

Level of Compliance with other licensing schemes (Hyndburn BC)

The existing Selective Licensing Designation Area came into force on 1st December 2012 and ends on the 30th November 2017.

The estimated number of residential premises within the existing designation is 4,850. At the time the area was first designated we estimated the number of private rented premises within the designation to be 1520.

The table below shows the level of compliance in the existing selective licensing area as at July 2017. It is estimated that 97-98% of properties that are required to have a licence have submitted an application.

	AS AT 4 July 2017
Total Apps received	1810
Processed incomplete	100
Applications cancelled	141
Applications ready subject to consultation	24
Licences Issued	1545
Exempted properties	112

At the time of writing, 1,545 licences have been issued with a further 24 licences ready to be issued subject to consultation. The Council has taken a supportive role with landlords in helping them obtain licences and therefore meet the required conditions rather than seek prosecution. Of the circa 1,500 properties licensed, an estimated 75% did not meet the minimum standard for licensing. This number of properties failing to meet the standard demonstrates the positive impact licensing has had on raising standards in the private rented sector and at the same time, supporting private landlords in achieving the required standard.

Officers are currently pursuing those landlords and/ or managing agents that have not applied for a licence. At the time of writing 6 landlords have been successfully prosecuted for failure to apply for a licence and 2 landlords have been given cautions for this type of offence. We estimate that there will be a further 8-10 prosecutions prepared/civil penalties issued before the end of the scheme – relating to non-applying landlords and breaches of licence conditions.

Officers are currently reviewing the Management Order procedures so that Orders can be made for those properties that require them.

Despite the existing selective licensing scheme, there are still a significant number of complaints ranging from tenants reporting disrepair problems to reports of environmental blight such as fly tipping, dirty back yards, vacant and abandoned buildings etc. The following table is a summary of complaints from within the existing designation area for the period 1st December 2012 to 30th November 2016.

It illustrates that over 70% of neighbourhood complaints relate to the private rented sector.

Neighbourhood and Property Complaints in the Designation area						
(1st December 2012 - 30th November 2016)						
Complaint Type	Empty	Owner Occupied	Private Rented	Social Housing	Not Recorded	Grand Total
Environmental Crime	11	22	87	2	2	124
Anti-social behaviour	0	0	1	1	0	2
Property Condition	138	42	898	19	22	1119
Nuisance	124	117	590	38	48	917
Grand Total	273	181	1576	60	72	2162

Statutory Notices served in the Designation Area	
(1st December 2012 to 30th November 2016)	
Housing Act 2004	Number
Emergency Prohibition Orders	8
Prohibition Orders	6
Emergency Remedial Action	1
Improvement Notices	27
Hazard Awareness Notices	11
S235 – production of documents required (Selective Licensing actions)	178
Other	
S4 Prevention of damage by Pest Act 1949	8
S215 Town and Country Planning Act	35
S59 Building Act 1984(Defective drainage)	15
S79 Building Act 1984(Ruinous or dilapidated buildings)	31
S80 Environmental Protection Act 1990 (Statutory Nuisance)	9
S80 Environmental Protection Act 1990(Premises Conditions)	9
S80 Environmental Protection Act 1990(Accumulations of refuse/dog faeces)	135
S80 Environmental Protection Act 1990(Noise nuisance from music)	19
S80 Environmental Protection Act 1990(Noise nuisance from dogs)	10
Section 43 Anti- Social Behaviour, Crime and Policing Act 2014 (a.k.a COMMUNITY PROTECTION NOTICE)	3
TOTAL	505

The s235 Notices have been served on those landlords who have not responded to letters, e-mails, phone calls and face to face conversations chasing up missing documents/information etc. and have:

- i) Submitted incomplete applications (e.g. missing gas safety certificates, management information etc.),
- ii) Not complied with licence conditions requiring them to submit certificates, reports etc. to the Council.

Generally, these legal notices have been complied with and as a result the landlords affected have been able to avoid prosecution (usually as a result of much persistence and patience from members of the team).

The remaining actions relate to wider Housing Act enforcement as well as Town and Country Planning Act and Environmental Protection Act enforcement. This illustrates that selective licensing is working alongside other enforcement measures to support neighbourhood improvements. For this reason a new Selective Licensing Designation is needed to continue driving up standards and improvement in areas where there is still a large number of complaints.

Upper Tribunal /Court of Appeal Hearings - Selective licence conditions

On 11 September 2015, HHJ Nicholas Gerald, sitting in the Upper Tribunal (Lands Chamber), gave judgment in the case of ***Hyndburn Borough Council v. Paul Brown & Anr [2015] UKUT 0489 (LC)***. He allowed Hyndburn's appeal against the decisions MAN/30UG/HML/2014/0001 and MAN/30UG/HML/2014/0002 of the First Tier Tribunal (Property Chamber) dated 14 July 2014, to remove or amend conditions imposed on two licences issued pursuant to the selective licensing provisions contained in section 90 of the Housing Act 2004.



LD Hyndburn [112
Dowry St & 144 Aven

<http://www.lancashiretelegraph.co.uk/news/13840201.display/>

Further to this Decision, the Upper Tribunal decided on the 23rd November 2015 to refuse the landlords' Application for Permission to appeal to the Court of Appeal.

The applicants then applied to the Court of Appeal for permission to appeal.

Permission to appeal was granted by the Court of Appeal on 26th February 2016.

The reasons given for granting the appeal were as follows:

"The grounds of appeal are not fanciful, although the suggested restriction on the meaning of "the management ...of the house concerned" in s.90 (1) is **weak**, particularly in the light of s.90 (4) and schedule 4.

The need for authoritative guidance on the scope of the powers of local authorities under s.90 provides a compelling reason for an appeal in this case”.



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Unfortunately, the Court of Appeal Hearing listed for the 7/8 March 2017 was postponed as a result of there being no judicial availability to hear the appeal on those dates.

It's now been re-listed for the 5th October 2017.

Mandatory HMO Licensing

There are 4 licensable HMOs known to be operating in the Borough of Hyndburn. At the time of writing all are licensed.