

Selective Licensing, mid-scheme review April 2021

Summary

This ambitious scheme, one of the largest of its kind in the country, started on 1st August 2018 and is due to run to July 2023. Its implementation followed a commitment to introduce a city-wide licensing scheme which was part of an overall vision of 'Quality Housing for all'. A team of 75 officers, across 12 different roles (many of whom were recruited from outside the authority) has been established, and we are satisfied with how the scheme has developed.

Based on this review and the current situation the Council is continuing its work to inspect properties, making them safer for tenants and ensure licence holders are complying with their conditions. We will continue our work to tackle rogue and criminal landlords and ensure tenants are protected in the private rented sector.

Sections to review

- 1) Key successes**
 - 2) Inspection and Compliance activity**
 - 3) Enforcement action**
 - 4) Working with our Accreditation partners**
 - 5) Engagement, support and liaison**
 - 6) Challenges and other lessons learned**
 - 7) Accuracy of the key assumptions in the business plan**
 - 8) Progress against the measurements of success set out in the business plan for the objectives of the scheme**
 - 9) Financial assessment including fee structure**
 - 10) Impact of Covid-19**
 - 11) Future developments**
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1. Key successes

- Over 600 properties inspected, with over 270 improved through pre-licensing inspections (before March 2020, national lockdown)
- Over 1100 external inspections of licensed properties during time of Covid-19 restrictions in 2020/21
- Reduction to only 15.6% (2019) from 25.9% (2018) in the proportion of privately rented homes with EPC energy rating below 'D'
- 70.9% of all properties in Nottingham have an EPC (March 2020). This is the highest proportion of all Core Cities.
- 53 Civil penalties issued, 37 of which relate to Selective Licensing
- 13 Landlords prosecuted for 49 offences at 30 properties (27 of these offences relate to Selective Licensing)
- Over 1700 hazards in houses identified by our accreditation partners
- Over 3,450 subscribers to our monthly landlord newsletter and updates
- 48 press releases sent out about the scheme, including updates, enforcement action and prosecutions.
- Proactive engagement with tenants that have caused ASB and satisfactory resolution of cases, supporting tenants to stay in their property, working closely with landlords.

2. Inspection and Compliance activity

The enforcement work has been positive, as well as the housing inspections, already mentioned above. As the compliance and enforcement activity continues the scheme will continue to make an impact. So far some of the outcomes are listed below:

Pre-licensing and compliance inspection data from 1 August 2018 to March 2020 (before lockdown)

Properties inspected	660
Properties improved – intervention	202
Properties improved – before we intervened	70

There is further information about the impact of Covid-19 on the service under **10. Impact of Covid-19** (below). The work of the team continued, but in a different way, with MHCLG guidance on working from home impacting on our inspection work. During the summer 2020 we did undertake external compliance activity and the enforcement of failure to licence recognised the impact of Covid on landlords and tenants.

Compliance activity July 2020 – March 2021

External visits	1129
Licence holder self-audit	616
Compliant letters sent to licence holder on receipt of satisfactory response to compliance checks.	241

Commentary

The Council has received above the level of expected licence applications to date. A whole new team needed to be created, new processes and ways of working had to be developed whilst working within a new regulatory context. This has presented challenges, but we are already seeing some positive outcomes.

The main focus of the first 2 years of the Selective Licensing team has been processing and determining the licence applications. Pre-licensing and compliance housing inspections were undertaken in the first 2 years of the scheme, with 660 properties inspected, with 272 properties improved, such as gas fires replaced by gas central heating and smoke alarms installed.

The main compliance work was planned to start in April 2020, but due to Covid-19 and the guidance issued by Ministry of Housing Communities and Local Government (MHCLG), this was delayed. A focus on external compliance of properties began in July 2020, working with internal teams and other partners on a neighbourhood basis. It will maximise time to inspect properties, as well as check safety certificates such as gas and electric, as well as anti-social behaviour (ASB) action plans. This will be a focus throughout the remainder of the scheme.

The Council has also received a significant level of freedom of information requests about the scheme and its operation, which was not expected and did impact on the team being a drain on resources.

- Significant increase in number of Energy Performance Certificates (EPCs) issued in the PRS.
- Proportion of PRS homes with energy rating below 'D' reduced from 25.9% in 2018 to 15.6% in 2019.
- Data from the Core Cities shows Nottingham at the end of March 2020, having the highest proportion of properties in a core city, having an EPC.

<u>Nottingham</u>	70.9%
Manchester	67.5%
Bristol	60.1%
Leeds	59.7%
Birmingham	59.1%
Liverpool	58.9%
Newcastle	57.7%
Sheffield	54.1%

ASB

Part of the outcomes of licensing are around tackling ASB and providing support to licence holders and tenants. The number of ASB referrals to the team is over 300.

When an ASB referral is received this is logged on the tracker detailing the property address, complaint type and how many complaints have been received (i.e. 1st, 2nd, 3rd). Where the first complaint has been received or the department has not already contacted the licence holder a compliance officer will contact the licence holder by phone, email or letter to discuss the complaint and advise the licence holder to discuss the complaint with the tenants. The first stage of the process does not require a response from the licence holder. Where a second complaint has been received within 12-month period a further letter will be sent to the licence holder notifying them of the complaint and to discuss what steps are being taken following the complaint. If there are further complaints, there are a further option for letters to be sent. Depending on the level of severity, persistence and seriousness of the ASB, the team will also work with CPO's and the ASB teams.

The level of repeat issues at properties and the way licence holders engage and tackle ASB is a key way licensing can be used to reduce ASB in the selective licensing area.

3. Enforcement action

Summary of the investigation and enforcement activity undertaken from 1st Aug 2018 (scheme start) to 31st March 2021

53	Civil penalty notices (CPNs), (37 of which were failure to licence under Selective Licensing)
13	Landlords prosecuted for 49 offences at 30 properties (27 of these offences relate to Selective Licensing)
4607	Landlords issued with legal notices requiring them to provide information
75	Formal written warnings issued in 2020 during Covid-19 lockdown (66 of which relate to Selective licensing)

916	Letters sent during Covid to encourage applications
3	Rent Repayment Order determinations in relation properties unlicensed under the Selective licensing scheme (2 landlords).

The council has and continues to use its powers to take action against landlords who do not comply with their legal obligations and apply for licences. The visits to unlicensed properties have uncovered imminent disrepair to properties and in particular has noted some smoke alarm systems not working or being completely absent placing tenants at increased risk.

The Council will continue to undertake proactive promotion of the scheme in areas where applications still have not been made, along with enforcement activity utilising a risk-based approach. The Council has used Council Tax data and Housing Benefit data to target landlords at their 'away' address.

4. Working with our Accreditation partners

DASH, Unipol and ANUK are the accreditation partners that operate in Nottingham, creating the 'Nottingham Standard' with licence holders able to receive a reduced licensing fee. When licence holders are accredited they are brought within the Nottingham Standard and as such are inspected by these partners. This means they work to a higher standard than the legal minimum and a percentage of the licence holder's properties are inspected to ensure they are operating at this level. This means that the Council will inspect a smaller percentage of these properties, which allows the Council to offer a reduced fee.

The number of accredited landlords has risen since the selective licensing scheme was announced, much higher than initially forecast. The information below shows that in March 2018, before the scheme started there was limited engagement by landlords with DASH, however, 3 years on, the numbers registering have increased significantly.

Whilst the numbers of Unipol members has dipped slightly, more properties are covered within the Unipol scheme.

The increase in numbers of properties accredited has risen with both DASH and Unipol. This shows an increase on the figures since the scheme started.

DASH	Landlords / members	Properties
31 st March 2018	379	2481
31 st March 2021	1628	7206
Unipol Nottingham Code (off-street properties)		
31 st March 2018	271	1436
31 st March 2021	242	1526
Total for DASH & Unipol		
31 st March 2018	650	3917
31 st March 2021	1870	8732

ANUK / Unipol National Codes	Developments	Bed spaces
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31 st March 2018	64	17,000
31 st March 2021	94	21,376

Between 1st July 2018 (the start of the current Selective Licensing scheme in NCC) and 18th January 2021, DASH has carried out 1,317 property inspections in Nottingham. Between 1st August 2017 and 31st July 2020, Unipol has carried out 522 inspections of off-street properties. In addition, the National Code has completed a total of 49 visits between 1st August 2017 - 31st July 2020. In total this means there have been 1,888 inspections between 1st July, 2018 and 18th January 2021.

Hazard	Number of hazards identified by DASH	Number of hazards identified by Unipol
Fire safety	527	317
All falls	231	98
Other	104	142
Electrical safety	100	70
Damp and mould	67	40
Excess cold	29	53
Total	1,058	720

From the combined inspections undertaken, a total of 1,778 hazards have been identified by DASH and Unipol between the dates given above.

Working with our accreditation partners

The Council has a good relationship with its accreditation partners in Nottingham. It has regular meetings to discuss new ways of working, and is involved in complaints, tribunals and on-going reviews of more complex cases through consistency workshops.

Accreditation has a double benefit of a lighter touch regulatory approach for the Council, for example by reducing the inspection burden on it as well as allowing access to resources, training and information to landlords and managing agents.

5. Engagement, support and liaison

Significant resources and effort have been put into engaging with landlords in order to raise awareness of the scheme, better inform landlords and support them through the process and continue to raise scheme awareness during the scheme. The programme has included:

- 30 events, with 400 landlords and agents engaged with proactively, including support for older landlords and landlords with English as a 2nd language at libraries and community centres;
- 5 larger landlord / managing agent events, each with approximately 100 attending. The last in person event was in January 2020;
- Monthly landlord newsletter and updates being sent to over 3,450 subscribers;
- Separate Landlord and Managing agent's forums set up and have met online only since July 2020.
- 48 press releases sent out about the scheme, including updates, enforcement action and prosecutions.

- Social media followers – 2,267 social media followers with regular posts.

Early on in the scheme as it was rolled out there was a lot of work undertaken to raise awareness and engage with landlords and agents during the start of the scheme and in the first few months. Events took place at the Council House prior to the scheme starting and also at libraries and some community based events to help support those that needed some additional support with online applications.

The role of the Housing Engagement Officer was undertaken for a period of approximately 15 months as the scheme became established. Following this period, a review was undertaken and it was determined that the Council would continue to increase its publicity about the scheme and develop the landlord forums. Engagement with agents and landlords through a formal forum has been operating for nearly 12 months and is discussed above.

Engagement continues through work that supports tenants and landlords when dealing with ASB and to support both parties around maintaining tenancies and therefore reducing homelessness.

A team of officers is in place to support Landlord tenant relations by upholding legal practice in the private rented sector. Providing objective interventionist advice and assistance in relation to private sector accommodation matters between landlords and tenants.

The team maintains a strategic approach to that casework, taking into consideration the big picture - namely that the Council needs a positive and engaged approach to a healthy private rented sector, and that requires a rights and responsibilities agenda, that wherever possible does not alienate either party.

The less celebrated end of the private rented sector is where we have the most challenges with enforcement of licensing and tenancy rights, and these areas tends to accommodate some of the most vulnerable households in the City in need of the protection of statutory services more than most.

What impacts on those households, impacts on our public services and budgets too, as we so often pick up the tab for insecurity of tenure and poor housing conditions - namely our homelessness services, social care, the police, as well as the additional pressures on the households themselves, and the health and education services they rely on.

The nature and volume of our casework appears to reflect currently heightened COVID related tensions in the private rented sector, with it having to deal with reduced income levels, leading to arrears - for both landlords and tenants - combined with insufficient financial support and a lack of redress being available at Court.

Some examples of what our work has involved.

Securing alternative accommodation for a household illegally evicted, arranging temporary accommodation with homelessness services and longer term rehousing via financial

assistance from the credit union and working with the Police and the Law Centre to pursue a prosecution, resulting in a custodial sentence and a pending claim for damages.

In response to a complaint to the Council by a tenant about their landlord 'demanding access', liaising with both parties and establishing that in fact the landlord needed reasonable access, and had given Notice for a repair inspection, but the tenant was trying to exclude because they didn't want to address the issue of rent arrears having arisen during COVID lockdown. Housing debt work reduced the arrears, secured reasonable access under COVID recommended protocols for the landlord and prevented any potential for an eviction.

Supporting an elderly vulnerable landlord in managing a particularly challenging tenant with severe alcohol dependency issues and rent arrears. We established a repayment plan and secured rehousing for the tenant with a registered provider so that the landlord was able to let the tenancy to a member of her family as a far less challenging tenant.

We continue to support landlords and tenants to try and prevent their suffering reputational damage based on the actions of a minority. It's important to ensure that the profession of landlords is not denigrated by the few rogues operating in our City, any more than that of tenants, who can be routinely stigmatised as 'not looking after their homes'.

We assist with securing access to accommodation alternatives where necessary and possible, coordinating emergency interventions in cases of illegal eviction, working with agencies from homelessness services to the Police and the Courts, as well as participating in the Council's efforts to reduce statutory applications for rehousing, and thereby reducing the use of bed and breakfast accommodation. In addition, we ensure that the Council's statutory homelessness, housing advice and homelessness prevention functions are aware of, and are linked in with, the complimentary efforts and functions performed by Safer Housing.

We've also continued to provide advice and support to internal and external partners – in particular our colleagues undertaking licensing and enforcement activities, as well as maintaining active liaison with other advisors such as Citizens Advice and student higher education housing advice services.

Our 2 advisers aim to take on around 20 new cases a month, but on an annual projected target of 227 cases – which this year we had reached by the end of the third quarter; we had already received 274 new referrals. Of these 49% turned out to be unlicensed properties so we were able to refer these on licencing colleagues to ensure compliance requirements were checked.

6. Challenges and other lessons learned

- Despite the significant amount of awareness raising there is still a large number of landlords that have not applied for a licence and applications continue to be received at approximately 200 per month.
- On the back of the Grenfell disaster and Hackitt review blocks of flats (some recently built / converted) have come under more scrutiny which were not envisaged when the scheme was being developed. Joint working with Nottinghamshire Fire and Rescue Service is on-going to inspect and audit the significant number of blocks of flats within the city to ensure they are safe, following some local concerns that the sign off of buildings by approved inspectors was not always satisfactory. Licensing is providing opportunities to inspect and engage with a broader range of such buildings.
- Due to a query about the legislation covering flats within blocks, the Council reviewed the fee for such blocks and this was signed off as an executive decision in November 2019. The Council has so far received 65 block applications, covering 4,664 dwellings. This includes 26 blocks that transferred from individual applications to a block application.
- Digital by default for application forms has created difficulties for some landlords, with the Council offering support and a paper application form as appropriate.
- Engaging hard to reach landlords, ensuring maximum number of applications are received. We continue to identify a lack of awareness in neighbourhoods – amongst both landlords and tenants.
- Significant, and above expected levels of freedom of information, temporary exemption and overseas landlord applications have been received. This has been a challenge to review current and create new processes to deal with these issues.

7. Accuracy of the key assumptions in the business plan

When the scheme was set up consideration around certain elements formed part of the Operating model and business plan for the scheme – part of the Executive Board report papers. This covered elements including:

Pre-licensing inspections

Using information provided by the applicant on the application form some properties were identified as high risk. However, these were not as productive as first expected. The application forms were not always accurately completed so when inspected properties that were identified as for example having no fire alarm system did in fact have smoke alarms in place. Also, it meant that properties that would not receive a licence until a property was inspected.

The application process

Due to the Brown v Hyndburn Borough Council court case in February 2018 just as the final details of the Selective Licensing scheme were being determined the Council changed the application process and licence conditions, reducing the burden and requirements on the landlords at the application stage. The Council has continued to review and streamline its processes as new challenges were identified that were meaning landlords were not providing a full (duly made) application at first attempt. The Council continues to try to ensure landlords can make applications as efficiently as possible, to ensure the properties are within the regulatory framework of licensing. For example, at the start of the scheme due to the requirement to check the application form against land registry the Council 'rejected', at

one point 50% of applications, because the application didn't match up with for example the land registry data. However, on reviewing this process it was identified that it was usually the land registry data that was incorrect, not the information provided on the application form, so this check was removed and the proportion of rejected applications reduced significantly.

Number of properties subject to licensing

At the start of the scheme, using BRE modelling data it was suggested there could be up to 32,000 properties subject to licensing. The council based the fee on receiving 24,000 applications. Applications continue to be received and the Council is looking at where these applications are coming from, i.e. due properties being bought / sold, private rented sector expansion, or through continued promotion and enforcement activity to ensure landlords are within the regulatory framework of licensing.

8. Progress against the measurements of success set out in the business plan for the objectives of the scheme

The scheme outcomes are difficult to measure currently as we are early on in the compliance activity. However, when the scheme started a number of interventions and improvements took place that wouldn't have taken place, if the scheme had not been in place.

- Reducing ASB
 - Measuring repeat cases and engaging in a proactive way with licence holders and other stakeholders where issues around ASB in properties were being identified.

- Improving property conditions
 - Through pre-licensing and compliance inspections and engagement cases of properties improved for example where vulnerable tenants lived with only 2 gas fires to heat their entire home; the landlord upgraded to gas central heating.
 - Colleagues in the Council that lived within the private rented sector informed the team that landlords were being more proactive and responsive, because of the scheme coming into force.

- Deprivation
 - Deprivation is measured on a range of indicators including the living environment, barriers to housing and services and crime. Working to improve property conditions in houses, reducing crime and improving communities in the selective licensing area will support tackling deprivation.

- Reducing crime
 - Through pre-licensing and licence compliance inspections where there are poor property conditions these can be improved to provide a safer home for tenants. Licence holders are responsible for tackling ASB in properties, which may actually be related to low level criminality.

A compliance plan has been developed and implemented to set out the work around area / neighbourhood based working and inspections for the compliance activity. This is also about engaging locally with local neighbourhood teams and supporting days of action to raising awareness and tackling issues identified locally in the private rented sector. This neighbourhood based ways of working will help to increase efficiency and visibility of the team and ensure that compliance activity is undertaken in all areas of the selective licensing designation.

9. Financial assessment including fee structure

The current financial position at the end of March 2021 is of one that is operating within the business plan remaining cost neutral, and is regularly reviewed. The fee structure was reviewed in October 2019 when it was identified that the work undertaken was not being recovered fully through the fee as was determined at the beginning of the scheme. There is no proposals to change the fee this financial year, but this will be reviewed in the future in an on-going manner. Whilst there are on-going risks around the licence fees; I am confident the forecasting will realise a cost neutral at the end of the scheme.

The number of applications expected to be received was estimated at 24,000. As the scheme has progressed, and with the changes to block applications the number of applications received was revised upwards (in January 2020) to 26,000. Based on current trajectory, with healthy numbers of applications being made, if this continues the Council may receive 28,000 applications (including the flats within block applications).

The licence fee was set prior to the scheme starting and based on what was known at the time. A fee review was undertaken in November 2019, and a revised fee was set for both accredited and non-accredited landlords. The part A fee for both accredited and non-accredited applications has been more closely aligned as the application process is very similar for both accredited and non-accredited properties. A new fee for Block licences was introduced in November 2019.

As discussed above the enforcement team have undertaken a range of investigations and enforcement activity already. There is on-going investigation and enforcement work linked to continuing to identify as many properties as possible and bring them into the licensing regime. An enforcement plan has been agreed and sets the priorities for the enforcement work to try and ensure maximum number of licence applications received and intelligence is led to tackle and enforce against the worst landlords.

Identifying and evidencing that the Council is doing all that it reasonably can to licence the maximum number of properties is an important part of a successful scheme. The private rented sector is still an under regulated part of the housing sector, with no requirement for owners to notify anyone should they decide to rent out their property. We continue to identify new properties and bring them into the licensing regime. Through the selective licensing scheme, we have a new and increasing level of intelligence about this part of the housing sector, which is positive. For example, knowing where licence holders and applicants live. If anyone wishes to report a landlord or their property to the Council, they can do this anonymously here: <https://www.nottinghamcity.gov.uk/information-for-residents/housing/something-to-say>

10. Impact of Covid-19

In March 2020 the impact of Covid-19 was being felt across the world. It would be remiss of the Council if a recognition of the impact on the scheme was not considered as part of the review.

When the national lockdown required working from home the Selective Licensing team adapted incredibly quickly to working from home and adapting to a very different way of working. Some staff that were unable to work from home have continued to work in the office.

Those staff that would have been undertaking inspection work have refocused their work to, in the main, support the administrative process of determining licences. The move to compliance activity was delayed due to the pandemic as no internal inspections were taking place due to the guidance issued by the Ministry of Housing Communities and Local Government (MHCLG).

A restructure of the team took place in the autumn 2020 with a new team of Compliance Officers starting in January 2021, with a reduction in the number of Licensing Support Officers (administration staff). The Compliance Officers are undertaking area based compliance activity, which has initially changed to external inspections, but as the national roadmap opens up, with the correct controls in place internal inspections will continue.

With the increase in numbers of licences received and despite the Compliance team starting later than anticipated with the team in place the Council is confident it will be able to undertake compliance interventions in 10% of accredited properties and 50% of non-accredited properties, based on the operating model that formed part of the Executive Board report when the scheme was implemented. Depending on how the Covid-19 situation and local and national situation develops this will be kept under review.

Investigations and enforcement activity reduced when the work from home requirement came in. The team reviewed all current cases and in light of the situation at the time 75 cases that could have been taken to court or civil penalty were given a written warning. The courts only dealt with emergency cases and even now, as courts have re-opened there are significant delays expected in dealing with cases. The team continues to investigate and take legal action on a case by case basis in line with the Council's enforcement policy.

11. Future developments

The Council continues its investigation, enforcement and compliance work to ensure the scheme is a success. This is with aim of continuing to raise property standards of people living in the private rented sector and ensuring licence holders manage their properties and tenants well, to reduce ASB caused by tenants. This will continue until the scheme end date. The council is still determined to meet its aim of 50% of non-accreditation inspections and 10% of accredited properties to be inspected before the end of the scheme.

The team will be using new software, due to the current APP Flare (Civica) software reaching the end of its life. New software will be utilised across the wider regulatory services in Community Protection in 2022, before the end of the scheme.

Work has started the work to consider future licensing schemes and work is underway to understand how the current scheme is progressing and the impact on outcomes that are being made.

Appendix 1

Key statistics to 31 March 2021, unless otherwise stated

	Individual Licences	Block Licences	Total individual & dwellings
Licence applications received	22,774*	65 (covering 4,664 dwellings)	27,438
Draft licences issued	20,854	26 (covering 1,898 dwellings)	22,752
Final licences issued	18,669	20 (covering 1,282 dwellings)	19,951
Applications withdrawn, cancelled, refused, transferred to block license	2,474		
Number of individual properties where a licence application has been received	22,099**		

* Not all applications end with a licence being issued due to e.g. applications being withdrawn, cancelled and refused. The total number of applications received will not equal the number of licences issued.

**Some properties have received more than one application

Temporary Exemptions at 31 March 2021

Temporary Exemption requests	925
Approved	571
Rejected	97
Withdrawn	244
To be determined	13

Higher than expected levels of temporary exemption requests (over 900) have been received: these require a response and this has created an unexpected pressure on the team. Where these have expired, these are being followed up.