

To: Cabinet
Date: 09 September 2020
Report of: Housing and Homelessness Panel
Title of Report: Selective Licensing

Summary and recommendations	
Purpose of report:	To present Housing and Homelessness Panel recommendations concerning the Selective Licensing report
Key decision:	Yes
Scrutiny Lead Member:	Councillor Nadine Bely-Summers, Chair of the Housing and Homelessness Panel
Cabinet Member:	Councillor Alex Hollingsworth, Cabinet Member for Planning and Housing Delivery
Corporate Priority:	More Affordable Housing
Policy Framework:	Housing and Homelessness Strategy
Recommendation: That the Cabinet states whether it agrees or disagrees with the recommendation in the body of this report.	

Appendices
None

Introduction and overview

1. At its meeting on 03 August 2020, the Housing and Homelessness Panel considered the report to Cabinet regarding the review of the housing conditions undertaken to inform a decision for the implementation of a selective licensing scheme.
2. The Panel would like to thank Councillor Alex Hollingsworth for attending the meeting and presenting the report, Ian Wright, Head of Regulatory Services and Community Safety, for supporting the meeting, and Gail Siddal, HMO Enforcement Team Manager, for authoring the report.

Summary and recommendation

3. In light of the importance of the issue under consideration and the wish to understand the reactions of stakeholders from outside the Council to the proposals, the Housing Panel invited a number of representatives from local organisations to give their reactions to the report. The organisations represented were the Oxford Citizens' Advice Bureau, the letting and estate agency College and County, and the Oxford branch of the ACORN union.
4. Speaking prior to the presentation of the report, the Panel's external attendees presented their views. All were in agreement with the proposals, but raised a number of issues and questions. The most clear-running theme was the importance of enforcement of all properties, particularly given that those in the least secure housing should not be expected to whistleblow on their landlords. Without across the board enforcement, licensing would become a burden on those seeking to comply, leaving those willing not to do so, those operating within the shadow lettings market, with an advantage. It would be important to avoid the perception of 'entrepreneurial bureaucracy', the taking of license fees from compliant landlords to pay to tell them that they were compliant, rather than identifying and cracking down on those providing homes with category 1 and 2 health risks.
5. Whilst broad-spectrum enforcement was recognised to be a challenge, it was also recognised to be extremely valuable. Having minimum standards for the right to let would be a useful tool for advice agencies and unions in supporting tenants, and if done effectively would be of greatest benefit to the most vulnerable. Given the most vulnerable were identified by the CAB as those with English as a second language, on low pay and or those with mental health conditions there was seen to be a clear equalities justification. Extending licensing across the entire private rental sector, rather than simply on HMOs would also have the benefit of closing loopholes which allowed landlords and agents deemed unfit to provide HMO accommodation still able to let within the wider private rented market instead.
6. Other important messages were raised in relation to the importance of transparency, and the value for tenants of being able to look up on a database whether their property was licensed.
7. From the landlord side, an important point to note was that there was a recognition within the professional sector that licensing had been successful in raising standards in the HMO sector. Support was given to the proposals for discounts, though it was requested that there be greater clarity on the unit cost of providing the licensing service. An area of potential collaboration between letting agents and the Council was in regards to compliance, and whether there may be a role for lettings agents to be responsible for checking and guaranteeing compliance for the properties on their books, with the Council needing only to spot check a proportion of such properties.

8. Following these presentations, Councillor Alex Hollingsworth, Cabinet Member for Planning and Housing Delivery, introduced the report. It was underlined that plans for small geographical exemptions were not the Council's preferred choice, but were included in the proposals because central government had not clarified whether it did or did not support a whole-City scheme. The need for wide-reaching publicity was also recognised, both to landlords so as to ensure compliance, but also to tenants and those in the shadow rental market in order to provide awareness of their rights as a tenant. Good landlords would have nothing to fear and indeed would be protected under the new scheme from bad landlords undercutting them on the back of poor rental standards. The danger of entrepreneurial bureaucracy was recognised, but assurance was provided that the scheme had been designed precisely so as to raise standards amongst non-compliant properties or prevent such properties from being rented.
9. Ian Wright, Head of Regulatory Services and Community Safety, introduced the technical aspects of the report. Having previously intervened to raise standards in the private rented sector through HMO licensing the Council was in a strong position to extend licensing further, having learnt a lot of lessons. Licensing had proven the most effective way of raising rental standards compared to the other options available to the Council. Selective licensing would close regulatory gaps and loopholes owing to the fact all privately rented properties would require a license, and the Council's experience in identifying unlicensed HMO properties (an area in which Oxford is notably strong) would be of significant benefit in enforcing compliance against unwilling landlords.
10. Being a regulatory intervention requiring government approval the proposals for selective licensing had to be designed in order to ensure government requirements were met. The Council had commissioned external consultants to assess the need. Their report showed every ward in the City had over 20% of privately rented homes, and that one in four privately rented homes were estimated to have a serious hazard, demonstrating by reference to the government's criteria a need for the proposed selective licensing scheme.
11. A key strength of the proposals was the addition of conditions to the license, which would give the Council greater powers. HMO landlords, for example, who failed the fit and proper person test, or who lost their license, would no longer be able to default into the private rented sector as they would be unable to meet the new licensing conditions. Licensing conditions would also extend to lettings agents, giving the Council greater power over problem-agencies. Other benefits would include giving the Council power to pressure landlords over their management of anti-social or criminal behaviour at their properties, and the management of waste which, hitherto, had been an area where the Council had struggled.
12. The standard fee of £480 was deemed to be reasonable in itself. However, the Council was also providing a series of discounts which would reduce the cost further. The early-bird discount, for example, would reduce the cost of the license to £400 for a five year license, working out to £6.67 a month – a far from

onerous sum. The discount scheme was a clear effort to place the costs of the scheme where they primarily arose, chasing and taking enforcement action against non-compliant landlords, rather than penalising those who were compliant.

13. Inspections of properties would, due to the scale of the scheme, not be undertaken prior to the granting of a license but would be undertaken at least once within the five year license period. Complaints from tenants would increase that number.
14. On advice from other councils which had implemented similar schemes the consultation was being undertaken by an external company, which would provide greater assurance to participants of its impartiality. The consultation is legally mandated to run for at least ten weeks. Covid evidently presented challenges, and indeed had delayed the Council's initial plans for consultation in April, but officers were working with the consultants to deliver a consultation that effectively reached out to all stakeholder groups. Criticisms of previous consultations elsewhere had been that they had focused too heavily on hearing the views of landlords, and that tenants and the wider community's views were marginalised. Responses to consultation would inform next steps.
15. Ultimately, the decision whether to give permission for the scheme lay with central government. There is no statutory timescale for decision-making, but typically a response is given within three to six months. Assuming permission was given and the Council proceeded with the scheme, there would be a requirement to run a three month awareness raising and publicity exercise.
16. In response to the report presented, the Committee sought clarification over issues including:
 - the responsibilities on landlords of the antisocial behaviour of their tenants
 - whether licenses were of the landlord or of the property and the financial implications arising from that
 - the efforts being made by the Council to engage in consultation those groups impacted by low housing standards but unlikely to come forward, in particular those in insecure accommodation and non-English speakers
 - Council staff's interaction with non-English speaking landlords
 - the potential to outlaw 'no DSS' policies through licensing conditions
17. The Panel wishes strongly to commend the overall proposals. It does make one recommendation relating to the Council's consultation and engagement and the Council's plans to ensure the voices of vulnerable stakeholders are heard.

Engaging Vulnerable Stakeholders

18. Feedback from both Panel members and invited guests was very clear that there is a systemic power imbalance between the situations of landlords and tenants when discussing housing related issues. Those tenants least well served by landlords are at the same time the most in need of the changes selective licensing proposals seek to induce, and the least likely to be heard. Feedback from the CAB highlighted the possibility not only of formal revenge-evictions, but lower-level harassment and intimidation of tenants for crossing their landlords. Owing to this, without corrective action the response to the Council's consultation is likely to have an under-representation of tenant voices, particularly amongst vulnerable tenants in the shadow rental market and those with the lowest housing standards. As referenced above in this report, many of the most precariously housed tenants are non-English speakers, which creates a further barrier to their experiences being formally expressed, and therefore acted upon. It is the Panel's concern that the Council proactively take necessary action to correct this imbalance to ensure that the views of the City's most vulnerable tenants are not overlooked.

Recommendation 1: That the Council is mindful of the challenges to hearing the views of vulnerable tenants – those in dangerous accommodation, pseudo-tenancies and non-English speakers in particular – and that it adapts its approach to consultation to ensure their views are not overlooked.

Further Consideration

19. This is a topic with a high degree of interest for Scrutiny. It is anticipated that timing-dependent, the Housing and Homelessness Panel or main Scrutiny Committee will wish to hear the results of the consultation and any proposed changes made.

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Cabinet response to recommendations of the Housing and Homelessness Panel made on 03/09/2020 concerning Selective Licensing

Provided by the Cabinet Member for Planning and Housing Delivery, Councillor Alex Hollingsworth

<i>Recommendation</i>	<i>Agree?</i>	<i>Comment</i>
<p>1) That the Council is mindful of the challenges to hearing the views of vulnerable tenants – those in dangerous accommodation and non-English speakers in particular – and that it adapts its approach to consultation to ensure their views are not overlooked.</p>	<p>Yes</p>	<p>As identified at the panel it is important that the Council hears the views of those tenants living in the private rented sector. Officers in Regulatory Services have been in contact with colleagues across the council to obtain contact details from the voluntary sector and other organisations in the city who provide support for private tenants either directly or indirectly. The list of contacts who will be contacted to advise them about the consultation, is far reaching and includes organisations such as Asylum Welcome, Open Door, the CAB, Connection Floating Support and Oxford Food Bank. We will also engage with the Oxford Tenants Union and Acorn who represent private rented sector tenants. Private sector tenants who contact our Tenancy Relations service for help and advice will be advised of the consultation and given details of how to take part. The consultation will be advertised via social media and other press communications and respondents will be encouraged to complete a questionnaire via the Council’s website which has a translation facility. Members also have a key role to play in forwarding details of the consultation to their constituents and networks in the City to have their say and encouraging them to advise their friends and communities to contribute.</p>