

# Proposed Selective Licensing Scheme

## Frequently Asked Questions

### Why is Brighton & Hove City Council consulting on a scheme of licensing for privately rented properties in parts of the city?

Improving the quality of housing in the city is a key priority for the city's Housing Strategy. Tenants should be able to live in a home which is well managed. Whilst many landlords operate responsibly, there are concerns that a significant number do not and as a result issues continue to be raised in relation to the management, standards and quality of homes in the city. Independent evidence revealed a number of problems with the private rented sector in areas of the city, which can be seen in full in the report considered by [Housing & New Homes Committee in November 2016](#).

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 FAQs provides more information on the proposed **Selective Licensing Scheme**.

### What is selective licensing?

The Housing Act 2004 requires local housing authorities to licence HMOs 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 is able 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.

### What would the aim of the scheme be?

The aim of the scheme would be to raise standards in privately rented homes and address the link between poor property conditions and anti social behaviour to ensure that all tenants living in the sector can live in well managed homes.

### **Are there alternative things the council could do instead of licensing?**

Before the council could introduce a Selective Licensing Scheme it must have explored all the alternative ways in which improvement in housing standards could be achieved, and have decided that selective licensing is the best option. The [November 2016 committee report](#) outlined different options the council considered in recommending consultation on the proposed additional and selective licensing schemes. A more detailed option appraisal would be completed following the consultation to help members of Housing & New Homes Committee to make an informed decision.

### **What about good landlords who already manage their properties well?**

We recognise that a number of landlords already deliver good quality, well-managed homes. We could not exempt them from the scheme, but because the process of licensing their properties could be easier we are seeking feedback through the consultation as to whether we should try and reduce the cost to them by offering a discount for landlords/agents who are accredited under a landlord/agent scheme which meets national standards of good practice. Landlords who proactively make an application would also pay the lower standard fee.

## **Questions about the scheme should it be implemented**

### **When would the Selective Licensing Scheme start?**

If the proposed scheme goes ahead, three months notice would have to be given after Secretary of State approval before the scheme could start. It is anticipated this would not be before summer 2018.

### **What is the proposed area for selective licensing?**

The proposed area covers 12 wards in the city. These are: 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. With a few statutory exemptions, it would affect all private rented properties (excluding those that need to be licensed as HMOs).

### **How would I apply?**

All landlords or their managing agents would need to make a licence application online through the council's website and pay a fee online at the time of application. This move to all applications being online is in recognition of the improvements that have been made to our online application form making it easier to apply and the council's ambition to digitalise services. For anyone who may find this difficult advice can be sought from the Private Sector Housing Team in the first instance.

Landlords would need to pass a 'fit and proper person' test and meet the requirement that there are suitable management arrangements in place.

### **How long would a licence last?**

The Selective Licensing Scheme would last for a maximum of five years after it starts. The licences would generally be issued for the duration of the scheme. However if there are outstanding planning permission or other issues at the property generally a one year licence would be issued, allowing time to regulate the position.

### **How much would a licence cost?**

We are proposing to charge a standard fee of £460 and a prompted fee of £600 where the council has to do more than the normal amount of work to ensure a licence application is made.

### **Would I be able to pay the licence fee in instalments?**

There is no proposal for this – it is proposed that for an application to be valid, the fee would have to be paid as part of the application.

### **Would there be a discount for multiple applications from the same landlord?**

There is no proposal for this – it is proposed that there would be the same fee for landlords, however many properties they have. This is because the costs are incurred per property.

### **Would smaller properties attract the same fee as larger properties?**

Yes. The fee is mainly based on the time taken to process the licence applications. The majority of the process will be the same however large the property is.

### **Would this be a money making scheme for the council?**

No. The council is only allowed to charge a fee which would cover the costs to administer and run the scheme. The council proposes to set the fee at a level that would ensure full cost recovery for the scheme and be a balance between a reasonable cost for landlords, while also seeking to ensure the scheme would be successful, properly funded and adequately resourced.

### **How does selective licensing work?**

Under a Selective Licensing Scheme anyone who owns and manages a privately rented property (unless it requires an HMO licence or it is statutorily exempt) would have to apply to the council for a licence. The council would issue a licence if it is satisfied that the proposed licence holder is a 'fit and proper' person and that there are suitable management arrangements in place. In deciding whether someone is 'fit and proper' the council would take into account amongst other things:

- Any previous convictions relating to violence, sexual offences, drugs and fraud
- Whether the proposed licence holder has broken any laws relating to housing or landlord and tenant issues
- Whether the person has been found guilty of unlawful discrimination
- Whether the person has previously managed HMOs that have breached any approved code of practice.

A criminal conviction would not necessarily mean that a landlord would not pass the test. The council would have to look at every case individually and weigh up all the circumstances when making a decision.

The proposed licence holder would be asked to complete a fit and proper person declaration as part of the application process.

Following the application the property would be inspected and the applicant sent a draft licence together with the conditions that must be met. The licence holder could make representations at this stage and if agreed they would be incorporated in the full licence conditions. If no agreement can be reached then the applicant would have the right of appeal to the First Tier Tribunal (Property Chamber – Residential Property). Revisits would take place as appropriate within the life of the licence.

### **What conditions are applied to a selective licence?**

There are a number of mandatory conditions applied to selective licences under the Housing Act 2004. The law also allows council's to apply discretionary conditions to regulate the management, use and occupation of the house. The proposed licence conditions can be found on the council's website.

### **Can I appeal a decision?**

Yes. When giving a decision on licensing, the council would give details of the rights of appeal. Appeals are in the first instance to a First Tier Tribunal, which is an independent body from local councils and the Government.

### **Could I be exempt from a licence?**

The only exemptions are set out in [The Selective Licensing of Houses \(Specified Exemptions\) \(England\) Order 2006](#). In the main these are Registered Social Landlord properties, business premises, holiday lets, properties licensed under other provisions, agricultural tenancies and tenancies granted to relatives.

### **I have a couple of lodgers who live with me. Would I need a licence?**

No. If lodgers live with you and share your accommodation, you are specifically exempt from selective licensing. If you have three or more lodgers the house might require an HMO licence.

### **Could the licence be transferred?**

No. Licences are not transferable and in the event that the licence holder needs to be changed (eg the property has a new owner) they would need to apply for a new licence.

### **What would happen if I should apply but did not?**

Failure to license a property where one is required is a criminal offence and would place you at risk of enforcement action for being unlicensed. If the council were to have to do more than the normal amount of work to ensure a licence application was made, a higher licence fee would also be charged.

### **What would happen if I didn't comply with the conditions of the selective licence?**

This depends on the seriousness of the breach(es). We would look to work with the licence holder to ensure the breach is resolved but failure to comply with any condition may result in legal proceedings including fines up to £5,000 for each breach and loss of the licence.

### **Do any other local authorities operate selective licensing schemes?**

There are a number of other councils who are operating Selective Licensing Schemes. The council has looked at a variety of different schemes and they appear to work well and each authority is under a requirement to review their schemes.

### **Where can I find out more information on selective licensing?**

Further information and guidance on selective licensing can be found in Part 3 of the Housing Act 2004 and on the council's website.

### **Where can I find out more information on renting privately in the city?**

Further information and advice on private rented housing can be found on the council's website, and on Rent Smart's website at [www.rentsmartbrightonhove.org](http://www.rentsmartbrightonhove.org).

## **Additional questions raised during the consultation**

### **What enforcement action have you taken against licence holders?**

In the past five years, 18 successful prosecutions have taken place. These have taken place for a variety of reasons, including failure to apply for a licence, breach of licence conditions, management regulations offences or failure to provide information. All successfully resulted in formal cautions or fines.