

Appendix 1 - Legal Context

Under The Housing Act 2004 (the Act), a Local Housing Authority has the power to designate the whole or any parts or parts of its area as being subject to Selective Licensing and/or Additional Licensing for Houses in Multiple Occupation (HMOs). The effect of designation is that all privately rented properties (save where an exemption applies), would require a licence. In order to make new designations, the Council is required to meet certain requirements under The Housing Act 2004 and considerations as set out in the non-statutory Guidance 'Selective Licensing in the Private Rented Sector' (DCLG March 2015).

With effect from 1st April 2015 a local housing authority is now required to apply to the Secretary of State for Levelling Up Communities and Housing for confirmation of any Selective Licensing scheme which would cover more than 20% of their geographical area, or that would affect more than 20% of privately rented homes in the local authority area. (The Housing Act 2004: Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2015).

For a Selective Licensing designation to be made the area has to satisfy one or more of the following conditions:

- significant and persistent anti-social behaviour,
- poor property conditions,
- high levels of migration,
- high levels of deprivation,
- high levels of crime,
- low housing demand.

Under section 80(9) of the Act 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.

Any designation cannot come into force until the lapse of 3 months after the date it is made. Public notice of a designation must be given once it is made.

The proposed property licensing fees include the cost of administering both of the schemes (known as a Part A fee), with enforcement costs (known as a Part B fee) to be collected at a later stage. This is in view of the judgement in the case of *R (on the application of Hemmings t/a Simply Pleasure Ltd) and others v Westminster City Council* UKSC 25.