



**PRCC.57 16/17**

**Committee: Prosperous  
Communities**

**Date 21<sup>st</sup> March 2017**

**C**

**Subject: Update on Selective Licensing in the Gainsborough South West  
Ward**

Report by:

Chief Operating Officer

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Purpose / Summary:

To provide elected members with an update in regards to the selective licensing scheme

**RECOMMENDATION(S):**

- 1) Members are asked to note the contents of this report and agree that further update will be provided in 6 months' time after the scheme has been in operation for one year

## 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.

### **Financial: FIN/142/17**

Section 6 outlines the financial income received from the licensing fee to date. Further review of the wider financial implications will be undertaken within the second year of the scheme as it becomes embedded.

The Council has to date received £67, 800 from licence fee income. The majority of this figure consists of the £120 fee paid to the Council via Homesafe for landlords that apply to be licensed in this manner. A small amount relates to the Council applications where the landlord pays the full fee of £375 up front.

### **Staffing:**

The Selective Licensing Officer will be in post until August 2018. A review of this post will be undertaken in December 17.

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

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

### **Risk Assessment :**

Enforcement – the level of enforcement undertaken will pose a financial, reputational and public interest risk. This risk will be considered on a case by case basis and will be focused upon the cases that pose the highest risks in relation to the scheme objectives.

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

Improvements to individual properties will impact upon their individual energy efficiency and ratings. Further work will be undertaken to capture this in later phases of the scheme.

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

Prosperous Communities Committee report 22<sup>nd</sup> March 2016 - <https://www.west-lindsey.gov.uk/my-council/decision-making-and-council-meetings/meetings-agendas-minutes-and-reports/prosperous-communities-committee/prosperous-communities-committee-reports/>

**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, the main areas of work undertaken to date and provides the timescales and objectives for the future phases.
- 1.3. An update report has been provided to each of the Prosperous Communities Committee Chairs Briefings since the inception of the scheme.
- 1.4. Given the ever changing data in relation to the scheme, updates on the key statistics will be provided at the Committee meeting on the 21<sup>st</sup> of March 2017 to ensure that the information provided is as up to date as possible,

## **2. Background**

- 2.1. All landlords within the area who rent out their property are required to have a licence. The Council opted to deliver a co-regulated scheme in partnership with Homesafe. Homesafe work with landlords to ensure that they complete their applications and become licensed. Once licensed, Homesafe provide support to the landlord to assist them in remaining compliant with the conditions of the scheme.
- 2.2. The Council has also worked directly with a number of landlords who have not or cannot apply via Homesafe. The overarching principle of the co-regulation arrangement is that landlords are supported by Homesafe in order to remain compliant with the scheme, enabling the Council to focus its resources on dealing with landlords who are non-compliant, unlicensed or criminal.
- 2.3. The Council's approach to the scheme has been focussed on ensuring that landlords who wish to be licensed and be compliant are supported, dealt with fairly and given reasonable timescales to obtain their licence. The onus is on a landlord to obtain a licence and the Council has taken the necessary steps to ensure all landlords in the area are aware of the scheme and understand that they need to be licensed.
- 2.4. Information sessions were held in August 2016 to provide landlords with advice and guidance on the scheme, how to apply and how it would work. These were well attended and despite there being some objections to the scheme from some landlords, many have now proceeded to apply for or obtain licenses within the timescales.

2.5. It is the Council's aim to ensure that all eligible landlords are licensed and within the scheme within its first year. This will then enable the remaining 4 years of the scheme to be focused on compliance and improvements.

2.6. Members should note that failure to apply for a licence is a criminal offence and may result in prosecution with fines of up to £20,000. If a licence is issued and the conditions are breached this could lead to a fine of up to £5,000 and potentially revocation of the licence that is in place.

### **3. Current Position**

3.1. Landlords were asked to apply for a licence by the 31<sup>st</sup> of October 2016. Due to the level of demand and the number of applications that came in on or immediately prior to the date, the deadline was extended to the 1<sup>st</sup> of November 2016.

3.2. Due to the information required at application stage and the processing demand placed on the Council and Homesafe, landlords were then given until the 31<sup>st</sup> of January 2017 to complete their application, provide all relevant certification and payments. This approach provided landlords with over 6 months in which to complete their application.

3.3. It is important to recognise and stress that the majority of landlords have been cooperative in regards to the requirements and have taken positive steps to ensure that their properties comply with the requirements of the scheme. The progress made, outlined in this report, could not have been achieved without this approach from landlords.

3.4. Any landlord that had not completed their application by the 31<sup>st</sup> of January 2017 has been deemed to be in breach of the scheme and its requirement for a licence to be obtained. As a result we are considering formal action in all of these cases and will review any mitigation that may be available prior to proceeding with a prosecution.

3.5. A number of landlords have already presented reasonable mitigation and their applications are being progressed. Our approach to enforcement is outlined in a later section of the report.

3.6. There are live applications for 566 properties in total, across 330 applicants. Table 1 shows the breakdown of these applications.

<b>Table 1.</b>	The Home Safe Scheme		Council	
	Properties	Applicants	Properties	Applicants
Applications*	539	317	27	13
Draft Licences	139	93	11	4
Full Licences	95	64	0	0
Exemptions (full)	n/a	n/a	19	8
Exemptions (temporary)	n/a	n/a	10	10

*\*live applications, not including applications which have been cancelled or terminated*

3.7. Alongside these applications there are 35 properties known to the Council that need a licence and an additional estimation of 214 properties where further investigation is required. This estimates that the maximum number of licensable properties will be in the region of 815.

3.8. It should be noted that this is the maximum. Further investigation will reduce this number and an updated figure will be provided with each update report received by the committee. The Council has pinpointed the exact properties it needs to investigate and will commence this process as per the timescales outlined in this report.

3.9. It was originally estimated that 485 properties would be required to apply for a licence from within the area. This estimation is lower than the actual number of licensable properties within the area. This number is an estimation and further investigation in line with the enforcement of the scheme will determine whether properties require a licence.

#### **4. Information on Applications**

4.1. Table 2 provides an overview of the documentation that was submitted by landlords during the application phases.

Table 2. (HS = Homesafe, EICR = electrical installation condition report)					
Document Type	No. of properties without docs at time of application or not submitted (Homesafe, 539 properties)	No. of properties without docs at time of application or not submitted (Council, 27 properties)	6/1/17	27/1/17	1/3/17
Energy Performance Certificate	250	4	HS - 99	HS - 99	HS - 3 WL - 0
Gas Safety Certificate	321	1	HS - 121	HS - 87	HS - 6 WL - 0
EICR	283	10	HS - 219	HS - 161	HS - 36 WL - 4
Unsatisfactory EICR	17	1	HS - 31	HS - 47	HS - 16 WL - 0
<b>Totals</b>	<b>871</b>	<b>16</b>	<b>HS - 470</b>	<b>HS - 394</b>	<b>HS - 61 WL - 4</b>
<b>Combined Total</b>	<b>887</b>		<b>470</b>	<b>394</b>	<b>65</b>
<b>Est. no of certificates available</b>	<b>1617 (3 per property)</b>	<b>81 (3 per property)</b>			

- 4.2. There were 30 landlords who provided all required certification at the point of application. Over 50% of certificates were not provided at this stage. Each landlord must provide 3 certificates for each property, 2 of these are a mandatory legal requirement (Gas Safety Certificate and Energy Performance Certificate).
- 4.3. In January a third of landlords had still not provided gas safety certificates, this number has now been reduced to 6 overall. There are still 65 outstanding certificates, the majority of these are for electrical safety. Any member that has not provided this certificate or confirmed that it is being completed will be considered for prosecution.
- 4.4. The Council has taken a reasonable approach to electrical safety as it recognises the investment that has been required by some landlords in order to bring their properties up to standard. A clear positive from the first phase of the scheme is that the majority of licensed properties are now electrically safe and have the relevant certification.
- 4.5. There are 65 outstanding certificates from across 566 properties. These will be dealt with in due course and enforcement action considered as necessary.
- 4.6. Eight landlords have been terminated from the Homesafe scheme as a result of their lack of response. These landlords will now be dealt with by the Council and the necessary enforcement action taken against them.

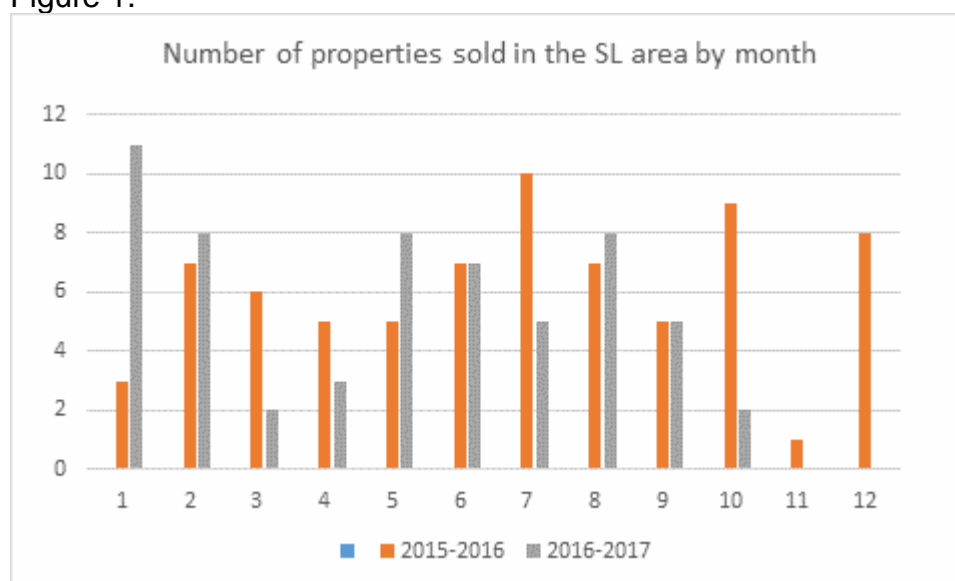
4.7. The Council liaise regularly with Homesafe in relation to applications and a formal monthly meeting is undertaken to ensure that the scheme is working effectively and delivering its objectives.

## 5. Information Relating to the Selective Licensing Area

5.1. It is intended to provide a comprehensive report in regards to the impact of the scheme at the end of its first year. This will provide a specific focus in regards to anti-social behaviour. Below are some key points that have been noted to date.

- There are currently 81 long term empty properties within the South West Ward. This has decreased from 96 in March 16.
- The average house sale price in the area has increased slightly from £47,523 (15/16) to £50, 958 (16/17). Figure 1 below shows the number of properties sold within the licensing area over a 12 month period (February to March). 73 sales occurred in 15/16 months and 59 in 16/17.

Figure 1.



- The number of complaints relating to housing and environmental protection have decreased slightly, but not significantly. The number of notices served across these areas is consistent with previous years.
- The Council has utilised more of its statutory powers in relation to dealing with ASB and envirocrime. 1 closure order, 2 fixed penalty notices and 3 community protection notices have been issues since July 16 within the licensing area. Over 100 warning letters relating to early presentation have been issued since July 16.
- From July 16 to March 17 there were 181 reports relating to ASB and envirocrime. From July 15 to March 16 there were 238.



## **6. Financial Information**

- 6.1. The Council has to date received £67, 800 from licence fee income. The majority of this figure consists of the £120 fee paid to the Council via Homesafe for landlords that apply to be licensed in this manner. A small amount relates to the Council applications where the landlord pays the full fee of £375 up front.
- 6.2. A reasonable approach has been taken in regards to payments where a landlord has cited financial issues as the reason for not completing their application. This has been particularly relevant for those landlords who own multiple properties.
- 6.3. Members should note that the income received from the licence fee is allocated towards the administration of the scheme. Due to the additional number of properties identified the income received is greater than originally estimated. As a result there is scope for the administrative support for the scheme to be extended beyond the original two year period. Further details in relation to this will be provided once the application process is completed and the final income amount is confirmed.

## **7. Additional Information**

- 7.1. Where legislative guidelines has been unclear, we have sought legal advice to inform our position on a number of issues.
- 7.2. Although the Council has been advised that affected charities are not exempt from the scheme and therefore must be licensed, we have taken the position that we would not require charitable organisations to pay the usual licence fees. We are advised that this falls within the Council's remit to propose a reasonable fee structure.
- 7.3. Of the temporary exemptions applied for between October and December 2016, the vast majority were granted on the basis that properties were tenanted but in the sales process. The three month exemptions granted during this period are now expired, or due to expire shortly. In accordance with the legislation, the Council has taken the position that an additional three month exemption will only be granted in 'exceptional circumstances', which we have considered where contracts have been exchanged or have evidence of a scheduled date of exchange.
- 7.4. The Council has not issued formal exemptions for empty properties but advised that the owners will need to notify West Lindsey if they take steps to rent out the property. To date, 22 landlords across the same number of properties have contacted Selective Licensing regarding their empty properties – 14 of whom notified us of an intention to sell.
- 7.5. We have received representations against the conditions imposed by the licence from one landlord. As the representations made were

regarding the wording of the condition, rather than against the requirement itself, we felt it was a reasonable approach to amend the condition to reflect a moderate enforcement approach. All draft licences issued after this point have been subject to the amended wording.

7.6. Any landlord that successfully applied by the 1<sup>st</sup> of November will be provided with free training to enable them to carry out their own compliance checks in year 2 of the project. This training will be funded by the Council and is aimed at providing landlords with additional skills and knowledge in relation to the hazards that may be within their properties and how to address these. A date is being finalised for the delivery of the training and it is likely that it will be in autumn 2017.

## **8. Approach to Enforcement**

8.1. Where a landlord failed to obtain or complete their application by the 31<sup>st</sup> of January 2017 we are considering whether formal action is necessary. Any reasonable mitigation will be taken into consideration. Where there is not reasonable mitigation we will commence prosecution proceedings against the landlord. The timescales for this will vary depending on the case and we will liaise with legal services to ensure that the proceedings are brought as quickly as possible.

8.2. There are an estimated 35 properties which the Council know of that have not had their applications completed or applied for by the deadline. As the Council is taking a reasonable approach across the scheme the number of landlords that are prosecuted for this offense will be significantly less than this number.

8.3. There are currently an estimated further 214 properties, which may require a licence. These will also be considered for prosecution subject to the Council carrying out the relevant due diligence within each case.

8.4. At this stage of the scheme we are not considering the prosecution of any landlords for being non – compliant with the scheme conditions. Only when a landlord is licensed can they be considered for prosecution for non-compliance.

8.5. The Council continues to investigate reports of disrepair in the area alongside the scheme and continues to use its enforcement powers to address any issues found in advance of a landlord being licensed.

8.6. Elected members should note that there has already been a number of enforcement based activities undertaken within the area that are ongoing and which will impact upon the fit and proper person status for a number of landlords.

## **9. Ensuring Compliance**

- 9.1. To date 338 compliance checks have been undertaken within properties. These checks determine whether the landlord is compliant with the required licence conditions. The checks rate items, which then results in report for the landlord identifying any issues that require addressing. The items looked at within the compliance check are shown in appendix 1
- 9.2. To date, 30 properties checked are fully compliant. The remaining 308 have some form of compliance issue that the landlord will need to address in due course. The landlord is sent a report which details the findings of each compliance check.
- 9.3. If a property only has issues that are deemed to be response level 3 or 4 (medium or low), they will be advised that these will need addressing prior to their next inspection. These are issues such as plastering repairs, blocked gutters or faulty door handles (non – critical).
- 9.4. Any landlord who has an issue that is response level 1 (Urgent) or 2 (High) will be asked to address these in line with scheme’s requirements. These are emergency or critical issues that may cause harm.
- 9.5. In line with the original principles of the scheme, the approach to non-compliance will be risk based with the Council’s focus being on those landlords that present the highest risk. The Council are currently working with Homesafe to prioritise these issues and deal with them accordingly.
- 9.6. To ensure ongoing compliance within the scheme and to address issues of non-compliance the Council is working closely with Homesafe. Any reports relating to a breach of the licensing conditions will be dealt with as follows:
- Reports will be made to the Council in the usual manner via customers
  - Any reports relating to a licensed property and the licence conditions will be referred via the relevant officer to Homesafe or the Selective Licensing Officer (if not a Homesafe member)
  - Homesafe members will then be advised of the alleged non-compliance and asked to address the issue in line with the requirements of the scheme.
  - Homesafe will support the member to meet the requirements of the scheme. If they fail to do so, Homesafe will advise the Council of a potential breach.
  - As appropriate, the Council will then determine whether any formal enforcement action is required.

9.7. The Council will have full sight of all non-compliance issues via an online system and will reserve the right to deal with any emergency issues should it be necessary. This may be required for cases where the Council has an ongoing case for a specific property or where another statutory power would be more suitable to address the issue.

9.8. The Council will be able to provide a comprehensive report in relation to non-compliance as the scheme progresses and this will be available within a future update. There are already live examples of where the scheme has required landlords to be compliant in relation to ASB occurring from properties.

## **10. Feedback to Date**

### **10.1. Assisting with applications**

- The Council have directly supported 21 landlords in person to make their applications. This does not include over the phone support or the scanning of documents. Homesafe have also liaised with a large number of landlords to ensure that their applications can be progressed within the required timescales.
- This has included support to landlords that are housebound, facing difficult personal circumstances or those who have not accessed their property for a number of years.
- Where technical issues have been cited with the application process reasonable steps have been taken to work directly with landlords to resolve this. Given that the system is online based it has been essential to provide the necessary support to assist those who may not be used to this method of application.
- Each application requires technical information for each property. This is generally a requirement for any type of housing licence and is essential in order for the Council to determine the licence and any compliance issues.

### **10.2. Fit and Proper Persons**

- The Council has a published document detailing its requirements for fit and proper persons. To date, no landlords who have completed applications have been determined not fit and proper, except those who live abroad.
- Any landlord that lives abroad cannot be licensed by the Council. Legal advice has been sought on this matter. Any landlord impacted by this has been informed.

### **10.3. Public Register of Licensed Landlords**

- The public register of licensed landlords will be published for the first time on the 22<sup>nd</sup> of March 2017. This will be available via the

Council's website. The register will contain the property address and the licence holders' name.

- This information has already been requested by some residents within the area and will lead to information being reported in relation to properties that are unlicensed.

#### 10.4. **Tenant passport scheme**

- The Council is working internally to progress its tenant passport scheme for licensed landlords to ensure that it is assisting them when they are considering prospective tenants. It is intended to introduce the tenant passport in July 17.

### 11. Future Scheme Timescales

- 11.1. There are three distinct phases to the scheme, all of which will be progressed simultaneously from this point.

**Phase 1 – Licensing of landlords:** this has been ongoing since the 18<sup>th</sup> of July 2016 and it is our aim to ensure that all eligible landlords are licensed within the first year of the scheme.

**Phase 2 – Unlicensed Landlords:** prosecution will be considered for all landlords (known and unknown) who failed to obtain a licence by the 31<sup>st</sup> of January 2017. This phase will commence on April 1<sup>st</sup> 2017.

**Phase 3 – Ongoing Compliance:** all compliance checks for licensed landlords will be completed by July 17. The Council will then take a risk based approach to ensuring that all licensed landlords are fully compliant by the 1<sup>st</sup> of January 2018.

- 11.2. The timescales for future phases will be determined by the level of compliance and formal enforcement action resulting from the first 3 phases.

### 12. Recommendations

- 12.1. Members are asked to note the contents of this report and agree that further update will be provided in 6 months' time after the scheme has been in operation for one year.

## Appendix 1 – Response Level Information

The response levels are as follows:

**Response Level 1 URGENT** – Acknowledgement within 24 hours and make immediate arrangements to safe guard the property and the Tenant. Provide details of agreed follow up action(s) or outcomes within 3 days.

**Response Level 2 HIGH** – Acknowledgement within 48 hours and provide details of agreed follow up actions or outcomes within 5 days

**Response Level 3 MEDIUM** – Acknowledgement within 5 days and provide details of agreed follow up actions or outcomes within 15 days

**Response Level 4 LOW** – Acknowledgement within 5 days, and provide details of agreed follow up actions or outcomes within 20 days.

### **Response Level 1 URGENT (Primary Emergency Repairs)**

For the avoidance of doubt these are repairs which, if not completed, could potentially constitute a real risk of injury or death, lead to major damage of the property. Such issues may include but are not limited to:

- Explosions
- Building collapse
- Loss of or reduced access to escape routes (such as damaged upstairs windows or window locks)
- Total loss of electric power
- Partial loss of electric power (where this is related to more than one fitment but not related to issues with utility providers)
- Unsafe power or lighting socket or electric fitting
- Total loss of water supply (but not related to issues with utility providers)
- Total loss of gas supply (but not related to issues with utility providers)
- Partial loss of gas supply (where there is no other form of heating and not related to issues with utility providers)
- Blocked or leaking foul drain, soil stack, or toilet pan (where there is no other working toilet in the dwelling and not related to issues with utility providers)
- Toilet not flushing (where there is no other working toilet and not related to issues with utility providers)
- Leak from water or heating pipe, tank or cistern (but not related to issues with utility providers)
- Lost keys or access issues
- Rotten timber flooring or stair tread where access to rooms are prevented
- Leaking roofs if severe and likely to cause further damage
- Insecure or broken ground floor entrance doors or windows, or first floor if that is the main entrance level (in the case of flats). Property unable to be secured against unauthorised entry
- Gas fires not working properly or CO monitor sounding where a gas fire or solid fuel appliance is present
- Boundary walls, outhouses or other outbuildings in a dangerous condition where brickwork may fall on the occupants
- Electrical Certification C1 identified defects

- Any mandatory remedial works as advised by any fire risk assessment
- Any identified defects on the gas safety certificate relating to the property

### **Response Level 2 HIGH**

Such issues may include but are not limited to:

- Partial loss of water supply (but not related to issues with utility providers)
- Blocked sink, bath or hand basin waste pipes
- Tap which cannot be turned on or off
- Loose or detached banister or hand-rail
- Rotten timber flooring or stair tread
- Leaking roofs
- Door entry phone not working
- Mechanical extractor fan in internal kitchen or bathroom not working (excluding installations)
- Restore heating or hot water
- Windows with a sill height below 80cm from the finished floor level on the first floor or higher with an opening restrictor missing
- Light fitting not working (not just the bulb needs changing) in the bathroom, kitchen or over the staircase
- Loose carpet or floor covering on the staircase, or causing a trip hazard in the kitchen or bathroom where the resulting harm from a fall could be significantly increased
- Electrical certification C2 identified defects.

### **Response Level 3 MEDIUM**

Such issues may include but are not limited to:

- Damp and condensation mould
  - Plastering repairs
  - Renewal of doors (unless this creates an issue in respect of escape from the premises in the event of a fire etc)
  - Renewal of windows (unless this creates an issue in respect of escape from the premises in the event of a fire etc)
  - Renewal of wash hand basins
  - Other undefined light maintenance such as broken door handles
  - Leaking or blocked gutters/rainwater goods such as fall pipes
  - Light fitting not working in the living/dining or bedrooms
  - Internal doors damaged or won't close properly and cannot be secured in the closed position
  - Windows damaged, won't close or open properly, glazing cracked
- Restoration of cooking facilities, where the cooker was provided by the landlord.

### **Response Level 4 LOW**

Such issues may include but are not limited to:

- Any other repairs deemed to be non-critical
- Electrical certification C3 identified defects

