

Item No. 19.	Classification: Open	Date: 6 December 2022	Meeting Name: Cabinet
Report title:		Driving up Standards for the Private Rented Sector Phase 2	
Ward(s) or groups affected:		All	
Cabinet Member:		Councillor Dora Dixon-Fyle, Community Safety	

FOREWORD – COUNCILLOR DORA DIXON-FYLE, CABINET MEMBER FOR COMMUNITY SAFETY

The 2021 census has already shown that the population has grown by 8% in London since the last census in 2011. The private rented sector plays an important role in the borough as the pressure on housing stock increases. With the advent of a serious cost of living crisis, the council believes that it is more important than ever to take action to protect the welfare of its residents, ensuring that they live in housing that protects their health, safety and welfare.

Whilst the council recognises that most homes in the private rented sector are well managed, there are a minority of landlords who willfully neglect their businesses or, more often, those with the best of intentions are not aware of their full responsibilities.

The council will continue to build on working in partnership with good landlords, support those landlords who want to become more responsible and enable more targeted and effective action against rogue landlords. Tackling landlords who are not managing their properties effectively, maintaining adequate standards, treating their tenants fairly or, challenging their tenant's behaviour causing problems for neighbouring residents with repeat anti-social behaviour.

Significant progress has been made to improve the private rented sector through the council's first discretionary licensing schemes from 2016 to 2020, and the introduction of additional licensing and two selective licensing designations in March this year. If approved by the Secretary of State for Levelling Up, Housing and Communities, the addition of two further selective licensing designations will help build on these successes making Southwark a safer and more desirable place to live.

RECOMMENDATIONS

1. To note the success of the first phase of the pilot scheme for licensing which comprised of (1) a borough wide additional licensing scheme for houses of multiple occupation that are not licensable under the mandatory scheme, and (2) designations 1 and 2 of selective licensing for all private rented sector homes that aren't licensable under mandatory or additional licensing and focused on the wards with most need.

2. To agree the introduction of a 5 year selective licensing scheme (designation 3) comprising of 4 wards; North Walworth, Nunhead & Queens Road, Old Kent Road and Peckham as detailed in Appendix 1.
3. To agree the introduction of a 5 year selective licensing scheme (designation 4), comprising of 10 wards; Camberwell Green, Chaucer, Dulwich Hill, Dulwich Wood, London Bridge & West Bermondsey, Peckham Rye, Rotherhithe, Rye Lane, South Bermondsey and Surrey Docks as detailed in Appendix 2.
4. To agree that officers make an application to the Secretary of State for the Department for Levelling Up, Housing and Communities for approval of designations 3 and 4 of selective licensing.
5. 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.

BACKGROUND INFORMATION

6. The private rented sector (PRS) in Southwark constitutes nearly 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 from 12.5% in 2001 to just over 29% (42,964) in 2019.
7. Southwark is a borough with a broad diversity and a wide range of issues in its private rented housing sector. There are different types of landlord operating within this sector from professional, responsible landlords to inexperienced, reluctant or accidental landlords, and rogue or criminal landlords.
8. The council will continue to take a different approach to each type of landlord, rewarding responsible landlords, supporting and educating inexperienced, reluctant or accidental landlords; and tackling rogue or criminal landlords so they are forced to either operate responsibly or stop them operating within the sector. Licensing is one of the tools the council is using to regulate the private rented sector.
9. There are three 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 five 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 three 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.
 - Note: The above provisions are set out in more detail below under Legal Implications on pages 17 and 18 below.
10. 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.
 11. Southwark's first additional and selective licensing schemes started on 1 January 2016 for 5 years and ended on 31 December 2020. The council made significant steps towards improving the PRS under these previous schemes.
 12. Whilst the onset of the pandemic delayed progress on new licensing proposals evidence collected by officers in 2019/2020 pointed to a number of wards in the borough that would benefit from selective licensing as well as compelling evidence for a further borough wide additional licensing scheme. However, the evidence for selective licensing pointed to four distinct areas with different issues from each other. Following cabinet approval on 19 January 2021 the council carried out a public consultation for its proposals for licensing. This included proposals for a new targeted selective licensing scheme with four separate designations in line with the evidence. Each designation was designed to tackle the specific problems in those areas. It was agreed that these designations would need to be introduced using a phased approach. The first 6 months of Phase 1 acting as a pilot before making a decision on phase 2.
 13. The phased approach was designed to:
 - tackle the worst issues in the borough first
 - ensure the new approach to licensing is effective
 - that the council has the capacity to run the schemes effectively
 - reduces the impact on large portfolio landlords and
 - allows the council to make changes to improve the performance of the schemes where necessary before introducing a larger and more complex scheme.
 14. Phase 1 consisted of a borough wide additional licensing scheme, and designations 1 and 2 of selective licensing. These two selective designations collectively equate to 18% of the total PRS in Southwark. The council agreed to measure its progress during the first 6 months of phase 1 against the objectives for each designation (See appendix 3). These objectives were set for the 5 year period of the licensing scheme. It is therefore important to note that the success of this phase, the pilot, is measured on the significant progress made on the

objectives rather than achieve all of the objectives in full. The objectives that would take priority at the start of a licensing scheme would be to:

- ensure that as many landlords as possible had made applications
 - that a large number of those applications were being processed within good time
 - and that the council had made a start on enforcement work arising from the schemes and
 - continue to carry out enforcement on other work streams.
15. If successful, it was agreed that officers would return to cabinet to seek approval for designations 3 and 4 of selective licensing and for permission to make an application to the Secretary of State for the Department for Levelling Up, Housing and Communities (DLUHC) for phase 2.
16. Having completed an extensive consultation on the proposals, and following cabinet approval on 19 October 2021, the council introduced phase 1 of its new licensing schemes and the [Landlord's Gold Standard Charter](#). The licensing schemes started on 1 March 2022 and were implemented under the general approval as set out in Legal Implications on pages 19 and 20 below.
17. 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 offers incentives through discounts on licenses to encourage landlords to sign up to the council's [Finders' Fee scheme](#). The scheme helps residents find a good landlord and property for their next home.

KEY ISSUES FOR CONSIDERATION

18. This report, and attached appendices, sets out:

Phase 1 – Progress of existing licensing scheme.

- Progress made on the borough wide additional licensing designation for smaller HMOs since its introduction on 1 March 2022.
- Progress made on designations 1 and 2 of selective licensing to improve conditions and tackle ASB in targeted areas since their introduction on 1 March 2022.
- Progress on the Gold Standard Charter for Landlords.

Phase 2 - Proposed designations.

- Final proposals for designations 3 and 4
- Evidence supporting selective licensing designations 3 and 4
- The consultation on the council's licensing proposals
- The results of the consultation

- The changes the council made in response to the consultation results and representations
- The next steps for phase 2 of selective licensing

Phase 1 – Progress of existing licensing schemes

19. The following schemes started on 1 March 2022 and form phase 1 of licensing:
- A borough wide additional licensing designation that applies to most HMOs that do not fall within the scope of mandatory HMO licensing. This includes some buildings converted into self-contained flats that can also be defined as HMOs (section 257 of the Housing Act 2004).
- Selective licensing applying to all PRS properties that do not fall within the mandatory or additional licensing schemes as follows:
- Designation 1, which includes two wards, Champion Hill and Newington, to tackle high levels of ASB linked to the PRS in the borough, and high levels of repeat incidents of ASB.
 - Designation 2, comprising three wards Faraday, Goose Green and St Giles to tackle poor property conditions.
20. The council employed an external consultant, Cadence Innova, to carry out an independent review of the first 6 months of the schemes. The key findings and conclusion are outlined below. The full report is available in appendix 3.

Key Findings

Applications received and suitability of licence holders

21. During the pilot phase, 1695 selective licence applications were received and 1070 selective licences granted.
22. 25% of applications expected within the five-year scheme period were received within the first 6 months of the scheme going live.
23. A level of 'self-regulation' has been imposed as landlords will not be granted a licence unless they are able to demonstrate at the point of application that they are a 'fit and proper person' to hold a licence and that satisfactory management arrangements are in place.

Housing Standards and Anti-Social Behaviour

24. Through the licensing scheme, the council has been able to regulate the private rented sector (PRS), improve housing conditions and promote better standards of management. Conditions are attached to all licences and landlords must proactively manage their properties and take reasonable action to address any identified problems so that they comply with licence conditions.

25. 1167 desktop audits have been undertaken and where necessary statutory notices have been served, bringing about much needed improvements and raising the standards of poor accommodation across the borough.
26. Designation 1 licences contain specific conditions that clearly state the responsibilities of landlords to prevent and deal with any ASB that arises. Guidance has also been provided to landlords on how to manage tenants who are causing ASB. PSHE Officers work closely with colleagues from the noise & nuisance, waste management, environmental protection and the ASB service to investigate and find solutions for any ASB issues emanating from PRS properties. External mediation services can also be used to resolve the more difficult ASB cases.
27. Inspections are carried out in accordance with property/licence risk assessments. Those properties with the highest risk factors being inspected first. This ensures scarce resources are directed to bring the minority of landlords who are deliberately failing to comply with the law into compliance.
28. An effective licensing scheme relies on robust enforcement and by using intelligence gathered via licence applications and service requests, the council has been able to better target enforcement action towards the minority of landlords who fail to invest in their properties or meet their legal obligations. Southwark is currently ranked fourth out of the top 10 LA's with the highest level of enforcement.

Working with landlords

29. An educational approach has been taken to dealing with licensing non-compliance. Seeking in the first instance to work with landlords and bring about compliance through informal means. The council recognises that the majority of landlords in the borough are both responsible and cooperative.
30. Accreditation is key to raising levels of professionalism and standards in the private rented sector. Although as yet, there has not been a significant uptake of the Gold Charter, as of September 2022, Southwark had 1201 landlords accredited to the London Landlord Accreditation Scheme (LLAS).

Engagement and communication with landlords and tenants

31. Engagement with tenants and landlords has increased with articles in the monthly resident newsletters and borough wide quarterly magazine. 2064 landlords and agents have signed up to receive invites to the council's landlord forum and regular bulletins.
32. As part of the council's communications and engagement campaign, google AdWords were utilised. This resulted in 40,859 impressions (number of digital views or engagements) and 6,122 clicks on ads (15% click through rate). The success of the digital marketing campaign has helped to improve landlord and tenant engagement and education with large numbers visiting the Council's licensing webpages to learn more about the licensing schemes.

Holistic Approach to raising standards

33. The team is working with a number of services across the Council to raise and maintain housing standards and provide support to landlords and residents. We are in regular contact with anti-social behaviour unit, planning, building control and housing support.
34. The team is joint working with the Fuel Poverty Partnership and climate change that will also contribute to improvements in general housing conditions and a reduction in deprivation.
35. We are also contributing to Southwark Cost of Living initiatives specifically targeting the private sector.

Resources

36. The council has implemented a new IT system for end-to-end application processing and workflow management. Five licence processing officers have been appointed on temporary contracts, ensuring all applications are managed in a timely manner and there are no significant delays in the collection of part B fees. Projected revenue has been achieved.
37. Enforcement capability is being scaled up and four new enforcement officers have been appointed on temporary contracts. A recruitment campaign for qualified and experienced environmental health/housing enforcement professionals is ongoing.

Conclusion

38. Southwark Council has made significant progress during the pilot period in meeting its licensing scheme objectives. The pilot has allowed the Council to confirm the predicted levels of PRS and that a ward based approach to licensing is justified. It has also enabled a gradual building up of licensing administration capacity and enforcement capability.
39. Through its marketing and engagement strategies landlords and agents have been made aware of the scheme that has resulted in an extremely high 'uptake' of licences within the first 6 months of the scheme. The council has introduced new administration processes to ensure licences are granted within a reasonable period and fees are collected without delay.
40. During the pilot period the council has adopted an educational approach to licensing however where necessary the council has not hesitated in using all enforcement tools to bring about compliance.
41. Although the pilot period has been too short to measure a trend and to determine a reduction in repeat ASB incidences, new ways of working and protocols have been developed to ensure that this objective is achieved in the long term.

42. The pilot scheme has however been able to demonstrate that through licensing, the council is able to regulate the private rented sector, improve housing conditions and promote better standards of management.

Phase 2 - Proposed designations.

Evidence

The council worked with an external consultant, Metastreet Ltd, to carry out a Housing Stock Condition and Stressors Survey.

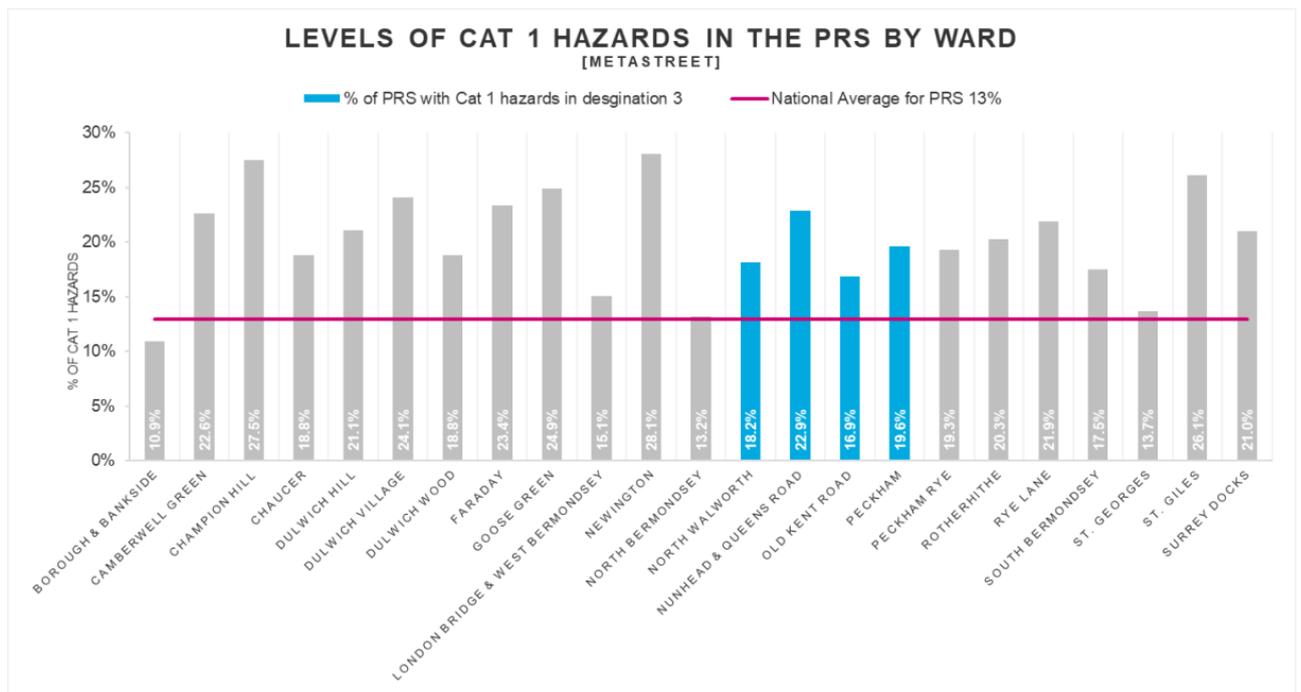
43. The data for the survey was gathered using existing data from across the council and from external sources relating to property conditions, anti-social behaviour and deprivation.
44. In order to determine the wards with the highest levels of **poor property conditions** factors such as housing complaints, housing notices and EPC data were included.
45. 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'.
46. The results of the survey were used to develop the proposals for licensing, including selective designations 3 & 4, and included information gathered on the size, geographical spread and condition of the private rented sector in Southwark.

More information is given in Appendix 4, Private Rented Property Licensing – Evidence Report. The Housing Stock Condition and Stressors Survey report can be found here: [Housing Stock and Stressors Report, Metastreet, 2019](#)

47. As a response to the evidence outlined by the Survey, at consultation, the council proposed four 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 two phases.
- Phase 1 consisted of Designations 1 & 2 which collectively equate to 18% of the total PRS in Southwark which were implemented on 1 March 2022
 - Phase 2 consisted of Designations 3 & 4, which collectively equate to 67% of the total PRS in Southwark, which are outlined below.

Designation 3

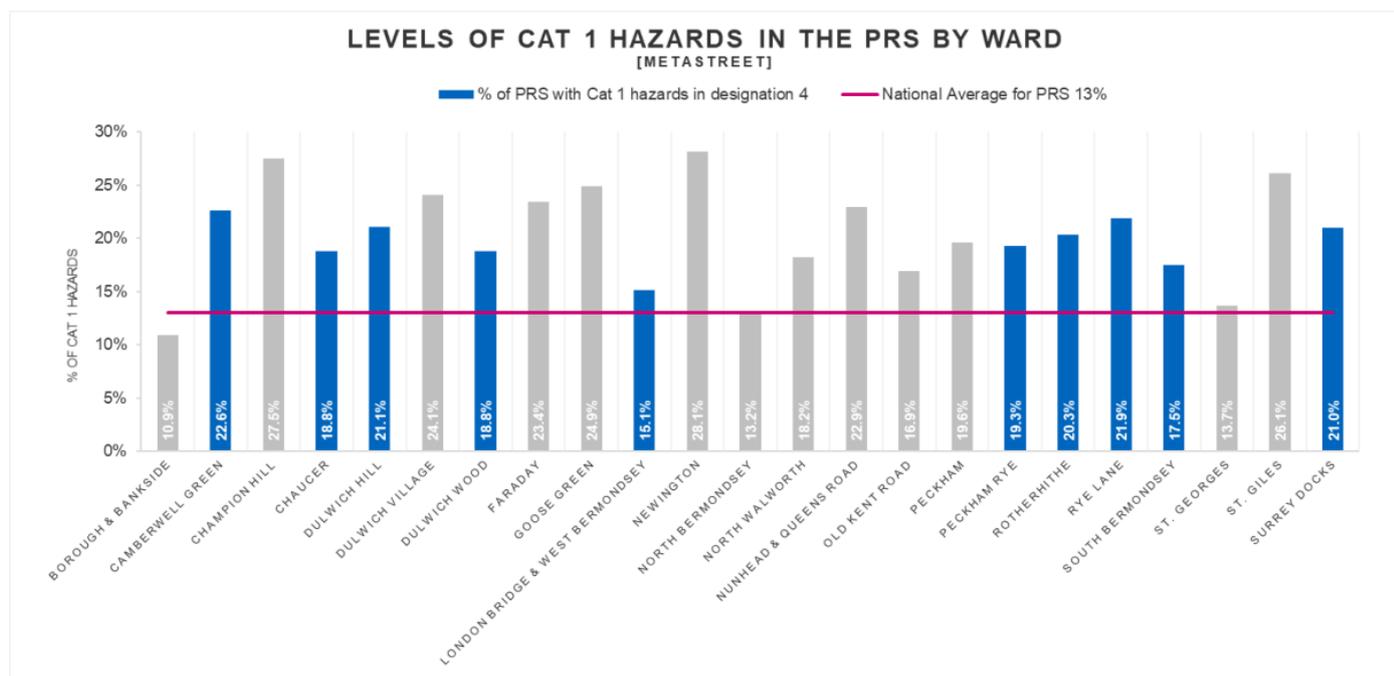
48. This proposed designation, at consultation, includes four wards, North Walworth, Nunhead & Queens Road, Old Kent Road and Peckham. These wards are some of the most deprived and in Southwark and have poor property conditions.
49. These four wards are all in the bottom 30% of deprived wards in the country and with category 1 hazards that are higher than the national average. Poor property conditions make deprivation worse meaning that people in those areas, who cannot choose where they live, are often stuck in overcrowded and poorly maintained housing. Evidence suggests that there are likely to be 1,858 properties within these 4 wards that suffer from severe overcrowding, damp & mould, and fire hazards.



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

Designation 4

50. This proposed designation, at consultation, comprises the following 10 wards with high levels of poor property conditions; Camberwell Green, Chaucer, Dulwich Hill, Dulwich Wood, London Bridge & West Bermondsey, Peckham Rye, Rotherhithe, Rye Lane, South Bermondsey and Surrey Docks.
51. The properties in this designation have levels of category 1 hazards that are higher than the national average for PRS of 13%. Overall, in these ten wards, there are 3,754 properties in the PRS that are predicted to have category 1 hazards as shown in the graph below.



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

Consultation

52. Before a local authority can introduce a licensing scheme, it must take reasonable steps to consult all persons who are likely to be affected by any licensing scheme and to consider any representations made.
53. 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 new selective licensing schemes
 - details on how officers intended to conduct the consultation and
 - the phased approach to introduce a new, ward based, selective licensing scheme in a small area (designations 1 and 2) followed by a larger scheme (designations 3 and 4) to be approved by the Secretary of State for Housing, Communities and local Government.
54. The public consultation on the new proposals 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.
55. The consultation asked for views on a numbers of council's proposals including:
 - Selective Licensing in 19 wards through four designations

- Conditions, new fees and discounts attached to selective licensing
- Respondents perceptions and experiences of the issues in the borough

High level results of Consultation

56. The consultation provided a total of 1,916 responses received on the online survey and 121 responses on a commonplace map. (Appendix 6 gives detail on the consultation and responses).

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%

57. 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 3 and 4.

58. The objective of the proposed licence conditions are 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.

59. 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 7 with the final proposed conditions for each designation are set out in appendix 1 and 2.

60. Proposed Licensing Fee

	Part A	Part B	Total
Selective Licensing Designations 3 & 4	£630	£270	900

61. The majority of the respondents thought that the proposed fees were reasonable. The council therefore does not intend to change the final proposed fees for selective licensing designations 3 and 4.

Discounts for the proposed licensing schemes

62. At consultation, the council proposed 4 possible discounts to the licence fees however, 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 the value of the discounts on offer.

63. 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
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

64. High level results of Consultation

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

65. 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.

66. 30% of landlords said that the proposed discount for Gold Standard Charter would be an incentive to sign up.

67. The final proposed fees and discounts are outlined in appendix 9.

68. At consultation, the council stated that licences issued under the previous 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, that 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 discount. The council has not made any changes to this proposal. The new licence, if applied for during the early bird discount period, 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 scheme. It will be for each landlord to decide whether they would prefer to take advantage of the early bird discount or keep their existing licence until it expires, applying for a new license at that time without the benefit of that particular discount.

Addressing the number of responses with ‘No opinion’

69. It was noted that there were a high number ‘don’t know’/‘not sure’ responses, throughout the consultation.

70. 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%

71. 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, 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 has, and will continue to, increase and improve promotion of its existing services and initiatives. These initiatives include the proposed renters’ support organisation, the Landlord’s Gold Standard Charter, landlord’s forum and newsletter, and residents newsletter to inform PRS tenants and landlords. The council will continue to work with landlords and tenants to ensure that services are meeting their needs.

Alternatives to Discretionary Licensing

72. 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 2’ were:

- 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
73. Improve the professionalism of landlords and managers and the management of PRS property.
74. At consultation, the council detailed a number of other courses of action or alternatives to selective licensing that had been considered, but did not believe that they, individually or collectively, provided an effective means of tackling poor housing conditions 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.
75. 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 7 gives more details of the representations received and a response to those representations.
76. 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.

Next Steps to Implement Phase 2 of Selective Licensing

77. Following cabinet approval of the proposed selective licensing designations 3 and 4 set out in this report, officers will submit an application to the Secretary of State for Levelling Up, Housing and Communities for approval to implement the designations. The time table for this is as follows:

Stage	New timetable 2022/23
Final submission to DLUH	January 2023
DLUH response to enquiries and decision	February to May 2023
3 month statutory notification and standstill period	June to August 2023
Phase 2 go live	September 2023

78. In line with recommendation five of this report, following implementation, approval will be sought from the Strategic Director of Environment and Leisure for any minor amendments to the schemes. These minor changes, for example, include the removal or rewording of a standard licensing condition following a

change in law or formal guidance from DLUCH. These changes will only be made as necessary to ensure that the designations are compliant with legislation, case law and formal guidance throughout their 5 year duration and for the effective administration of the schemes. Any substantial changes to the schemes will need to follow the legislative framework for selective licensing.

Licensing working in conjunction with existing initiatives and partnerships

79. We will continue to build on the good working relationship with our internal and external partners. We have engaged in several joint working initiatives and partnerships with agencies such as the Police, Fire Service, HMRC, Immigration Enforcement, Rogue landlord multi-disciplinary task force, Homelessness Forum, Envirocrime and Planning Enforcement. We will also continue to actively promote the Gold Standard Charter and support accredited landlords.

POLICY FRAMEWORK IMPLICATIONS

Fairer, Greener, Safer Manifesto Commitments

80. As part of the 2022 manifesto, the Council committed to taking a zero tolerance approach to rogue landlords. Licensing gives the council the framework to hold landlords to account and gives greater powers to tackle landlords who do not maintain appropriate standards.

Southwark's Fairer Future Commitments

81. The Borough Plan sets out these commitments across eight themes. Licensing schemes supports a number of the themes that form Southwark's Fairer Future Commitments. It supports 'homes for all' and 'tackling health inequalities' by improving living standards in the borough and will help to address poor housing, as well as dealing with and deterring rogue landlords.
82. 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'.
83. 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. Licensing helps the council establish who the responsible landlords are, educate and support the less professional landlords and identify the rogues. This benefits responsible landlords who make less profit from their business than the unscrupulous ones that ruin the reputation of the sector.

Southwark's Housing Strategy 2020

84. The housing strategy sets out the council's the long term direction with simple clear commitments and updated actions. This strategy includes the commitments for mandatory, additional and selective licensing.
85. The four fundamental issues are affordability; quality; security and pride and responsibility.

86. 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.
87. The principles make specific reference to demanding safer, higher quality, energy efficient homes. The licensing proposals help the Council to ensure properties in the private rented sector comply with these principles.
88. The principles make specific reference to empowering residents to take pride and influence over their homes. Landlords must display their licenses in their properties and if they do not tenants can easily find out if their property has a license and request a copy. This helps to empower private sector tenants by informing them of the standards their landlords must comply with.

COMMUNITY, EQUALITIES AND HEALTH IMPACTS

Community impact statement

89. The proposals for phase 2 of selective licensing work towards the council's continuing goal to set out the Council's expectations for the private rented sector and drive up standards. 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

90. 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 phase 2 of 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.
91. 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. These proposals are designed to empower more 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 is can

assist with community cohesion and tackle exclusion. The Equalities Impact Assessment for licensing is provided in appendix 10.

Potential negative economic impact

92. There is no evidence to suggest that the introduction of the council's previous licensing schemes had a negative impact on the areas in which they operated. A recent independent review of the Use and Effectiveness of Selective Licensing commissioned by MHCLG (now DLUHC) determined that there was no substantive evidence of rent rises being passed onto tenants due to the introduction of selective licensing schemes. Should the proposed designations be confirmed, no negative economic impacts are anticipated. It is considered that selective licensing, when combined with other measures taken in the designated areas will have a positive economic impact rather than negative by reducing the factors that contribute to deprivation and improving housing conditions in the designated area.

Health Impact Statement

93. Poor housing has long been identified as a health inequality that adversely impacts 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

94. 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 licenses remind landlords that properties must have an Energy Performance Certificate of E or above in line with the Minimum Energy Efficiency Standards (MEES). 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](#)

95. The Gold Standard Charter asks landlords to achieve higher EPC standards than the required minimum standard. Landlord forums, news bulletins, and the proposed renters' support organisation 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 are liaising with the Council's Fuel Poverty / Energy Efficiency Officer on projects specifically for the private rented sector.

96. 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.
97. 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

98. 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*").

Selective Licensing

99. 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.
100. 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.
101. 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.
102. 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.
103. 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).
104. 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.
105. 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.
106. 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.
107. 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.
108. The start date for the designation must be no earlier than three months after the date on which the designation is confirmed.
109. 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.

Financial and Resource Implications

110. 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.

111. The fees proposed are as follows:

Licence Type	Part A	Part B	TOTAL
Selective	£630	£270	£900

112. 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.)

113. 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 for Landlords. More information regarding the fees and discounts can be found in appendix 9.

114. The forecast costs and income over the five-year period are as follows:
5 year Income and Expenditure Analysis

Description	Selective Licensing Phase 2 (designations 3 & 4)	Annual Average
	£'000	£'000
Staffing Costs	10,313	2,063
Other running costs	2,518	504
Total costs	12,831	2,566
Estimated Income	(12,815)	(2,563)
Net Expenditure	15	3

115. 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 license application, compliance monitoring and, enforcement against landlords who are non-compliant with the licensing process.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Head of Procurement

116. N/a

Director of Law and Governance

117. 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.
118. The licensing provisions do not apply to houses let by local housing authorities or registered social landlord.
119. The circumstances in which the council may designate areas as subject to selective licensing are set out in the Act and are summarised in this report together with the evidence supporting the proposed designations.
120. 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.
121. 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.
122. For 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.

123. The law specifies conditions that a licence must contain but otherwise a licence may include such conditions for regulating management of the licensed property as the council feels appropriate.
124. 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.
125. The council may invoke enforcement processes against those controlling or managing a property without a licence or failing to comply with licence conditions.
126. The designation of areas subject to selective licensing requires approval from the Secretary of State.
127. 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.
128. 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.
129. 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.
130. 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.
131. 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.

132. 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.
133. 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.
134. 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.
135. 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.
136. 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 (FC22/045)

137. The strategic director of finance and governance notes the recommendations to cabinet to approve designations 3 and 4 of selective licensing and the making of an application to the Secretary of State for the Department for Levelling Up, Housing and Communities (DLUHC) for approval of the licensing designations to operate in Southwark for 5 years.
138. The strategic director of finance and governance notes the financial and resource implications detailed in the body of this report. It is also noted that these would underpin the setting up of budgets for the service and would be regularly reviewed to ensure that they remain robust and relevant.
139. Officer time to effect recommendations will be contained within existing budgeted revenue resources.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Driving up standards in the Private Rented Sector – Cabinet Decision 19 October 2021	Southwark website	Emma.trott@southwark.gov.uk
Link: https://modern.gov.southwark.gov.uk/ieDecisionDetails.aspx?AllId=60679		
Housing Act 2004	.gov.uk website	N/A
Link: Housing Act 2004 (legislation.gov.uk)		
Housing and Planning Act 2016	.gov.uk website	N/A
Link: Housing and Planning Act 2016 (legislation.gov.uk)		
Selective licensing in the private rented sector: A Guide for local authorities (DCLG – March 2015)	.gov.uk website	N/A
Link: Selective licensing in the private rented sector: a guide for local authorities - GOV.UK (www.gov.uk)		
The Housing Act 2004: Licensing of Houses In Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2015	.gov.uk website	N/A
Link: General consent final 2 .pdf (publishing.service.gov.uk)		
Housing Strategy (London Borough of Southwark – 2020 to 2043)	Southwark website	N/A
Link: Housing Strategy – Southwark Council		
London Borough of Southwark - Council Plan 2018 – 2022	Southwark website	N/A
Link: Southwark's Borough Plan - Southwark Council		
London Borough of Southwark Finder's Fees scheme	Southwark Website	N/A
Link: Earn money from your property		

Background Papers	Held At	Contact
Climate Change Strategy	Southwark Website	N/A
Link: https://moderngov.southwark.gov.uk/ieDecisionDetails.aspx?ID=7377		

APPENDICES

No.	Title
Appendix 1	Selective Licensing Designation 3 - Final Proposal
Appendix 2	Selective Licensing Designation 4 – Final Proposal
Appendix 3	Phase 1 Licensing Pilot Results
Appendix 4	Private Rented Property Licensing – Evidence Report
Appendix 5	Consultation on Private Sector Licensing in Southwark - Consultation Evidence
Appendix 6	Consultation on Private Sector Licensing in Southwark – Final Report
Appendix 7	Council’s Consideration of Consultees’ Responses to the Public Consultation
Appendix 8	Licensing Schemes - Objectives, Targets and Measures – Final Proposal
Appendix 9	Statement of Fees, Charges and Discounts for Licensing – Final Proposal
Appendix 10	Equalities Impact Assessment

AUDIT TRAIL

Cabinet Member	Councillor Dora Dixon-Fyle, Community Safety.	
Lead Officer	Caroline Bruce Strategic Director - Environment and Leisure	
Report Author	Emma Trott, Private Sector Housing Enforcement Manager, Regulatory Services	
Version	Final	
Dated	23 November 2022	
Key Decision	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Director of Law and Governance	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	23 November 2022	