlords choose membership of the co-regulation scheme they would have to comply with a Code of Practice that incorporates, but is broader than, the licence conditions. This Code of Practice would be agreed between the delivery partner and the Council. Under the scheme, landlords will have to complete annual inspections, with all of the information and photographic evidence on a web based system available to the Council. In this way, good landlords should be able to demonstrate compliance with broader standards in return for a reduced fee to the Council, while the Council focuses on landlords who cannot meet these standards. The local authority will be able to inspect a small sample of properties to ensure that inspections are robust.
- 5.14 Co-regulation also provides landlords with regular opportunities to contribute to development of the scheme. Current plans include the development of a tenant referencing scheme available to members. Members may also benefit from discounts negotiated with local suppliers and tradespeople to help encourage investment in property improvements.
- 5.15 Evidence from the Selective Licensing scheme in Hexthorpe, Doncaster that has used a co-regulation approach is that after 12 months there was a 44% reduction in nuisance complaints and a 35% reduction in noise complaints. The harnessing of constructive input from better landlords is seen to be an important element of this success.
- 5.16 Does the information submitted include any exempt information? **No**

5.17 **List of Appendices:**

Appendix 3a– Final proposal for selective licensing in the Central area

Appendix 3b – Summary of consultation and the Council’s responses

6.0 **Legal considerations:**

6.1 Part 3 of the Housing Act 2004 allows the local authority to introduce a selective licensing scheme provided a range of conditions are demonstrated, and defined processes are followed. Advice has been sought from Counsel to confirm that the proposal demonstrates that the criteria for selective licensing have been met in the Central area. The full list of criteria is set out in the proposal document at Appendix 2a.

6.2 Counsel’s advice also confirms that the statutory processes have been followed to date, including the need for a public consultation of at least 10 weeks duration.

6.3 Following approval by the Council to introduce a selective licensing scheme for the Central area, confirmation will then be required from the Secretary of State before the new scheme can be brought into effect.

6.4 Legal and procurement implications would also arise from the proposed use of co-regulation to help implement the scheme. Discussions are underway with potential providers of the co-regulation scheme and while there is no cost to the Council and no payment will be made between the Council and provider, there will be compliance with the Council’s Corporate Procurement rules. These will be addressed in a further Executive report.

6.5 There would also need to be a legal agreement signed between the Council and the co-regulation delivery partner to ensure that the Council is satisfied that in making concessions to landlords who join the co-regulation scheme, the full Selective Licensing conditions will be met, the Council will be able to check the robustness of action taken by the co-regulation partner, and will have access to the information that it needs.

7.0 **Human Resources considerations:**

7.1 Dedicated staff will be retained to deliver the local authority’s responsibilities in the Selective Licensing scheme. The role of the local authority will be less than for previous selective and additional licensing schemes due to the co-regulatory approach. Where landlords choose to join the membership scheme, the local authority’s role is limited to basic checks, issuing licences, and monitoring.

8.0 Equalities considerations:

- 8.1 An Equalities Impact Assessment has been completed to meet the requirements of S.149 of the Equality Act 2010. The assessment found that the selective licensing proposal would not adversely affect people with any of the key protected characteristics.

9.0 Financial considerations:

- 9.1 Fees have been set so that the scheme is self-financing, with the fees reflecting the costs to the local authority of administering the scheme. Where landlords choose to become members of the co-regulation scheme, the fees due to the local authority are much less, reflecting the much more limited role of the local authority. The processes are well established from the South Beach and Claremont Selective and Additional Licensing schemes so the review of costs for the Central area reflects the knowledge gained from this experience.

10.0 Risk management considerations:

- 10.1 There is a risk that the scheme is not confirmed by the Secretary of State. This has been mitigated by discussing the legal requirements with civil servants so that we can incorporate them into the Central selective licensing scheme proposal. There is also a risk of judicial review of the scheme, but the process and case has been planned in accordance with the relevant statute and legal advice has been taken. Working more closely with landlords through co-regulation should also reduce the risk of judicial review.
- 10.2 The introduction of co-regulation would raise a risk of a third party provider failing to operate effectively or ceasing to operate at all. This will be mitigated through a legal agreement that would allow close monitoring by the Council, and by separating the issuing of licences, which remains the responsibility of Blackpool Council, from on-going compliance. Due diligence will be undertaken on the proposed co-regulation partner before they are established as the co-regulation provider. If the co-regulation scheme were to cease to operate, an alternative scheme for ensuring compliance could be established, funded by continuing monthly membership payments by landlords. As most of the initial inspection work will be completed within the first year of the scheme, the risk reduces as time goes on.
- 10.3 Another risk is that by tackling problems in the private rented sector around the management and condition of properties some landlords may shut their properties down, leading to a threat of empty properties and some homelessness. As in the previous Selective and Additional Licensing schemes, Housing Options staff will work closely with the licensing team to provide support to any tenants affected by the

shutting down of sub-standard properties.

11.0 Ethical considerations:

11.1 None

12.0 Internal/ External Consultation undertaken:

12.1 Extensive consultation has been conducted as detailed in Section 5. Since the end of the formal consultation period there have been further informal discussions with landlords around the development of the proposals and the establishment of a co-regulation approach.

13.0 Background papers:

13.1 Proposal to designate the Central area for selective and additional licensing schemes published for public consultation from 17 July 2015

14.0 Key decision information:

14.1 Is this a key decision? Yes

14.2 If so, Forward Plan reference number: 22/2015

14.3 If a key decision, is the decision required in less than five days? No

14.4 If **yes**, please describe the reason for urgency:

15.0 Call-in information:

15.1 Are there any grounds for urgency, which would cause this decision to be exempt from the call-in process? No

15.2 If **yes**, please give reason:

TO BE COMPLETED BY THE HEAD OF DEMOCRATIC GOVERNANCE

16.0 Scrutiny Committee Chairman (where appropriate):

Date informed: 10 February 2017 Date approved:

17.0 Declarations of interest (if applicable):

17.1 None

18.0 Executive decision:

18.1 The Executive agreed the recommendations as outlined above namely:

1. To request the Director of Place to submit the Selective Licensing scheme for the Central area to the Secretary of State for confirmation.
2. To request the Director of Place to advertise the scheme in accordance with the regulations.
3. That following the implementation of decision 1 and 2, and subject to the Secretary of State's confirmation, to designate a Selective Licensing scheme for the Central area as set out in the report including the amendments proposed to the scheme as a result of the public consultation, with effect from at least 3 months after the published decision date in accordance with the regulations.
4. To agree in principle to the Council supporting a co-regulation scheme for Selective Licensing in the Central area and to receive a further report on the details of the scheme, the scheme provider, and the legal agreement before the scheme comes into effect.

18.2 Date of Decision:

20 February 2017

19.0 Reason(s) for decision:

Selective Licensing is a key component of the Council's approach to address issues commonly occurring as a result of poor quality privately rented accommodation; it will improve management, reduce the impact of anti-social behaviour arising from privately rented homes and help improve the quality of life for local residents.

19.1 Date Decision published:

21 February 2017

20.0 Executive Members in attendance:

20.1 Councillor Campbell, in the Chair

Councillor Benson, Cain, Cross, Kirkland, Smith, I Taylor and Mrs Wright

21.0 Call-in:

21.1

22.0 Notes:

22.1 Apologies were received from Councillor Blackburn who was elsewhere on official Council business.