

Consultation on proposals for a Selective Licensing Scheme for privately rented homes in Brighton & Hove

Summary

The council is currently consulting on two proposed licensing schemes for private rented housing in the city. These are

- A citywide Additional Licensing Scheme for smaller houses in multiple occupation (HMOs) which are not covered by mandatory licensing
- A Selective Licensing Scheme for other private rented homes in 12 wards in the city

This consultation is designed to inform you about the council's proposal to introduce a scheme of **selective licensing** for privately rented homes in part of the city. The scheme is proposed to run for up to five years. The full background to the decision to pursue a scheme is given in the PRS discretionary licensing scheme report which was considered at Housing & New Homes Committee on 16 November 2016.

The report and a further report to committee on 14 June 2017 can be found in the committee meeting section of the council's website at www.brighton-hove.gov.uk/committees. The reports summarise the information councillors considered at the meetings, namely:

- How the scheme would fit with the council's overall Housing Strategy for the city
- Why the council believes the scheme is necessary
- The evidence to show that the scheme is necessary
- How the scheme would operate, and how it would be funded
- The outcomes sought from the scheme

What is selective licensing?

The Housing Act 2004 requires local authorities to licence HMOs¹ if they have three or more storeys and accommodate more than five people who form two or more households. This is called **mandatory licensing**. The act also gives authorities the power to introduce licensing schemes for other HMOs if certain conditions are met. This is called **additional licensing** and the council has been operating schemes in parts of the city since 2012. The other form of licensing within the act is called **selective licensing**. This enables authorities to also licence privately rented accommodation other than HMOs if certain conditions are met.

By requiring landlords to license their properties, the council aims to ensure they are a 'fit and proper' person and, through compliance with the licence conditions, are providing well managed homes. Further information on this can be found in Part 3 of the Housing Act 2004.

It is now the law that any proposed Selective Licensing Scheme exceeding either 20% of the area's private rented sector (PRS) or 20% of its geographical area must be confirmed by the Secretary of State for the Department of Communities and Local Government. The scheme which the council is proposing exceeds these criteria and would require Secretary of State approval.

¹ A house in multiple occupation is a property rented out by at least 3 people who are not from 1 'household' (eg a family) but share facilities like the bathroom and kitchen.

The proposal

The proposed Selective Licensing Scheme would apply to 12 wards in the city – St Peter’s & North Laine, Regency, Moulsecoomb & Bevendean, Hollingdean & Stanmer, Queen’s Park, Hanover & Elm Grove, Brunswick & Adelaide, East Brighton, South Portslade, Central Hove, Westbourne and Preston Park. This could affect approximately 27,000 properties.

With a few exceptions, all private landlords with properties in the proposed area would require a licence for each of their rented properties. Failure to license a property would be a criminal offence and could result in prosecution and an unlimited fine.

Why does the council think licensing is necessary?

A key theme of the city’s Housing Strategy has been the significant growth in the private rented sector (PRS) in Brighton & Hove. In 2011, the census reported that the PRS stood at 37,518 homes, 31% of all housing stock in the city and the ninth largest in England and Wales. The sector increased by 46%, an extra 10,691 homes, between 2001 and 2011. In 2011, 17 of the city’s 21 wards exceeded the regional and national average of 15% of households living in private rented homes and the sector is expected to have grown in the six years since 2011.

The increase shows how important the sector is as a source of accommodation in Brighton & Hove. It can provide people with flexible, accessible and good quality homes and the council believes that all tenants should live in a good quality home.

The quality of management and maintenance of the city’s PRS homes is inconsistent. The high demand for rented housing means the market will not alone drive up standards. Poor quality or overcrowded housing can impact on people’s health and their personal development, particularly for younger people and families. Concerns about housing quality were supported by respondents to the consultation for the Housing Strategy 2015, the Private Sector Housing Scrutiny Panel 2015 and, more recently, the Fairness Commission Report 2016, which calls on the council to take more action to improve the quality of homes and management across the PRS.

Five possible alternative options for tackling problem housing in the city were identified and

considered at Housing & New Homes Committee in November 2016. These were

- A Do nothing**
- B Use existing reactive powers**
- C Targeted use of Management Orders**
- D Area based voluntary accreditation**
- E Informal area action**

The strengths and weaknesses of each option highlighted that none is expected to bring about the scale of improvement that the evidence suggests is required.

How does selective licensing fit with the council’s overall approach to Housing in Brighton & Hove?

The Housing Strategy 2015 is a key chapter of the Sustainable Community Strategy and a fundamental piece of evidence to support the City Plan and our Local Housing Investment Plan, enabling us to continue our drive to help address the housing needs of the city.

The proposal for a Selective Licensing Scheme forms part of the ambition to deliver good quality housing in the city. Priority 2 of the Housing Strategy 2015 is to improve housing quality. Themes within this priority include the PRS and HMOs. A large majority of respondents to the Housing Strategy consultation wanted the introduction of a register of all private sector landlords and for the council to take action to improve quality and standards.

The Homeless Strategy 2014 identified that homelessness from the PRS is consistently the single biggest cause of homelessness in the city. Improving the standards of accommodation and management in the PRS is seen as one of a number of tools to help reduce homelessness from this sector.

The council therefore recognises the importance of the PRS within the housing market, and indeed makes use of it as a positive housing option. Well managed private rented housing in the city helps the council to meet some of its housing objectives, and is part of an overall, well balanced housing market.

Selective licensing fits with this approach. A licensing scheme which sets out a clear set of conditions and expectations would, it is believed, bring a step-change in the way in which PRS is managed and would tackle the problems which are currently in evidence in parts of the sector.

What evidence is there to support the proposal?

The law states that to introduce a Selective Licensing Scheme the council has to demonstrate that the area covered by the scheme is affected by one or more of a range of conditions outlined below. While councils do not need to meet every condition, evidence must be shown to support the condition(s) which are being relied upon. The conditions are:

- Low housing demand (or is likely to become such an area)
- A significant and persistent problem caused by anti-social behaviour (ASB)
- Poor property conditions
- High levels of crime
- High levels of deprivation
- High levels of inward migration

In considering whether to designate an area for selective licensing on the grounds of property conditions, migration, deprivation and crime, the local authority may only make a designation if the area also has a high proportion of property in the private rented sector.

The council considers that there are grounds for a Selective Licensing Scheme based on anti-social behaviour (ASB) and poor property conditions in 12 wards in the city.

The council commissioned independent research² to collect the evidence and used a number of sources such as council ASB and noise complaints, police data, requests for assistance to the council's Private Sector Housing Team regarding property disrepair, public health issues, waste complaints and safety concerns, such as dwelling fires.

A high proportion of private rented properties

The government guidance (DCLG) states that nationally the PRS currently makes up 19% of the total housing stock in England. The current estimate of the proportion of PRS in Brighton & Hove stands at 31% (Census 2011) with three wards in the city having over 50% of properties in the PRS (Brunswick & Adelaide, Regency and Central Hove). The city level is a third higher than the national average with the expectation that the proportion of housing which is privately rented is likely to have risen further since 2011.

Anti-social behaviour

The research utilised a number of sources of data including police and council ASB and noise complaint and requests for assistance to the council's Private Sector Housing Team regarding waste complaints. It found that where a property is predicted to be a single family private rented dwelling, a request for assistance is 2.4 times more likely than other properties and a noise complaint 1.5 times more likely.

Poor property conditions

Evidence from the current HMO licensing scheme has highlighted that 88% of the properties required improvements to ensure they are fit and safe for occupation

The council has traditionally made use of its housing powers to improve housing conditions. With the current HMO licensing schemes, housing quality issues identified during property inspections have led to 12,619 special conditions being attached to licences that have resulted in improvements to 2,629 homes, benefitting an estimated 13,000 tenants. Existing licensing schemes however only cover 9% of PRS with the majority not having benefited from these improvements. Our research also confirmed that an average of 80 requests for assistance are made each month relating to disrepair issues, safety concerns, public health issues and waste complaints.

Overall, the analysis undertaken shows that there is a positive correlation between the proportion of PRS in an area and rates of both ASB and poor property conditions³. The council believes that the evidence supports a scheme of selective licensing in specified areas within the city. It considers that it is a proportionate, reasonable and strategic response to the issues with management, property standards and ASB affecting some of the city's PRS that existing interventions have not been able to resolve.

Selective licensing is not, however, a stand-alone response. It works alongside the other powers available to the council and the other initiatives that the council has supported to improve the PRS, such as promoting opportunities for energy efficiency improvements in homes; attendance and ongoing dialogue through community meetings, landlord/agent meetings and student fairs; and through responding to service requests.

² The case for an extension to discretionary property licensing in Brighton & Hove - Report by Mayhew Harper Associated Ltd September 2016

³ The case for an extension to discretionary property licensing in Brighton & Hove - Report by Mayhew Harper Associated Ltd September 2016

How would the scheme operate, and how much would it cost

The council needs to be satisfied that the proposed licence holder is a 'fit and proper' person and meet the requirement that there are suitable management arrangements in place. If the council is not satisfied, it may decide to refuse the licence, reduce the term of the licence and/or impose further conditions on the licence holder.

Following the application the property would be inspected and the applicant sent a draft licence together with the conditions that must be met. There would be compliance checks carried out once a licence has been granted in order to ensure they fulfil all of the conditions of the licence.

The licence fee can only be used for the administration of the scheme. Information on the proposed fee structure is available in the Housing & New Homes Committee report 14 June 2017. The proposed fees are:

Type	Fee	Comments
Standard fee	£460	
Prompted fee	£600	It is proposed that this would apply where a licence application has not been made proactively and the council has to carry out investigation and/or chase up work to ensure that an application is made.

Licence conditions

The licence conditions are the key to improving property conditions and management, which is the outcome sought. The proposed licence conditions can be found on the council's website at www.brighton-hove.gov.uk/prs-licensing-consultation.

The Housing Act 2004 requires that every licence has certain mandatory conditions included. The council can also apply other discretionary conditions. The proposed conditions have been developed to ensure improved housing standards, and to reduce anti-social behaviour.

Outcomes being sought

The following benefits are expected:

- Proactive and consistent council led approach

towards identifying, and tackling complex issues of management, standards and ASB across the area to the benefit of tenants, responsible landlords and the local community

- Support for landlords in dealing with ASB
- Improvement of the image and desirability of the area
- Enhancement of the reputation of the PRS as a tenure of choice.

How you can have your say on this consultation

You can do this by completing the online questionnaire at www.brighton-hove.gov.uk/prs-licensing-consultation.

Printed copies of the questionnaire are also available from council public offices and at the city libraries. If you require this information in an alternative format, such as large print, email PrsLicensingConsultation@brighton-hove.gov.uk or call 01273 293156.

Further details and a list of frequently asked questions can be found at www.brighton-hove.gov.uk/prs-licensing-consultation.

The consultation closes at midnight on Sunday 10 September 2017. All responses must be received by this time.

What happens next?

At the end of the consultation, responses will be considered and a further report will be presented to Housing & New Homes Committee in November 2017 for members to decide whether to proceed with a Selective Licensing Scheme.

The council effectively has three options

- To do nothing and not implement a scheme of selective licensing
- To amend the proposal after consideration of the consultation responses before seeking Secretary of State approval or
- If the proposal remains unamended, proceed to seek Secretary of State approval for the scheme.

If the scheme was amended to the extent that it was reduced to less than 20% of the city's PRS or 20% of the geographical area of the city a designation could be made without the Secretary of State's approval on giving the necessary three month statutory notice.