

# **Sandwell Metropolitan Borough Council**

## **Additional Licensing Scheme Expansion – Frequently asked Questions**

## Frequently Asked Questions

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## **A About the Consultation**

### **Q1 Why is the council consulting about the proposed additional licensing scheme?**

The Housing Act 2004 enables the council to propose and implement Additional Licensing schemes in its area. As part of the legal process to do this the council is required to consult with all persons who may be affected by the proposed schemes in the designated areas. This includes residents, tenants, landlords, representatives of landlords and letting agents as well as other any other interested persons. The reasons for proposing an Additional Licensing scheme are explained in questions below.

### **Q2 How long is the public consultation running for and when does it stop?**

The consultation runs for a total of 10 weeks. It started on Monday 8<sup>th</sup> January 2024 and will finish on Monday 18<sup>th</sup> March 2024.

### **Q3 Where can I find more information about the proposed Property Licensing schemes?**

An online portal with further information has been set up to provide background information and more details for the proposed property licensing scheme. This can be accessed at: <https://consultationhub.sandwell.gov.uk/housing/hmo-additional-licensing-consultation>

### **Q4 How has the council publicised the consultation?**

The council has used a broad range of methods to engage with thousands of residents, private rented tenants, landlords and stakeholders across Sandwell and neighbouring local authority areas about the consultation.

Our marketing communications include: local outdoor advertising; newspaper press advertising and a host of community marketing events. We have continued to successfully engage a broad range of stakeholders with e-marketing campaigns, e-newsletters and digital advertising both within the borough, local neighbourhoods and regionally.

### **Q5 Is there somewhere I can share feedback?**

We welcome your feedback and comments and have set up a short online questionnaire to capture your feedback. There are various ways you can share your feedback. For further information please visit:

<https://consultationhub.sandwell.gov.uk/housing/hmo-additional-licensing-consultation>

### **Q6 I would like to share my feedback by email. How can I do this?**

We have set up a dedicated email address for you to send in your enquiries.

Please email us at: [landlord\\_licensing@sandwell.gov.uk](mailto:landlord_licensing@sandwell.gov.uk)

**Q7 What if I need help with completing the questionnaire or need a paper copy?**

Please contact M·E·L Research on: 0800 073 0348

**Q8 What happens after the Public Consultation?**

If, following the public consultation and internal scrutiny, the council intends to implement the Additional Licensing scheme, approval is not required from the Secretary of State, and so the scheme could be implemented at a suitable time.

**B Additional Licensing**

**Q9 What is Additional Licensing?**

The Housing Act 2004, provides councils with powers to introduce an additional licensing regime for a wider range of Houses of Multiple Occupation (HMOs) than those covered by the national mandatory HMO scheme, which was introduced on 1 April 2006.

The Mandatory HMO Scheme covers accommodation occupied by five or more individuals who do not form part of a single household. The Additional Licensing scheme for HMOs will cover properties occupied by at least three individuals who do not form part of a single household and are not related to each other but share amenities such as a kitchen and/or bathroom.

Examples of HMO properties are:

- House splits into separate bedsits.
- Shared house or flat, where the sharers are not members of the same family.
- Hostel.
- Bed and breakfast hotel that is not just for holidays.
- Shared accommodation for students (those that are not owned by educational establishments).

Additional Licensing provides councils with powers to make private landlords of these types of HMOs in its area provide good, safe and well managed properties through a licensing scheme with the aim of improving housing conditions and management standards and tenancy practices. Through licensing conditions, the proposed scheme could require landlords to do things like provide written tenancy agreements, undertake safety checks and respond to tenant requests for repairs.

**Q10 In which areas of the borough is the council proposing to introduce an Additional Licensing scheme?**

It is proposed that the Additional Licensing scheme will apply to the whole borough.

### **Q11 Why is a proposed Additional Licensing scheme being considered?**

Sandwell Council has found that HMOs are spread across the borough but are in particular high numbers within West Bromwich and Smethwick and that a significant number are not being effectively managed. There are issues with overcrowding, lack of fire safety measures and safety hazards such as poor repair, and anti-social behaviour. Additional Licensing ensures landlords and property managers are “fit and proper persons” to be managing HMOs, preventing overcrowding, ensuring adequate amenities, and proper standards of management are in place.

### **Q12 What properties are included in the proposed Additional Licensing scheme?**

All privately rented properties that meet the definition of HMO but for which mandatory licencing does not apply. The proposed scheme therefore applies to any HMO which is occupied by 3 or 4 persons who do not form a single household but who share facilities like the bathroom and/or kitchen.

## **C General Information**

### **Q13 Has the decision already been made to introduce the proposed Additional Licensing scheme?**

No. The council is required to consult a wide variety of individuals and organisations both within Sandwell and its neighbouring boroughs, for a minimum of 10 weeks, before considering whether to implement the proposed schemes.

Those to be consulted include, but are not limited to:

- Tenants renting private properties.
- Landlords.
- Landlord representatives.
- Letting agents and management agents.
- Residents who do not rent private properties.
- Business organisations.
- Community groups and Charity organisations.

### **Q14 Why is the council considering the introduction of a borough wide Additional Licensing scheme?**

Our main reason for proposing the additional licensing scheme is to improve housing conditions. We also want to improve the quality of life for residents by tackling ASB and environmental crime associated with poorly managed private rented properties. Our aim is that over the 5-year period of the licensing schemes, the following outcomes will be achieved:

- Improved housing conditions.

- A reduction in cases of Modern Slavery, persistent problems caused by anti-social behaviour, including environmental crimes such as fly tipping.
- An increase in good landlords and an elimination of rogue landlords.

We believe that licensing will make a significant contribution to improving the area and provide an added layer of protection for private tenants.

**Q15 What additional powers will Additional Licensing schemes provide to the council?**

Additional Licensing gives councils the extra power to:

- impose 'local' licence conditions which must be adhered to.
- inspect private rented properties to ensure that the licence conditions are being met.
- prosecute and bring civil penalties against landlords who do not licence and landlords who do not adhere to licence conditions.

The licence conditions that will be proposed for the scheme will stipulate a management regime for properties that will encourage landlords to inspect their properties and deal with disrepair and anti-social behaviour. Failure to manage a property effectively could also lead to prosecution or a civil penalty.

**Q16 What evidence is there of the impact of other councils with Additional Licensing?**

There is strong evidence published by many council's schemes operating Additional Licensing schemes that they have had a very positive impact. Additional Licensing has helped to improve housing standards, positively tackle anti-social behaviour within several local communities and reduce the factors that make deprivation worse; improving the living conditions of thousands of private rented tenants.

**Q17 How long will the proposed licensing scheme be in place?**

If approved the proposed licensing scheme will operate for 5 years. Conditions within the private rented sector will be kept under review as to whether the licensing scheme should cease at the end of the five years, or whether there is a need to introduce a new licensing scheme.

**Q18 What are the potential benefits of the proposed Additional Licensing scheme?**

The proposed schemes will have several benefits to the community, landlords and tenants which include:

**Residents**

- Reduced levels of anti-social behaviour.
- Providing Sandwell residents with a more desirable place to live in and enjoy.
- Environmental benefits in relation to the requirements for disposal of refuse and waste.



## Tenants

- Improving poor property conditions and management of privately rented properties.
- Reducing levels of sub-standard and overcrowded living conditions.
- Making homes much safer and more secure in the private rented sector.
- Encouraging tenants to recognise when properties are of a sub-standard or dangerous condition and what options are available to them.
- Providing acceptable living conditions and improved health.
- Provide additional protection for assured short-hold tenants in unlicensed properties.

## Landlords

- Support for landlords dealing with anti-social behaviour caused by tenants.
- Educating landlords and tenants about their responsibilities and the impact of their behaviour(s) on the local communities and neighbourhoods.
- Encouraging more professional landlords.
- Protecting and encouraging new investment in the area.
- Supporting and advising landlords on property conditions and those who might not necessarily be aware of their responsibilities.
- Identifying landlords who may be willing to work alongside the council's homelessness team to enable easier access to private rented sector housing.
- Creating good landlord reputations by independent endorsement.

## Stakeholders

- Reduction in rogue landlord activity through a "fit and proper person" requirement for landlords and agents.
- Requirement for absentee or unprofessional landlords to use professional managing agents to manage their properties.

### **Q19 What help (advice and support) will be available to landlords via the scheme?**

If the proposed Additional Licensing scheme is introduced, there are a number of areas that Sandwell Council can support and advise landlords, letting and managing agents.

- Providing advice and guidance for landlords to improve property conditions on the management of privately rented properties.
- Providing advice and practical support for dealing with anti-social behaviour and tenancy issues.
- Providing specific fire safety advice.

- Landlord forums and newsletters providing information and advice on the latest legislation and government initiatives, as well as sharing practical advice and ideas.
- An IT System that is user friendly and allows multiple licence applications.
- Collaborative partnerships with compliant landlords providing advice and education to non-compliant landlords.
- Identification of landlords who may be willing to work alongside the council's homelessness team.
- Support for the registration of large portfolios (assessed on an individual basis).

**Q20 How will the fees help the council deal with property conditions/ deprivation/ASB?**

If introduced the Additional Licensing scheme, will help us address three significant areas of concern: poor property conditions, significant levels of anti-social behaviour and high levels of deprivation. We are committed to making Sandwell a better place to rent and these schemes will help us achieve that by giving us the enforcement capability and regulatory framework to:

- set our own licence conditions.
- carry out proactive inspections of properties.
- ensure compliance with licence conditions by a combination of informal and formal actions.
- enforce the improvement in property conditions through compliance with licence conditions.
- support landlords in dealing with ASB in their properties through advice, guidance and, where necessary, with enforcement action.
- prosecute or bring civil penalties against landlords who do not work with the council to deal with ASB and poor management of their properties.
- reduce the factors that make deprivation worse. Overcrowding and fuel poverty can be addressed with the scheme.
- act against landlords who do not protect their tenants' deposits by not belonging to an approved scheme.

**Q21 Are such schemes necessary as there are a lot of good landlords in Sandwell?**

The council acknowledges that many landlords provide well-managed properties, which do not cause issues for tenants and the wider community. However, there remains a significant proportion of private rented properties within Sandwell which is poorly managed and suffering from sub-standard property conditions. High levels of deprivation and anti-social behaviour within the private rented sector have also been identified which has a negative effect on tenants and residents in the local area. The council wants to work together with responsible landlords and other agencies to

ensure the problems associated with the poor management of these properties are addressed.

**Q22 How does the council expect such licensing schemes can help to reduce anti-social behaviour?**

The types of anti-social behaviour that we are referring to are specifically related to the tenants, property and its immediate vicinity. When this type of anti-social behaviour is carried out by tenants, we expect a landlord to address the issues with them directly.

The types of anti-social behaviour include:

- Intimidation and harassment of tenants or neighbours
- Modern Slavery
- Noise, rowdy and nuisance behaviour affecting persons living in the property or neighbours
- Animal related problems
- Vehicle related nuisance
- Ant social drinking or prostitution
- Illegal drug taking or dealing
- Graffiti and fly tipping; and
- Overgrown gardens, litter and waste within the curtilage of the property.

Landlords are required to take reasonable steps to address anti-social behaviour of tenants within the properties they rent. The licence conditions will clearly state the responsibility of the landlord: *“The licence holder shall take reasonable and practicable steps to prevent or address problems of anti-social behaviour resulting from the conduct of occupiers or visitors to the property”*.

**Q23 How will the council manage and handle ASB with the funds from these schemes?**

If the proposed scheme is introduced, Sandwell Council will work with and support landlords in dealing with serious ASB. We will work towards reducing ASB by informal actions, but where necessary will use enforcement notices and civil penalties. This enforcement action will aim to reduce repeat ASB incidents in PRS properties in the designated area by at least 70%.

**Q24 Should the council / Police deal with anti-social behaviour from problem private tenants rather than landlords?**

Sandwell Council accept that individuals need to be accountable for their actions and the council together with the police already act against problem tenants. However, Sandwell Council does expect responsible landlords to engage appropriately with

tenants if they cause nuisance to neighbours or are using the premises for criminal activity by enforcing the tenancy conditions.

**Q25 What standards will a landlord have to meet to get a licence for the scheme?**

The Additional Licensing scheme requires landlords or their agents to demonstrate they are 'fit and proper' and have no criminal convictions which may affect their management of the property. They must also have satisfactory management and financial arrangements, as well as having adequate procedures in place for dealing with problem tenants. Management arrangements will include things such as, making sure the property is safe to live in and issuing the tenant with a written tenancy agreement. Licence holders will also have to provide a number of safety certificates and adhere to a number of conditions as part of their licence.

You can find out more about the proposed licence conditions for Additional Licensing via: <https://consultationhub.sandwell.gov.uk/housing/hmo-additional-licensing-consultation>

**Q26 What does a 'Fit and Proper Person' mean?**

The council will carry out checks to make sure that the person applying for a licence is a "fit and proper person". In deciding whether someone is "fit and proper", the council must consider, amongst other matters:

- a) Any offences involving fraud or other dishonesty, or violence or drugs, or any offence listed in Schedule 3 of the Sexual Offences Act 2003.
- b) Any unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with the carrying on of any business.
- c) Any contravention of any provision of the law relating to housing or of landlord and tenant law.
- d) Whether the person has a 'banning order' in force under section 16 of the Housing and Planning Act 2016.
- e) Any person involved in the management of the property has sufficient level of competence to be so involved.
- f) The council can also decide if a person is not "fit and proper" as a result of association with other persons who would not be considered "fit and proper" and where this would affect the management of a licensed property.

**Q27 What standards or conditions will apply to a licence?**

There are statutory management standards that apply to HMOs. The Housing Act 2004, specifies certain mandatory conditions that must be applied to Additional HMO Licences and it also allows the council to set other conditions for the management, use and occupation of the property.

## Licence Conditions

There would be specific conditions attached to each licence issued which would relate to the management of the property.

Some of the conditions would be mandatory, imposed by the Housing Act 2004, which would include (but not be limited to):

- A gas safety certificate to be provided to the council annually – if there is a gas supply.
- The licence holder must ensure that every electrical installation in the HMO is in proper working order and safe for continued use and supply the authority, on demand, with a declaration by him as to the safety of such installation
- Electrical appliances and furniture supplied by the landlord must be kept safe.
- Smoke alarms to be installed in the property and maintained.
- Carbon monoxide alarms to be installed in the property and maintained in every room that contains a fixed combustion appliance other than a gas cooker.
- A tenancy agreement needs to be in place.
- The licence holder to have references from prospective tenants.
- Occupation levels and room standards for HMO licences.

In addition, the council can include other relevant conditions to the licence and which would include (but not limited to):

- Provision of information to tenants.
- In accordance with the authorities -Standards and Amenities Guide for Houses in Multiple Occupation (HMO)
- The provision of adequate kitchen facilities for the number of occupants stated on the license to allow the safe storage and preparation of food within the HMO such as lighting, ventilation, sink/drainer, worktops (including splashbacks), cupboards, draws and readily cleansable surfaces;
- The provision of adequate bathroom facilities and equipment for the number of occupants stated on the licence within the HMO such as lighting, ventilation, toilets, baths, showers, wash hand basins and any cupboards, shelving or fittings.
- Make suitable arrangements for completing routine repairs and maintenance and routine inspections.
- Provide adequate security to the property.
- Maintain external areas.
- Make suitable arrangements for refuse and waste.
- Appropriately manage anti-social behaviour.

Full details of the proposed conditions, please see <https://consultationhub.sandwell.gov.uk/housing/hmo-additional-licensing-consultation>

**Q28 What happens if a landlord breaches the proposed licencing conditions?**

If a licence is issued and the conditions are subsequently breached, this could lead to enforcement action and an unlimited fine for each breach. A Civil Penalty Notice of up to £30,000 is an alternative enforcement option available to the council. A serious breach of licence conditions could also lead to the revocation of the licence and unless a suitable alternative licence holder can be found, the council may take over the management of the property by issuing an Interim Management Order (IMO).

**Q29 Are these just money-making schemes?**

No. The proposed fees for the schemes have been solely calculated on meeting the costs of administering and delivering the schemes as required by law.

**Q30 Rather than charge landlords, can the costs not be funded from elsewhere?**

The law is very clear that the licence application fee can cover the cost of administering the licensing schemes. The council can require, as part of a valid licence application, the payment of a fee fixed.

The cost of all other types of licensing operated by the council (e.g. alcohol and gambling licences) is also paid for by the appropriate licence applications fees.

Sandwell council has had to make considerable savings over a number of years. This has led to the council having to reduce and, in some instances, stop services. The council does not have the resources to fund the proposed licensing scheme.

**Q31 What happens if a landlord does not apply for a licence?**

It is a criminal offence to operate a licensable property without a licence in a designated area and could result in the landlord/owner being prosecuted. On conviction the landlord/owner could face an unlimited fine and any rent collected during the unlicensed period could be reclaimed by either the tenant or the council. A Civil Penalty Notice of up to £30,000 is an alternative enforcement option available to the council.

The council can also apply to the First-Tier Property Tribunal for a “rent repayment order” to recoup any housing benefit the landlord has received during the unlicensed period (maximum 12 months).

**Q32 Will licences be transferable?**

No. Licences are specific to the individual property and will specify a named licence holder. A new application will need to be submitted if there is a change in ownership or licence holder.

### **Q33 Why not target ‘rogue landlords’ instead?**

Sandwell Council’s review of the private rented sector in the borough found that there are significant levels of poor property conditions which are not being dealt with, high levels of deprivation and anti-social behaviour. The proposed licensing scheme are to address these issues.

There are ‘rogue’ or ‘criminal’ landlords that operate in the private rented sector. Sandwell Council has a good history of tracking down and enforcing against criminal landlords. We have previously received funding from central government to target criminal landlords and agents operating in the borough. This work has also uncovered dangerous, overcrowded and illegal property and criminality relating to modern day slavery and exploitation. This type of criminal activity has a direct impact on issues such as harassment, intimidation, threats and illegal evictions. These are not landlords who are unaware of their responsibilities or who are inexperienced.

### **Q34 Will landlords simply sell up and move out of the borough and thus reduce the number of properties available for rent?**

We believe that only irresponsible landlords who do not keep their properties in good condition and do not manage them properly might decide to sell to avoid licensing. This will however, open their properties to people that will manage them well. Licensing will help encourage responsible landlords to further invest in Sandwell and provide decent and quality properties to rent.

### **Q35 What is the council doing to ensure that they understand the impact this may have on those groups of people with ‘protected characteristics’ as defined by the Equality Act 2010 (for example, disabled residents)?**

As part of the process of developing the proposals, an equalities impact assessment will be reviewed following relevant feedback from the public consultation. This will enable the council to better understand the impact of the proposals. Lack of management controls of un-licenced properties leads to limited choice, causing people to live in less desirable accommodation. Poor living conditions, lack of privacy and security are issues that we can identify and address to provide better living conditions for all groups.

### **Q36 If the proposed Additional Licensing scheme is implemented, how much will landlords have to pay for licences?**

The licence fee must be reasonable and proportionate and will not exceed the cost of the proposed licencing scheme. The fees will be reviewed throughout the scheme and the council may adjust the fees to reflect changes in costs.

The proposed licence fees per property are:

- £938.02 - Additional Licensing scheme.

### **Q37 Are there any discounts available?**



The fee structure being proposed allows for certain discounts to be applied. You can view the fee structures via: <https://consultationhub.sandwell.gov.uk/housing/hmo-additional-licensing-consultation>

**Q38 Is VAT payable on the licence fee?**

No, VAT is not payable on the licence fees.

**Q39 Who is responsible for paying the licence fee?**

The licence holder must be the landlord, or the person who is responsible for managing the property and to whom the tenants pay rent to if different from the landlord.

**Q40 When would landlords have to apply for a licence under the Additional Licensing scheme?**

If the licensing scheme is implemented, there will be a requirement for landlords to apply for a licence(s) on commencement of the proposed scheme coming into force.

**Q41 When will the proposed Additional Licensing scheme come into force?**

If the licensing schemes is implemented, the council will notify landlords publicly and there will be a reasonable notice period prior to the scheme starting. Thus, giving landlords time to make their applications.

**Q42 How do I apply for a licence?**

Further information about the application process and its timeframes will be made publicly available should the council, following consultation, implement the licensing scheme.

**Q43 What is the process for applying for an Additional Licence?**

Once the consultation finishes on Monday 18<sup>th</sup> March 2024, we will consider the feedback and then share the consultation findings publicly. If any decision is made to introduce the licensing scheme, the council would at that point provide further details on the commencement date, application process and its timescales.