

# Luton Borough Council:

## Private rented sector licensing scheme proposal

Consultation document

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**Version:** 1.0 (published)

**Last updated:** 08 July 2021

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## **Appendix 1 Private Sector Stock Modelling Report from the Building Research Establishment (BRE)**

**Appendix 2 Case study**

**Appendix 3 Proposed Additional and Selective Licence Conditions**

**Appendix 4 Proposed schedule of licensing fees**

## **What is property licensing?**

There are three types of licensing schemes councils can use to regulate private rented properties in their boroughs. Two of the schemes relate to houses in Multiple Occupation – often referred to as HMOs. An HMO usually has a shared kitchen, bathroom and sometimes a shared living room (known as amenities).

**Mandatory licensing:** Since 2006, all councils in England have operated a licensing scheme for certain larger HMOs. Under this scheme, most HMOs that have five or more occupants living as two or more households have to be licensed by the local authority. The scheme was originally restricted to HMOs comprising three or more storeys, but that restriction was removed in October 2018.

**Additional licensing:** Councils can introduce additional licensing to cover any other type of HMO in their area. It can apply to specific types of HMOs in specific areas as determined by the local authority.

**Selective licensing:** this type of scheme covers all other privately rented properties within the designated area, subject to statutory exemptions.

The council can designate an area for additional or selective licensing for five years but must first demonstrate the evidence of their concerns, look at alternative approaches and consult widely.

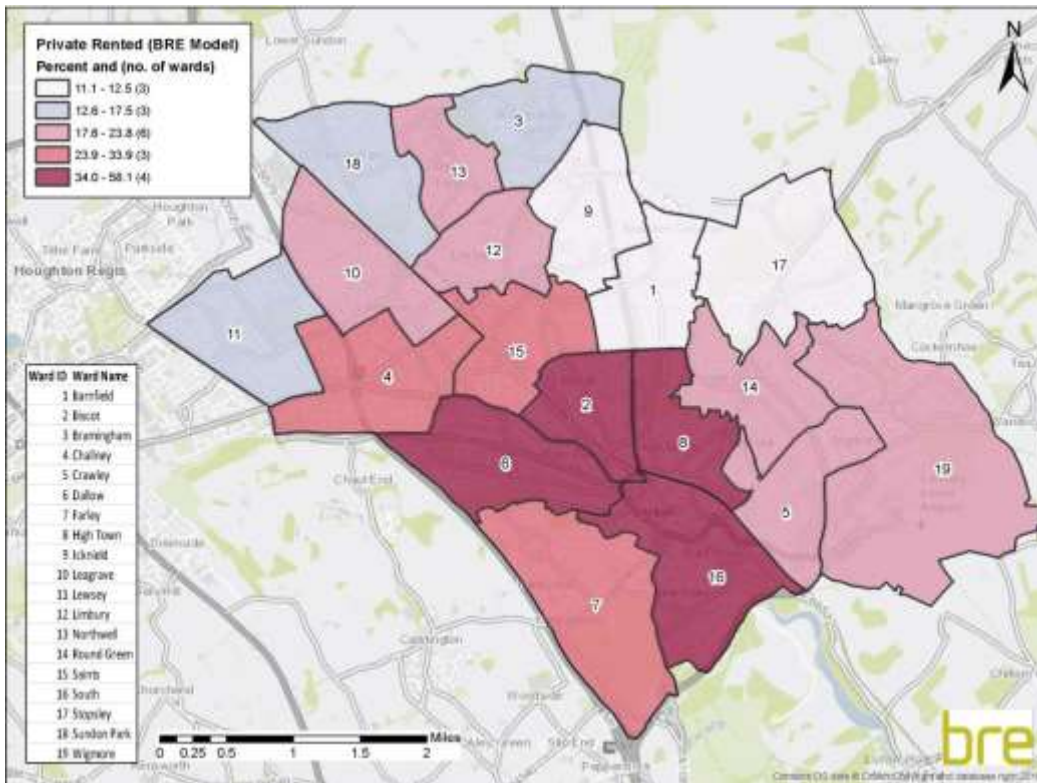
## **Why is Luton considering licensing?**

The Private Rented Sector (PRS) in England has grown from 1 in 10 households in 2004 to 1 in 5 households in 2019 (19%). Private rented sector housing is a large and growing proportion of the overall housing stock in Luton. Although owner occupation still predominates in the borough, for an increasing number of our residents the private rented sector is the only solution to securing an affordable place to live. The sector is therefore meeting an essential need, and as the population continues to grow this is unlikely to change for the foreseeable future.

Poor housing in the private rented sector however, has negative impacts, not just on tenants, and these can be wide ranging including for example poor health and educational outcomes, but also on the wider community.

In 2019, the Council commissioned a Private Sector Stock Modelling Report from the Building Research Establishment (BRE) in 2019 (Appendix 1) to provide current data/intelligence relating to the condition of the private sector stock as required by section 3 of the Housing Act 2004, to inform future policy direction.

The BRE report estimated that the PRS in Luton is higher than the national average now accounting for 29% of the 83,438 dwellings in Luton. More than half of the wards (12 out of 19 wards) in Luton have a percentage of private rented sector dwellings greater than the national average, in particular High Town (58.1%) and South (49.1%).



Some of the key issues identified with the PRS include:

## Disrepair:

Disrepair is a problem across the private sector. On the modelled data used by BRE (and supported by information provided by the borough’s enforcement activity), as many as 12% of all properties in the private sector have serious Category 1 HHSRS hazards, that is 8,655 dwellings in total. In the PRS alone this figure is slightly higher at 13%, or 3,138 dwellings.

Four wards are identified in the BRE report as having more than 40% private rented stock and of these South ward has the highest number of Category 1 hazards (572) (Table 8: Private rented sector stock – number and percentage of dwellings for each of the Housing Standards Variables, and average Simple SAP ratings by ward (BRE report)).

## Houses in Multiple Occupation:

It is estimated that there are 4,576 Houses in Multiple Occupation (HMOs) in Luton, comprising 6.5% of PRS dwellings. At present, about 20% of HMOs (705) require licensing under the mandatory HMO licensing scheme and 80% of HMOs (3,871) fall outside the current licensing criteria. There are currently 440 licensed HMOs in the borough.

HMOs in the borough have slightly higher levels of excess cold and fall hazards than in the PRS overall and notably higher levels of fuel poverty but lower levels of disrepair and low income families. This latter fact is probably because HMOs are more likely to house working single person households.

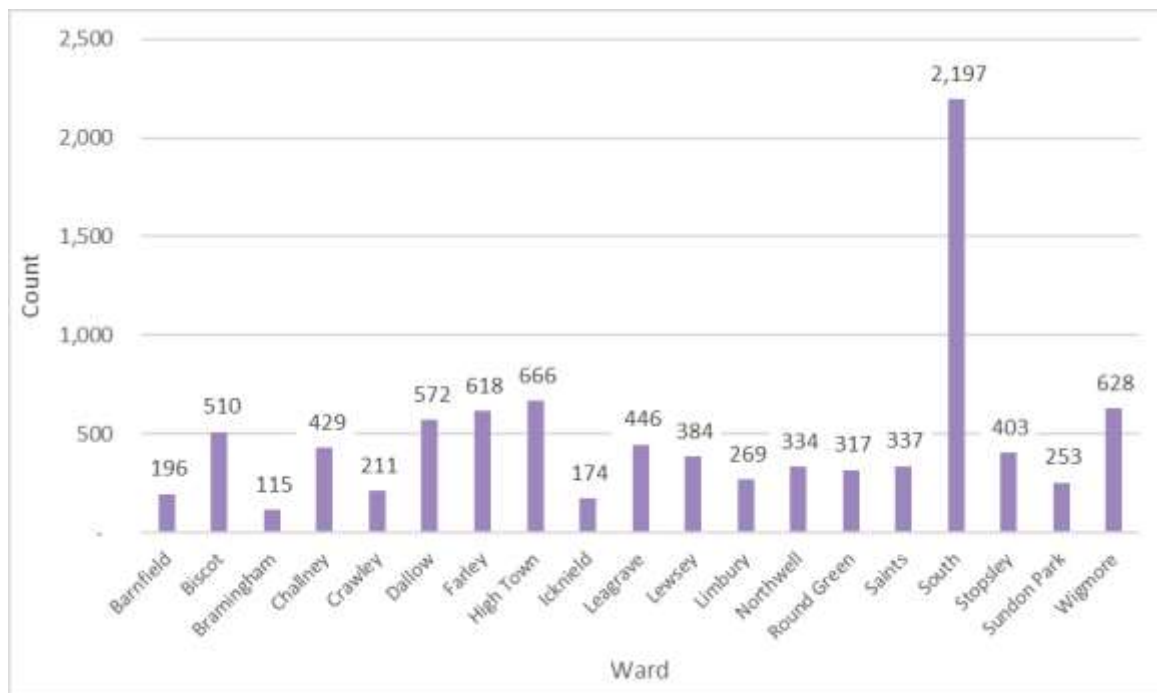
55% of all HMOs in Luton are in the four wards with over 40% private rented stock, South (847), High Town, (719), Dallow (638) and Biscot (330). Although HMOs are concentrated in the older central parts of Town they are becoming more common across the Borough.

Anti- Social Behaviour (ASB) and deprivation

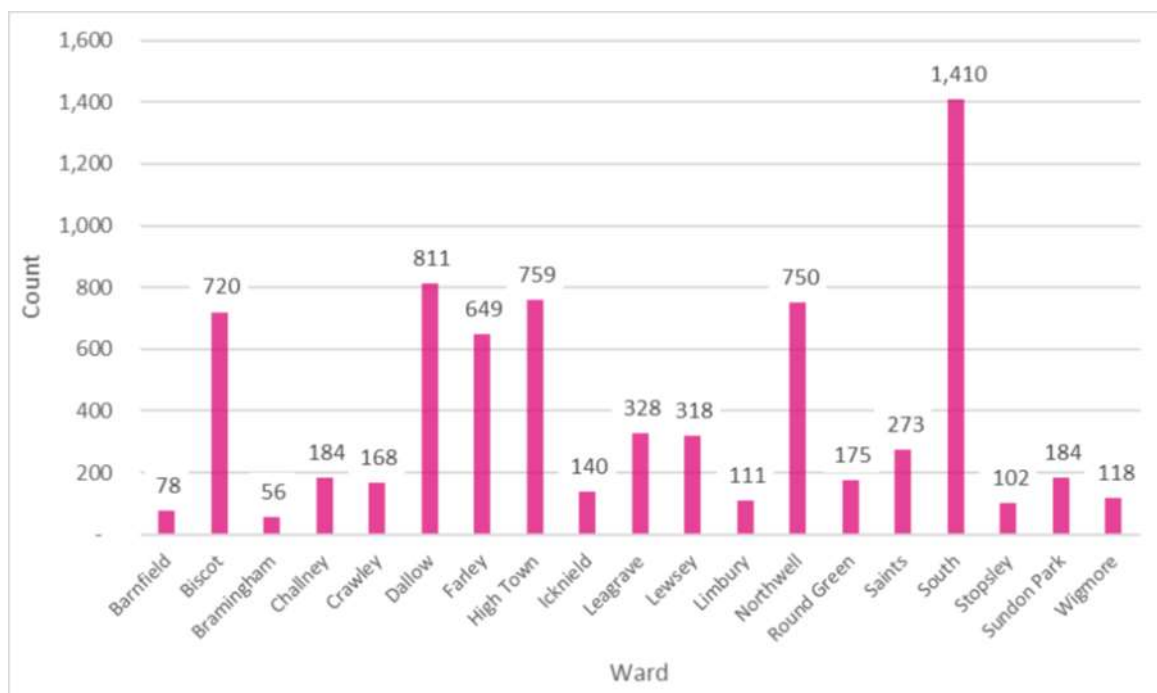
A number of issues have been associated with high concentrations of PRS housing, principally anti- social behaviour (ASB), fly tipping and deprivation. Problems with ASB are highest in South

ward (including data for the town centre), High Town and Wigmore, but it is very difficult to link incidences of ASB directly related to housing. However the BRE data suggests there could be some correlation between high levels of ASB and fly tipping with high levels of PRS stock.

The BRE report also shows the highest levels of ASB and fly-tipping in South ward.



Incidences of ASB by ward, 1/4/16 – 31/3/17 (Source: Luton Borough Council ward profiles)



Incidences of fly tipping by ward, 1/4/16 – 31/3/17 (Source: Luton Borough Council ward profiles))

The report identified a correlation between concentrations of PRS dwellings and deprivation. In Farley ward for example, 83% of PRS dwellings are in the 20% of the most deprived Lower Super Output Areas in England. For Northwell the figure is 81%, for Biscot it is 72%., and for South ward it is 59%.

## Enforcement Activity:

The highest levels of enforcement activity related to property conditions have been in south ward. The Council's records show enforcement activity has been increasing in South Ward as follows:

- 2017-18: 62 Statutory Notices served
- 2018-19: 70 Statutory Notices served
- 2019- 20: 81 Statutory Notices served

In each year the ward with the next highest activity is Biscot with 62 notices in 2017-18; 46 in 2018-19 and 44 in 2019-20.

A particular focus has been on the town centre where the highest levels of PRS and old buildings are located. It is frequently necessary to serve informal notices to resolve issues and in some cases take further action.

## What are the benefits of licensing?

Licensing will help identify irresponsible landlords who impact negatively on the reputation of responsible landlords. It will assist landlords that are not familiar with all the requirements for establishing a rental business with what they need to do. It will raise conditions, management standards, improve tenancy arrangements and help tackle Anti Social Behaviour (ASB), see for more information on Anti Social Behaviour.

Licensing will improve the renting in Luton by improving conditions, raising management standards and ensuring proper tenancy arrangements are in place.

Tenants and prospective tenants will know that landlords are 'fit and proper' persons who have agreed to abide by the conditions of their licence.

All licensed properties will be listed on a public register, which tenants can access to find out whether the property is licensed and will therefore be able to refuse to rent properties that aren't.

## How licensing fits with Luton Council's strategies

### Housing Strategy

The council's Housing Strategy 2019-22 sets out "Quality Homes and Places" as one of our four priorities. It should be noted that the Council is reviewing its housing strategy and a revised approach to housing in Luton will be available in the new year.

The strategy identifies that "Although most residents are satisfied with the town, where dissatisfaction exists, the condition of neighbourhoods is a key reason". Enforcement information quoted in the strategy demonstrated that the wards with the highest proportion of privately rented homes (Biscot, Dallow, Farley, High Town and South) were also particularly affected by noise, crime, fly tipping and poor housing conditions. The poor quality of homes in the private rented sector was also highlighted as a concern in consultation by "family workers and health partners, as well as residents of the town".

One of the actions from the housing strategy was to update our information about stock condition in the private sector, particularly the private rented sector. This information was intended to shape our work to improve housing quality in the private rented sector.

We also set out ambitions in the Housing Strategy to reduce fuel poverty by 25% and to capture improvements in the private rented sector to demonstrate the effectiveness of licensing schemes.

Since the Strategy was published we have carried out the stock condition survey update in 2019 and this has shown us some important data including:

- The proportion of private renting has increased to 29%, compared to a national average of 19%
- In High Town ward, 58% of homes are privately rented, and in South ward the proportion is 49%.
- Around 6.5% of privately rented homes in the town are HMOs, but in Dallow ward the proportion is 29%, followed by High Town ward (25%) and South ward (19%). South ward has the highest number of HMOs of any ward.

The updated stock condition survey was a key evidence document in our internal Residential Review which focused on the quality of private rented homes and how this connects with other information around neighbourhood enforcement, public health and planning enforcement. The Review concluded that High Town, Dallow, South and Biscot wards had high levels of private renting, HHSRS Category 1 hazards, anti-social behaviour and fly tipping.

## Luton 2020-2040

The Council has set out its overarching strategic ambition Luton 2020-2040.

Our [“Plan on a Page”](#) clearly sets out ambitions to improve the quality and safety of homes in the town as part of our housing ambitions:

## Quality and affordable Housing

Ensuring that everybody in Luton can afford a quality, safe and secure home is central to eradicating poverty and improving health outcomes for our population.

The strategy will aim to ensure that all households can access good quality house at a more affordable cost.

The strategy will also focus on more preventative measures to reduce debt and financial hardship from leading to homelessness for people of all ages.

Key outcomes for this strategy

- More affordable homes for families in Luton
- Fewer people and families who are homeless or living in temporary accommodation
- Ensuring more housing is decent, safe and secure

However, the overarching 2020-2040 plan also has other areas where ensuring quality homes are part of the delivery, including:

## Ageing and Dying Well:

Ensuring elderly residents are living in decent housing

Tackling fuel poverty and pensioner poverty

## A Town built on fairness and social justice:

Achieving equitable outcomes for all who are disadvantaged or at risk of disadvantage

## A “Child Friendly” Town:

Making sure children and young people grow up feeling safe and secure

Reducing educational and health inequalities for children and young people in Luton

## Population Wellbeing Strategy

Our [Population Wellbeing Strategy](#) was updated based on our new overarching Luton 2020-2040 vision and published in 2020.

Specific targets in the Population Wellbeing strategy which a licensing scheme would support, by ensuring improved quality of accommodation, are:

<b>Overall ambition:</b> Luton is a more equitable place where people thrive, have the opportunity to live a healthy life mentally, socially and physically; and maximize their potential	<ul style="list-style-type: none"><li>Percentage of households in fuel poverty</li></ul>
<b>Priority 1:</b> Giving all Luton’s children the best start to their education, including speech and language development; and meet the SEND agenda	<ul style="list-style-type: none"><li>Excess Winter Deaths Source: Office for National Statistics: Public Health England Annual Births and Mortality Extracts</li></ul>
<b>Priority 8:</b> Improve mental health and wellbeing for adults	<ul style="list-style-type: none"><li>Non-decent housing</li></ul>

## Co-ordination with other functions and agencies

The licensing proposal will co-ordinate with, and support, a range of broader functions and agencies, for example, interested partner agencies working with private sector tenants such as Citizens Advice, the Irish Forum etc, to raise awareness both of the service and the standards that tenants should expect, and in particular:

- the Fire Service to improve fire safety in rented accommodation
- the Police tackling issues such as exploitation and modern day slavery
- Planning and Building Control Enforcement to ensure that relevant permissions are in place and work is carried out to the required standard
- Colleagues in the Council’s Revenue’s team to ensure that premises are correctly banded and appropriately charged for council tax and business rates
- Colleagues in the Neighbourhood Delivery team dealing with anti-social behaviour and fly-tipping
- The Council’s Housing Solutions team where tenants threatened with homelessness as a result of licensing activity or poor housing conditions
- The Council’s Empty Homes officer for any homes identified as a result of licensing activity

## Alternatives to licensing

Before implementing additional or selective licensing schemes, the Council must consider whether there are any other courses of action available to them that might provide an effective method of dealing with the problem or problems in question.



The Council must also consider that the proposed schemes will significantly assist in dealing with the problems identified, whether or not the Council also take other courses of action.

The Council has carefully considered whether there are any courses of action, other than licensing, which might achieve the same objectives in the proposed area.

The following alternative options have been considered to deal with the problems associated with the PRS in Luton. Whilst no single option will be effective, they will all be investigated further and progressed where appropriate in conjunction with licensing.

## Planning Issues:

**Introduction of an Article 4 direction to limit spread of HMOs** - The introduction of such a direction would have no effect on developments already completed but would allow the Council to require planning permission for future developments, and could assist with improving the concentration and quality of HMOs over time.

**Local Plan** - The local plan review will consider the approach to purpose-built student accommodation, flats and HMOs.

## Refuse Issues:

**Charging for collection** - Any additional waste above the max allowance to any private household (360 litre refuse bin for large family) from rented properties could be treated as (and charged for) trade waste.

**Increased collections** - Similarly more frequent collections could be introduced (at a charge) for HMOs and flats where larger amounts of refuse is generated/accumulates.

The Council has also considered and discounted the following courses of action

### Landlord accreditation

The Council could re-launch a local landlord accreditation scheme.

There would be a lot of administration for the scheme without any income being generated and could have minimal enforcement back-up. The previous scheme was withdrawn due to lack of take-up.

### Landlord training

The Council could offer a training to (licensed) landlords with ad-hoc events on specific relevant topics. It is difficult to predict uptake, particularly where there are a number of other organisations offering similar training.

## Licensing Schemes being considered

### Additional licensing – rationale and evidence

The Council is proposing to introduce an additional HMO licensing scheme that will apply borough wide for five years. It will apply to all HMOs that are not already licensable under the mandatory HMO licensing scheme. This includes smaller rental properties occupied by three or four unrelated people forming two or more households who share amenities such as a kitchen or bathroom. For example, house and flat shares and bedsits.

The additional licensing scheme will include purpose built multi-occupied flats in blocks that comprise three or more flats. These properties are currently exempt from mandatory HMO licensing.

The additional licensing scheme will include certain converted blocks of flats known as section 257 HMOs. These are buildings that have been converted into self-contained flats, less than two thirds of the flats are owner occupied and where the conversion into flats does not meet the relevant building regulations. For historic conversions, they are assessed against the Building Regulations 1991. For more recent conversions, they are assessed against the Building Regulations in force at the time the building was converted.

To implement a borough wide additional licensing scheme covering all HMOs, the Council must consider that a significant proportion of the HMOs of that description in the area are being managed sufficiently ineffectively as to give rise, or likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public.

Having more than one household living in a property can increase the risk to the health, safety and welfare of the occupiers if the property is not properly managed. A number of landlords do not maintain their properties, leaving tenants at risk, and failing to adequately manage their properties leading to anti-social behaviour affecting neighbouring premises.

The Council continues to receive complaints across the Borough about HMOs averaging at 221 per year since August 2018 (when the previous Additional Licensing Scheme ended), many of which relate to premises accommodating less than 5 occupants.

Issues encountered at the premises include overcrowding, disrepair and inadequate fire precautions. Fire Safety in HMOs is a particular concern for the Council. Tenants of such accommodation may have cooking facilities in their rooms and not have the benefit of a single individual taking responsibility for the entire premises, ensuring appliances are switched off and electrical sockets not overloaded etc., which could result in the outbreak of fire.

Luton is a relatively compact local authority with 3 railway stations, and a university, and has seen the numbers of HMOs proliferate from 2,496 (Luton Borough Council private sector stock condition survey 2006) to an estimated 4,576 (BRE Integrated Dwelling Level Housing Stock Modelling and Database for Luton Borough Council 2019) – 3,871 of which having less than 5 occupants and, therefore, falling outside of the mandatory licensing scheme.

South ward has the highest number of HMOs (847 HMOs, 19% of private rented stock in that ward), followed by High Town ward (719 HMOs, 25%), and Dallow ward (638 HMOs, 29%). The same three wards also have some of the highest numbers and proportions of licensable HMOs.

HMOs have slightly higher levels of excess cold and fall hazards, notably higher levels of fuel poverty (Low Income High Costs definition) but lower levels of disrepair and low income households. Average Simple SAP ratings are poorer in private rented non-HMOs compared to HMOs. The higher levels of low income households in non-HMOs compared to HMOs may be a result of HMOs being occupied by the working population in Luton whereas non-HMOs could be more likely to be occupied by lone parents and/or families on benefits.

Appendix 2 contains an abridged and depersonalised version of an article which appeared in in Fire Safety Matters 13 November 2020 relating to a fatal fire which occurred at an HMO in Luton. At the time of the fire, there may have been up to 7 people staying in the premises, our investigation and a witness statement tells us that the premises had 4 tenants, and as such, would not have required a mandatory HMO licence.

## Selective Licensing – rationale and evidence

Before introducing a Selective Licensing Scheme, the council must be satisfied that certain conditions are met. The evidence we have considered shows that the criteria under the Housing Act are met; specifically those relating to having a high proportion of properties in the private rented sector, poor housing conditions, deprivation and experiencing an influx of migration.

The BRE report identified 4 wards, High Town, Biscot, Dallow and South, where the levels of the private rented sector exceeded 40%. These same 4 wards had high levels of HHSRS Category 1 hazards, ASB and fly-tipping.

The following table considers those 4 wards further, showing the numbers in each category, and percentage level for the Index of Multiple Deprivation (IMD).

Ward	PRS <sup>1</sup> Total	HMOs Mandatory <sup>1</sup>	HMOs Non mandatory <sup>1</sup>	PRS (non-HMO)	HHSRS Cat 1 hazards <sup>2</sup>	ASB <sup>3</sup>	Fly-tipping <sup>4</sup>	IMD 20% <sup>5</sup>	Fuel Poverty 10% <sup>2</sup>
High Town	2848	136	583	2129	361	666	759	46%	140
Dallow	2188	84	554	1550	359	572	811	49%	158
South	4444	162	685	3597	572	2197	1410	59%	227
Biscot	2139	68	262	1809	284	510	720	72%	147

In terms of migration, Data on migration is only available at the local authority level, therefore the BRE report compared migration figures for Luton to the 10 largest cities in England and England overall for the latest year available (mid-2017 to mid-2018). The data shows that for international migration the greatest turnover rate is in Manchester, followed by London, Liverpool and then Luton (BRE report 5.2.6).

Of the four wards with over 40% of private rented properties, South ward has the highest number of private rented stock, highest numbers of HMOs and the highest numbers of HHSRS category 1 hazards, ASB, fly-tipping and fuel poverty and the second highest levels of deprivation.

The Council is proposing to introduce a selective licensing scheme in the South ward for five years, as indicated on the map below.

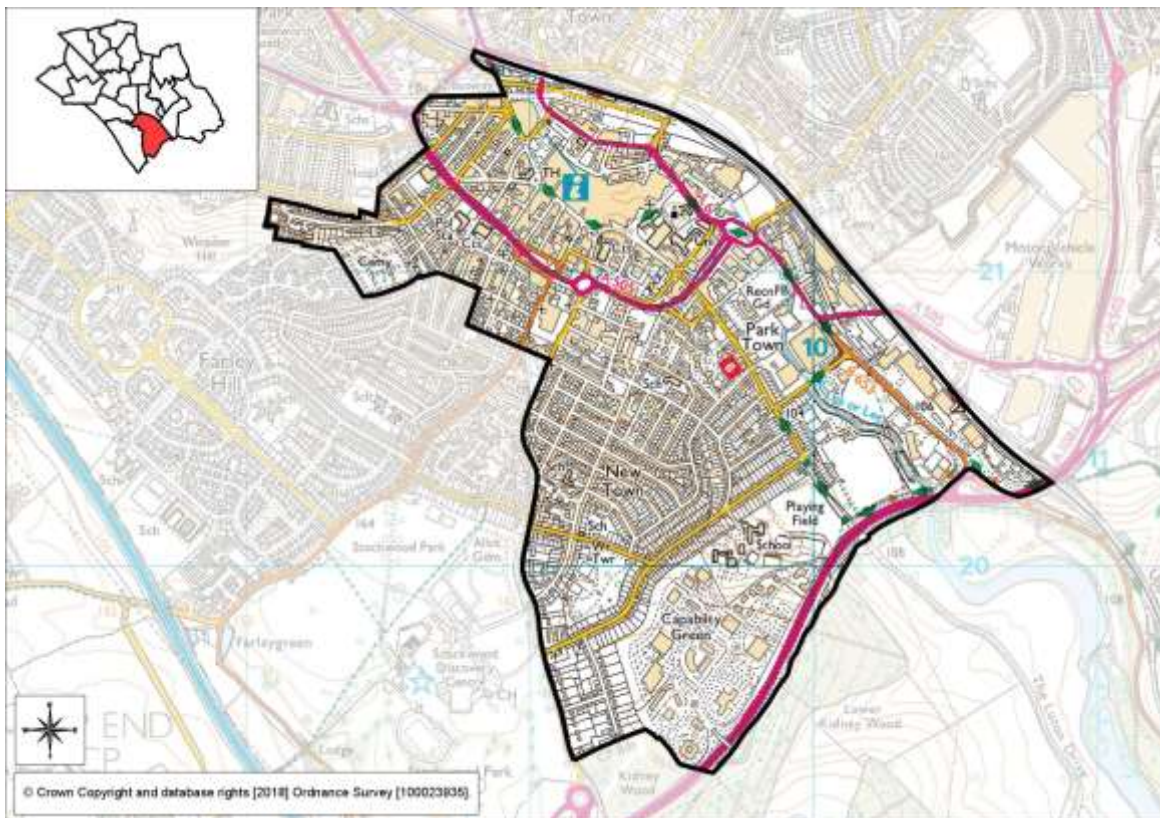
<sup>1</sup> Number (and % of private rented stock) of HMOs and mandatory licensable HMOs by ward (BRE report)

<sup>2</sup> Private rented sector stock – number and percentage of dwellings for each of the Housing Standards Variables, and average Simple SAP ratings by ward (BRE report)

<sup>3</sup> Incidences of ASB by ward 1/4/16 – 31/3/17 (BRE report)

<sup>4</sup> Incidences of fly-tipping by ward 1/4/16 – 31/3/17 (BRE report)

<sup>5</sup> Percentage of privately rented dwellings in each ward in Luton which are in the 20% most deprived areas in England (IMD 2019) (BRE report)



If you are unsure whether your property falls within the South ward, you can check using the postcode search facility on the Council's website:

<https://democracy.luton.gov.uk/cm5public/Councillors/tabid/63/ScreenMode/Ward/Default.aspx>

The proposed licensing scheme will apply to all private rented properties that are not already licensable under the mandatory HMO and additional licensing schemes. This includes private rented properties occupied by a single household or two unrelated people.

There are some statutory exemptions, as set out in the Selective Licensing of Houses (Specified Exemptions) (England) Order 2006. These include, for example, properties managed or controlled by a local authority, police or fire authority and certain health service bodies. Also exempt are holiday homes and properties where the occupant shares the property with the landlord or a member of the landlord's family. This list is not exhaustive.

In choosing the size and location of the selective licensing area, the Council has decided to focus on South ward which has a very high number of private rented properties. It also has the most private rented properties with serious category 1 hazards. The ward contains 9,042 dwellings, of which almost half (49.1%) are privately rented.

By focusing solely on South ward, the selective licensing designation would cover less than 20% of the geographical area of the borough and would affect less than 20% of private rented homes in the borough. Such a scheme can be approved locally by the Council without requiring approval from the Secretary of State.

Within the ward, about 19% of private rented properties are let as HMOs and 81% are let as single family lets, or to two unrelated people. This shows that without selective licensing, the proposed additional licensing scheme will fail to tackle most private rented properties in the ward.

The Council has serious concerns about the condition of private rented homes in South ward and this is the primary reason for implementing the scheme. Before implementing a selective licensing scheme, the Council must be satisfied that the area has a high proportion of private rented

properties compared to the total number of properties in the area. This requirement is met. In South ward, almost half of all properties are privately rented. This is far higher than the national average of 20% and the Luton average of 29%.

The second consideration is that having carried out a review of housing conditions under section 3(1) of the Housing Act 2004, the Council considers it would be appropriate for a significant number of the private rented properties to be inspected with a view to determining whether any category 1 or category 2 hazards exist under the Housing Health and Safety Rating System. This requirement is met. The Council believes that a targeted proactive inspection programme is required.

The third consideration is that the Council intends to carry out such inspections with a view to carrying out any necessary enforcement action. This requirement is met. The Council will develop a risk-based and prioritised programme to inspect a significant proportion of private rented homes in South ward during the five-year scheme. The Council is prepared to use their full set of housing enforcement powers in a proportionate and risk-based manner.

In some cases, the landlord may improve conditions after receiving advice and guidance from council officers. In other cases, it may be necessary to serve an Improvement Notice or Prohibition Order. Where serious contraventions exist, this may result in prosecution on service of a civil financial penalty. The Council will explore what other interventions may be necessary to resolve any issues.

By adopting this approach, the Council believe that this proactive and targeted activity in the South ward will contribute to an improvement in the general housing conditions in the area.

Looking more specifically at the data, the BRE stock modelling report found there are 572 private rented properties in South ward with serious Category 1 hazards. This includes 324 properties with fall hazards and 138 properties with excess cold hazards. These figures are far higher than any other ward. In second place is Dallow ward which has 359 private rented properties with serious Category 1 hazards.

The BRE report also found South ward has an estimated 160 properties suffering from disrepair, which is a significantly higher number than in any other ward.

Under a Selective Licensing Scheme, local authorities have discretion to set the precise conditions of the licence in relation to anti-social behaviour and general management of the property. These can include conditions relating to the use and occupation of the house, and measures to deal with anti-social behaviour of the actual tenants or those visiting the property.

There are also certain mandatory conditions which must be included in a licence. The licence holder is required to:

- present a gas safety certificate annually to the local housing authority (LHA), if gas is supplied to the property;
- keep smoke alarms in proper working order;
- keep electrical appliances and furniture (supplied under the tenancy) in a
- safe condition;
- supply the occupier with a written statement of the terms of occupation; and demand references for persons wishing to occupy the house.

The licence conditions (Appendix 3) may also assist with managing the level of fly tipping as landlords will have a duty to ensure that their tenants are informed of how to dispose of household refuse, including bulky items, correctly.

## What are the proposals?

The Council is proposing to introduce the following:

1. A selective licensing scheme in South ward.
2. A borough-wide additional HMO licensing scheme.

Therefore if these proposals are agreed, there will be 3 distinct licensing schemes in operation in Luton.

The proposed schemes would extend licensing of privately rented homes to cover specific types of rented accommodation. The proposal is to include all HMOs across the local authority that are not already subject to mandatory licensing, along with all other privately rented accommodation within the South ward of Luton. Any scheme would run for a period of 5 years during which the Council would undertake a review of the scheme(s). At the end of the 5 years the scheme ceases to exist unless the Council designate a further scheme following an appraisal of the evidence of need and public consultation exercise.

The objectives of the scheme would be to achieve:

- Raising standards in the private rented sector
- Reduced levels of complaints about the condition of property from tenants
- Reduced levels of ASB
- Reduced levels of fly-tipping
- Enable private tenants to receive support quickly if they encounter problems during their tenancy
- Support landlords to provide accommodation at a required standard to renting tenants

## How will the proposed schemes be delivered?

The Council is committed to ensuring that any Licensing scheme contributes to improvements in housing conditions across the private rented sector. The Council intends to inspect a significant number of licensable properties over the period of the licence.

The administration of the application process, including inspections and providing general advice and support to landlords will be undertaken by Officers funded by licence fee income.

The Council's Private Sector Housing Enforcement team will be responsible for the enforcement and will follow up reports of properties operating without a licence where one is required. The council will investigate properties operating without a licence and may instigate legal action - each case will be considered on its merits in accordance with the Council's housing enforcement policy.

The manager or person in control of the property has responsibility to ascertain whether the building should have a licence, and commits an offence if, without a reasonable excuse, fails to apply for a licence for the property if one is required.

Failure to license a property that is required to be licensed, and failure to comply with licence conditions (see Appendix 3) and/or other relevant legislation are criminal offences and may result in the council taking legal proceedings which could result in an unlimited fine or a civil penalty of up to £30,000.

A prosecution may also lead to the council no longer considering that person to be a fit and proper person and revoking the licence.

The Council may, depending on the offence, take legal proceedings against any, or all, of the following:

- licence holder,
- the manager, or managing agent
- anyone bound by the licence conditions
- the person ultimately receiving the rent

If any of these positions are held by a company, the council may prosecute the director(s), manager(s), secretary or other similar officer, in addition to the company.

## Enforcement of licensing

Selective and Additional (HMO) Licensing operate in the same way as mandatory (HMO) licensing and have the same legal status and penalties for non-compliance. Landlords will need to abide by a set of conditions as part of their licence.

Draft licence conditions have been drawn up, with different conditions proposals for the additional and selective licensing schemes. The proposed conditions are listed in Appendix 3. The Council welcomes any feedback on the proposed conditions as part of the consultation.

Officers will carry out a programme of pro-active compliance inspections of licensed properties. A firm approach to compliance will be taken. Enforcement action proportionate to the circumstances of the case and in line with the Housing Services Enforcement Policy will be taken against landlords found to be operating an unlicensed property covered by the scheme or failing to comply with licence conditions.

## Monitoring the schemes

It is important that progress of the licensing scheme be monitored in line with its respective objectives. These are, in relation to privately rented properties subject to the schemes:

- minimum standards of safety and welfare or better for residents
- effective and appropriate management of privately rented properties
- a reduction of the impact of poorly managed HMOs on local communities;
- the provision of support for landlords and agents to meet their objectives;
- high levels of compliance with licence conditions; and
- effective enforcement of the scheme.

Monitoring will be carried out through compliance inspections of licensable properties and collecting data on follow up action, work carried out with landlords and agents, and environmental impact.

# Licence application and fees

## Application

It is anticipated that licence applications will be accepted through an online application system on the council's website. The precise application system is still to be decided.

The council will only process applications which are valid - this means that each application for each property must be fully completed. Incomplete applications will be rejected and an administration fee retained.

Applicants will need to provide details including the number of letting rooms, storeys, occupants including any children/families etc, statements and declarations that the licence holder(s), person(s) in control and or managing the property are 'fit and proper persons' and a statement and declaration that any furniture and furnishings within the property comply with The Furniture and Furnishings (Fire)(Safety) Regulations 1988 (as amended)

They also need to provide details, of the management arrangements, for example how complaints from tenants, items of disrepair and emergencies are dealt with.

Required documents/certificates for all properties:

- If there is gas at the property a current Landlords Gas Safety Certificate - the certificate must be carried out by a competent Engineer (within the last 12 months) and must cover any gas appliances within the property:
- Current (within the last five years) Electrical Installation Condition Report (EICR) - the report must be carried out by a competent engineer;
- Energy Performance Certificate (EPC);
- Copy of the existing Tenancy Agreement/Rental Contract(s), or if the premises are currently unoccupied, a copy of the agreements you propose to issue to your tenants and
- Residency check – tenants will be required to demonstrate that they are entitled to reside and remain in the United Kingdom, such as a valid UK Passport, or a permanent residence card issued by the Home Office.

HMOs, will require the following documents in addition to those detailed above:

- A copy of floor plans showing the layout of the property,
- Where appropriate, a fire alarm test certificate complying with BS5839 (tested within the last 12 months)
- If an emergency lighting system is present, a test certificate complying with BS5266 (tested within the last 12 months)
- Fire Safety Checklist,

## Fees

In setting licence fees, the Council must ensure that the fee income does not exceed the costs of running the scheme, including the processing of applications, monitoring compliance and enforcing the scheme. The fee structure is also required to be reasonable and proportionate.

A licence would normally be granted for a period of five years and no further fees would be payable during the life of the licence. However, licences are non-transferrable; therefore a change



of licence holder will require a new application and fee payment. A review of fees will be undertaken annually and they may be adjusted to reflect changes in costs.

### **Additional licensing:**

The standard application fee for a House in Multiple Occupation (HMO) with up to three bedrooms would be £488. There would be an extra charge of £122 for each additional bedroom. So, for example, the application fee for a four-bedroom HMO would be £488 + £122 = £610.

### **Selective licensing:**

The standard application fee would be £488 per property, regardless of the size of the property.

## **Discounts:**

For both schemes, the council will offer a flat-rate £150 'early bird' fee if a valid application is received in the three month period prior to the commencement of the scheme. This will benefit landlords and agents who act promptly to get their property licensed.

Once the licensing scheme is in force, the council will offer a £122 discount if the licence holder or their designated property manager are members of an accredited scheme or trade body recognised by the council.

The Council will offer a £122 discount where the application is accompanied by an EPC showing the property to have a rating of Band C or above

The full schedule of fees is included in Appendix 4.

## **How the fees have been calculated**

Under the Housing Act 2004, councils are permitted to charge a fee for licence applications in order to cover their costs. Councils are not allowed to make a profit; equally they do not want to run at a loss. Local Authorities are not permitted to charge a fee for finding unlicensed properties but are allowed to charge for enforcement, administration and costs included in running the scheme for its full duration.

## **Consultation**

The Housing Act 2004 requires that before making a designation, the Council is required to take reasonable steps to consult with persons likely to be affected by the proposed schemes. This includes local residents, tenants, landlords, managing agents and other members of the community who live or operate businesses or provide services within the proposed designation and neighbouring areas that may be affected.

Our engagement and consultation process will last for a period of 12 weeks, which commences on the 12 July 2021 and finishes on the 22 September 2021. To provide an impartial consultation, M·E·L Research, an independent research agency are undertaking the consultation process on behalf of the council.

## **Evaluation and decision making**

Following the closure of the consultation period the responses will be evaluated and a summary published on the Council's website. The responses will be considered and will inform officer recommendations to Executive Members before making a final decision as to whether to proceed with one or both licensing schemes.

If the Council's Executive agree the proposals, formal scheme designations would be made, giving three month's notice of the scheme start date. It is anticipated the schemes could start in April 2022 and last for five years, although this timescale may be subject to change.

If Executive decide not to introduce additional or selective licensing, the Council will continue to operate the existing mandatory HMO licensing scheme and the current reactive enforcement regime.