



**Prosperous Communities  
Committee**

**Tuesday 16<sup>th</sup> March 2021**

**Subject: Selective Licensing - Update and Future Proposals**

Report by:

Chief Executive

Contact Officer:

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Purpose / Summary:

To provide an update on the current status of the Selective Licensing scheme and to advise on future proposals.

**RECOMMENDATION(S):**

Committee are asked to :

- a) Note that the existing Selective Licensing scheme will expire on July 18<sup>th</sup> 2021.
- b) Agree the approach set out in section 7 in relation to the conclusion of the scheme meaning no further charges will be made after 1<sup>st</sup> of April 2021 for new applications, inspections being focussed on high risk issues and the approach to formal action taking into consideration public interest and the 6 month period within which any offences can be formally progressed.
- c) Approve that further work is undertaken by Officers to explore options for a further selective licensing scheme, with these options to be presented back to Committee as per the timescales set out.

## IMPLICATIONS

### **Legal:**

The legal basis for the introduction of the selective licensing scheme can be located within the Prosperous Communities Committee report from 22<sup>nd</sup> March 2016.

The legal framework for the scheme is found in Part 3 (Sections 79 to 100) of the Housing Act 2004. Alongside this, The Selective Licensing of Houses (Additional Conditions) (England) Order 2015 sets out additional conditions for the purposes of a designation under Section 80.

### **Financial : FIN/146/21/SSc**

Section 3 provides an overview of the financial information relating to the scheme.

There are no financial implications arising from this report.

### **Staffing :**

There are no staffing implications as a result of this paper.

### **Equality and Diversity including Human Rights :**

The designation for the scheme has been set out in accordance with the Housing Act.

### **Data Protection Implications :**

No implications noted.

### **Climate Related Risks and Opportunities:**

The improvement of property conditions and subsequent outcomes of the licensing scheme have had a positive impact on energy efficiency and climate change. Further work will be undertaken as part of the overall review of the scheme to seek to quantify some of these benefits.

### **Section 17 Crime and Disorder Considerations:**

The licensing scheme has a direct impact on crime and disorder and the data contained within the report shows the extent of this. Any future proposals will consider the local data related to crime and anti-social behaviour as it is one of the key criteria within any designation.

**Health Implications:**

A selective licensing scheme is designated to address specific issues within an area and the designation criteria demonstrates how a scheme can improve health outcomes. For example, the improvement of property conditions is well documented to have a positive impact on health and addressing areas such as crime and ASB can contribute to the improvement of broader community health along with the health of an individual.

**Title and Location of any Background Papers used in the preparation of this report :**

- Prosperous Communities Committee report 22<sup>nd</sup> March 2016
- Prosperous Communities Committee report 21<sup>st</sup> March 2017
- Prosperous Communities Committee report 24<sup>th</sup> October 2017
- Prosperous Communities Committee report 4<sup>th</sup> December 2018
- Prosperous Communities Committee report 3<sup>rd</sup> December 2019

**Risk Assessment :**

A full risk assessment will be developed in relation any future proposals.

**Call in and Urgency:**

**Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?**

*i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)*

**Yes**

**No**

**Key Decision:**

*A matter which affects two or more wards, or has significant financial implications*

**Yes**

**No**

## **1. Introduction**

- 1.1. The Selective Licensing scheme in the Gainsborough South West Ward was approved at Prosperous Communities Committee on the 22<sup>nd</sup> March 2016. The scheme then came into force on the 18<sup>th</sup> of July 2016 for a five year period.
- 1.2. This report provides an update in regards to the progress of the scheme and outlines the current position since the last report was presented to Committee in December 2019.
- 1.3. This paper also sets out the proposed approach to the final stages of the existing scheme and sets out a timeline for future work in relation to selective licensing for West Lindsey District Council.

## **2. Current Position**

- 2.1. There are currently 748 licenses that have been granted within the designated area and a further 47 applications in progress. Based on our current estimation of remaining unlicensed properties there are circa 92% of properties now licensed within the area. 70 of the applications received were for properties which had previously had a licence issued. The original estimation for the number of licensed properties was 550.
- 2.2. There are currently 21 unlicensed properties that the Council are aware of, however this number does fluctuate based on the proactive work that is being undertaken to review each street and the properties it contains.
- 2.3. From April 2020 – January 21 there has been an average of 36 applications in progress in any one month. These originate mainly from the identification of unlicensed properties and new licenses applied for from new property landlords.
- 2.4. There are on average 16 housing disrepair cases open with the South West Ward in the year to date. This number has reduced dramatically since the inception of the scheme from 64 in 17/18, 34 in 18/19 and 29 in 19/20. Whilst there will always be an open caseload for this area, the licensing scheme is helping to ensure that general property standards improve resulting in less disrepair issues.

2.5. The table below provides an overview on the current position:

	The Home Safe Scheme	West Lindsey District Council
Applications*	584	211
Draft Licences	582	180
Full Licences	580	168
Exemptions (full)	n/a	17
Exemptions (temporary)	n/a	None currently in effect.
<i>*live applications, not including applications which have been cancelled or terminated</i>		

### 3. Impact of Covid 19

3.1. The delivery of the selective licensing scheme has been significantly impacted by the Covid 19 pandemic in the following ways:

**Restrictions on Landlords:** The Government initially issued and subsequently updated guidance for landlords during the pandemic on how to fulfil their obligations during this time. The Council have had to consider this guidance in regards to determining the circumstances in which to take enforcement action. This guidance has limited a landlord's ability to be proactive in certain circumstances.

**Inspections:** The inspection regime for both Homesafe and the Council was significantly delayed during the initial and subsequent lockdowns. Proactive inspections were not able to take place and the inspection regime for the final year of the scheme has had to be amended in light of this. This will only focus on high risk issues and is not being made mandatory in most circumstances.

**Property Sales:** The property market slowed during the initial lockdown and in turn the turnover of properties that generate additional licensing income slowed. This has recovered in some form, but has not been at the level of previous years.

**Ability to take formal action:** With less proactive property inspections it has reduced the scope for the Council to serve formal notice and to establish offences related to the licensing scheme. In turn, the volume of civil penalties issued has not been in line with our projections.

**Local Intelligence/Presence within the area:** Officers have not been as active within the licensing area for the reasons stated, therefore the ad hoc intelligence that is usually collected has not been done so on the same scale. In turn, the reduced property inspections have limited our interaction with tenants and our opportunities for dealing with some breaches of conditions that may have occurred.

**Processing of Applications:** During the pandemic landlords have been restricted in terms of their ability to carry out certain tasks such as updates to gas safety and electrical safety certificates. This has in turn delayed the completion of some new applications.

**Work to formally review the scheme:** This work has been delayed due to the pandemic as some of the officers within the work area have been focussing on other regulatory issues during this period. A revised timeline for the review has been proposed and is put forward within this paper.

**ASB Figures:** The level of ASB reports has increased slightly during 2020 and some of this increase relates to the lockdown periods that occurred during this time. The ability to deal with some of these matters has been limited for landlords and the Council, however the increase is not to an extent that causes great concern.

**Debt Recovery Measures:** Some legal processes have been restricted during this period and court proceedings are subject to significant delays. Whilst debt recovery has continued where possible, in some cases it has not proceeded due to the above. Any debt incurred during the licensing scheme can be recovered after it concludes.

#### 4. Financial Information

- 4.1. The Council has to date received £147,497 from licensing income. £69,540 was received in 16/17, £11,015 in 17/18, £18,534 in 18/19, £25,881 in 19/20 and £22,527 to date in 20/21. It is expected that a further £3,000 will be received before the scheme ends.
- 4.2. The income received has been used to fund the administrative roles that have supported the scheme, alongside the other officer resource used to deliver the outcomes of the schemes.
- 4.3. Income that has been derived from the serving of notices, costs from prosecutions and issuing of civil penalties is further outlined in section 5.

#### 5. Formal Enforcement Action

- 5.1. The Council's approach to enforcement action is risk based. The scheme has enabled officers to focus on those properties that present this highest risk and it is clear that the poorest property conditions are being identified in unlicensed properties. This is therefore where the focus of the schemes resource is aimed. The activity below has been subject to the restrictions relating to Covid 19 as explained.
- 5.2. An overview of the formal action taken against unlicensed properties as a result of the scheme is shown below.

Action Taken	Volume	Financial
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<b>Formal Notices Served</b>	102	Circa £19,000 (fee income)
<b>Energy Efficiency Compliance Notices Served</b>	23	n/a
<b>Interviews Under Caution</b>	9	n/a
<b>Cautions</b>	2	n/a
<b>Formal Warnings</b>	5	n/a
<b>Prosecutions</b>	8 40 convictions	*Fines issued £83k Costs awarded £10k
<b>Civil Penalties Issued</b>	21	**£115k total
<b>Civil Penalties in Progress</b>	9	£87k total
<b>Tribunal Appeals</b>	5 3 Upheld 2 settled	n/a

\*fines issued for prosecutions are collected by HMCTS and are not received by the Council

\*\* Civil Penalties and associated costs are received by the Council

5.3. The level of formal action is expected to continue for the remainder of the scheme and demonstrates the proactive work being undertaken by officers to identify offences committed and deal with them accordingly.

5.4. All unlicensed offences are being considered for prosecution or civil penalty.

5.5. Where civil penalties are not paid immediately a debt recovery process is in place with legal services whereby charges are added to properties and debt plus costs can then be recovered through the sale of these properties. This secures the recovery of costs for the Council and can also force the sale of the property from the landlord.

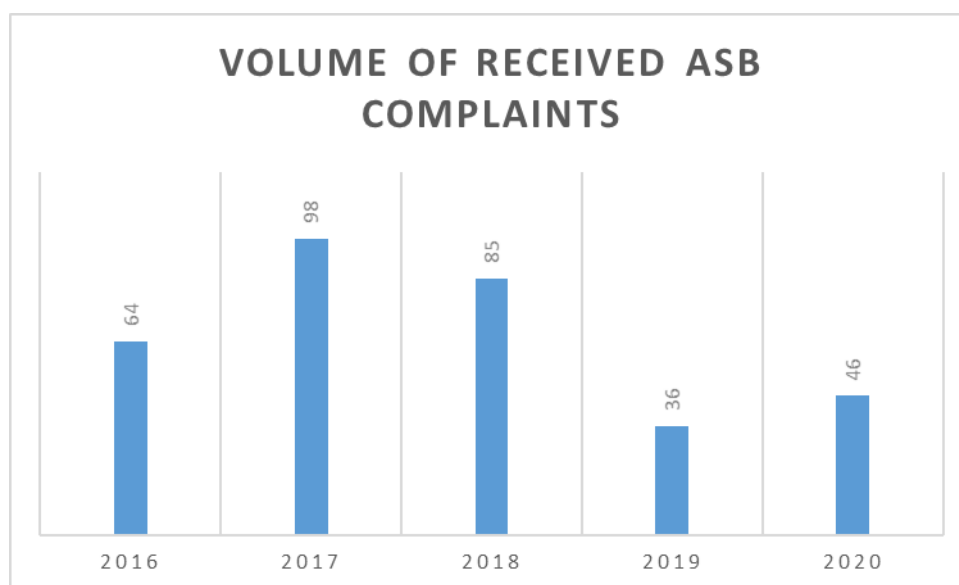
5.6. Whilst some formal action has been reduced due to Covid 19, it has allowed officers to focus on Minimum Energy Efficiency Standards (MEES), which do not require the formal property inspection to be undertaken. Since April 2020, most private rented sector properties should meet the MEES of an 'E' Grade.

5.7. A proactive project in identifying affected properties has commenced across the District, starting in December 2020 with the selective licensing area. 21 properties within this area were identified as not meeting the MEES and 22 compliance notices were served to address these (1 additional due to joint owners). To date, 16 properties have been improved to at least the requisite 'E' grade, 11 of which have achieved at least one grade higher than the minimum standard.

5.8. Given the high density of private rented properties in the area, we are confident of a MEES compliance rate of greater than 95% within the licensing area by the end of the current scheme.

## 6. Dealing with Anti-Social Behaviour (ASB)

6.1. Within the scheme the focus remains on proactively dealing with unlicensed properties and any ASB that is caused by them. The chart below shows the trends in relation to ASB within the area since 2016. The 2017 increase is believed to be the result of the enhanced officer presence within the area alongside increased awareness of the scheme and the action the Council can take.



6.2. Since 2017 the number of reports are steadily decreasing, other than in 2020 when the number has increased slightly. This increase could be attributed to the lockdown periods that occurred during 2020 and the additional reporting that this created across a number of regulatory work areas. It is still evident that the scheme has enabled the Council to take quick effective action with landlords in relation ASB that originates from their properties and as a result some of these matters are being dealt with by landlords without the need for Council involvement.

6.3. Generally, crime rates continue to increase in West Lindsey and Lincolnshire Police recorded the overall crime rate for the district as 55.67 per 1,000 of the population in 2018, an increase from 50.89 in 2017; 45.7 per 1,000 in 2016; 40.0 during 2015 and 39.5 in 2014.

The district has the third lowest crime rate in the county. Overall, there were 5,737 recorded crimes in the 12 months to December 2019, an increase of 778 on 2018.

6.4. Additional information has been requested on the Police reported incidents and it is expected that this will be available over the next couple of weeks and added to the report for context. This will show the total incidents and the type of incidents.

## 7. Conclusion of the Scheme



7.1. It is proposed that the existing scheme comes to an end when it expires in July 2021 to enable full consideration to be given for the delivery of any future scheme.

7.2. As the scheme comes to a conclusion in July 2021 the following approach will be taken:

**Applications:** It is proposed that no new applications will be accepted from the 1<sup>st</sup> of April 2021. Any applicants will be directed to make a temporary exemption application to cover the remaining period of the scheme. If the applicant was previously unlicensed, then that offence will be considered in the line with the approach stated below.

**Formal Action:** any offences committed will be considered in the same way and a decision taken in relation to the public interest aspect of proceeding with formal action. This will depend on the circumstances of each case. There is provision for the Council to take formal action for offences for up to 6 months after the end of the scheme.

**Inspections:** where high risk issues remain within properties, the Council will seek to use existing Housing Act powers to address these and will prioritise these based on the risk presented.

**Scheme Review:** once concluded a full scheme review will be undertaken which will be presented to Committee in due course.

7.3. Whilst on conclusion of the scheme the licensing requirements will no longer be in place on landlords, the Council still has the ability to utilise all of its usual Housing Act and other regulatory powers to enable formal action to be taken as required. There will however be no ability to require additional conditions, which were placed on as part of the scheme, to be met by landlords.

## 8. Future Scheme Proposals

8.1. Following on from the scheme concluding in July 2021 it is proposed that further work is undertaken to consider whether a new Selective Licensing scheme is appropriate for West Lindsey. It is clear from this report and from the previous reports considered by the Committee on the scheme that it has delivered a number of positive benefits for the area and the full scheme review will consider these in more detail.

8.2. The timescales for this work are set out below along with the initial thoughts in regards to the options that could be explored. The legislative process for any licensing scheme is specific and includes set timescales, which must be adhered to.

**March to June 2021 – commission and complete analysis to inform any future proposals.** This work will consider the current situation across the district in relation to the private rented sector and

how this could be improved by the introduction of a licensing scheme. The analysis will consider which areas have been impacted by the following factors:

- Low housing demand
- Significant and persistent Anti-Social Behaviour
- Poor property conditions
- High levels of migration
- High levels of deprivation
- High levels of crime

#### **14<sup>th</sup> September 2021**

- a) **Gainsborough South West Ward – Final Scheme Review.** Final details and information on the first scheme will be presented to Prosperous Communities Committee, which will look at the overall outcomes and provide an opportunity to discuss how the scheme has worked.
- b) **Provision of options available and request to approve consultation on preferred option at Prosperous Communities Committee.** This paper will outline the options available to Councillors and make a recommendation in relation to the preferred option and subsequent consultation. This consultation will be undertaken for a minimum of 10 weeks and be in line with the legislative requirements.

**15<sup>th</sup> March 2022 – Future proposals presented to Prosperous Communities Committee for consideration and approval.** Report will outline the preferred future approach following on from the consultation period and ask Councillors to approve this.

## **9. Recommendations**

Committee are asked to:

- d) Note that the existing Selective Licensing scheme will expire on July 18<sup>th</sup> 2021.
- e) Agree the approach set out in section 7 in relation to the conclusion of the scheme meaning no further charges will be made after 1<sup>st</sup> of April 2021 for new applications, inspections being focussed on high risk issues and the approach to formal action taking into consideration public interest and the 6 month period within which any offences can be formally progressed.
- f) Approve that further work is undertaken by Officers to explore options for a further selective licensing scheme, with these options to be presented back to Committee as per the timescales set out.