Selective Licensing of Private Landlords

Summary of Consultation Findings

The Housing Act 2004 gives Councils the power to introduce the licensing of private rented homes within a designated area, where it is or is likely to become:

- An area of low housing demand and / or
- An area which is experiencing a significant and persistent problem caused by anti-social behaviour.

Oldham Council wishes to introduce Selective Licensing on the grounds of low housing demand with the aim of improving the management of these properties to ensure they have a positive impact on the area.

Methodology

Oldham Council consulted all persons who are likely to be affected by the Council's proposal to designate parts of the borough for the purpose of Selective Licensing of private landlords under the Housing Act 2004. The areas for consultation included areas of Alexandra, Coldhurst, Hathershaw, Hollinwood, Oldham Edge, Primrose Bank, St Mary’s and Waterhead.

Landlords were identified using Council Tax and Housing Benefit data and local listings of Letting and Management agents. It is recognised there may be hidden landlords who have not been included in the consultation.

The Consultation was undertaken using a questionnaire survey either by face to face doorstep interview / online / by post with:

1. Household/Residents
2. Landlord, Management and letting agent
3. Local Business

Below is the table detailing response rate by group.

<table>
<thead>
<tr>
<th>Group</th>
<th>Eligible Population</th>
<th>Total Returned/Completed</th>
<th>Response Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resident</td>
<td>11,380</td>
<td>3672</td>
<td>32.2%</td>
</tr>
<tr>
<td>Landlord</td>
<td>1944</td>
<td>249</td>
<td>12.8%</td>
</tr>
<tr>
<td>Business</td>
<td>1009</td>
<td>76</td>
<td>7.5%</td>
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</tbody>
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Key Statistics:

- 80% of residents believed that Selective Licensing would help improve the proposed areas and 85% feel that the Council should have more control over the way that Private Landlords manage their properties.

- 20% of Private Landlords agreed that Selective Licensing would have a positive impact in the proposed areas.

- Around half (46%) of business respondents felt that Selective Licensing would have a positive impact on Private Rented Housing in the proposed areas.
• When asked if the Council should intervene in areas suffering from low housing demand and/or Anti-Social behaviour three quarters (73%) businesses, and half (47%) landlords respondents agreed.

• Agreement over the proposed areas designated for Selective Licensing is split with the majority (85%) of residents and 36% of Landlords agreeing. Business respondents appear to be undecided with 37% stating that they don't know.

• Overall, 85% of resident respondents felt that the council should have more control over the way that Private Landlords manage their properties.

• The majority of Landlord respondents indicated overwhelmingly that they (or their properties) were not currently registered with the current Greater Manchester Landlord Accreditation Scheme (85%) Three in ten (31.3%) Letting Agents declared that they were members.

• 38.3% of business respondents stated that their business had suffered as a result of a lack of good management by Private Landlords.

**Key Issues and Responses**

*Why is the scheme not throughout the whole of Oldham?*

The legislation is clear that an area can only be designated for selective licensing should it meet the specified criteria. The Council remains confident that the whole of the borough does not meet the criteria and has therefore consulted on those areas that it believes fit with the specific criteria laid down in the legislation and guidance.

*License fee is too high / It’s a money-making scheme for the Council*

(The draft proposal stated that licences would run for a maximum of five years and would carry a fee of £650).

There is case law of Hemming v Westminster Council that cites that the money has to be 100% for the scheme, and we have calculated the licence fee accordingly. In effect landlords themselves pay to improve the standards across their sector as opposed to Council tax payers funding improvements. Legislation allows local authorities to recover all costs incurred by them in carrying out licensing functions by way of the licensing fee. Having done further calculations, the proposed fee has now been revised and reduced to £490 per property for the five years of the scheme. We hope this fee is seen as good value for money at a cost of just £2 per week over the 5 year period.

The Council will have a dedicated Selective Licensing team in place that will be funded by the licence fee and is very confident that the relevant resource levels will be in place to effectively administer the proposed designation.
Wrong to target all landlords, the Council should concentrate on the bad ones

We have some sympathy with this view, however selective licensing treats all landlords in an area the same and creates a level playing field and all private landlords who are renting properties within the selective licensing area will have to apply for a Licence. Should a selective licensing scheme be introduced the Council would like to think that the whole landlord sector will benefit over time.

How will the council trace landlords where tenants do not claim benefits or have a private arrangement?

The selective licensing areas are clearly defined and using this information the dedicated team of officers will ensure that all landlords who are renting out properties within the defined neighbourhood operate with a licence.

What support will be available to landlords?

There will be an area of the Council website dedicated to selective licensing and this will contain information for landlords detailing their responsibilities on renting out properties. Landlords will also have the option to attend seminars organised by the council. The Tenancy Relations team can also provide support and advice to landlords and tenants should they have any issues or concerns.

What action is proposed if landlords don’t apply for a licence or subsequently fail to comply after licensing?

It is a criminal offence to operate a privately rented property without a Licence in a Selective Licensing area. A landlord will also commit a criminal offence if they fail to comply with any of the conditions of a Licence. Any licence holder found to be in breach of the licence conditions will be prosecuted and can face, upon conviction in a Magistrates Court, a fine of up to £5,000. The Council will then consider whether to revoke the licence and make a Management Order taking over management of the property. That person will not be able to become a landlord in any selective licensing area in the country.

What is the evidence of schemes in other areas where it has been proven to have had an impact?

The selective licensing scheme in Leeds was a proven success. Evidence of this includes increased rents, lower ASB rates and fewer empty properties in the area. Salford’s scheme is also seen as successful with the Council having recently introduced phase 4 of their selective licensing scheme (the first designation was in May 2007).

Do licensing conditions cover general house conditions e.g. damp/roof/guttering/ paintwork and the outside/fabric of the buildings?

The Licence conditions does state that the property must be free from category 1 hazards as defined by legislation, however, the main aims of the scheme are to improve standards of property management and tenant behaviour.
How will the proposed scheme differ from and improve upon existing legislation?
Selective licensing is a regulatory tool provided by the Housing Act 2004. Part 3 of the Housing Act 2004 gives local authorities the power to designate the whole of, or parts of, their district for selective licensing provided that one of two specific conditions is met; the area is, or is likely to become an area of low housing demand, or that the area is experiencing a significant and persistent problems caused by antisocial behaviour. The scheme is designed to bring about improvements in the management of rental properties.

What proportion of the areas in question is lived in by owner/residents vs tenants?
In the proposed selective licensing designation areas where consultation took place, the percentage of privately rented properties averages at 21.1%, owner occupation at 51.6% and social housing at 24.9% (figures taken from the 2011 Census). At 21.1%, the proposed designation areas have considerably higher figures for privately rented property than the Oldham average which stands at 12.2%.

Who is going to lead the project and will there be an independent body overseeing and auditing the project?
The scheme will be lead by the dedicated Selective Licensing team with Senior Management being responsible for the auditing the scheme. There will be no independent body overseeing the scheme.

Should a landlord sell his/her property(s) before the duration of the license has ceased would a refund be made available
Unfortunately not. The cost of the licence covers the administration of the licence which will already have taken place.