

**CABINET:** 16<sup>th</sup> May 2024

**Report title:** Implementation of the Selective Licensing Scheme

**Wards:** All

**Portfolio:** Cabinet Member for Safer Communities- Councillor Mahamed Hashi

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## REPORT SUMMARY

The London Borough of Lambeth has a total of 144,985 residential dwellings as of October 2022, 48,695 of which are Private Rented Sector (PRS), calculated to be 33.6% of housing stock. Government and Council data has shown that 9,446 PRS dwellings in Lambeth are predicted to have a serious home hazard (Category 1). In addition, over a 3-year period the Council has received over 10,000 complaints of ASB related incidents in the PRS. Given the significant proportion of residents in this type of accommodation it is important to ensure that these homes are decent and safe.

The Council's Borough Plan demonstrates Lambeth's commitment to ensuring that Lambeth is a borough that is fit for the future, that people want to call home and is one of the safest boroughs in London by 2030. This requires the Council to initiate improvements that ensure behavioural changes that can improve the local environment and residents experience. In terms of the PRS, this includes not only tackling rogue landlords, tackling property conditions but also supporting good landlords and tenants that need assistance. Selective Licensing is one mechanism that can be used to achieve these objectives.

In 2023, a feasibility study was conducted around the introduction of Selective Licensing within the Borough. A report was produced setting out the evidence base and proposals for the introduction of Selective Licensing and to form the basis of the statutory consultation process. The introduction of a Selective Licensing regime would make it mandatory for any landlord renting a property to a single-family household or a household occupied by no more than two unrelated sharers to licence the property with the Council and meet the required licensing conditions. This would complement the existing property licensing schemes that are already in place for properties rented as Houses in Multiple Occupation (HMO).

The 12-week consultation exercise started on 11<sup>th</sup> December 2023 and ended on 4<sup>th</sup> March 2024 and centred on the proposal to undertake the selective licencing designation on a phased basis in four (4) wards during the financial year 2024/25. All representations received in the consultation have been considered and are outlined in this report alongside the applicable responses. This designation (phase 1) will require certain private rented accommodations to obtain a licence and to address improvement of housing standards, the safety of the properties and by extension its owners and occupiers.

## FINANCE SUMMARY

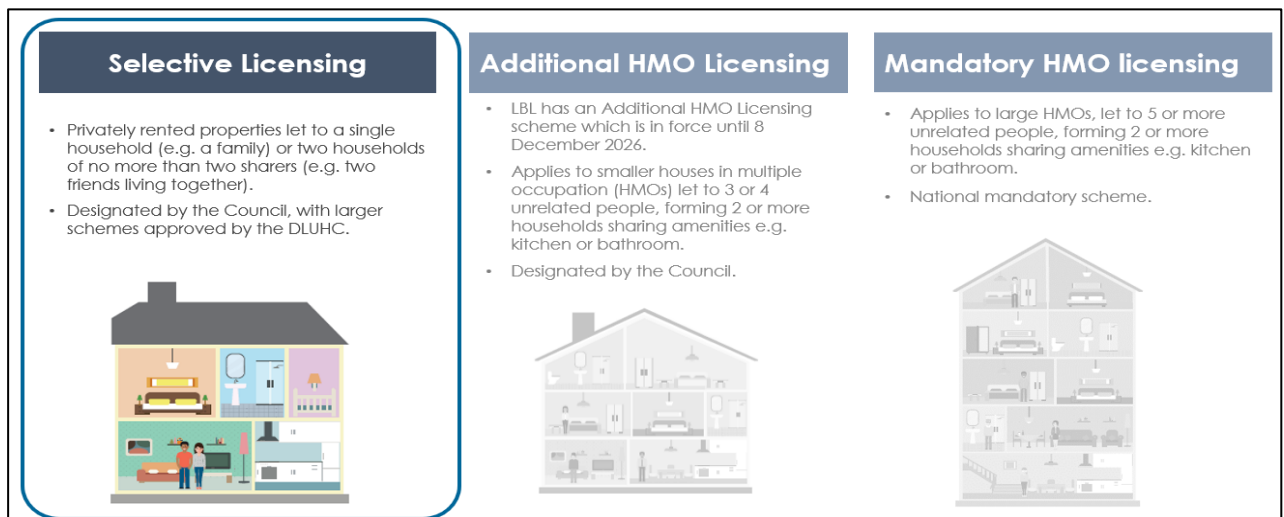
There will be some financial implications arising from the introduction of the Selective Licensing Scheme in the borough. The proposed fees, discounts, scheme costs and resourcing requirements for the scheme are set out in the report. The fees and costs have been profiled over a 10-year period, considering any licence issued in year 5 of the designation. The financial implications will depend on the number of licences issued over the period.

## RECOMMENDATIONS

1. To consider the outcome of the consultation and the Council's responses to those representations as detailed in **Appendices 1 and 2**.
2. To agree to designate a new Selective Licensing area (to be known as Selective Licensing Designation 1) in the four (4) wards of Knights Hill, Streatham Common & Vale, Streatham Hill East, and Streatham St Leonards from 01 September 2024 for a five-year period to August 2029. The draft designation document is set out in **Appendix 3** (Selective Licencing Designation 1).
3. To agree to receive a report regarding proposals for Selective Licencing Phase 2 which will cover circa 19 wards as part of a wider roll out (to be known as Selective Licensing Designation 2).
4. To approve the proposed selective licensing conditions set out in **Appendix 4**.
5. To approve the proposed fee structure for license application made under the selective licensing scheme as detailed in **Appendix 5**.
6. To agree to delegate authority to the Corporate Director Resident and Enabling Services in conjunction with the Cabinet Member for Safer Communities to issue the required statutory notifications in relation to the designation and to ensure compliance in all respects with all relevant procedures and formalities applicable to the scheme.

## 1. CONTEXT AND BACKGROUND

- 1.1 The Council's Borough Plan demonstrates its commitment to ensuring that Lambeth remains a borough that is fit for the future, that people want to call home and is one of the safest boroughs in London by 2030. This follows the 2022 Lambeth Labour manifesto pledge to stand up for renters, including the introduction of PRS licensing scheme.
- 1.2 This requires the Council to initiate improvements that ensure behavioural changes that can improve the local environment and residents experience. This includes not only tackling rogue landlords, but also assisting those that need help.
- 1.3 The Housing Act 2004 makes provision for three (3) main types of licensing schemes that are applicable to the PRS, namely: Mandatory HMO, Additional HMO Licensing and Selective Licensing. Both Mandatory and the Additional HMO licences are currently in operation in Lambeth and were introduced in 2008 and December 2021 respectively.
- 1.4 Below is a diagrammatical representation of the 3 licencing scheme and the difference in requirements and applications.



- 1.5 A Selective Licensing scheme is a discretionary type of licensing of PRS available to Local Authorities. Where introduced, it would see a requirement for privately rented properties, that are not HMOs subject to being licensed based on relevant criteria.
- 1.6 To ensure the Council met the above criteria, an initial feasibility study was undertaken in April 2023 to ascertain the existence of evidence that would meet the Secretary of State's approval.
- 1.7 The feasibility study incorporated a review of the data provided by MetaStreet which is a database provider for the Private Sector Enforcement and Regulation Service. This was supplemented by a review of relevant council policies as well as a forecasting of likely application demand. Also, a review of the levels of antisocial behaviour and poor property conditions, relating to the PRS, was conducted. The results of this project led to the exploration of statutory powers available to the Council to support improvements in this area. The detailed feasibility study was used to form the basis of proposals for consultation and is available at **Appendix 6** to this report and is referenced where applicable.
- 1.8 Currently Lambeth has over 48,000 private rented properties, but approximately 5,000 falls within the two HMO licensing schemes mentioned above and are exempt for the purpose of this proposal and others would not be appropriate for this scheme. The initial feasibility study has shown that approximately 39,851 properties have the potential to be covered by a borough wide Selective Licensing scheme.

- 1.9 The Housing Act 2004, Part III, allows Local Authorities to introduce a Selective Licensing Scheme if certain conditions are met for the area. The Department for Communities and Local Government “Selective Licensing in the PRS Guide for Local Authorities” states that an area must have one or more of the following being experienced:
  - a. low housing demand,
  - b. significant and persistent problem caused by ASB,
  - c. poor property conditions in the PRS,
  - d. high levels of migration,
  - e. high level of deprivation, and,
  - f. high levels of crime.
- 1.10 Of the criteria listed above, category 1 hazards i.e. those relating to property conditions such as damp and mould, fire and electrical issues, excess cold, water supply and crowding are the main conditions used for eligibility for designation under the scheme.
- 1.11 In considering whether to designate an area for selective licensing on the grounds relating to property conditions, migration, deprivation, and crime the local housing authority may only make a designation if the area has a high proportion of properties in the PRS. Nationally the PRS currently makes up 19% of the total housing stock in England according to the English Housing Survey 2022/23. Therefore, any area with more than 19% of PRS can be considered as having a high proportion of PRS and therefore meet this criterion.
- 1.12 The process of implementing a Selective Licensing Scheme is complex and councils must:
  - a. Provide robust supporting evidence to support the requirements set out in Section 1.2 above.
  - b. Produce a clear proposal identifying what area is to be designated, its intended consequences and objectives.
  - c. Consider alternatives to achieve the intended objectives.
  - d. Consult widely for a minimum 10 weeks (recommended 12 weeks).
- 1.13 The Scheme must also be aligned to the overall Council Housing Strategy and seek to adopt a co-ordinated housing approach with dealing with homelessness, empty properties and anti-social behaviour that affects the PRS. Cabinet on 13<sup>th</sup> March 2024 approved the new Housing strategy 2024-2030, in line with the Borough Plan. Regular work is taking place between the Private Rented Enforcement and Regulation Team and the Housing Strategy Team to ensure full alignment.
- 1.14 In conjunction with this, a specific Empty Properties Strategy has also been drafted and has taken into consideration the new Housing Strategy, as well as the new enforcement regime re second homes that came into force on April 1<sup>st</sup>, 2024. This draft strategy will proceed through the approval process to Cabinet by September 2024.
- 1.15 In 2023, the new Borough Plan was published and ensured a clear strategic alignment with the Selective Licensing Scheme, setting out an ambition for quality housing for local people, working in partnership to tackle homelessness, deliver better standards for private renters, and supporting residents into work.
- 1.16 Selective Licensing is not a solution, but a key tool to be used with other initiatives and partnerships to tackle issues affecting the PRS. There are a range of partnerships and collaboration that needs to be working effectively to support the designation of selective licencing in applicable areas.
- 1.17 We will continue to build on the good working relationship with our internal and external partners that has been established as part of the HMO licensing schemes and business as usual private sector enforcement. This includes working with Council Tax around HMOs and Empty Properties

and working with Planning Enforcement around properties converted into HMOs with 7 or more unrelated persons in it.

- 1.18 We have engaged in several joint working initiatives and partnerships with agencies such as the Police, Fire Service, HMRC, Immigration Enforcement, Social Services, Community Safety, and Planning Enforcement. And Lambeth is a member of the London Private Rented Sector Forum, and London Councils Fire Safety Group for Private Sector Housing.
- 1.19 We continue to support the landlord forums conducted with the National Residential Landlord Association (NRLA), as well as joint working with Justice for Tenants around rent repayment orders and actions to support tenants.
- 1.20 With the aim of seeking to assist landlords and improve the PRS, we will also continue to actively promote Landlord Accreditation Schemes including the London Landlord Accreditation Scheme (LLAS) and SafeAgent and provide discounts to accredited landlords.
- 1.21 This report sets out the response to the consultation, providing evidence upon which the recommendations are made for the designation of an initial four (4) ward selective licensing scheme (Selective Licencing Designation 1) and to seek DLUHC approval for a further nineteen (19) ward schemes subject to a further report prior to the submission of the application to DLUHC.

## **2. PROPOSALS AND REASONS**

- 2.1 Following the 30<sup>th</sup> of August 2023 report to Better Homes and Reducing Homelessness Cabinet Members Briefing, proposals were submitted to Informal Cabinet in November 2023 setting out the evidence of the current nature of the PRS in Lambeth and resultant proposals. Approval was given to launch of the statutory consultation to seek stakeholders' views on these proposals in line with legal requirements around a phased approach to the introduction of Selective Licensing.
- 2.2 The proposals and options that were consulted on was an introduction of Selective Licensing designation in specific wards in the borough, to be introduced in two distinct phases:
  - a. Phase (1) –consisting of the wards of Knights Hill, Streatham Common & Vale, Streatham Hill East and Streatham St Leonards. (Selective Licencing Designation 1). These wards were chosen because:
    - i. They have nearly double the 14% national average for predicted Category 1 hazards They have a majority of older properties tend to have more hazards such as excess cold, fire & electrical issues, damp and mould.
    - ii. They add up to 17.66% of the PRS in Lambeth, being below the statutory 20% which requires DLUHC Secretary of State Approval.
    - iii. Overall, 8,615 properties would potentially be included, provided a good basis to understand the impact of a designation.
    - iv. The close proximity of the wards allows a better implementation process in one geographical area, with 3 of the wards having more than 2 criteria for the introduction of such a scheme.
  - b. Phase (2) consisting of the wards of Brixton Acre Lane, Brixton North Ward, Brixton Rush Common, Brixton Windrush, Clapham Common & Abbeville, Clapham East, Clapham Park, Clapham Town, Gipsy Hill, Herne Hill & Loughborough Junction, Kennington, Myatt's Field,

Oval, St Martins, Stockwell East, Stockwell West & Larkhall, Streatham Hill West & Thornton, Streatham Wells and West Dulwich (Selective Licencing Designation 2)

2.3 The consultation started on 11th December 2023 and lasted for 12 weeks, closing on 4th March 2024. The details of the consultation process, responses and feedback are set out in **Appendix 1**. As required by the Housing Act 2004, the Council must consider any representations made which are not withdrawn. The Council’s response to these representations can be found in **Appendix 2**.

2.4 The consultation included an online survey, online public meetings, and advertising across numerous social platforms and in key locations including leisure centres, libraries, and other Council buildings. The consultation sought views from residents, private tenants, private landlords, lettings/managing agents, businesses, and other stakeholders. Additionally, landlords who reside outside the borough were also advised of the consultation exercise.

2.4.1 The consultation materials and evidence provided as part of the consultation pack can be found in **Appendix 6** (Evidence for Consultation 2023). In summary the evidence presented showed:

- i. All wards in Lambeth have above the national percentage PRS and are eligible to be considered for selective licencing.
- ii. 23 of 25 wards in Lambeth met the criteria that defines poor property conditions with Vauxhall and Waterloo and Southbank as exceptions.
- iii. 12 wards are suffering significant and persistent Anti-Social Behaviour (ASB) meeting the ASB criteria.
- iv. 9 wards are in the top 3% of most deprived wards, meeting the criteria for deprivation.
- v. The making of the designation is strategically aligned and is part of a consistent and co-ordinated approach taken by the Council to tackle housing issues.

2.4.2 This is diagrammatically shown in Tables 1 below.

**Table 1: Ward breakdown by Selective Licencing Criteria**

Ward	%PRS	Poor property conditions	ASB*	Deprivation	Criteria met (poor property conditions, ASB or deprivation)
Brixton Acre Lane Ward	✓	✓	✓	✗	Prop and ASB
Brixton North Ward	✓	✓	✗	✓	Prop and Dep
Brixton Rush Common Ward	✓	✓	✗	✓	Prop and Dep
Brixton Windrush Ward	✓	✓	✗	✓	Prop and Dep
Clapham Common and Abbeville Ward	✓	✓	✓	✗	Prop
Clapham East Ward	✓	✓	✓	✓	All
Clapham Park Ward	✓	✓	✓	✗	Prop and ASB
Clapham Town Ward	✓	✓	✓	✗	Prop and ASB
Gipsy Hill Ward	✓	✓	✓	✓	All
Herne Hill and Loughborough Junction Ward	✓	✓	✓	✗	Prop and ASB
Kennington Ward	✓	✓	✗	✗	None
Knights Hill Ward	✓	✓	✗	✗	Prop and ASB
Myatts Fields Ward	✓	✓	✗	✓	Prop and Dep
Oval Ward	✓	✓	✗	✗	Prop and ASB
St Martin's Ward	✓	✓	✗	✓	Prop
Stockwell East Ward	✓	✓	✗	✓	Prop and Dep
Stockwell West and Larkhall Ward	✓	✓	✓	✓	All
Streatham Common and Vale Ward	✓	✓	✓	✗	Prop and ASB
Streatham Hill East Ward	✓	✓	✗	✗	Prop
Streatham Hill West and Thornton Ward	✓	✓	✗	✗	Prop
Streatham St Leonard's Ward	✓	✓	✓	✗	Prop and ASB
Streatham Wells Ward	✓	✓	✓	✗	Prop and ASB
Vauxhall	✓	✗	✓	✓	Deprivation
Waterloo & South Bank Ward	✓	✗	✗	✗	None
West Dulwich Ward	✓	✓	✗	✗	Prop

2.4.3 A summary by criteria is shown below in table 2 below, with Vauxhall (only scoring in deprivation) being removed from the total applicable with Waterloo & Southbank (no criteria):

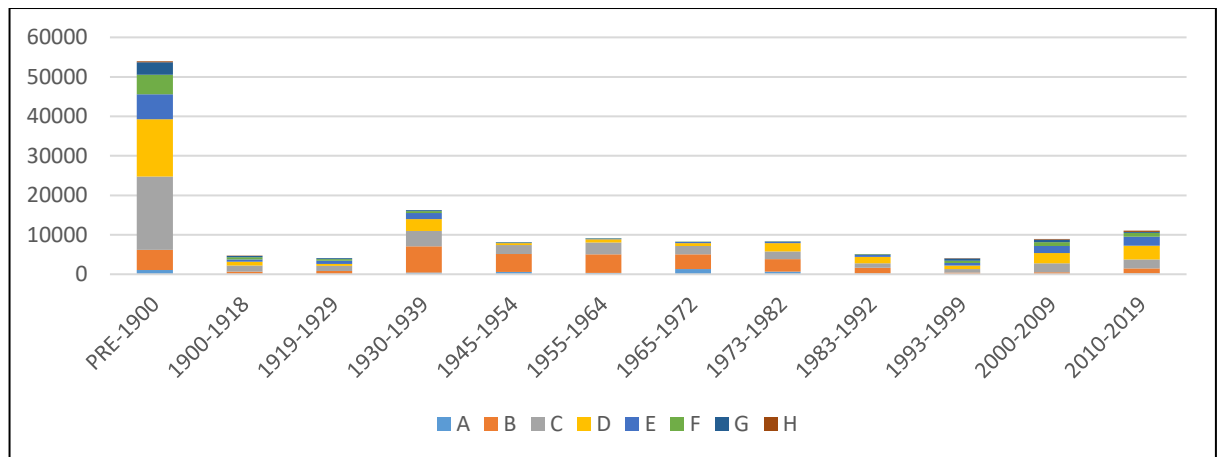
**Table 2: Number of Wards that meet one or more criteria:**

Criteria	No. of Wards	No. of PRS	% of Total PRS	No. of PRS excluding HMOs	% of total PRS
<b>Poor Property, ASB and deprivation</b>	3	5,571	11.4%	5,130	10.5%
<b>Poor Property</b>	6	9,925	20.3%	9,269	19.0%
<b>Poor Property and ASB</b>	9	20,580	42.2%	19,207	39.4%
<b>Poor Property and Deprivation</b>	5	6,814	14.0%	6,245	12.8%
<b>Deprivation</b>	1	3,506	7.2%	3,408	7.0%
<b>None</b>	1	2,382	4.9%	2,277	4.7%
<b>All that have some criteria</b>	24	46,396	95.1%	43,259	88.7%
<b>Applicable Wards to pursue</b>	23	42,890	87.9%	39,851	81.7%

2.4.4 Waterloo & Southbank are excluded from any designation because the council can only introduce selective licensing in areas in the borough where there is evidence that the area meets the criteria as laid out in section 80 of the Housing Act 2004 and the Selective Licensing of Houses (Additional Conditions) (England) Order 2015. The council carried out a detail analysis of the PRS and the evidence supported a scheme based on poor property conditions. However, there was not the evidence of poor property conditions in the wards of Vauxhall and Waterloo & Southbank. The Council will continue to monitor the two wards not included in the scheme and should the evidence change then consideration will be given to introducing a third designation.

2.4.5 it is notable that there is a gradient of risk with age of the property, the risk being greatest in dwellings built before 1900, and lowest in the more energy efficient dwellings built after 1980. Therefore, a council's property age profile can have an impact on housing conditions. Lambeth has a high proportion of residential properties built pre 1900 (chart below).

**Table 3: Age profile of Housing Stock (number of Dwellings) for all tenures (source VOA 2019)**



2.4.6 The key reasons for recommending a phased approach with phase 1 being the 4 wards detailed are that:

- Ultimately the aim is for a large-scale designation covering all applicable wards. However, the recommendation to go to consultation on a phased scheme was accepted because it allows quicker introduction of the scheme and therefore it allows the council to test its processes and systems on a more manageable scale.
- It allows a gradual recruitment process, rather than one that would struggle to put in place a very large team quickly to manage a Borough wide scheme.
- It allows proper performance monitoring to streamline processes and approach to determine staffing levels and keep them to a level that is manageable.

## 2.5 Links to Current Strategies and approaches

2.5.1 Section 81(4) of the Housing Act 2004 sets out that:

- a. the proposed designations are consistent with the overall housing strategy,
- b. a co-ordinated approach is adopted in with homelessness, empty properties and ASB,
- c. potential negative economic impact is assessed.

### 2.5.2 Housing Strategy

2.5.2.1 The designation of a selective licensing scheme is consistent with the Council’s housing strategy. The strategy has been updated with the following three priorities. Property licensing is key to contributing to these priorities and will play an integral role in helping the Council achieve its objectives.

- a. Priority 1: More affordable houses.
- b. Priority 2: Delivering excellent housing and repair services.
- c. Priority 3: Supporting healthy and safe neighbourhoods.

2.5.2.2 The Housing Strategy vision for housing in Lambeth is “*For all residents to have access to and benefit from safe, secure and high-quality local homes which are affordable and provide sanctuary, stability and the best conditions to grow up and age well across all tenures.*” Selective Licensing is integral to helping meet this vision.



2.5.2.3 With the introduction of Selective Licensing, internal partners such as Council Housing will have the confidence that the premises, they seek to use in the PRS meet all necessary health and safety standards. It also enables them to identify premises offered to them that are not licensed and can be passed to the Private Rented Enforcement and Regulation Team to bring them into compliance.

### **2.5.3 Homelessness**

2.5.3.1 Property licensing will ensure the quality and standard of housing in Lambeth is better, with less overcrowding, and longer tenancies thus helping to prevent homelessness by persons feeling they cannot remain in their existing accommodation. Furthermore, licensing will improve the professionalism of landlords in their management of their properties so potential problems with tenancies are dealt with quickly and effectively before things become unresolvable, thus decreasing the likelihood of tenants being evicted.

2.5.3.2 As with all Councils, Lambeth is facing increasing pressures to provide temporary accommodation in the PRS, and the introduction of the selective licensing scheme provides the reassurance around safe accommodation for such parties, as well as ensuring the Council is confident about where they are placing people.

### **2.5.4 Empty Properties**

2.5.4.1 Empty Properties sit within the Private Rented Sector Enforcement and Regulation team, allowing sharing of information and intelligence around the housing market, ownership, complaints etc. Empty Properties attract nuisance and ASB, so work done to bring empty properties up to standard and back into use as liveable homes is complimentary to the objectives of Property Licensing and other Council strategies such as homelessness and ASB reduction.

### **2.5.5 Anti-Social Behaviour**

2.5.5.1 Section 17 of the Crime and Disorder Act 1998 places a duty on the Council to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment) and the misuse of drugs, alcohol and other substances in its area.

2.5.5.2 The Council's Community Safety Team oversees the Council's response to ASB in the borough and undertakes enforcement and partnership work with the Police and other key partners.

2.5.5.3 Private Rented Sector Enforcement and Regulation team will continue to share information and intelligence on the ownership and management of rented properties to resolve ASB in privately rented properties.

2.5.5.4 There are several licence conditions that deal with tenancy management and ASB, clearly stating the landlords' responsibilities when dealing with ASB. The property licensing designations are vital in supporting the Council's multi-agency approach to tackling and reducing ASB by obliging landlords and property managers to be proactive in dealing with any ASB arising in their properties.

2.5.5.5 A protocol is currently being drafted which will set out our coordinated approach to addressing ASB in privately rented properties.

## **2.5.6 Potential negative economic impact**

2.5.6.1 In addition to the above criteria, when making a selective licensing designation the Statutory Guidance Section 40 sets out that the council must have considered any potential negative economic impact that licensing may have on the area.

2.5.6.2 There is no evidence to suggest that the introduction of the Council's discretionary licensing schemes in 2021 had a negative impact on the areas in which they operated.

2.5.6.3 A recent independent review of the Use and Effectiveness of Selective Licensing commissioned by MHCLG (now DLUHC) determined that there was no substantive evidence of rent rises being passed onto tenants due to the introduction of selective licensing schemes. Therefore, no negative economic impacts are anticipated from the introduction of the designations.

2.5.6.4 It is considered that selective licensing, when combined with other measures taken in the designated areas will have a positive economic impact rather than negative by contributing to improved housing conditions.

## **2.6 Options Considered**

2.6.1 Section 81(4) of the Housing Act 2004 sets out the requirement that Councils must have considered other potential courses of action available to provide an effective method of achieving the objective or objectives that the designation would intend to achieve, and that making the designation will significantly assist them to achieve the objective(s).

2.6.2 These options were set out in the report to Corporate Members Board in April 2023 Informal Cabinet in November 2023, and for some, such as the additional and mandatory HMO licensing schemes, are already in place.

### **2.6.3 Do Nothing**

Evidence has shown that the area is subject to conditions that require intervention, for the purpose of helping the community. In line with the Council Borough Plan commitments, and the need to ensure the PRS is properly managed and regulated, the option of doing nothing is not an option. If no action is taken the problems experienced in the ward are likely to continue.

### **2.6.4 Mandatory Licensing**

2.6.4.1 Mandatory licensing refers to the licensing of Houses in Multiple Occupation (HMO) where the premises are three or more storey's and occupied by five or more people who form two or more households. This licensing regime has been in place in Lambeth since 2006, but only covers a small portion of the rented accommodation sector.

2.6.4.2 Despite being in place for over 15 years, with proactive enforcement being in place, some of the issues highlighted in the evidence above have continued to happen.

2.6.4.3 Mandatory Licensing can ensure that standards are in place for specific, individual premises but not able to raise them in an area per se. Therefore, the use of this licensing regime alone would not meet the objectives set out by a Selective Licensing scheme.

2.6.4.4 This scheme is already in place, but only affects HMOs, and so does not deal with issues affecting the area resulting from other privately rented properties.

### **2.6.5 Additional Licensing**

2.6.5.1 Additional Licensing covers Houses in Multiple Occupation not subject to the mandatory scheme noted above. In Lambeth this covers two storey properties occupied by different households. Lambeth has had such a scheme in place since 2021 and runs until 2026.

- 2.6.5.2 Again, this address matters of multi occupied premises, but does not ensure a consistent approach across the rented sector in an area to bring standards up.
- 2.6.5.3 Additional licensing is already in place in Harrow but as noted above, does not go far enough in that it does not capture many privately rented properties. The statistics above indicate that HMOs only account for less than a sixth of all PRS in Lambeth.

### **2.6.6 Borough Wide Designation under Selective Licensing**

- 2.6.6.1 Some councils have adopted Borough Wide schemes, such as seen in Newham, and the evidence to date indicates Lambeth could follow a similar path (minus 2 wards).
- 2.6.6.2 It is important that any such scheme is actually seen to work, and it therefore makes operational sense to introduce a phased approach to understand how it works and ensure it does reach the outcomes required.
- 2.6.6.3 It is the intention of the Council if Selective Licensing is agreed in the phase 1 designated area, to monitor the implementation of the scheme as well as look at the other identified areas to understand the evidence base and to consult on these as necessary.

### **2.6.7 Accredited Landlord Scheme**

- 2.6.7.1 While such schemes are valuable, it is imperative that all landlords in an area engage in improving it. Such a scheme is voluntary and so take up is variable. Therefore, it is felt that a more intensive intervention is required, making it mandatory on all landlords to comply with conditions to address the problems being experienced in the area.
- 2.6.7.2 As part of any agreed selective licensing scheme, it is proposed that a discount is applied to the initial application if the landlord is a member of an accredited scheme. This recognises the actions of landlords to be proactive in approach and already have signed up to agreed set standards.
- 2.6.7.3 This option is already in place, but merely compliments licensing and does not address the wider issues that selective licensing is expected to help with. It is also recognised in terms of the discounts being made available under any proposed scheme.

### **2.6.8 Action Against Individual Cases**

- 2.6.8.1 Legislation allows enforcement action to be taken against cases of nuisance and fly tipping (Environmental Protection Act 1990), Anti-Social Behaviour (ASB, Crime and Policing Act 2014), The Housing and Planning Act 2016 (Rogue Landlords etc) and other related matters.
- 2.6.8.2 The Council has introduced Fixed Penalty Notices for environmental issues, such as littering across the Borough. Additionally, the Anti-Social Behaviour, Crime and Policing Act 2014 also introduced additional powers to local housing authorities by way of absolute grounds for possession in housing cases where certain conditions are met, although this will only assist with council tenancies.
- 2.6.8.3 The issue with reliance on these powers is that it affects property and / or person specific issues and does not necessarily address a wider issue, although it may have some deterrent effect.
- 2.6.8.4 The DCLG Guidance recognises that Selective Licensing is not a tool that can be used in isolation, and the above enforcement powers can be used to compliment a change in culture and address issues.
- 2.6.8.5 This option is already in place but has localised effect on its own.

### **2.6.9 Special Interim Management Order**

- 2.6.9.1 A Special Interim Management Order transfers the management of a residential property to the local housing authority for a period of up to 12 months and can only be made if approved by a residential property tribunal.
- 2.6.9.2 These orders are used to address matters of anti-social behaviour emanating from a property that the landlord is failing to take appropriate action to deal with. The order is then made to protect the health, safety or welfare of persons occupying, visiting, or engaged in lawful activities in the locality of the house.
- 2.6.9.3 These are strong powers to deal with isolated individual problems of individual anti-social behaviour which nevertheless seriously impact upon the community.
- 2.6.9.4 This option is already in place but has localised effect on its own. Can be used where a focused approach is needed.

## **2.7. Part 1 of the Housing Act 2004**

2.7.1 These enforcement powers are designed to effectively deal with hazards within a property and though effective at getting landlords to remedy such hazards, Part 1 of the Act does not offer a wider strategic procedure to improve a designated area.

### **2.7.2 Empty Property Strategy**

2.7.2.1 The council already has an intervention team dedicated to bringing long-term empty dwellings back into use, but this initiative is only restricted to empty homes and cannot deal with poorly managed private rented accommodation.

### **2.7.3 Landlords Forum**

2.7.3 The council has been hosting landlord forums for years which have shown a lot of interest from landlords and is a great way of exchanging information and educating our landlords who operate in the borough, but this does not offer a comprehensive, structure for managing private rented properties and tenants and offers no enforcement to ensure that such a structure is adhered to.

### **2.7.4 Designation of the Designated Phase 1 Area (4 Wards)**

2.7.4.1 Selective licensing applies to privately rented homes which are not HMOs.

2.7.4.2 In light of the evidential reports, it appears that a Selective Licensing scheme designation for the proposed phase 1 designated area would help to tackle the issues identified.

2.7.4.3 The introduction of such a designation would allow a consistent approach across the Wards that works in conjunction with the Mandatory and Additional Licensing Schemes, as well as enforcement powers, to address the issues highlighted in the area.

2.7.4.4 It should be noted that a premise that is subject to Mandatory or Additional Licensing would not also need to apply for a Selective License.

2.7.4.5 This option was presented to CMB in April 2023, and Informal Cabinet in November 2023, before going to full statutory consultation to take place.

### 3. CONSULTATION

3.1.1 Section 80 (9) of the Housing Act 2004 states that when considering designating an area the local housing authority must:

- a) take reasonable steps to consult persons who are likely to be affected by the designation, and
- b) consider any representations made in accordance with the consultation and not withdrawn.

3.1.2 Statutory Guidance sets out that any consultation must be for a minimum of 10 weeks. To ensure the capturing of as much stakeholders views as possible and take in to account the holiday period in December 2023, a 12-week consultation took place between 11<sup>th</sup> December 2023 and 4<sup>th</sup> March 2024.

3.1.3 Consultation activities completed during this time included:

- a. Online survey was live on Lambeth's website on 11 December 2023.
- b. Links to survey were placed on relevant PRS housing web pages and homepage carousel.
- c. 1,787 consultees responded.
- d. Paper copies of the consultation were available in all libraries.
- e. Press release to announce consultation launch was disseminated to 111 recipients (picked up in trade and local press).
- f. Two online events were held – 229 tickets were issued, 129 stakeholders attended.
- g. Organic social media campaign commenced across Lambeth's Facebook, Instagram, LinkedIn, Nextdoor and X (formerly known as Twitter).
- h. CAN Digital programmatic campaign.
- i. London Property Licensing web site campaign.
- j. Lambeth Eye article distributed to 58 Labour Councillors & 10 members of the Leader's office.
- k. Email to three MPs and 64 Councillors sent from the Leader's office.
- l. Two direct emails sent to 1,178 known landlords, letting and managing agents operating in the borough.
- m. Internal communications – Intranet homepage carousel, intranet article, staff bulletin & Yammer article.
- n. Two newspaper advertisements – South London Press & The Voice.
- o. Borough wide leaflet drop to every residential address.
- p. Posters, leaflets and pull up banners in Lambeth owned buildings - leisure centres, libraries.
- q. Posters to partners – day centres, food banks, workspaces.
- r. Out of home campaign – JC Decaux sites across Lambeth, Croydon, Merton, Southwark & Wandsworth.
- s. Direct letter to 37 voluntary and community sector groups in Lambeth.

- t. Cabinet member video recorded – used on Lambeth’s social media channels, YouTube & programmatic campaign.
- u. Direct email requesting letter of support to all London LAs & Lambeth stakeholders (emergency service commanders and integrated care systems).

3.1.4 The Consultation sought views on the phased approach being the proposed 4 ward designation (phase 1) and the potential wider 19 ward designation (phase 2). This included the proposed fee structure and the licencing conditions both mandatory and discretionary.

### 3.2 Selective Licensing Consultation Responses

3.2.1 The table below sets out the responses received during the consultation to the proposals around designated areas, fees, discounts, and conditions:

Overall		Landlords, letting or managing agents	Residents or local businesses	Other stakeholders
Total consultation survey responses	<b>1787 responses</b>	550 responses	1154 responses	83 responses

Responses to the question	<b>1392 responses</b>	410 responses	939 responses	43 responses
Agree with selective licensing proposal for designation 1	<b>47%</b>	8%	64%	47%
Disagree with selective licensing proposal for designation 1	<b>40%</b>	71%	28%	44%

Responses to the question	<b>1393 responses</b>	410 responses	940 responses	43 responses
Agree with selective licensing proposal for designation 2	<b>46%</b>	9%	63%	44%
Disagree with selective licensing proposal for designation 2	<b>44%</b>	77%	30%	49%

Overall		Landlords, letting or managing agents	Residents or local businesses	Other stakeholders
Responses to the question	<b>1389 responses</b>	410 responses	936 responses	43 responses
<b>Agree with proposed selective licensing conditions</b>	<b>40%</b>	10%	54%	42%
<b>Disagree with proposed selective licensing conditions</b>	<b>42%</b>	70%	31%	37%

Responses to the question	<b>1377 responses</b>	410 responses	925 responses	42 responses
<b>Selective licensing fee is about right</b>	<b>20%</b>	4%	27%	26%
<b>Selective licensing fee is too high</b>	<b>61%</b>	94%	47%	55%
<b>Selective licensing fee is too low</b>	<b>6%</b>	0%	9%	10%
responses to the question	<b>1375 responses</b>	409 responses	924 responses	42 responses
<b>Selective licensing Discount is about right</b>	<b>19%</b>	7%	25%	21%
<b>Selective licensing Discount is too high</b>	<b>11%</b>	3%	14%	7%
<b>Selective licensing Discount is too low</b>	<b>49%</b>	69%	40%	43%

responses to the question	<b>1375 responses</b>	409 responses	924 responses	42 responses
<b>Selective licensing Discount is about right</b>	<b>19%</b>	7%	25%	21%
<b>Selective licensing Discount is too high</b>	<b>11%</b>	3%	14%	7%
<b>Selective licensing Discount is too low</b>	<b>49%</b>	69%	40%	43%

### **3.3 Key Themes emerging from the consultation.**

3.3.1 A number of key themes emerged from the consultation, seen in **Appendix 1 and 2**, and are summarised as:

#### **a) Licence conditions**

- a. The majority of comments came through SafeAgent (previously the National Approved Letting Scheme), and these are set out in **Appendix 2**.
- b. Issues in general related to the wording around landlord understanding and, ultimately any enforcement of them.
- c. Conditions were changed to ensure met all legal requirements as well as be clear for all parties to understand.
- d. Some comments received were around the need for conditions enforcing property conditions and contents. The Court of Appeal has confirmed that licence conditions cannot relate to property condition and contents (Brown v Hyndburn Borough Council [2018]).

#### **b) Fees, discounts, and the financial impact of the scheme**

- a. This has been covered in part above, with the main feedback being around the financial burden placed upon the landlord and, potentially, being passed on to the tenants.
- b. The responses from the council highlight the lack of evidence of increased costs to the tenants, as well as the fee being for the 5-year period and not an annual cost.
- c. Discounts were raised as an issue, with the general comment around recognising good landlords and proactive approach. This is addressed in the offer of increased discounts.

#### **c) 'Good' landlords and collaboration**

- a. The main concern raised was around good landlords being targeted to reach "rogue" landlords.
- b. As emphasised throughout the consultation, as well as the work to take place, the Council is committed to working with good landlords and managing agents and provide a fair playing field for all.
- c. As part of this work, the Council is committed to put in place a clear enforcement strategy, based on evidence and intelligence, to maximise focus on those that are not doing what is required.

#### **d) Anti-Social Behaviour**

- a. The main concern was around Landlords being held to account, and expected to tackle, ASB that results from their tenants when their powers may be limited themselves.



- b. The Council reiterates that through the licensing scheme, the conditions and actions assist landlords understand their requirements but also sets out a clear consistent framework that needs to be applied to prevent or mitigate against ASB.

**e) Administration of the proposed licensing scheme**

- a. The biggest criticism faced through the consultation process was around the Councils management of its own housing stock, with reference being applied to “headlines” around this. Explanations were given around action being carried out to address this, as well as an understanding that this is separate to PRS.
- b. Concerns were also expressed about the Councils ability to enforce such a scheme. This is based on previous schemes that had backlogs and lack of inspection regimes. Explanations were given around why these occurred, and steps taken now to address. Lessons are always identified, and the financial modelling has taken into account resourcing around enforcement and ensuring enough officers to carry out proactive and reactive visits. In addition, a new database system that streamlines and automates applications was put into place in 2023.
- c. Reference was also made to existing powers that could be used. As set out in the original CMB and Informal Cabinet reports in 2023, and explained during the consultation, the Council had assessed all these powers to understand where they can be used better but can show logical justification why they would not achieve what the proposed Selective Licensing Scheme would.
- d. The Renters Reform Bill was also raised, with reference to the requirement of landlords to be registered and provide documents to show compliance. Some individuals and organisations stated that this would make Selective Licensing obsolete. Conversations with DLUHC around this, as well as professional institutions such as the Chartered Institute of Environmental Health, indicate there is no intention of moving away from Selective Licensing as provides a far broader approach to PRS improvements, including visits and specific conditions based on need.

**f) The existing Additional HMO licensing scheme**

- a. Concerns have been expressed about the management and enforcement of the existing schemes. This is addressed above.

**g) General comments about the licensing scheme proposal**

- a. Most of the issues under this were repeats seen above.
- b. A lot of people sought reasons why there were certain exemptions, including short term lets such as Airbnb. It was explained that this falls outside the legislation and cannot be imposed by Lambeth Council.
- c. The matter of potentially excluding Vauxhall and Waterloo was raised, but we can only introduce such designations where the evidence supports this. In these two wards, while PRS meets the criteria, the aspects around poor property conditions and ASB do not.
- d. Targeted designations, aimed at specific streets or premises, was also proposed but would not be viable due to the amount of work, cost, and Ad-hoc approach this would lead to.

3.3.2 A full breakdown of comments, and Council responses, can be found in **Appendix 2**.

### 3.4 Fees and Discounts

3.4.1 With regard to the selective licensing fee, the consultation asked if respondents agreed with the proposed fee:

- i. 19.9% in the survey agreed and 61.44% disagreed with the fee structure proposed – with approximately 40% residents and businesses and less than 5% landlords and lettings/managing agents were in support.
- ii. 19.35% agreed and 48.58% disagreed with the discounts – 40% residents and businesses and approximately 10% landlords and lettings/managing agents were in support.

3.4.2 Concerns over fees were strongly expressed by landlords (as well as some tenants) in the free text parts of the survey, with comments including ‘tax on good landlords’, ‘fee costs are passed on to tenants’ and ‘good landlords receive no benefits from licensing’. The Council’s response to these representations was that from administering HMO licensing schemes, the council has seen no evidence that landlords have increased rents to cover their licence fee costs or that landlords have moved elsewhere. This is similar to the findings from the other 17 London Borough Councils currently operating selective licensing schemes.

3.4.3 Similarly, research carried out by an independent agency on behalf of the government (An Independent Review of the Use and Effectiveness of Selective Licensing) showed that selective licensing did not result in an increase in rents in areas with a scheme, that market forces dictated the rent levels.

3.4.4 In addition, if landlords want to increase the rent, there are procedures which must be followed and any increase above market rents levels can be challenged via the Residential Property Tribunal.

3.4.5 Some respondents also raised the aspect of a Multi-Dwelling Discount for a Licence Holder where there are multiple flats within the same block, under the same ownership and management control. The Council response to these representations is that it is acceptable that the administration burden on the Council is less and that should be reflected in the fees in the form of discounts.

3.4.6 The general response to some of the representation on fees was that ultimately the Council must consider the cost of introducing and running a selective licensing scheme, and that includes:

- i. Additional staff to process applications and to carry out inspections of premises (including recruitment and training).
- ii. Promoting and ensuring scheme compliance, including appeals against licensing decisions.
- iii. Other non-staffing costs including hardware and software, licensing subscription commitments, share of building costs, and communications, advertising, printing, and postage.

3.4.7 Therefore, the basis for charging the proposed £923 is justified in the financial modelling that was conducted, and the fees and discounts schedule in **Appendix 5**.

- 3.4.8 The proposed fee per licence is £923 broken down into:
- a. Part A (£650) - Administration of the application
  - b. and Part B (£273) – Managing and enforcing the licensing regime.
- 3.4.9 Having carefully considered the consultation representations, the Council is proposing to make the following changes to the proposed fee structure. This is to support responsible landlords who are proactive in their approach.
- i. EPC Discount for C rated or better: The Council has taken into consideration the feedback around benefits of new and improved premises that will be subject to licensing and the need to recognise this. In addition, the Council supports the move to improve energy efficiency to contribute to the climate change agenda, as well as impact of such premises to keep costs of living down by reducing heating bills. Therefore a £50 discount is proposed, to be taken from **Part B fees**.
  - ii. Landlord accreditation discounts: to include SafeAgent as a recognised accredited landlord association for the purposes of receiving the discount, and to keep the list of organisations under review and updated. These associations accreditation requirements mean landlords can demonstrate their knowledge, training, skills, and intentions to manage properties and tenancies in line with best practice as part of their accreditation. To recognise the landlords that have demonstrated a proactive approach through accreditation, the discount is to be £75 of **Part B fee**.
  - iii. In cases where a landlord has more than one flat in a block, they will be subject to the full Part A and Part B fees for flat 1, and a £100 reduction in **Part A** (administration of application) but full Part B fees for subsequent flats in the same block.
- 3.4.10 The above takes in to account the impact of each element on the relevant fee part, with the administration cost being less for multi-dwelling premises, and the management and the enforcing the licensing regime considering accreditation and EPC ratings.
- 3.4.11 The proposed fee structure has been amended accordingly and can be found in **Appendix 5**.
- 3.4.12 Based on the above, Table 7 below indicates how Lambeth would stand compared to a sample of other Councils.

**Table 7: Benchmark of Council's Selective Licensing Fees**

London Borough	Selective Licensing Fee	Discounts Offered
Middlesborough Council	£998	No discounts shown
Barking and Dagenham	£950 (proposed)	£200 discount Part B for satisfactory compliance inspection £250 discount Part B for satisfactory compliance inspection and accreditation
Sandwell Council	£938	£300 discount early bird
Lambeth	£923	£50 discount for EPC rating C or better £75 discount for accredited landlords

London Borough	Selective Licensing Fee	Discounts Offered
		£100 discount for 2 <sup>nd</sup> and onwards flats in multi-dwelling property
Southwark	£900	50% Part B for Gold Standard  No Part B fee for Gold Standard who use Finders Fee Service
Havering	£900	£35 discount for accredited landlords  £100 discount for 2 <sup>nd</sup> and onwards flats in multi-dwelling property
Newham	£800.25	£53.75 discount for accredited landlords  £373.45 discount for accredited landlords with EPC C or better new build  £373.45 discount for properties used for temporary accommodation by Council
Ealing	£750 (£937.50 if received 2 warning letters)	£75 discount for accredited landlords  £75 discount for 2 <sup>nd</sup> and onwards flats in multi-dwelling property.  £50 discount for EPC rating C or better
Waltham Forest	£700 TBC	Early Bird discount offered only
Greenwich	£858	£129 discount for accredited landlords  £215 discount for properties used for temporary accommodation by Council.  100% discount for accredited landlords allowing council tenant use for minimum 12 months

### 3.5 Final Proposals

3.5.1 Having considered all the consultation feedback, it is recommended that a selective licencing regime be introduced in Lambeth as follows:

- a) In the 4 wards as proposed for phase 1, which will be designated Selective Licencing Designated area 1.
- b) A further report is to be submitted (September 2024) with proposals re Selective Licencing Designated Area 2 which will need approval by the Secretary of State for the DLUHC.

#### 4 Objectives against which the success of the scheme will be measured.

- 4.1 When considering whether to make a selective licensing designation a local housing authority must first identify the objective or objectives that a designation will help it achieve.
- 4.2 In shaping the objectives for the proposed designation, the following key strategic themes were set out:
- Improvements in property standards in the PRS and better protection of private renters.
  - Reducing levels of deprivation.
  - Sustainability – increasing the energy efficiency in PRS and link to government green policy and council’s climate agenda,
  - Making Lambeth one of the safest boroughs in London (reducing ASB incidents).
- 4.3 The objectives must:
- Match criteria and evidence.
  - Link to overall strategic goals.
  - Show a coordinated approach – outlined in council Housing Strategy.
- 4.4 Based on the above, 4 key objectives are proposed:
1. Improve property conditions in single family dwellings.
  2. Reduction in ASB in single family dwellings.
  3. Combat problems of deprivation including raising awareness of standards expected in PRS.
  4. Improve management standards in PRS.
- 4.5 The focus will be on poor housing conditions, anti-social behaviour and on deprivation. The scheme targets and objectives are summarized in table 8 below.

Table 8. Objectives, performance indicators (to be developed) and outcomes proposed for the designation.

Objective	Performance indicator (TBA)	Outcome
<b>Improve property conditions in single household dwellings</b>	<ul style="list-style-type: none"> <li>• Improve 1,500 properties annually.</li> <li>• Undertake compliance inspection in 50% of licences granted.</li> <li>• 100% of all licence applications desk-based risk assessed.</li> <li>• 50% of all licensed properties inspected at least once during the duration of the licence, informed by a data-led risk assessment.</li> <li>• Bring at least 50% of identified properties up from F and G rated EPCs to a minimum of an E rating.</li> <li>• 70% of licensable properties licensed over 5 years</li> </ul>	<ul style="list-style-type: none"> <li>• Reduce Cat 1 and high cat 2 hazards.</li> <li>• Achieve a general improvement of property conditions in the designated area within the lifetime of the designation.</li> <li>• PRS properties meet a minimum E EPC rating (unless an exemption applies).</li> <li>• Licensed properties are monitored, and licence conditions robustly enforced and complied with.</li> <li>• Improved health, safety, and welfare of tenants in the PRS.</li> </ul>
<b>Reduction in anti-social behaviour in single family dwellings</b>	<ul style="list-style-type: none"> <li>• Informal/formal action taken against 80% of properties with more than 1 ASB incident over 5 years.</li> <li>• Ward based analysis to proactively target nuisance areas and enforce ASB licence conditions and taking statutory enforcement where necessary.</li> </ul>	<ul style="list-style-type: none"> <li>• Reduction in ASB incidents.</li> <li>• Reduce ASB concerns by residents over 5 years.</li> </ul>
<b>Combat problems of deprivation</b>	<ul style="list-style-type: none"> <li>• 25 cases per year regarding excess cold and fuel poverty.</li> </ul>	<ul style="list-style-type: none"> <li>• Combat deprivation in the 10 most deprived areas.</li> </ul>

<p><b>and tenants' rights</b></p>	<ul style="list-style-type: none"> <li>• Deliver an education campaign to make renters aware of licensing, tenancy rights and responsibilities and services available.</li> <li>• Work with third parties to provide additional advice and support with tenancy rights.</li> </ul>	<ul style="list-style-type: none"> <li>• Dedicated tenants' advice section created on website.</li> <li>• Officers to provide tenants with information and sign posting to support their housing and wider needs.</li> <li>• Tenant Charter to be updated.</li> <li>• Tenant Forums to be set up, learning from experience of other Councils</li> <li>• Communication Strategy to push messaging about tenants rights including around illegal eviction / use of Section 21 notices in non-licensed premises within a designation</li> </ul>
<p><b>Improve management standards in PRS</b></p>	<ul style="list-style-type: none"> <li>• Take appropriate action against landlords who fail to license or breach licence conditions.</li> <li>• 2 landlord forums held per year.</li> <li>• 4 newsletters per year sent to licensed landlords.</li> </ul>	<ul style="list-style-type: none"> <li>• Landlords actively manage their properties or be enforced against.</li> <li>• Absentee or unfit landlords employ an agent to actively manage their properties to ensure compliance.</li> <li>• Prevention of overcrowding through better management of property occupancy.</li> <li>• Landlords are kept informed of latest legislation and good practice</li> <li>• Public Register of licensed premises, so all can see if a premise is licensed or not.</li> </ul>

## 5. RESOURCES, MONITORING, AND IMPLEMENTATION

### 5.1 Resources

5.1.1 Any scheme is reliant on ensuring sufficient capacity is in place to process, administer and manage it. The Chartered Institute of Environmental Health workforce survey report, April 2021, set out long-term challenges around resourcing, being:

- a) A lack of resources within teams
- b) Tightening budgets
- c) Market shortages, difficulties with recruitment of experienced and qualified practitioners.

5.1.2 As part of the financial modelling, sufficient staffing has been costed to enable the effective administration and management of such schemes. This will be run jointly within the licencing team but with a manager responsible for the operational remit. A recruitment and retention risk analysis has been conducted as part of the financial modelling.

5.1.3 As part of the financial model, the staffing profile has been calculated to include Principal Environmental Health Officers, Enforcement Officers, Senior Licensing Officers, Technical Licensing Officers, and Resilience Officers to ensure all aspects of administration, inspection and enforcement are accounted for.

## **5.2 Monitoring**

- 5.2.1 It should be noted though that, with a phased approach, these objectives will only partly be able to be measured during the “first phase period” as most are aimed at the life of the designation.
- 5.2.2 Once any scheme is put in place, the Council will develop the data set that will be routinely gathered to assess the effectiveness of the scheme designations to determine if the objectives are being met. This is in line with the Housing Act 2004 which requires local authorities to review their licensing schemes from time to time and to revoke the scheme if they consider this to be the most appropriate action.
- 5.2.3 Key performance indicators will be developed to facilitate formal scheme reviews and assess the schemes effectiveness aligned to each objective, as summarised in table 8 (above). The indicators will be monitored as part of the Selective Licensing Monitoring Board chaired by the Corporate Director Resident and Enabling Services and will meet quarterly.
- 5.2.4 In line with Statutory Guidance, the Board will evaluate outcomes from the scheme, the meeting of objectives, and any actions or amendments to ensure the designations meet the requirements set out. As part of this an annual report will be produced for Councillor Member Briefings (CMB).
- 5.2.5 Ultimately the scheme will benefit both good landlords and tenants, providing a PRS that is fit for purpose, of high standard and provide quality housing for local people as per the Borough Plan pledge to make Lambeth a Place all can call Home.

## **5.3 Implementation**

- 5.3.1 If Phase 1 (Designation 1) is approved, a 3 month stand still period is implemented, where work will continue with Corporate Communications around the communications strategy for go live. Following this statutory cooling off period the indicative date for go live is 1<sup>st</sup> September 2024.
- 5.3.2 Phase 2 (Designation 2) Report will be presented to Cabinet in Autumn 2024 and if approved, will then be subjected to an application to DLUHC. This would likely see a go live date circa July 2025.

## **6. FINANCE**

- 6.1 The proposed selective licensing fees are set out in section 3.4 above.
- 6.2 It is the Council’s intention to grant all selective licences for a period of five years starting from the date they are granted, unless the Council is satisfied that in the circumstance of a particular property a shorter period is appropriate.
- 6.3 Evidence from the current licensing schemes support that although the largest proportion of applications are received in year 1, applications are consistently received throughout the scheme designation and continue to be received well into year 5 of the designation. Therefore, any financial model has therefore been created to be cost neutral over the course of a 10-year period licences are in place.
- 6.4 The model assumes that although the scheme is in place for 5 years there is an ongoing licence enforcement and management requirement over the life of the licence, with licences issued up to the end of the 5<sup>th</sup> year even though the new additional and selective schemes will cease, and no new licences issued from year 6 onwards.

- 6.5 The costs of resourcing the schemes in years 6 -10 will reduce in line with the number of licences that need to be managed and enforced during this period.
- 6.6 In setting the fee the Council has had regard to the EU Service Directive and sections 63(7) and 87(7) of the Housing Act 2004 which confirms that "when fixing fees the local authority may take into account all costs incurred by the authority in carrying out their functions".
- 6.7 The proposed licence fees will be sufficient to cover the estimated costs of establishing and administering the schemes and also the undertaking of any enforcement action.

## 6.8 Expenditure

The costs included in the fees model are:

- a. additional staff to process applications (including recruitment and training).
  - b. additional staff to carry out inspections of premises.
  - c. the cost of Lambeth with appeals against licensing decisions.
  - d. the cost of a new Information Technology system.
  - e. other costs associated with ensuring compliance with the scheme.
- 6.9 The Property Licensing Reserve (separate from PSER budget) going forward will need to operate on a ringfenced trading account basis carrying over deficits and surpluses with the aim of breaking even over the period of the scheme (10 years for 5-year licences) in terms of income and expenditure with no subsidy from the general fund (as is the case with the statutory service). This will allow the profile of income and expenditure to be managed flexibly over the period of the scheme enabling peaks and troughs in activity to be managed.
- 6.10 The fees have been set to cover the costs of the designations, including enforcement and management over a 10-year period, and not to lead to excess money being recovered.
- 6.11 Should the number of licences vary from those anticipated, and/or the profile of applications change, the resourcing requirement will be flexed to manage any pressure this creates within existing budgets.
- 6.12 The licence fee will cover the owner of the property for a period up to 5 years, however, should ownership of the property be transferred within that period, a further licence fee will be payable by the new owner.
- 6.13 The actual financial position of the schemes against the budget will be robustly reviewed on an annual basis. This will be undertaken as part of the Council fees and charges process to ensure that the fees remain reasonable and proportionate, as well as take into account any inflationary rises. The Council is aware that any consistent surplus must be used to adjust fees in upcoming years, although some reinvestment over more than a year is permitted. This balance will be assessed in the yearly review and adjustments made accordingly if required.
- 6.14 The fees set, and the financial model, are based on the assessments and evidence specific to Lambeth and does not allow comparison to other Councils, due to variations around property numbers, costs associated with each council (e.g. salaries, on costs, ICT, back office etc.), approach and operations.

## 7 LEGAL AND DEMOCRACY

- 7.1 Section 80 of the Housing Act 2004 (the "Act") and the Selective Licensing of Houses (Additional Conditions) (England) Order 2015 sets out the criteria and considerations that the Council must be satisfied are met when considering designating a selective licensing area. These general conditions are:



- a. That the area is, or is likely to become, an area of low housing demand.
- b. That the area is experiencing a significant and persistent problem caused by antisocial behaviour.
- c. The area has poor property conditions.
- d. The area has high levels of migration.
- e. The area has high levels of deprivation.
- f. The area has high levels of crime.

7.2 Section 81 of the Act requires the Council to ensure that the exercise of its powers under section 80:

- a. Is consistent with its Housing Strategy
- b. Adopts a coordinated approach in dealing with homelessness, empty homes and anti-social behaviour both as combining selective licencing under the Act with other courses of action available to it and combining licencing with actions taken by other persons.

7.3 The designation of a selective licensing scheme is consistent with the Council's housing strategy approved by Cabinet on 13/03/2024. Property licensing is key to contributing to these priorities and will play an integral role in helping the Council achieve its objectives.

- d. Priority 1: More affordable houses
- e. Priority 2: Delivering excellent housing and repair services
- f. Priority 3: Supporting healthy and safe neighbourhoods.

7.4 Under Priority 3 it is proposed that there be better standards for private renters and in particular *"Eliminating poor-performing private sector landlords throughout the borough remains a priority. New selective licensing measures will be implemented to drive improvements in this crucial part of the borough's housing offer. As part of our commitment to get the best for our residents, the council will not hesitate to follow through with enforcement measures where landlords do not respond."* The proposed selective licensing is therefore consistent with the Council's Housing Strategy.

7.5 Further, for the reasons set out above, officers consider the selective licencing adopts a co-ordinated approach in dealing with homelessness, empty homes and anti-social behaviour.

7.6. The Council is not permitted to make a designation under section 80 unless-

- i. It has considered whether there are any other courses of action available to it that might provide an effective method of achieving the objective or objectives that the designation would be intended to achieve, and
- ii. it considers that making the designation will significantly assist it to achieve the objectives (whether or not it takes any other course of action as well).

7.7 Confirmation from the Secretary of State is required for any selective licensing scheme which would cover more than 20% of a councils' geographical area or would affect more than 20% of privately rented homes in the local authority area. In this case, Selective Licensing Designation 1 equates to 13.48% of the geographical area of the borough and 18.37% of the total PRS in Lambeth, so this designation can be agreed locally and will not require confirmation from the Secretary of State.

- 7.8 Certain types of tenancies/licences are exempt from selective licensing, and these are set out in section 79 of the Housing Act 2004 and the Selective Licensing of Houses (Specified Exemptions) (England) Order 2006.
- 7.9 Where a designation does not require confirmation by the Secretary of State, it cannot come into force until three months after it is made. A designation may be made for up to 5 years.
- 7.10 In the case of *Iyawa v Newham LBC* LON/00BB/HMV/2016/0004 the First Tier Tribunal held that a local housing authority may grant a licence for up to five years even if, by doing so, the licence expires after the scheme designation has ceased to have effect. The Council obtained counsel's advice previously to confirm this position.
- 7.11 Section 83 (Selective Licensing) of the Act requires local housing authorities to publish a notice of the designation once it has been confirmed. A local housing authority must:
- a. publish a notice within the designated area within seven days of the designation being confirmed.
  - b. notify all those consulted on the proposed designation within two weeks of the designation being confirmed.
- 7.12 Section 149 of the Equality Act 2010 requires the Council in the exercise of its functions to have due regard to the need to:
- a. eliminate discrimination, harassment, victimisation and other form of conduct prohibited under the act; and,
  - b. to advance equality of opportunity and to foster good relations between persons who share a relevant protected characteristic (age, disability, gender re-assignment, pregnancy and maternity, race, religion and belief, sex, and sexual orientation) and persons who do not share it.
- 7.13 Having regard to the need to advance equality of opportunity between persons who share relevant protected characteristics and persons who do not share it involves having due regard in particular to the need to:
- a. remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic.
  - b. take steps to meet the needs of the persons who share that characteristic that are different from the needs of persons who do not share it; and,
  - c. encourage persons of the relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 7.14 The Equality Duty must be complied with before and at the time that a particular policy is under consideration or decision is taken – that is, in the development of policy options, and in making a final decision. A public body cannot satisfy the Equality Duty by justifying a decision after it has been taken.
- 7.15 The details of the Equality Impact Assessment are found in Section 9 of this report.

## 8 RISK MANAGEMENT

Table 11: Risk Register

Item	Risk	Like-likelihood	Impact	Score	Control Measure
1	Legal challenge	1	8	8	<p>Independent research has been undertaken to develop the evidence base. The evidence is considered to be reliable and supports justification for scheme proposals.</p> <p>Independent consultants experienced in the legal process required for proposed licensing schemes have been commissioned to conduct the statutory consultation process. It is considered that the above actions mitigate the potential risk of Judicial review.</p>
2	IT/Infrastructure and web development delayed	1	8	8	IT/Web project implemented with sufficient time to deliver. Project Group in place managing process. Infrastructure/Web tested prior to implementation.
3	A significant proportion of landlords do not license properties	3	4	12	Ensure scheme is promoted and landlords are given information. Directly target landlords and their tenants. Use enforcement measures where appropriate and publicise. Landlords will be incentivised to apply for a license through the fee structure.
4	A proportion of landlords sell their properties	2	1	2	<p>Promote benefits of Licensing. More work with landlords and tenants.</p> <p>Due to Lambeth's desirability as a location, very high demand with good links to central London, and cross-rail development it will still be viewed as an area in which to invest. Therefore, new landlords will enter the PRS balancing out those who exit.</p> <p>Evidence from other 17 London Borough schemes do not support that such designations drive people away from the market.</p>
5	License fees are passed onto tenants through increased rents	2	2	4	Fees set at a reasonable level with appropriate discounts and the business case for licensing is communicated to applicants. An Independent review of the Use and Effectiveness of Selective Licensing. Commissioned by MHCLG (now DLUHC) determined that there was no substantive evidence of rent rises being passed onto tenants due to the introduction of selective licensing schemes
6	Higher than planned volume of licensing applications	1	8	8	Ensure application process is as efficient as possible. Match staff resource to workflow and ensure flexible staffing approach to meet demand.
7	Insufficient fee revenue is achieved to self-fund the scheme	1	8	8	Robust financial modelling to provide sufficient margin to mitigate against a shortfall. Regular financial reviews of costs and fees.
8	Public expectations are too high	3	2	6	Develop a clear communications plan to promote the scheme and explain what it aims to deliver.

Item	Risk	Like- lihood	Impact	Score	Control Measure
	regarding what the scheme can deliver				
9	Tenants fearful of reporting non-licensed premises	3	2	6	<p>Communication plan targeting tenants, including looking at tenant forums and website information, to inform them of their rights including use of Section 21 notices in non-licensed premises, and rent repayment orders.</p> <p>Proactive inspection regime, as well as working with other services such as Council Tax, will enable the Council to better identify and address unlicensed premises event if tenants do not come forward.</p>

**Key**

<b>Likelihood</b>	Very Likely = 4	Likely = 3	Unlikely = 2	Very Unlikely = 1
<b>Impact</b>	Major = 8	Serious = 4	Significant = 2	Minor = 1

## 9 EQUALITIES IMPACT ASSESSMENT

9.1 The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:

- i. Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act.
- ii. Advance equality of opportunity between people who share those protected characteristics and people who do not.
- iii. Foster good relations between people who share those characteristics and people who do not.

9.2 A Selective Licensing EIA has been carried out and is attached at **Appendix 7**. It that notes that PRS tenants are more likely to be children or young adults, people with disabilities, people from BAME communities, and/or lone parents. The EIA details the impact that the proposals can be expected to have on people who share the protected characteristics and concludes that they will likely have a positive impact in terms of housing quality.

9.3 The equalities data from the consultation process supported the above, indicating most people taking part were aged 25-44, even split of male / female and a large area of ethnic background.

9.4 Appropriate measures will be taken to remove any barriers to the licensing scheme for people who need reasonable adjustments. This will include, but not be limited to, a range of ways in which the scheme can be accessed and provision of alternate forms and languages on request.

9.5 The Equality Impact Assessment was presented to the EIA Panel in April 2023, and the agreed actions are to be implemented:

- Selective Licensing Programme Board, which is being set up to monitor the effectiveness of any scheme, Terms of Reference to include capture of EIA data from any enforcement / licensing activity, which will then allow reporting back to the EIA Panel;

- The scheme, if approved, to seek to capture data around EIA characteristics including care leavers and faith.
- The scheme, if approved, to ensure communication strategy and service approach addresses tenants concerned over reporting issues due to fear of eviction.
- The consultation responses are to be published – which are in Appendix 1 and 2 of the report.

## **10 COMMUNITY SAFETY**

10.1 The introduction of Selective Licensing directly impacts matters of anti-social behaviour in the rented sector, ensuring relevant conditions are put in place to tackle this.

## **11 ORGANISATIONAL IMPLICATIONS**

### **Environmental**

11.1 Since 1 April 2018, landlords of non-domestic rented properties have only been permitted to grant a new tenancy, or to extend or renew an existing tenancy, if their property has at least an Energy Performance Certificate (EPC) E rating, unless they have registered a valid exemption.

11.2 From 1 April 2023, the requirement for non-domestic landlords to obtain at least an EPC E rating, unless they have registered a valid exemption, applies to all privately rented non-domestic properties (even where there has been no change in tenancy).

11.3 The work of PSER enforces these requirements, including through licensing scheme conditions. The addition of a discount around EPC also provides a financial incentive to improve the energy performance of premises.

### **Health**

11.4 The improvement of the PRS may positively impact people's health, both physically and mentally.

### **Staffing and Accommodation**

11.5 This matter has been addressed throughout the report.

### **Responsible Procurement**

#### *Good Quality Jobs with Fair Pay and Decent Working Conditions*

11.6 All contracts that may be let in relation to the delivery will pay the London Living wage as standard and be in line with the council's approach to modern slavery.

#### *Quality Apprenticeships, targeted Employment for Lambeth residents and Lambeth Priority Group*

11.7 Employment and training for people has been identified as one of the strands to resource such a scheme and is covered within the report.

#### *Reduce Emissions*

11.8 Not relevant

## AUDIT TRAIL

Name and Position/Title	Lambeth Directorate	Date Sent	Date Received	Comments in paragraph:
Councillor Mahamed Hashi, Cabinet Member	Cabinet Member for Safer Community	25/4/24	26/4/24	
Venetia Reid-Baptiste, Corporate Director Resident and Enabling Services	Resident and Enabling Services	25/4/24	25/4/24	
Greg Carson, Legal Services	Legal and Governance	26/4/24	26/4/24	
Andrew Ramsden, AD Finance	Finance	26/04/24	26/04/24	
Democratic Services	Legal and Governance			

## REPORT HISTORY

<b>Report deadline</b>	8 <sup>th</sup> May 2024
<b>Date final report sent</b>	
<b>Part II Exempt from Disclosure/confidential accompanying report?</b>	No
<b>Key decision report</b>	Yes
<b>Date first appeared on forward plan</b>	
<b>Key decision reasons</b>	Not applicable
<b>Background information</b>	<ul style="list-style-type: none"> <li>▪ <a href="#">The Housing Act 2004</a></li> <li>▪ <a href="#">The Housing and Planning Act 2016</a></li> <li>▪ <a href="#">The Selective Licensing of Houses (Specified Exemptions) (England) Order 2006</a></li> <li>▪ <a href="#">The Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2015.</a></li> <li>▪ <a href="#">Selective licensing in the private rented sector, a guide for local authorities, MHCLG, March 2015</a></li> <li>▪ <a href="#">Local authority enforcement in the private rented sector: headline report - GOV.UK (www.gov.uk)</a></li> <li>▪ Government Selective Licensing Review - <a href="https://assets.publishing.service.gov.uk/media/5d888fe2ed915d522c44708a/Selective_Licensing_Review_2019.p">https://assets.publishing.service.gov.uk/media/5d888fe2ed915d522c44708a/Selective_Licensing_Review_2019.p</a></li> <li>▪ <a href="#">English Housing Survey 2022 to 2023: headline report - GOV.UK (www.gov.uk)</a></li> </ul>
<b>Appendices</b>	<p>Appendix 1 Consultation Report</p> <p>Appendix 2 Council response to comments received during public consultation</p> <p>Appendix 3 Selective Licensing Designation 1</p> <p>Appendix 4 Selective Licence Conditions</p> <p>Appendix 5 Fee Structure</p> <p>Appendix 6 Feasibility and Consultation Pack</p> <p>Appendix 7 Equalities Analysis Assessment</p>