

<b>Item No.</b> 9.	<b>Classification:</b> Open	<b>Date:</b> 19 October 2021	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Driving up Standards for the Private Rented Sector	
<b>Ward(s) or groups affected:</b>		All wards – Particularly landlords and tenants of privately rented homes	
<b>Cabinet Member:</b>		Councillor Darren Merrill, A Safer, Cleaner Borough	

## **FOREWORD – COUNCILLOR DARREN MERRILL, CABINET MEMBER FOR A SAFER, CLEANER BROUGH**

As the pressures on housing numbers increase, the private rented sector will continue to grow and the council intend to do all they can to protect the welfare of its residents, ensuring that they live in good, healthy housing conditions. Whilst most homes in the private rented sector are well-managed, the council has to intervene where landlords are not managing their properties effectively, maintaining adequate standards, treating their tenants fairly or, challenging their tenant’s behaviour when they are causing problems for neighbouring residents with repeat anti-social behaviour. This can be the minority of landlords who wilfully neglect their businesses or, more often, those that with the best of intentions are not aware of their full responsibilities as landlords.

Through previous licensing schemes the council has made significant progress improving the private rented sector. These proposals, for new discretionary licensing schemes, will help build on this success to make Southwark a safer more desirable place to live and deliver the large-scale improvements that are needed in the borough’s private rented sector. The council will continue to build on working in partnership with good landlords, support those landlords who want to manage their homes more effectively and enabling more targeted and effective action against rogue landlords.

The Gold Standard Charter sets a higher standard than that required by licensing. Its purpose is to establish and reward good practice in the sector highlighting the importance of offering; responsive repairs, improved energy efficiency, fair and predictable rents, and a secure tenancy with protection from unnecessary eviction. Membership offers additional rewards for landlords that help the council provide homes for those that find themselves without, often the most vulnerable residents in the borough.

## **RECOMMENDATIONS**

1. To approve the changes to the existing mandatory licensing Scheme set out in Appendix 1 and the new initial fee structure for mandatory licensing as set out in Appendix 7.
2. To approve the implementation of a borough wide additional licensing designation for 5 years as detailed in Appendix 2 and 3 from 1 March 2022 for Houses in Multiple Occupation (HMOs) not included in the mandatory licensing definition, under Part 2 of the Housing Act 2004. Including the initial fee structure as set out in Appendix 7.
3. To approve the implementation of the selective licensing designation 1 in Champion Hill and Newington wards, for 5 years, as detailed in appendix 4 and 6, from 1 March 2022 under the Housing Act 2004.
4. To approve the implementation of the selective licensing designation 2 in Faraday, Goose Green and St. Giles wards, for 5 years, as detailed in Appendix 5 and 6, from 1 March 2022 under the Housing Act 2004.
5. To approve the initial fee levels for selective licensing designations 1 and 2 as set out in Appendix 7.
6. To delegate the authority to the Strategic Director of Environment and Leisure to make any minor amendments to the schemes as necessary during the 5 year duration, for the effective administration of the schemes.
7. To approve the final proposals for the council's Gold Standard Charter for Landlords as set out in Appendix 9 and 10.
8. To delegate the authority to the Strategic Director of Environment and Leisure to make minor amendments to the Gold Standard Charter as necessary for the effective success and administration of the scheme.

## **BACKGROUND INFORMATION**

9. The private rented sector (PRS) in Southwark constitutes approximately a third of the housing stock in Southwark and plays a crucial role in meeting the housing requirements of residents. According to census data, growth in the PRS in Southwark has been significant; in 2001 it represented almost 9% of the stock, by 2011 it had grown to over 23% (28,493) and by 2019 had grown to just over 29% (42,964) (see appendix 11 for more information).
10. The proposals set out in this report and its appendices reflect Southwark as a borough with a broad diversity and a wide range of issues in its private rented housing sector.
11. The Council recognises that there are different types of landlord operating within this sector:
  - professional, responsible landlords

- inexperienced, reluctant or accidental landlords and
  - rogue or criminal landlords.
12. All these types of landlord require a different approach by the Council and the proposals set out in this report and its appendices therefore, aim to:
- recognise and reward responsible landlords
  - support and educate inexperienced, reluctant or accidental landlords and
  - tackle rogue or criminal landlords so they are forced to either operate responsibly or stop them operating within the sector.
13. The Council will continue to take tough action against rogue and criminal landlords as they knowingly flout their obligations by letting unsafe and substandard accommodation to tenants, placing their health, safety and welfare at serious risk. Many of these tenants are the most vulnerable people in our society. These landlords often target vulnerable tenants and usually house them in overcrowded and poorly managed and maintained accommodation. This also has a detrimental impact on neighbourhoods. Anti-social behaviour (ASB), nuisance neighbours, accumulations of rubbish and other problems can be linked to the failure of private landlords to manage their properties and tenancies effectively.

#### **Provisions for Licensing in the Private Rented Sector**

14. There are 3 types of licensing that can apply to properties in the private rented sector. All three types are included in these proposals and are referred to and outlined in more detail within this document and its appendices. These are:
- **Mandatory Licensing** - Under part 2 of the Housing Act 2004, larger houses in multiple occupation (HMOs) (definition outlined below) that are occupied by 5 or more persons forming at least 2 separate households are required to be licensed.
  - **Additional Licensing** – Part 2 of the Housing Act 2004 also gives local authorities power to license HMOs that are not covered by mandatory licensing. This includes shared houses and smaller bedsit type accommodation where there are 3 or more people in two or more households. It can also include some properties converted into flats that do not comply with 1991 (or later) Building Regulations
  - **Selective licensing** - Part 3 of the Housing Act 2004 gives local authorities power to license properties that are not covered by mandatory or additional licensing.
15. Additional and selective licensing are sometimes collectively referred to as discretionary licensing as the decision to use these licensing provisions in its borough is at the discretion of the local authority. Schemes can only be considered by a Local Authority if they have sufficient evidence that an area contains a high proportion of properties in the private rented sector and a significant number are suffering from particular issues as set out under the Housing Act 2004 and The Selective Licensing of Houses (Additional

Conditions) (England) Order 2015. (See paragraph 131 below for a full list of eligible criteria).

16. Once the schemes are operational 'landlords' are legally obliged to apply for a licence if one of the schemes apply to their properties and, comply with any conditions set out in the licence.
17. The above provisions are set out in more detail below under Legal Implications (starting from paragraph 123 below).

Note: The legal definition of a House in Multiple Occupation (HMO) is extensive, but a brief definition is: a dwelling that's occupied by three or more people in two or more households (families), who share at least one basic amenity (kitchen, bathroom or toilet). Sections 254-260 in Part 7 of the Housing Act 2004 provides the definition of a house or flat in multiple occupation (see: [Meaning of "house in multiple Occupation" \(legislation.gov.uk\)](https://www.legislation.gov.uk))

Some buildings converted into self-contained flats can also be HMOs if they were converted without complying with the 1991 Building Regulations. This is defined in section 257 of the Housing Act 2004 (see: [HMOs: certain converted blocks of flats \(legislation.gov.uk\)](https://www.legislation.gov.uk))

### **Current and Previous Licensing Schemes in Southwark**

18. The Council has operated a mandatory licensing scheme since April 2006. The mandatory scheme will continue to run without an end date in accordance with Part 2 of the Housing Act 2004.
19. Additional and selective licensing schemes started on 1 January 2016 for 5 years and came to an end on 31 December 2020.
20. The additional licensing scheme was applied borough wide and took steps to address management, fire safety, anti-social behaviour, overcrowding and provision of adequate facilities such as bathrooms, W.Cs and kitchens.
21. Selective licensing applied to only a few key trunk roads and their immediate surrounding areas to address anti-social behaviour, the condition of the property and overcrowding.

Note: Not all of the required improvements, repairs or management that relate to a house/dwelling under the Act can be dealt with under the licensing conditions for any type of licensing scheme. In such cases they are dealt with separately to the licence under Part 1 of the Housing Act 2004 via the Housing Health and Safety Rating System (HHSRS) however, HMO licensing helps Local Authorities to uncover specific cases where these actions need to be taken in their area.

22. Significant steps were made towards improving the PRS under the previous schemes and the results were presented at Cabinet on 19 January 2021.

### **Steps Already Taken Towards Implementing New Proposals**

#### Housing Stock Condition and Stressors Survey 2019

23. To Council worked with an external consultant, Metastreet Ltd, to carry out a Housing Stock Condition and Stressors Survey.

24. The data for the survey was gathered using existing data from across the council and from external sources. relating to property conditions, anti-social behaviour and deprivation
25. For property conditions the council used previous housing complaints and enforcement activity indicating poor property conditions. Non-council data sources were added, including publicly available such as Energy Performance Certificates (EPC) and energy data. These were then compared to the predicted PRS to produce a list of properties that were predicted to be PRS and to have a cat 1 hazard
26. For ASB, records of ASB complaints, mainly noise and Southwark's Anti-Social Behaviour Unit (SASBU) records, which were confirmed to be in the PRS were compared to the list of predicted PRS to produce a list of PRS where ASB had occurred, including repeat offences.
27. For deprivation, council held statistics and publicly held data were used that align with the legislation and guidance. These include IMD and barriers to housing and services. Proxies were used for other factors, for example, early unavoidable death rates and levels of childhood obesity for 'health of households'.
28. The results of the survey were used to develop the proposals and included information gathered on the size, geographical spread and condition of the private rented sector in Southwark.
29. More information regarding the survey and its findings can be found in appendix 11.

#### Consultation

30. Before a local authority can introduce a licensing scheme it must, by law, take reasonable steps to consult all persons who are likely to be affected by any licensing scheme and to consider any representations made.
31. On 19 January 2021 Cabinet gave approval for officers to carry out a public consultation on new proposals for the private rented sector. The report included information on:
  - the results of the previous schemes and other actions taken to improve the private rented sector,
  - the Housing Stock Condition and Stressors Survey,
  - proposals for changes to the fee structure and conditions attached to licences for the current mandatory licensing scheme,
  - proposals for new additional and selective licensing schemes,
  - details on how officers intended to conduct the consultation, and
  - the new proposals for an additional licensing scheme for smaller HMOs and a phased approach to introduce a new, ward based, selective licensing scheme in a small area followed by a larger scheme to be approved by the Secretary of State for Housing, Communities and local Government.

32. The consultation began on 15 February 2021 and ran for 19 weeks before ending at midnight on the 28 June 2021. The consultation was paused for the 6 week pre-election period before the London Mayoral elections in May.
33. The consultation asked for views on the council's proposals for:
  - Changes to the fee structure and conditions attached to mandatory licensing
  - Proposals for Borough-wide Additional Licensing for HMOs
  - Selective Licensing in 19 wards through four designations
  - Conditions, new fees and discounts attached to additional and selective licensing
  - Respondents perceptions and experiences of the issues in the borough
  - The introduction of a Gold and Platinum Standard Charter for Landlords
34. The consultation provided a total of 1,916 responses received on the online survey and 121 responses on a commonplace map. Appendix 12 gives greater detail of the consultation and responses.

## **KEY ISSUES FOR CONSIDERATION**

35. This report, and attached appendices, sets out:
  - An overview of the provisions within the Housing Act 2004 that allows Local Authorities to introduce discretionary licensing schemes.
  - The content of the public consultation on the licensing schemes and the Gold and Platinum Standard Charter, how it was conducted and the results.
  - How the Council has considered the results and representations made during the consultation and, the changes the Council has made in response to those results and representations.
  - Final proposals for a new, borough wide additional licensing designation for smaller HMOs.
  - The next steps for the wider proposals for Selective Licensing.
  - Final proposals for 2 new selective licensing designations to improve conditions and tackle ASB in targeted areas.
  - The evidence supporting the proposals.
  - Final proposals for a Gold and Platinum Standard Charter for landlords.
  - Other initiatives, strategies and commitments developed, or identified to assist with improving the private rented sector.

## **Consultation Response Summary for Each Proposed Scheme/Designation**

### Mandatory Licensing

36. Although the Council is not obliged to consult on mandatory licensing, the proposed changes were included in the consultation as Council wanted to take the opportunity to seek opinions on the proposed changes and give stakeholders and residents a fuller picture of licensing in the borough across the PRS. HMO licensing is also complex and the Council wanted to ensure consistency across the schemes to help simplify licensing across all HMOs covered by the mandatory and proposed additional licensing schemes.
37. The current discretionary conditions attached to the mandatory licensing scheme were devised in 2015 and were pertinent to the issues in the HMO sector at that time. The conditions were revised to be consistent with the proposed additional licensing scheme and to take account of the current issues within the private rented sector (PRS).
38. At consultation, the conditions proposed for the additional licensing scheme were the same as those proposed for the mandatory licensing schemes with the addition of a condition addressing anti-social behaviour.
39. The Council also consulted on new fees that would include a flat fee to cover the first 5 bedrooms with an additional charge per bedroom above 5.

Flat fee for up to 5 bedrooms	£1,500
per bedroom above 5	£100

40. High level results of the consultation

Mandatory Scheme Responses	Agree	Disagree	No Opinion
Proposed licensing conditions	38%	17%	45%
	A Little Too High/Too High	Reasonable/A Little Too Low	No opinion
Proposed licensing fee	35%	32%	33%

41. Whilst the results of the consultation show that most respondents agreed with the proposed conditions there were a number of written representations regarding specific conditions that were considered by the Council. The conditions attached to this scheme have therefore been amended in response to a number of these representations. 7 conditions were deleted and 14 conditions were amended. This is set out in more detail in appendix 13 and the final proposed conditions for the scheme are in appendix 1.
42. Although the results of the consultation show that more respondents thought the fees were too high, The Council does not intend to change the proposed fees as they reflect the true cost to the council in administering and enforcing the scheme. Any reduction in fees would have an impact on the Council's objectives for the scheme. The proposed fees are higher than the current fees however the Council has found that the existing fees do not currently cover the cost of administering and enforcing the scheme.

43. Final Fee Proposals

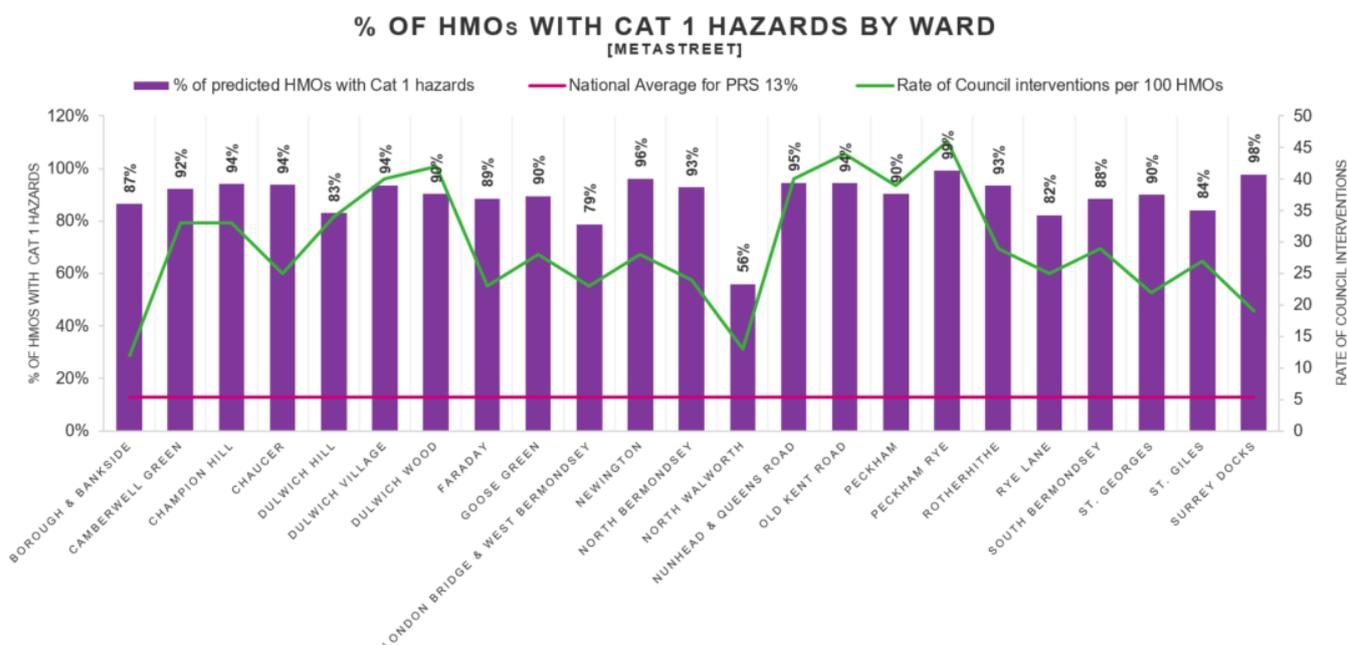
Note: The fees for all licensing schemes will be levied in two parts. Part A of the fee must be received when the application is made to the Council and, if the licence application is granted, Part B of the fee must be received and cleared before a licence is issued (see appendix 7 for more information).

	Part A	Part B	Total
Mandatory Licence	£1050 (+ £70 per bedroom above 5)	£450 (+ £30 per bedroom above 5)	£1500 (+ £100 per bedroom above 5)

44. Discounts against fees are addressed further down in this report in paragraphs 94 and 95.

Additional Licensing

45. The evidence base gathered by the Housing Stock Condition and Stressors Survey indicated that 86.3% of HMOs across the whole borough have serious hazards that could endanger the health, safety and welfare of their inhabitants. This evidence indicates that a significant number of HMO landlords are not effectively managing their properties. (More information is given in Appendix 11 - Private Rented Property Licensing – Evidence Report)



[Source: Housing Stock and Stressors Report, Metastreet, 2019](#)

46. As a response to this evidence, at consultation, the Council proposed a borough wide additional licensing designation that would apply to most HMOs that did not fall within the scope of mandatory HMO licensing. This included some buildings converted into self-contained flats which can also be defined

as HMOs (section 257 of the Housing Act 2004). These are often referred to as section 257 HMOs.

47. At consultation, the Council set out a new flat fee of £1,300, for additional HMO licences.

48. High level results of Consultation

Additional Scheme Responses	Agree	Disagree	No Opinion
Proposed introduction of scheme	45%	17%	38%
Proposed licensing conditions	38%	17%	45%
	Too High	Too Low	No opinion
Proposed licensing fee	32%	35%	33%

49. It is clear that a high percentage of respondents agree with the Council's proposals and in response to this, the council does not intend to change the area covered by the proposed additional licensing designation.

50. Although a high percentage of respondents agreed with the proposals the council received representations regarding the inclusion of some section 257 HMOs. In response to these representations the council intends to change the types of section 257 HMOs included in the additional licensing scheme. The scheme will only include section 257 HMOs where the building or part of a building is of three or more storeys that have been converted into three or more self-contained flats and where both the building and self-contained flats it contains are under the same ownership or considered by the Council to be effectively under the same control.

51. Whilst the results of the consultation show that most respondents agreed with the proposed conditions there were a number of written representations regarding specific conditions that were considered by the council. The conditions attached to this scheme have therefore been amended in response to a number of these representations. 7 conditions were deleted and 15 conditions have been amended. This is set out in more detail in appendix 2 alongside the final proposed conditions for the scheme and in appendix 11.

52. The majority of the respondents thought that the fees were reasonable. The Council therefore does not intend to change the final proposed fees for the Additional Licensing Scheme.

53. Final Fee Proposals

	Part A	Part B	Total
Additional Licence – up to 4 bedrooms	£923	£377	£1300

54. Discounts against fees are addressed further down in this report in paragraphs 94 and 95.

### Selective Licensing

55. As a response to the evidence outlined by the Housing Stock Condition and Stressors Survey, at consultation, the Council proposed 4, ward based, selective licensing designations each addressing specific issues within each of the designations. These schemes would apply to all private rented sector properties that are not included in the Mandatory or Additional Licensing schemes. These proposals were split into 2 phases.
- Phase 1 consisted of Designations 1 & 2 which collectively equate to 18% of the total PRS in Southwark.
  - Phase 2 consisted of Designations 3 & 4 which collectively equate to 67% of the total PRS in Southwark.

Note: More information regarding the evidence for each of the designations can be found in appendix 11.

56. Whilst the council has collated evidence and carried out a public consultation for Designations 3 and 4 this report does not seek approval to implement these designations at this time. The proposed timeline is set out in a table below in paragraph 60.
57. At consultation, the Council set out its intentions to introduce 'Phase 1' (Designations 1 & 2) under the general approval as set out in paragraph 61 below. The first 6 months of these 2 designations will act as a pilot for the new targeted and ward based approach. Following the 6 month period officers will assess the effectiveness of Designations 1 and 2 against the objectives for each designation (See appendix 8).
58. If 'Phase 1' is deemed to be successful officers will seek approval from Cabinet to make an application to the Secretary of State for the Department for Levelling Up, Housing and Communities (DLUHC) for approval of designations 3 and 4 as set out in the guidance referred to in paragraph 61 below. (DLUHC formerly known as the Ministry for Housing, Communities and Local Government (MHCLG))
59. If officers find that the pilot is not successful this will be reported to Cabinet and corrective action taken to improve the performance and results of the designations. Following any changes made to the designations, if successful, the council will review its position regarding Designations 3 and 4 and the decision will be made public.
60. Suggested timelines for the two phased approach following approval of these proposals:

Cabinet approval for final proposals for 'Phase 1' (i.e. additional & selective licensing designations 1 & 2) and Gold Standard Charter	19 October 2021
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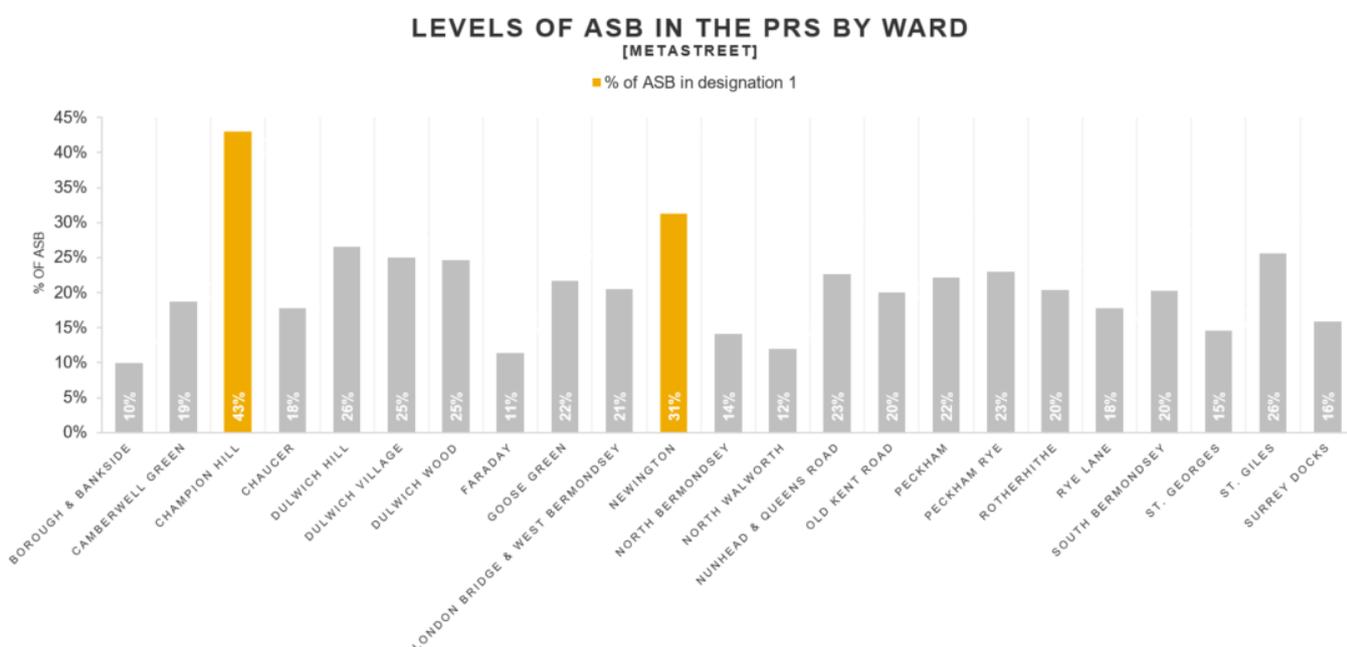
3 month minimum statutory notification and standstill period	November 2021 to February 2022
Gold Standard Charter Start Date	1 January 2022
Phase 1 Start date	1 March 2022
Officers to monitor performance of Phase 1 with live data	Weekly
Assess overall performance of Phase 1 - 6 month pilot	September 2022
Recommendation to Cabinet for either; approval of application to Secretary of State (SoS) for the Department for Levelling Up, Housing and Communities or, approval of changes to proposals	Estimated to be October/November/December 2022
Where an application is made: Response expected from SoS	Estimated to be February – July 2023
Where an application has been made and approval given by SoS - Phase 2 Start date	Estimated to be August/September 2023

61. This approach is in line with the Housing Act 2004: Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2015 (see [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/418588/General\\_consent\\_final\\_2\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/418588/General_consent_final_2_.pdf)) and the updated guidance issued by the Department for Communities and Local Government (now DLUHC) in March 2015 (Selective licensing in the private rented sector - A Guide for local authorities) (see [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/418551/150327\\_Guidance\\_on\\_selective\\_licensing\\_applications\\_FINAL\\_updated\\_isbn.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/418551/150327_Guidance_on_selective_licensing_applications_FINAL_updated_isbn.pdf)), which states: “Under the new arrangements if a local housing authority makes a designation that covers 20% or less of its geographical area or privately rented properties, the scheme will not need to be submitted to the Secretary of State, provided the authority has consulted for at least 10 weeks on the proposed designation. However, if the local housing authority makes one or more designations that are in force partly concurrent to an existing scheme, and cumulatively all the designations cover more than 20% of the area or the private rented stock, those new designations will need to be submitted to the Secretary of State for approval.”
62. The pilot scheme/‘phase 1’ must run for an adequate period of time, deemed to be 6 months, and its performance reviewed by the Council before an application to the Secretary of State for ‘phase 2’ can be made. If the Council applied to the Secretary of State for permission to implement ‘phase 2’ before this time ‘Phase 1’ it could not be considered a pilot scheme and an application would need to be made for approval for both ‘phase 1’ and ‘phase 2’ as both phases combined, cover more than 20% of the total private rented sector in Southwark.

### Selective Licensing Designations 1 and 2

63. At consultation, designation 1 included two wards, Champion Hill and Newington, with not only the highest levels of ASB linked to the PRS in the borough, but also high levels of repeat incidents of ASB.
64. In these two wards alone, over a five-year period, over 800 interventions conducted by the Council to deal with 755 complaints of ASB with. 137 properties in these wards needed repeat interventions by the Council. The majority of the complaints were around noise and rowdy behaviour. The percentages of ASB in the private rented sector in each ward is as shown in the graph below. (More information is given in Appendix 11 - Private Rented Property Licensing – Evidence Report)

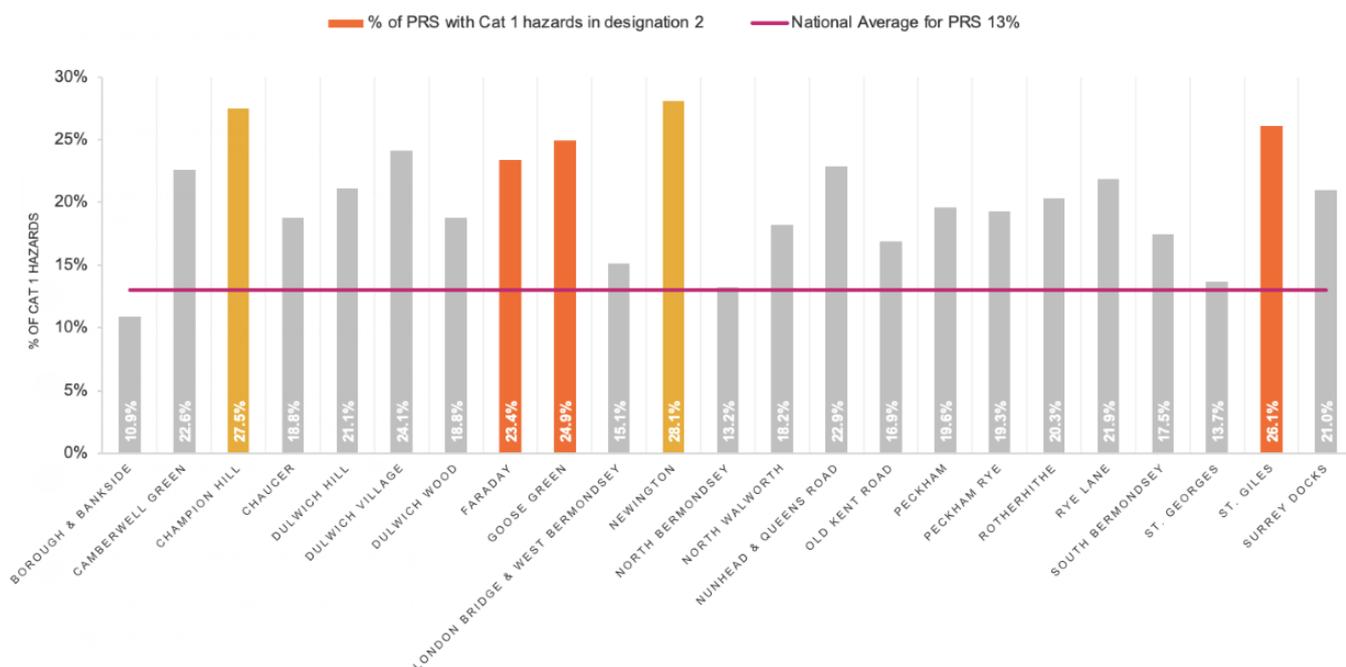
Note: Any ASB where there were not clear links to a privately rented property were excluded from the data.



[Source: Housing Stock and Stressors Report, Metastreet, 2019](#)

65. At consultation, Designation 2 comprised of the three wards with high levels of poor property conditions; Faraday, Goose Green and St Giles.
66. Overall, in these three wards, there are 1,451 properties in the PRS that are predicted to have category 1 hazards in the borough, around double the national average of 13% (source ONS English Housing Survey) as shown in the graph below.

### LEVELS OF CAT 1 HAZARDS IN THE PRS BY WARD [METASTREET]



[Source: Housing Stock and Stressors Report, Metastreet, 2019](#)

67. Champion Hill and Newington wards, whilst having high levels of poor property conditions have already been included in Designation 1 and are therefore not included in Designation 2.
68. Whilst Dulwich Village has high levels of poor property conditions it does not have the levels of PRS required to meet the legal threshold and therefore cannot be included in a scheme. Other wards with high levels of poor property conditions above the national average for the PRS have been included in the future proposals for phase 2.
69. In order to determine the wards with the highest levels of poor property conditions factors such as housing complaints, housing notices and EPC data were included. (More information is given in Appendix 11 - Private Rented Property Licensing – Evidence Report).
70. The objective of the proposed licence conditions is to improve property condition and management of these properties whilst recognising that the Housing Act 2004 in general requires the Council to deal with sub-standard conditions using HHSRS assessments and enforcement powers, e.g. an Improvement Notice under Part 1 of the Act.
71. At consultation, the Council also set out a new flat fee of £900 for Selective licences.

72. High level results of Consultation

Selective Scheme Responses	Agree	Disagree	No Opinion
Proposed introduction of scheme	42%	20%	38%
Proposed Licensing conditions	36%	20%	44%
	Reasonable	Unreasonable	No opinion
Proposed Licensing Fee	34%	32%	34%

73. It is clear a high percentage of respondents agree with the Council's proposals and in response to this the Council does not intend to change the area or type of property covered by the proposed selective licensing designations 1 and 2.

74. Whilst the results of the consultation show that most respondents who had a firm opinion agreed with the proposed conditions there were a number of written representations regarding specific conditions that were considered by the Council. The conditions attached to this scheme have therefore been amended in response to a number of these representations. Some conditions were deleted or amended and this is set out in more detail in appendix 13 with the final proposed conditions for the scheme set out in appendix 4 and 5.

75. The majority of the respondents thought that the fees were reasonable. The Council therefore does not intend to change the final proposed fees for the Selective Licensing Scheme.

76. Final Fee Proposals

	Part A	Part B	Total
Selective Licensing Designations 1 & 2	£630	£270	900

77. Discounts against fees are addressed further down in this report in paragraphs 94 and 95.

**Alternatives to Discretionary Licensing**

78. When considering whether to make an additional or selective licensing designation a local authority must identify the objectives that a designation will help it to achieve. At consultation the proposed scheme objectives that relate to 'Phase 1' were:

- Reduction in ASB and repeat ASB incidents in PRS properties
- Improve property standards in the borough
- Ensure compliance with licence conditions
- Maximise the number of licensable properties that are licensed to ensure that the schemes are improving housing standards to the largest possible percentage of licensable properties

- Improve the professionalism of landlords and managers and the management of PRS property
79. At consultation the council detailed a number of other courses of action or alternatives to selective and additional licensing that had been considered, but did not believe that they, individually or collectively, provided an effective means of tackling poor housing conditions or anti-social behaviour in the borough, or of delivering the scale of improvement required. The alternatives considered were:
- Use of Part 1 Housing Act enforcement powers (Housing Health and Safety Rating System) and Public Health powers
  - Voluntary Accreditation schemes facilitate improvement in management practices and standards
  - Rely on prosecutions and civil penalties for housing offences
  - Improvement grants to improve sub-standard properties
  - Utilising ASB enforcement powers
80. The 17% of respondents that did not agree with the proposed additional licensing scheme were asked what they thought the alternatives should be.
81. Approximately 10% just reiterated that they did not support the introduction of additional licensing. Of the remaining points made, some related to alternatives that had already been considered by the Council and referenced in the consultation evidence report (such as voluntary accreditation and use of other enforcement powers). Others expressed views regarding the proper enforcement of a licensing scheme, as opposed to suggesting an alternative to an additional licensing scheme. Key themes for alternative suggestions were that respondents “generally disagreed with the proposals”, that the “council should use their existing powers and enforce existing regulations” and that the council should issue fines for “poor properties/landlords”. More detailed information regarding the results of the consultation and representations are attached in appendices 12 and 13.
82. The 20% of respondents that did not agree with the proposed selective licensing schemes were asked what they thought the alternatives should be. The main comments were similar in nature and volume to those about additional licensing. Appendix 13 gives more details of the representations received and a response to those representations.
83. The Council is of the opinion that no viable alternatives were identified through the consultation process that would, individually or collectively, be capable of delivering the scheme objectives that the Council would deliver through the operation of the proposed selective or additional licensing schemes. The final objectives for the licensing schemes (alongside outcomes and outputs) can be found in Appendix 8.
84. Consideration was given to review the Council’s decision to introduce selective licensing as a phased approach rather than making an application to the Secretary of State for the Department for Levelling Up, Housing and Communities for all four selective licensing designations at this time. The Council believe that to introduce all 4 designations at the same time may

overwhelm services and that if the new targeted ward based approach does not meet completely with the Council's objectives in the first few months any minor changes necessary to improve outputs would be more difficult with a larger scheme. The phased approach tackles the worst issues in the borough first, ensures that its new approach to licensing is effective, that the Council has the capacity to run the schemes effectively and make changes to improve the performance of the schemes where necessary before introducing a larger and more complex, scheme.

### **The Landlord's Gold Standard Charter**

85. At consultation the Council set out its proposals for a Landlord's Gold Standard Charter. The Charter was designed to recognise landlords who provide a better service than the one required by law, encourage other landlords to achieve a higher standard, and give tenants a better idea of the standard of accommodation that they should be offered. The Charter also offered incentives through discounts on licences to encourage landlords to sign up to the Council's Social Lettings Agency and Finders' Fee schemes.
86. With regard to the Social Lettings Agency discount, properties managed by the Council will be exempt from licensing. This means that once a property has been signed up, and the lease agreement with the Council has been signed, the property will be under the management of the Council and will be exempt from licensing. References to the Social Lettings Agency and the associated discount have therefore been removed from the final proposals for the scheme. This change will have no financial impact on landlords as the proposals were to offer a free licence, however it will make the process of signing up to the social lettings agency easier as they will not need to fill in an application form for a licence.
87. Landlords who sign up to the Charter and the Council's Finder's Fee Scheme will be described as Gold Standard Charter plus landlords rather than Platinum Standard Charter landlords. The Council has decided that the term "Platinum Standard Charter" was misleading as the standard criteria is the same for Platinum as it is for Gold. The term 'Gold Standard Charter Plus' describes a landlord who has signed up to comply with the Gold Standard criteria but has also signed up to the Council's Finder's Fee scheme to help the Council find homes in the private rented sector for residents that need to find a new home. The term 'Platinum Standard Charter' has been reserved for future proposals to improve the private rented sector further with a higher voluntary standard building on the successes of the Gold Standard Charter over the next few years.
88. The changes outlined above have not affected to value of the discounts on offer.
89. 19% of landlords said they would be interested in signing up to the Gold Charter, 33% said they weren't sure and 48% said they wouldn't be interested. However, 30% of the same landlords said that the discount on offer would be an incentive to sign up to the Gold Standard Charter.
90. In contrast 67% of tenants said that they would be more likely to move into a property with a landlord or agent signed up to the Gold Standard Charter.

91. Whilst the proposals do not appear to be particularly popular with landlords, private rented sector tenants overall agreed with the proposals and suggested that they would use the scheme to help find a good landlord and property for their next home.
92. The final proposed Gold Standard Charter is outlined in appendix 8 which includes the changes to the “Platinum” Standard and the discounts attached to the scheme are outlined in appendix 7.
93. The Council intends to launch the Gold Standard Charter in November 2021 in advance of the proposed start date for selective and additional licensing schemes. This will give landlords time to sign up and ensure that they are eligible for the appropriate discount before they apply for their licence.

### **Discounts for the proposed licensing schemes**

94. At consultation, the Council proposed 4 possible discounts to the licence fees however, as mentioned above, the Council has removed the discount for landlords joining the Social lettings agency as those properties will now be exempt from licensing. Gold Standard Charter members who sign up to the Council’s Finder’s Fee scheme will be referred to as Gold Standard Charter Plus members. These changes have not affected to value of the discounts on offer.
95. The consultation responses considered by the council therefore are;

Name of discount	Discount	When the discount will apply	Applicable to Schemes
Early Bird discount	30% on Part A & B fees	First 3 months from start of the scheme	Selective and Additional only
Gold standard Charter members	50% on the Part B fee	For the full life of the scheme	Mandatory, Selective and Additional
Gold Standard Charter Plus members	100% on the Part B fee	For the full life of the scheme	Mandatory, Selective and Additional

96. High level results of Consultation

	Reasonable	Unreasonable	No opinion
Proposed Discounts	39%	19%	42%

97. Respondents were asked which of the discounts should be removed and for suggestions for discounts that should be added. Whilst a number responded with comments regarding general disagreement to the proposals there were very similar numbers of respondents suggesting that the early bird and Gold Standard Charter discounts should be removed while others suggested that there should be a discount for ‘good landlords’ and for those that were licensed under the previous schemes.

98. 30% of landlords said that the proposed discount for Gold Standard Charter would be an incentive to sign up.
99. The final proposed fees and discounts are outlined in appendix 7.
100. At consultation the Council stated that licences issued under the previous additional and selective licensing schemes that have not expired during the 5 year period of the proposed schemes will be valid under the new designations for the remainder of their licence period. Landlords who wish to take advantage of the early bird discount which will be available for the first three months following the start of the schemes can apply for a new licence within the early bird period if they wish to take advantage of the early bird discount. The Council has not made any changes to this proposal. The new licence, if applied for during the early bird discount period, and if the application meets all of the standard requirements attached to the licensing process, will be issued for the 5 year period of the new licensing schemes and they will therefore not be at any disadvantage by renewing their licence earlier than the expiry of their current licence.

**Addressing the number of responses with ‘No opinion’**

101. It was noted that there were a high number ‘don’t know’/‘not sure’ responses, throughout the consultation.
102. Number of ‘don’t know’/‘not sure’ responses by respondent type

	Landlords	PRS tenants	Council tenants/owner occupiers & other
To proposals to introduce licensing schemes	21%	38%	41%
Licensing conditions	21%	37%	42%
Fees	14%	42%	44%
Discounts	19%	35%	46%

103. Although the highest percentage of ‘don’t know/not sure’ responses were from owner occupiers, housing association tenants or council tenants, who may not have any previous experience of the private rented sector or licensing, a significant number were from landlords and tenants in the PRS. This is thought to be an indication of a lack of awareness of rights and responsibilities within the sector. This is something that the Council believed to be the case before the consultation and believe that the consultation results bear this out. The Council is committed to; empowering residents to take pride and influence over their homes and, support businesses and increase the professionalism of landlords operating in the borough. As part of this commitment, and in response to the consultation, the Council intends to increase and improve promotion of its existing services and initiatives, highlighted below. Other new initiatives, i.e. renters’ support organisation & Gold Standard Charter, will help to inform PRS tenants and landlords and will

be implemented alongside the proposed licensing schemes. The Council will continue to work with landlords and tenants to ensure that services are meeting their needs.

### **Proposals for a Renters' Support Organisation**

104. The Council will establish a renters' support organisation in early 2022, to ensure private renters have a collective platform and can work with the Council to improve conditions and empower tenants in the private rented sector.
105. The Gold Charter will be subject to review every 18 months in partnership with the renters' support organisation. This will ensure that the Charter continues to reflect any changes in legislation and requirements and the needs of the sector.

### **Landlord Forum & Bulletins**

106. The Council currently hosts a number of Landlord Forums and sends Newsletters to landlords and agents who have signed up to provide information, support, and the opportunity to comment on the Council's policies and plans for the private rented sector. The content of the forums and bulletins is wide ranging and includes; multiple services across the council and services/agencies outside of the Council that can help landlords keep informed and be engaged (e.g. DLUHC, Landlord's Organisations, and HMRC etc.). The Council has moved these forums online in response to the pandemic and noted that the numbers of attendees has been greater since it has done so. Landlords and agents, when asked at the last forum, said they have found it more convenient to attend. In addition to this the Council did not have to limit the numbers of attendees to a maximum due to the size of the rooms available for the events. The Council will continue to send bulletins and host forum events but will promote them to a larger audience, via the proposed licensing schemes, and arrange a mixture of online and in-person events going forward.

### **Rogue Landlord Multi-Disciplinary Task Force**

107. The Council will continue to operate its Rogue Landlord Multi-Disciplinary Task Force to continue to increase the number of rogue landlords and agents that the Council takes formal action against by;
  - Ensuring that there are formal referral channels and that they are working effectively
  - Facilitating intelligence sharing between the teams to uncover potential illegal activity for investigation (offences such as tax evasion, money laundering, trafficking, placing residents' health, safety and welfare at serious risk, harassment and illegal eviction, and modern day slavery)
  - Highlighting specific cases of concern and ensuring enforcement action is taken promptly by all members of the task force.
  - Enabling a coordinated response and robust enforcement against any rogue landlord or agent.

- Recording multi-disciplinary successes, publicise through press releases and the GLA Watch list.
- Sharing best practice.

## **Policy framework implications**

### **Manifesto Commitments**

108. As part of the 2018 manifesto the Council committed to the introduction of a Gold Standard for the private rented sector. The proposal is to achieve this via the Landlord's Gold Standard Charter.
109. The 2018 manifesto also included a commitment to improving fire safety in the private sector. The proposal is to request fire risk assessments for all HMOs via the licensing conditions and request that they be published online via the Landlord's Gold Standard Charter.

### **Southwark's Fairer Future Commitments**

110. The Borough Plan sets out these commitments across eight themes. The designation of discretionary Licensing schemes, the Gold Standard Charter and other initiatives outlined in this report supports a number of the themes that form Southwark's Fairer Future Commitments. They support 'homes for all' and 'tackling health inequalities' by improving living standards in the borough. Licensing specifically will help to address poor housing, as well as dealing with and deterring rogue landlords.
111. A secure home environment gives Southwark residents the platform to make the most of the opportunities on their doorstep supporting a number of the themes including; 'thriving neighbourhoods' and 'a great start in life'.
112. Licensing also supports Southwark's and the GLA's commitment to tackling rogue landlords. Rogue landlords are likely to be responsible for other criminal activity such as money laundering, modern day slavery and trafficking. Through discretionary licensing we can establish more easily who the responsible landlords are (i.e. the ones that apply for a licence voluntarily and provide good quality accommodation), educate and support the less professional landlords (i.e. ones who apply but were unaware of the standards they should comply with prior to licensing) and identify the rogues (i.e. the ones who do not apply and deliberately flout the law). This benefits responsible landlords who most definitely make less profit from their business than the unscrupulous ones that ruin the reputation of the sector.

### **Southwark's Housing Strategy 2020**

113. The long-term housing strategy for the Borough was agreed by cabinet in 2015. However, a refreshed version of this strategy was agreed at cabinet on 8 December 2020 following a public consultation in March 2020. This updated housing strategy continues the long term direction, but with simplified clearer commitments and updated actions. This strategy includes the commitments for mandatory, additional and selective licensing and the Landlord's Gold Standard Charter.
114. The four fundamental issues are affordability; quality; security and pride and responsibility.

115. The four broad principles on these key values, as follows:
- Increasing the supply of genuinely affordable high quality homes that meet our residents' housing needs and aspirations
  - Demanding safer, higher quality, energy efficient homes
  - Promoting tenure security and social support in housing, and improving the health, wellbeing and economic resilience of residents.
  - Empowering residents and communities to have pride and influence over their homes
116. The principles make specific reference to demanding safer, higher quality, energy efficient homes. The licensing proposals will help the Council to ensure properties in the private rented sector comply with these principles. The Gold Standard Charter will show that the Council expects more from the private rented sector by outlining a standard which equates to best practice.
117. The principles make specific reference to empowering residents to take pride and influence over their homes. These proposals will empower private sector tenants by; informing them the standards their landlords must comply with via licensing and, the higher standards the Council believe tenants should expect via the Gold Standard.

## **COMMUNITY, EQUALITIES AND HEALTH IMPACTS**

### **Community Impact Statement**

118. The proposals set out the Council's expectations for the private rented sector including a proposal to drive up standards via the Gold Standard Charter. These proposals will have a positive impact on the wider community, as it is recognised that an increase in legally compliant and decent homes are linked to improved communities, reduced crime, improved educational attainment and health.

### **Equality (including Socio-economic) Impact Statement**

119. Poor housing is more likely to affect the most vulnerable in society. The disabled, those with impaired immune systems, the very old and young, the most disenfranchised in our society; those escaping abuse, ex-offenders, addicts and reformed addicts, migrants and particularly illegal immigrants who are more susceptible to modern day slavery, are most likely to be living in the worst dwellings in PRS. The proposed additional and selective licensing schemes seek to improve the quality of accommodation for occupiers in the private rented sector, reduce the impact on the wider community and make our expectations for the sector clear and transparent.
120. Licensable properties are required to meet conditions that are aimed at ensuring fit and proper management and tenancy, providing a fair environment for all tenants and landlords, better choice and standard of rented accommodation, and be adverse to rogue and non-compliant landlords. Introducing a Gold Standard Charter will mean that tenants and landlords alike understand the Council's expectations and aspirations for the sector above and beyond that required by legislation. These proposals are

designed to empower tenants so that they have a standard to point to when choosing a home and confidence in approaching their landlord for improvements to their existing home regardless of age, disability, gender, race, sexuality etc. This will lead to better quality accommodation and greater community stability for groups who are unable to access social housing or homeownership therefore it can assist with community cohesion and tackle exclusion. The Equalities Impact Assessment for licensing and the Gold Standard Charter is provided in appendix 12.

### **Health Impact Statement**

121. Poor housing has long been identified as a health inequality which adversely impacts on the health of occupiers especially those in vulnerable groups. It is widely accepted that the ability to live in decent housing is key to all aspects of wellbeing. These proposals will improve the living conditions for those tenants in the private rented sector and in doing so will have a positive impact on the health and wellbeing of those occupiers.

### **Climate Change Implications**

122. The licensing proposals support the Council's Climate Change Strategy by working to ensure that the energy efficiency in private rented sector properties is improved. The conditions attached to the licences require properties to have an Energy Performance Certificate of E or above in line with the Minimum Energy Efficiency Standards (MEES) and the energy efficiency regulations detailed below. Where there is a lack of compliance, and if there has been no registration of a valid exemption, enforcement will be under The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 and The Energy Efficiency (Private Rented Property) (England and Wales) (Amendment) Regulations 2019 (discretionary condition).

Note: More information on the Minimum Energy Efficiency Standards (MEES) is available here: [Domestic private rented property: minimum energy efficiency standard - landlord guidance](#)

123. The Gold Standard Charter asks landlords to achieve a higher standard of energy efficiency than the regulations by asking for an Energy Performance Certificate of D or above. The Charter also asks landlords to commit to a planned programme to improve the energy efficiency of the building to achieve an Energy Performance Certificate of B or C, as far as reasonably practicable.
124. Landlord forums, bulletins, and the renters' support organization will be used to give information to landlords and tenants at regular intervals regarding; the energy efficiency standards and regulations, information on how to achieve improved energy efficiency, and the various grants and schemes offered by energy companies or central government to improve energy efficiency. The PRS Housing Enforcement Service responsible for licensing will liaise with the Council's Fuel Poverty / Energy Efficiency Officer on projects specifically for the private rented sector.
125. The council is committed to ensuring that the minimum energy efficiency standards (MEES) is raised for private rented properties and improve its

enforcement to capture non-compliance, providing support to tenants and landlords where needed.

126. In order to deliver improvements in energy efficiency in homes, government needs to significantly increase the level of funding available for renewable heat technology and for raising the thermal efficacy of existing buildings. The council will continue to make the case to government for investment in homes both in our bilateral discussions, but also working in partnership with other boroughs through London Councils.
127. More information regarding the council's Climate Change Strategy can found here: <https://moderngov.southwark.gov.uk/ieDecisionDetails.aspx?ID=7377>

## **LEGAL IMPLICATIONS**

### **The legislative framework for Licensing**

128. The Housing Act 2004 allows Councils to license privately rented housing in three ways:
  - a) Mandatory licensing under Part 2, section 55 of the Housing Act 2004 places a duty on all local authorities to license houses in multiple occupation occupied by five or more persons, living in two or more single households.
  - b) Additional licensing under Part 2, section 56 of the Housing Act (detailed further below in section 2 "*Additional Licensing*").
  - c) Selective licensing under Part 3, section 80 of the Housing Act 2004 (detailed further below in section 3 "*Selective Licensing*").

#### *Additional Licensing*

129. Under section 56 of the Housing Act 2004, a local authority can designate the whole or any part(s) of its area as subject to additional licensing.
130. Where an additional licensing designation is made it applies to all HMOs that are not subject to licensing under the mandatory scheme (i.e. they can license any HMO occupied by 3 or 4 people from more than one household).
131. An additional licensing scheme should only be considered if the Council believes a significant proportion of HMOs in the area are being managed sufficiently ineffectively as to give rise to, or be likely to give rise to, problems for the occupants or for members of the public.
132. There is no requirement to seek Secretary of State Consent before implementing additional HMO licensing.

#### *Selective Licensing*

133. Under section 80 of the Housing Act 2004, a local housing authority can designate the whole or any part(s) of its area as being subject to selective licensing.
134. Where a selective licensing designation is made it applies to all Part 3 Houses that may be houses or flats as defined by sections 79 and 99 of The Housing Act 2004 that are privately rented in the area, subject to certain exemptions;

for example Registered Social Landlords, or HMOs that are required to be licensed under Part 2 of the Act through the mandatory licensing scheme or any additional licensing scheme.

135. The local authority will need to submit an application for approval to the Secretary of State for Levelling Up, Housing and Communities if it intends to make a selective licensing designation that covers.
  - a. 21% or more of its total geographical area and
  - b. includes more than 20% of its privately rented properties
136. For the Council to introduce a selective licensing scheme applying to non HMOs it has to be satisfied it is an area in which one or more of the following general conditions apply. These general conditions are:

That the area is, or is likely to become, an area of low housing demand;

  - a. That the area is experiencing a significant and persistent problem caused by antisocial behaviour (the Council must show some or all landlords who have let premises in the area (whether under leases or licences) are failing to take action to combat and effectively deal with the problem);
  - b. The area has poor property conditions;
  - c. The area has high levels of migration;
  - d. The area has high levels of deprivation;
  - e. The area has high levels of crime.
137. The authority must also be satisfied that making a designation will, when combined with other measures undertaken in the area by the local housing authority (or by other persons together with the local housing authority) lead to a reduction in, or the elimination of, the problem(s).
138. Under the Secretary of State's General Approval 2015, before a local authority can introduce a selective licensing scheme it must take reasonable steps to consult all persons who are likely to be affected by any such licensing scheme for a minimum of 10 weeks. The local authority must consider any representations made during the consultation.
139. Before making any decision, Cabinet must have due regard to the responses received through the consultation undertaken and take due regard to the matters set out in the DLUHC Guidance: Selective licensing in the private rented sector - A guide for local authorities.
140. In particular it must be considered whether there are any other courses of action available that would achieve the same objective or objectives as any proposed schemes without the need for the designations to be made.
141. Once the Local Authority has decided to implement schemes the Local Authority must, within 7 days of the decision, publish a public notice of the designation to include:
  - that the designation has been made,
  - whether or not the designation was required to be confirmed and either that it has been confirmed (under section 58 or section 82 as

appropriate) or that a general approval applied to it (giving details of the approval in question),

- the date on which the designation is to come into force, and
  - any other information which may be prescribed.
142. The start date for the designation must be no earlier than three months after the date on which the designation is confirmed.
143. After publication of a notice, and for as long as the designation is in force, the local housing authority must make available to the public in accordance with any prescribed requirements
- copies of the designation, and
  - such information relating to the designation as is prescribed.
144. Draft notices of the designations are attached in appendix 3 and 6. These will be issued and publicised widely following approval by Cabinet

### Financial and Resource Implications

145. Administration of the scheme is such that it is intended to be self-financing over a five year period. The fees that are being applied are set at a level where the revenue from the fee will cover the cost incurred and will be reviewed on an annual basis to ensure it is in line with inflation and reflects the costs of the scheme.
146. The fees proposed are as follows:

<b>Licence Type</b>	<b>Part A</b>	<b>Part B</b>	<b>TOTAL</b>
<b>Mandatory</b>	1050 (+ £70 per bedroom above 5)	450 (+ £30 per bedroom above 5)	1500 (+ £100 per bedroom above 5)
<b>Additional</b>	£923	£377	1300
<b>Selective</b>	£630	£270	900

147. The discounts proposed are:
- A 30% early bird discount for the first 3 months from the start date of the schemes. (The early bird discount does not include applications made for mandatory licences.)
  - A discount of 50% will be offered on the 'Part B' fee for all licensing schemes where the landlord and/or managing agent has signed up to the Council's Gold Standard Charter (see appendix 9 for details on the Charter).

148. More information regarding the fees and discounts can be found in appendix 7.

149. The forecast costs and income over the five-year period are as follows:

Description	5 year Income and Expenditure Analysis			Annual Average
	Mandatory + Additional HMO Licensing	Selective Licensing Designations 1 & 2	Total HMOs & Selective Licensing	
	£'000	£'000	£'000	£'000
Staffing Costs	2,770	2,360	5,130	1,026
Other running costs	2,396	1,989	4,385	877
Total costs	5,166	4,349	9,515	1,903
Estimated Income	(5,160)	(4,344)	(9,505)	(1,901)
Net Expenditure	6	5	10	2

150. The income will be closely monitored and a team proportionate to the demand for the service will be employed. The costs of the scheme will cover the cost of; processing the licence application, compliance monitoring and, enforcement against landlords who are non-compliant with the licensing process.

151. The Gold Standard Charter will be administered using existing resources.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Head of Procurement**

152. N/a

### **Director of Law and Governance**

153. The Housing Act 2004 requires private rented houses in multiple occupation (HMO's) of a specified size to be licensed (mandatory licensing) and allows a local housing authority to extend licensing to smaller HMO's by designating an area or areas of their district or the whole of their district as subject to additional licensing. The Act also enables local housing authorities to extend licensing requirements to other private rented properties by designating for selective licensing an area or areas of their district or the whole of their district.

154. The HMO Licensing provisions do not apply to houses let by local housing authorities or registered social landlord.

155. The circumstances in which the Council may designate areas as subject to additional and selective licensing are set out in the Act and are summarised in this report together with the evidence supporting the proposed designations.

156. The Council may designate areas to be subject to additional licensing if it is satisfied that a significant proportion of HMO's relating to a description of HMO's to be specified in the designation are being managed sufficiently

ineffectively as to give rise to one or more particular problems either for those occupying or for members of the public. When considering an additional licensing scheme, the Council must also be satisfied the designation will significantly assist with dealing with the problems.

157. For selective licensing, the Council may designate areas as subject to licensing, if it is satisfied that the areas are impacted by one of a number of conditions set out in legislation; one of the conditions is that the areas are experiencing significant problems with anti-social behaviour (ASB). This is the condition relied on for the purpose of the scheme proposed in this report.
158. When considering a selective licensing scheme on the basis of ASB, the Council must also be satisfied that there is a link between the ASB and private rented accommodation in the area. It must be satisfied:
  - a) the area(s) is/are experiencing a significant and persistent problem caused by ASB
  - b) some or all of the landlords letting in the area are failing to take reasonable action to combat the problem
  - c) when combined with other measures taken in the area by the local housing authority or by other persons, making designations will lead, to a reduction in or elimination of the problems identified
  - d) the scheme will significantly assist with achieving objectives.
159. For both additional and selective licensing schemes the Council must also be satisfied before making designations that;
  - (i) the proposed designations are consistent with the overall housing strategy,
  - (ii) a coordinated approach is adopted in dealing with homelessness, empty properties and ASB,
  - (iii) alternative courses of action have been considered.
160. The law specifies conditions that a licence must contain but otherwise a licence may include such conditions for regulating management use or occupation of the house as the Council feels appropriate.
161. The Council may set an application fee. Such fee must be reasonable and proportionate and should not exceed the anticipated cost to the Council of running and enforcing the licensing scheme.
162. The Council may invoke enforcement processes against those controlling or managing a property without a licence or failing to comply with licence conditions.
163. The designation of areas subject to additional and selective licensing requires approval from the Secretary of State.
164. The Act requires the local housing authority to carry out consultation before making a designation. Before making the designation the local housing authority must:
  - (a) take reasonable steps to consult person who are likely to be affected by the designation; and

- (b) consider any representations made in accordance with the consultation and not withdrawn.
165. DCLG guidance suggests that this consultation should include local residents, for example, tenants, landlords and managing agents, other members of the community who live or operate businesses or services in the proposed designated area and local residents and businesses in the surrounding area that will be affected. Case law indicates that those affected outside the Council's area should also be consulted. A minimum consultation period of 10 weeks is required under the general consent issued by the Secretary of State in April 2015.
166. When considering the recommendations of this report, due regard must be given to the public sector equality duty in section 149 of the Equality Act 2010. This requires the Council to consider all individuals when carrying out its functions.
167. Importantly, the Council must have due regard to the need to eliminate discrimination, harassment, victimisation or other prohibited conduct; advance equality of opportunity and foster good relations between people with protected characteristics and those who do not. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. The public sector equality duty also applies to marriage and civil partnership, but only in relation to the need to eliminate discrimination, harassment, victimisation or other prohibited conduct. Cabinet members are referred to the community impact statement in the report.
168. Designations can last for no more than 5 years from the date on which it comes into force. The Council must review the designation from time to time and if appropriate the designation may be revoked.
169. Designations, once made must be publicised by the Council within 7 days and notice provided within 2 weeks to interested parties, in accordance with the specifications set out in regulations. Once the notice has been published the Council must make copies of the designation and any prescribed information available to the public.
170. It is a criminal offence to let out a property in the designation area without applying for a licence. Failure to apply for or obtain a licence could lead to prosecution and an unlimited fine or the imposition of a civil penalty of up to £30,000. In addition, the Council or the tenants of the property could apply to the First Tier Tribunal for a Rent Repayment Order, requiring the landlord or agent to repay any rent paid for up to 12 months during which the property was unlicensed.
171. Once a designation has been made, no notice under section 21 of the Housing Act 1988 (notice requiring possession) may be served in relation to a short-hold tenancy of the whole or part of an unlicensed property, whilst it remains unlicensed.
172. Where the breach of a licence condition is identified, the licence holder may be prosecuted for each breach or issued with civil penalty of up to £30,000 for each breach.

173. If the licence holder allows the property in question to become occupied by more than the number of persons permitted by the licence, he or she may also be prosecuted and sentenced to an unlimited fine or the imposition of a civil penalty of up to £30,000.

#### **Strategic Director of Finance & Governance (EL21/064)**

174. The strategic director of finance and governance notes the recommendations to Cabinet to approve the changes to Southwark's mandatory licensing scheme and implementation of a new additional licensing scheme and new selective licensing designations 1 and 2 to operate in Southwark for 5 years from March 2022.
175. The strategic director notes the recommendation to Cabinet to approve the initial fee levels for selective licensing designations 1 and 2 as set out in appendix 7.
176. The strategic director of finance and governance also notes the recommendations to approve the Gold Standard Charter for Landlords.
177. The strategic director of finance and governance notes the resource implication recommendation will be contained within existing budgeted revenue resources.

#### **BACKGROUND DOCUMENTS**

<b>Background Papers</b>
<a href="#">Housing Stock and Stressors Report, Metastreet, 2019</a>
Housing Act 2004 - <a href="#">Housing Act 2004 (legislation.gov.uk)</a>
Housing and Planning Act 2016 <a href="#">Housing and Planning Act 2016 (legislation.gov.uk)</a>
Selective licensing in the private rented sector: A Guide for local authorities (DCLG – March 2015) - <a href="#">Selective licensing in the private rented sector: a guide for local authorities - GOV.UK (www.gov.uk)</a>
The Housing Act 2004: Licensing of Houses In Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2015 - <a href="#">General consent final 2 .pdf (publishing.service.gov.uk)</a>
Housing Strategy (London Borough of Southwark – 2020 to 2043) – <a href="#">Housing Strategy – Southwark Council</a>
London Borough of Southwark - Council Plan 2018 – 2022 - <a href="#">Southwark's Borough Plan - Southwark Council</a>

Background Papers
London Borough of Southwark Social Lettings Agency & Finder's Fees scheme - <a href="#">Earn money from your property</a>
Climate Change Strategy <a href="https://moderngov.southwark.gov.uk/ieDecisionDetails.aspx?ID=7377">https://moderngov.southwark.gov.uk/ieDecisionDetails.aspx?ID=7377</a>

## APPENDICES

No.	Title
Appendix 1	Mandatory Licensing - Final Proposal
Appendix 2	Additional Licensing – Final Proposal
Appendix 3	Additional Licensing Draft Designation Declaration
Appendix 4	Selective Licensing Designation 1 - Final Proposal
Appendix 5	Selective Licensing Designation 2 – Final Proposal
Appendix 6	Selective Licensing Draft Designation Declaration
Appendix 7	Statement of Fees, Charges and Discounts for Licensing – Final Proposal
Appendix 8	Licensing Schemes - Objectives, Targets and Measures – Final Proposal
Appendix 9	Gold Standard Charter Criteria – Final Proposal
Appendix 10	Gold Standard Charter Process – Final Proposal
Appendix 11	Private Rented Property Licensing – Evidence Report
Appendix 12	Consultation on PRS Licensing in Southwark – Final Report & Consultation Evidence
Appendix 13	Council's Consideration of Consultees' Responses to the Public Consultation
Appendix 14	Equalities Impact Assessment

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Darren Merrill, A Safer, Cleaner Borough.	
<b>Lead Officer</b>	Caroline Bruce, Strategic Director - Environment and Leisure	
<b>Report Author</b>	Emma Trott, Private Sector Housing Enforcement Manager, Regulatory Services	
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<b>Key Decision</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Director of Law and Governance	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>	7 October 2021	