

## REPORT TO CABINET

26 June 2019

<b>Subject:</b>	Proposal to Introduce Selective and Additional Licensing
<b>Presenting Cabinet Member:</b>	Councillor Joanne Hadley - Cabinet Member for Homes
<b>Director:</b> <i>(Insert all that apply from drop down choice).</i>	Director – Prevention and Protection – Stuart Lackenby Executive Director of Adult Social Care, Health and Wellbeing – David Stevens
<b>Contribution towards Vision 2030:</b> <i>(Insert all that apply from drop down choice).</i>	
<b>Key Decision:</b> <i>(An executive decision which is likely to incur significant expenditure or have a significant effect on the community (see Article 13 of the Constitution)).</i>	Yes
<b>Forward Plan (28 day notice) Reference:</b> <i>(A 28 day notice of key decisions that the Cabinet is expected to take over the next three months).</i>	SMBC02/10/2018
<b>Cabinet Member Approval and Date:</b>	Councillor J Hadley 05/06/2019
<b>Director Approval:</b>	05/06/2019
<b>Reason for Urgency:</b> <i>(if applicable please contact DSU for advice):</i>	Urgency provisions do not apply
<b>Exempt Information Ref:</b> <i>(if applicable please contact DSU for advice)</i>	Exemption provisions do not apply
<b>Ward Councillor (s) Consulted (if applicable):</b> <i>(Enter the names of all Ward Councillors who have been consulted).</i>	Ward Councillors have not been consulted
<b>Scrutiny Consultation Considered?</b>	Scrutiny have not been consulted
<b>Contact Officer(s):</b> <i>(Enter the name, position and email address for each officer).</i>	Neil Cox, Interim Service Manager – Regulatory Services

## **DECISION RECOMMENDATIONS**

### **That Cabinet:**

1. Approve a public consultation on the introduction of selective and additional licensing for private rented accommodation as detailed in section 4 of this report,
2. Approve the consultation to include proposed selective and additional licensing conditions for private sector accommodation (Appendix 1) and associated fee levels (Appendix 2).

## **1 PURPOSE OF THE REPORT**

- 1.1 This report sets out the evidence base for the introduction of selective and additional licensing as detailed in section 4 of this report and seeks cabinet permission to publicly consult on its introduction, the proposed licensing conditions and associated fee levels.
- 1.2 Should cabinet agree the proposals above, a further report will be presented to cabinet following completion of the consultation. This further report will provide the outcome of the consultation and request potential approval on the implementation of selective and additional licensing.

## **2 IMPLICATIONS FOR SANDWELL'S VISION**

- 2.1 The proposed introduction of selective and additional licensing positively contributes to the following Council Vision 2030 ambitions;
  - Ambition 2. Sandwell is a place where we live healthy lives and live them for longer and where those of us who are vulnerable feel respected and cared for. – Improved quality of accommodation actively contributes to improved health outcomes. Selective and additional licensing in the specific area will reduce the impact that poor quality housing has on vulnerable individuals.
  - Ambition 5. Our communities are built on mutual respect and taking care of each other, supported by all the agencies that ensure we feel safe and protected in our homes and local neighbourhoods – Selective and additional licensing will look to reduce levels of anti-social behaviour.
  - Ambition 7. We now have many new homes to meet a full range of housing needs in attractive neighbourhoods and close to key

transport routes. – The introduction of selective and additional licensing will improve the condition of the private rented properties in the specific areas meaning the area is a more attractive place to live.

### **3 BACKGROUND AND MAIN CONSIDERATIONS**

- 3.1 The private rented sector plays an important part in providing accommodation in the borough. The sector in Sandwell has grown from 5% in 2001, to 15% in 2011 and through to an estimated 26% (34,386 Building Research Management limited- (BRE) report) of accommodation in the borough for the current year. There are numerous high quality landlords and letting agents providing a range of property types throughout the borough to meet a broad range of housing needs.
- 3.2 The borough has faced a major increase in private rented accommodation in some areas and it is recognised that there are landlords and agents who do not provide adequate accommodation or management of their properties. This poor management of properties has a significant impact on people's lives and on council and partner resources in tackling issues such as anti-social behaviour, fly tipping of domestic waste, concerns about property condition and harassment and illegal eviction. The council has implemented a range of powers and approaches to seek to address many of these issues but the on-going pressures are such that a new approach is considered necessary.

#### **3.3 Selective Licensing**

Councils across the country have effectively utilised available powers to mitigate the impact of poor quality private rented sector properties and irresponsible landlords. Part 3 of the Housing Act 2004 sets out the scheme for licensing private rented properties in a local housing authority. Under section 80 of the Act, the Council can designate the whole or any part or parts of its area as subject to selective licensing. The scheme does not apply to owner occupied or social housing properties.

- 3.4 Subject to certain exemptions specified in the Selective Licensing of Houses (Specified Exemptions) (England) Order 2006, all properties in the private rented sector which are let or occupied under an assured short hold tenancy or licence are required to be licensed by the Council if that area has been designated for selective licensing. A fee is charged by the Council to the landlord for the duration of the licence.
- 3.5 These powers to introduce selective licensing of private rented homes are put in place by Councils to tackle problems in their areas, or any parts of them, caused by;

- Low housing demand; or
- Significant anti- social behaviour; or
- Poor property conditions; or
- An influx of migration; or
- A high level of deprivation; or
- High levels of crime

3.6 Selective licensing is designed to benefit the local community and ensure that all private rented property within a designated area is managed by the landlord to a satisfactory standard prior to a licence being granted. Robust enforcement action is taken if license holders fail to comply with the licensing conditions. The introduction of selective licensing can contribute to;

- Better housing conditions
- Reduction in crime and anti-social behaviour
- Reduction in domestic waste accumulations
- A reduction in overcrowding
- Increased landlord engagement with the Council and partner organisations working in the area
- A reduced ability for rogue/criminal landlords to enter the market
- Increased ability to deal with rogue/criminal landlords
- Improved relationships between landlords and tenants
- Improved image and perception of the area making it a more desirable place for people to live.

### 3.7 **Additional Licensing**

The Housing Act 2004 requires local housing authorities to mandatory licence Houses in Multiple Occupation (HMOs) if they accommodate more than five people who form two or more households. The Act also gives authorities the power to introduce an additional licensing scheme for other smaller HMOs. This power can be considered if the authority believes they are not being managed sufficiently which gives rise or are likely to give rise to problems for the occupants or residents of the area.

3.8 The implementation of additional licensing schemes allow for these properties and their operation to be subject to proactive licensing requirements that would not otherwise be available. A fee is charged by the Council to the landlord for the duration of the licence which has clearly defined conditions which the landlord must satisfy. The introduction of additional licensing can contribute to:

- higher standards of HMO accommodation and ensuring effective management through more extensive control;
- protecting the health, safety and well-being of tenants and communities;
- neighbourhood improvement and the prevention and control of anti-social behaviour;
- easier identification of rogue landlords and enabling action to be taken to respond to this behaviour;
- completing a full suite of private sector licensing schemes, allowing for a consistent and robust approach to raising standards.

3.9 The government has set out clear guidance to structure council decisions to introduce selective/additional licensing through the provision of updated legislation in April 2015 (via an Amended General Approval). This guidance states that before any council can consider making a selective/additional licensing designation it must ensure that the area in question has a high number of private rented properties occupied under assured tenancies or licences and that it meets one (or more) of the following criteria;

1. **Low Housing Demand** - It is, or is likely to become, an area of low housing demand; or
2. **Anti-Social Behaviour** - It has a significant and persistent problem with anti-social behaviour where the inaction of private landlords is a contributory factor; or
3. **Housing Conditions** - Following a review of housing conditions, it is believed that the area is suffering from significant housing condition problems and the council intends to inspect the dwellings concerned; or
4. **Migration** - It has experienced a recent influx in migration, and where the migrants are primarily occupying privately rented accommodation; or
5. **Deprivation** - It suffers from a high level of deprivation which particularly affects the occupiers of privately rented accommodation; or
6. **Crime** - It suffers from a high level of crime that affects residents and businesses in the area.

3.10 To inform the Council's consideration of the potential introduction of selective/additional licensing, BRE were commissioned in early 2018 to undertake a series of modelling exercises on Sandwell's housing stock.

These modelling exercises utilised sophisticated tools that incorporated local and national data to evaluate the make-up of local households.

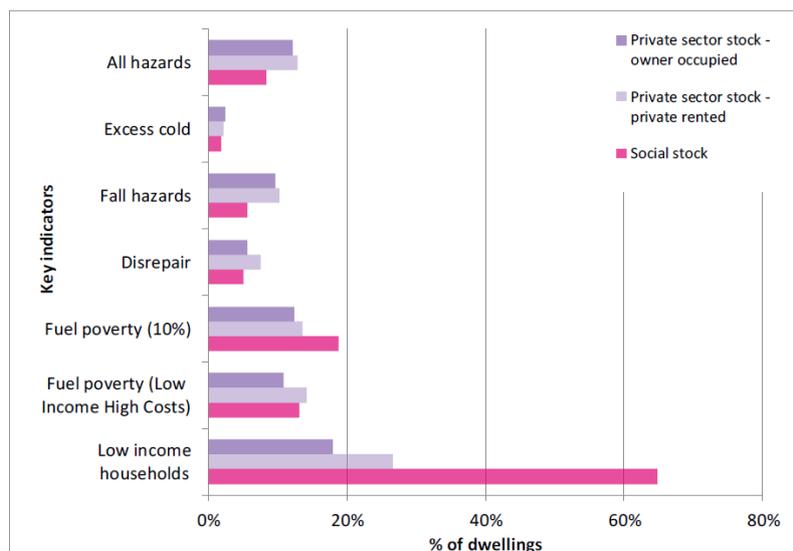
When the above is considered in relation to Sandwell the borough has levels of crime and ASB that would meet the prevalence criteria above however current data does not allow this to be attributed to private rented accommodation. The areas below however appropriate for the consideration of selective/additional licensing in relation to prevalence and link to private rented accommodation;

- Housing Conditions
- Migration
- Deprivation

### 3.11 Housing Conditions

Whilst the 2011 Census data shows Sandwell as having 15, 674 private rented sector (PRS) properties, the BRE report suggests the private rented sector in Sandwell makes up an estimated 26% (34,386) of all housing accommodation in the borough with some wards in Sandwell in excess of 35%. This is significantly higher than the national average of 20%.

BRE, estimate through their Housing Stock Condition model database that the private rented stock in Sandwell has higher levels of disrepair and fuel poverty (based on the ability of households to meet fuel costs) when compared to social housing and owner-occupied properties as detailed in the chart below.



This analysis is further evidenced through the inspection and enforcement activity of the Council's Housing Quality Team. The team provide advice, assistance, support and signposting services as well as direct intervention

for private tenants, landlords and owners of empty properties. Many of these customers are vulnerable or economically inactive and often require some form of assistance to either maintain or remain in their homes.

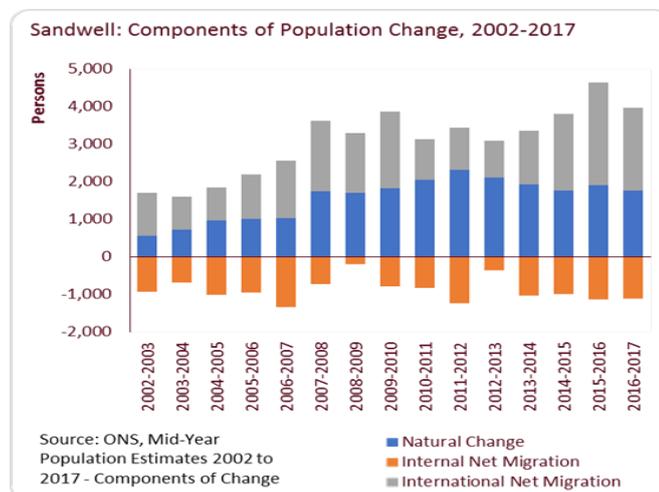
The table below shows the level of complaints / enquires received by the Housing Quality Team (HQT) into private rented housing. The table also depicts that whilst enforcement action has been undertaken it has not considerably reduced the level of complaints, thus suggesting a need to move to the more proactive approach associated with selective/additional licensing

Year	Number of complaints / enquires received by HQT Triage system
2014	886
2015	810
2016	845
2017	887

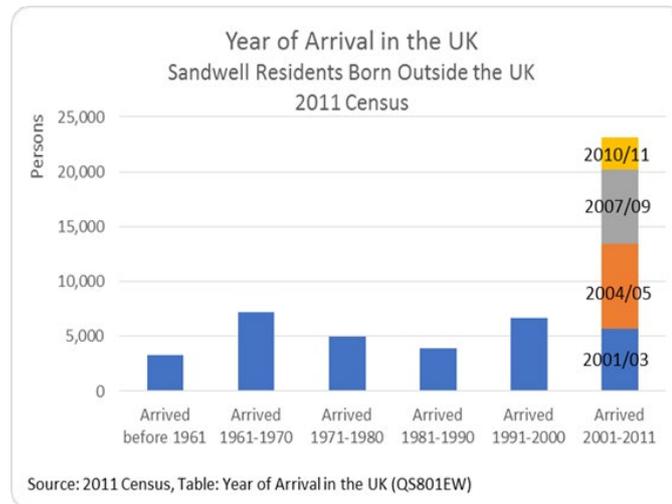
### 3.12 Migration in Sandwell

The latest population estimate for Sandwell is 325,460, this is the 2017 mid-year estimate produced by the Office for National Statistics. Over the sixteen-year period between 2001 and 2017 Sandwell's estimated population has increased by 14%, rising by 40,866 people, from 284,594 in 2001. Sandwell's population is projected to increase further, with the latest 2016 based population projections showing an increase of 30,300 people from 322,600 in 2016 to 352,900 in 2030. This is an increase of 9.4%, which is a higher growth rate than for England and Wales at 7.5% over the same period.

This population change has been heavily influenced by both UK internal and international migration as depicted in the table below.

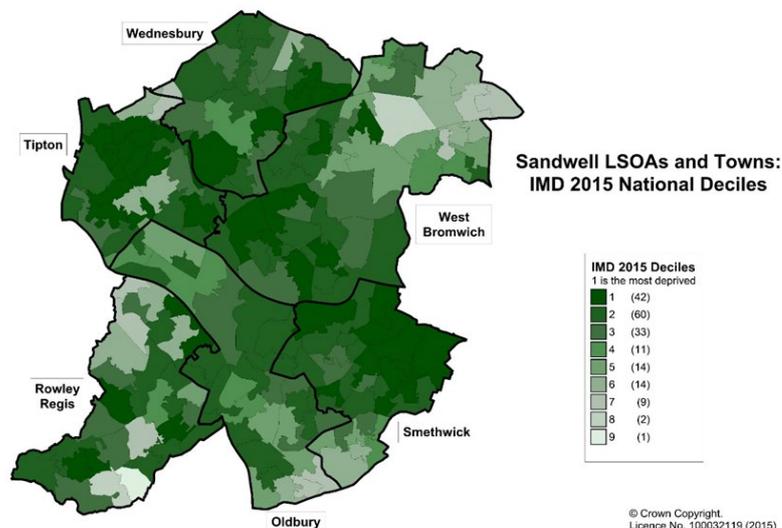


In 2011, 15.9% of Sandwell's resident population were born outside of the UK. Just under a half of these residents born outside the UK arrived in the country within the period 2001 to 2011 with 36% arriving between 2004 and 2011. These results depicted in the table below are comparable to year of arrival figures for England and Wales. Census data suggests that high proportions of new entrants to Sandwell occupy private rented accommodation.



### 3.13 Deprivation in Sandwell

The latest Indices of Multiple Deprivation (IMD) 2015 shows Sandwell's average deprivation score as ranked 13th most deprived local authority in England, out of a total of 326 (where 1 is the most deprived.)



3.14 The table above demonstrates deprivation in Sandwell is wide spread across the borough, with the highest levels of deprivation running from north-west to south-east. Calculated population weighted average scores place Soho & Victoria and Princes End wards in the 10% most deprived areas in England. The most affluent areas in Sandwell are in the north-east, south and south-west peripheries of the borough, with Newton and Great Barr with Yew Tree wards being the most affluent, although still only being placed in the 5th decile for deprivation scores nationally. The BRE report suggests a direct correlation between deprivation and areas of high volume poor quality private rented accommodation.

### 3.15 **Approval requirements**

The Secretary of State for Communities and Local Government in exercise of powers under sections 58(6) and 82(6) of the Housing Act 2004 gives to all local housing authorities in England the following general approval in relation to areas designated for additional or selective licensing.

The general approval is granted if the local authority:

- (a) takes reasonable steps to consult persons who are likely to be affected by the designation for not less than 10 weeks.
- (b) the designation, either by itself, or in combination with other selective licensing designations made by the local housing authority, would not cover more than 20% of the geographical area of the local housing authority; or
- (c) the designation, either by itself, or in combination with other selective licensing designations made by the local housing authority, would affect more than 20% of privately rented homes in the local housing authority area, based on figures from census data.

2011 Census data shows Sandwell as having 15, 674 PRS properties. Applying the 20% rule this only allows Sandwell to license 3,135 properties across all licensing schemes at present.

## 4 **THE CURRENT POSITION**

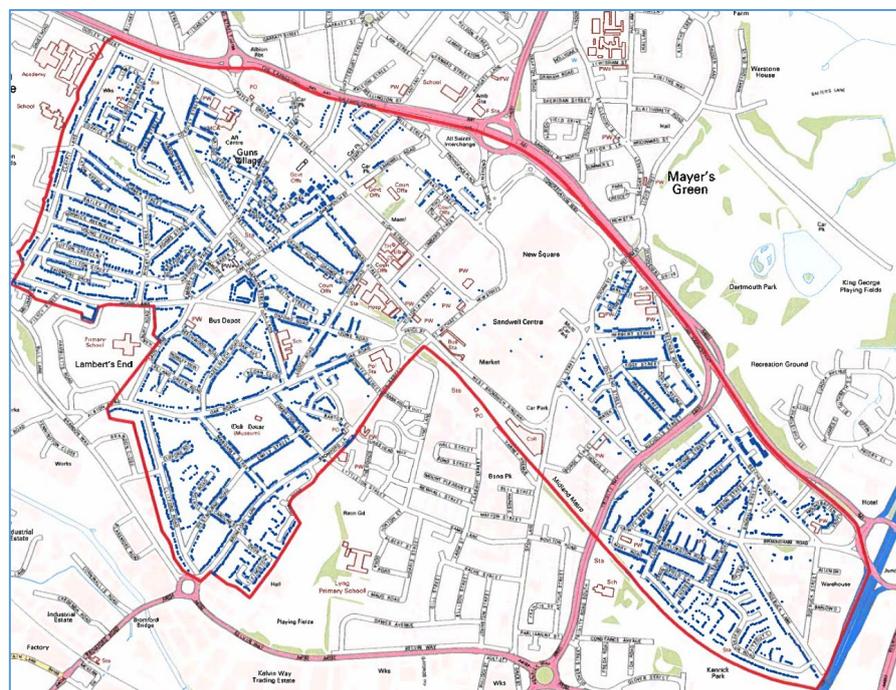
In consideration of the implementation of selective/additional licensing, census output areas across Sandwell with the highest percentage of private rented sector properties were identified. Census output areas are designed specifically for statistical purposes. They are based on data from the 2001 Census and are built from postcode units. In Sandwell,

there are 925 Census Output Areas. Each area has an average of 130 households.

These areas were then overlaid with the following information:

- Reports of Anti-Social Behaviour
- Levels of Deprivation
- Concentration of properties with potential Category 1 Hazards
- Concentration of Houses in Multiple Occupation

When considered, this information suggests that the area of West Bromwich illustrated below would best meet all of the criteria for the introduction of selective/additional licensing and would also see significant benefits from its implementation.



The area in West Bromwich identified above has a potential 3,007 private rented properties/houses of multiple occupancy that would require licensing under the proposed scheme.

To support the implementation of selective and additional licensing the following documents have been produced and will form part of the proposed consultation.

- Selective licensing scheme conditions – Appendix 1
- HMO licensing scheme conditions – Appendix 2
- Selective licensing proposed fees – Appendix 3
- HMO licensing proposed fees – Appendix 4
- Selective licensing fee calculation – Appendix 5
- HMO licensing fee calculation – Appendix 6

- HMO licensing renewal fee calculation – Appendix 7

## 5 **CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)**

Local residents, landlords and tenants (and any other person likely to be affected by the selective licensing designation) must be consulted prior to the introduction of a licensing scheme.

Section 80 (9) of the Act states that when considering designating an area the local housing authority must:

- Take reasonable steps to consult persons who are likely to be affected by the designation, and,
- Consider any representations made in accordance with the consultation

- 5.1 To be compliant the approach will include consultation of local residents, including tenants, landlords and where appropriate their managing agents and other members of the community who live or operate businesses or provide services within the proposed designation. It will also include local residents and those who operate businesses or provide services in the surrounding area outside of the proposed designation that will be affected. The consultation will be widely publicised using various channels of communication.
- 5.2 As the proposed designation does not require the confirmation of the Secretary of State because of its extent the consultation on the proposed scheme will be for 10 weeks.
- 5.3 The consultation will be informative, clear and to the point, so the proposal is readily understood. It will inform local residents, landlords, letting agents and businesses about the proposed designation, giving the reasons for proposing it, why alternative remedies are insufficient, demonstrating how it will tackle specific problems together with other specified measures, and describing the proposed outcome of the designation. It will also set out the proposed fee structure and level of fees the authority is minded to charge. Consultees will be invited to give their views, and these will all be considered and responded to.
- 5.4 Whilst providing an opportunity for consultees to provide their views, consultees will also be asked to validate the Council's understanding of the local housing stock, particularly around HMO status.
- 5.5 Once the consultation has been completed the results will then be published and made available to the local community. This will be in the

form of a summary of the responses received and will demonstrate how these have either been acted on or not, giving reasons.

5.6 Should Cabinet approve the public consultation on selective/additional licensing then such consultation will be constructed to meet the prescribed requirements set out above. The consultation will be based upon the following key approaches;

- Individual letters to all households and business within and around the designated areas inviting comment through the Council's website – estimated to be around 40,000 postal addresses.
- Validation of property types to enable accurate forecasting of licence fees to be generated by the scheme.
- Engagement sessions with ward Councillors
- Road shows across the borough
- Sandwell Herald advert
- JCD Board advertising
- Local housing forums

5.7 The estimated cost of undertaking and processing the consultation is £30,000.

## 6 **ALTERNATIVE OPTIONS**

Without approval to consult the Council will not be able to introduce select/additional licensing as described in this report. Without the additionality provided by selective/additional licensing reactive responses to poor quality private rented sector properties will continue but will be unlikely to make positive inroads in dealing with this local issue.

## 7 **STRATEGIC RESOURCE IMPLICATIONS**

A consultation on the introduction of selective/additional licensing as described within this report will have an estimated cost to the Council of £30,000. This cost will be met from the Adult Social Care Health and Wellbeing budget.

The following strategic resource implications would be associated with the implementation of selective and additional licensing as described in this report.

- An estimated 3,007 private rented properties within the designated area would require licencing. License fees are described in detail in appendix 3 and appendix 4. The fee structure provides the five-year licensing cost alongside a range of discounts available and variation

charges. The likely income generated by the introduction of the scheme will be validated through the proposed consultation. Before discounts are applied the following outline, fee levels are proposed.

Property Type	5 year License Fee
House of multiple occupancy	£850
Private rented property	£650

- Income generated from the introduction of the scheme will cover the costs of operating the scheme.
- Additional staff will be required for the purposes of;
  - Administering the licence application
  - Enforcement against licence conditions
- Enforcement against the licensing conditions proposed in this report will result in the application of civil penalties for non-compliance. Such penalties will generate income for the Council.

Should the recommendations of this report be approved, then following completion of the consultation described above a further report will be brought to cabinet. This report will provide further detail on estimated income generated by the scheme and clarity on the workforce requirements associated with its implementation and management.

## **8 LEGAL AND GOVERNANCE CONSIDERATIONS**

Part 3 of the Housing Act 2004 sets out the scheme for licensing private rented properties in a local housing authority. Under section 80 of the Act, the Council can designate the whole or any part or parts of its area as subject to selective licensing.

- 8.1 The Housing Act 2004 requires local housing authorities to mandatory licence HMOs if they accommodate more than five people who form two or more households. The Act also gives authorities the power to introduce an additional licensing scheme for other smaller HMOs.
- 8.2 The Secretary of State for Communities and Local Government in exercise of powers under sections 58(6) and 82(6) of the Housing Act 2004 gives to all local housing authorities in England the following general approval in relation to areas designated for additional or selective licensing.

- 8.3 The general approval is granted if the local authority (a) takes reasonable steps to consult persons who are likely to be affected by the designation for not less than 10 weeks. (b) the designation, either by itself, or in combination with other selective licensing designations made by the local housing authority, would not cover more than 20% of the geographical area of the local housing authority; or (c) the designation, either by itself, or in combination with other selective licensing designations made by the local housing authority, would affect more than 20% of privately rented homes in the local housing authority area, based on figures from census data.

## **9 EQUALITY IMPACT ASSESSMENT**

An Equality Impact Assessment has been completed as part of Cabinet report process which has identified no adverse impacts or issues of concern for protected groups.

## **10 DATA PROTECTION IMPACT ASSESSMENT**

The approach to selective/additional licensing will be fully compliant with GDPR

## **11 CRIME AND DISORDER AND RISK ASSESSMENT**

The proposals of this report, if implemented will contribute to reductions in crime and disorder.

The Corporate Risk Management Strategy has been complied with to identify and assess the significant risks associated with this decision. This includes (but is not limited to) political, legislation, financial, environmental and reputational risks.

As this report is solely requesting permission to consult on the initiation of consultation there are no significant risks associated to the recommendation being put forward.

## **12 SUSTAINABILITY OF PROPOSALS**

The required resource for implementing selective/additional licensing is generated through the scheme's license fee and as such should be a least cost neutral to the Council. The proposals set out in this document if implemented will inform future discussions and decision making around future borough wide approaches to licensing.

### **13 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)**

Selective/additional licensing is designed to benefit the local community and ensure that all private rented property within a designated area is managed by the landlord to a satisfactory standard prior to a licence being granted. Robust enforcement action is taken if license holders fail to comply with the licensing conditions. The introduction of selective licensing can contribute to;

- Better housing conditions
- Reduction in crime and anti-social behaviour
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- A reduced ability for rogue/criminal landlords to enter the market
- Increased ability to deal with rogue/criminal landlords
- Improved relationships between landlords and tenants
- Improved image and perception of the area making it a more desirable place for people to live.

### **14 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND**

14.1 There is no impact on any council managed property or land based on the proposals outlined in this report.

### **15 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

The private rented sector plays an important part in providing accommodation in the borough. The sector in Sandwell has grown from 5% in 2001, to 15% in 2011 and through to an estimated 26% (34,386) of accommodation in the borough. There are numerous high quality landlords and letting agents providing a range of property types throughout the borough to meet a broad range of housing needs.

15.1 The borough has faced a major increase in private rented accommodation in some areas and it is recognised that there are landlords and agents who either do not provide adequate accommodation or management of

their properties. This poor management of properties has a significant impact on people's lives and on council and partner resources in tackling issues such as anti-social behaviour, fly tipping of domestic waste, concerns about property condition and harassment and illegal eviction. The council has implemented a range of powers and approaches to seek to address many of these issues but the on-going pressures are such that a new approach is considered necessary.

15.2 The proposed consultation on the introduction of selective and additional licensing will support the Council in developing a more proactive approach to deal with these issues.

## 16 BACKGROUND PAPERS

16.1 The BRE report identified in this document has been used extensively to support the suggested approach. This report however contains significant amounts of sensitive information and should not be made publicly available

## 17 APPENDICES:

- Selective licensing scheme conditions – Appendix 1
- HMO licensing scheme conditions – Appendix 2
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**Stuart Lackenby**  
**Director – Prevention and Protection**