

## Appendix H: Selective Licensing Scheme consultation responses to key issues raised by respondents.

### Comments around current plight (pandemic)

Question or Comment	Response
<p>Why was the consultation not paused as requested by some respondents?</p>	<p>The consultation was conducted over a period of 10 weeks (02/11/2020 – 11/01/2021) and has now closed. Counsel was sought on whether the consultation should be paused following the request from some representatives. The legal advice was to proceed with the process, as we had received a significant response already from various stakeholders which indicated that there was no hindrance to participating in the consultation as had been suggested in the request. The consultation was therefore not to be paused or extended as there was no justifiable grounds for either.</p>
<p>Some respondents questioned why the consultation was done during a pandemic?</p>	<p>The preparatory work for the consultation had been underway for many months prior to the pandemic and the Council had already invested a significant amount of money to get the project underway so it would not have been in the public interest to simply abandon or delay the project further than the initial few months' delay during the first lockdown.</p> <p>The consultation was designed with due cognisance of the Covid-19 situation and as such everything was delivered online by way of email correspondence, an online survey and a number of virtual public meetings. In addition, as part of the consultation, postal surveys were sent to 20,000 residents and commercial premises within and around the proposed areas as well as neighbouring local authorities in order to give them an opportunity to have their say on the proposals.</p> <p>An online survey, postal survey, emails, correspondence and three virtual public meetings were deemed the safest way of gaining public feedback whilst ensuring safety for those that wished to take part. This was done in full compliance with government guidelines on Covid-19 to ensure that the most vulnerable and the elderly remain protected. There was also the option for residents to be able to call a dedicated number if they wished to.</p>

Question or Comment	Response
Consultation Reach	A variety of methods were used to consult with landlords, tenants, residents, businesses, stakeholders and other interested parties. These included an online survey, hosted on the Your Say Southend site, along with a postal survey sent to all 11,640 residential and commercial addresses within the proposed licensing area, all 2,841 addresses outside the proposed area, but inside the Kursaal and Milton wards, and then to a random sample to 5,520 residential and commercial addresses in adjacent areas. A total of 1,792 responses were received, 1,208 from the postal survey and 584 from the online version.

### Comments around the PRS data

Question or Comment	Response
<p>Is using 2011 census figures for the evidence sound?</p> <p>Size of the proposed scheme.</p>	<p>The 2011 Census data estimated that of the 77,036 dwellings in the borough at the time, 17,109 of those were privately rented.</p> <p>Whilst the 2011 Census data is now 10 years old, it is still valid for use as it remains the most recent data for such purposes until the new data is published. With the new census due to commence this year and the results unlikely to be available until 2022 at the earliest, it was not feasible to wait for the new census before addressing the proposed issues.</p> <p>We also looked at more recent data as we know that the PRS has grown over the past decade (this is the case nationally, regionally and locally). In May 2019, Southend Home Analytics, estimated that out of 84,086 residential dwellings, 18,136 were privately rented, that is a 6% increase in the sector.</p> <p>The Council is proposing the scheme to remain within the 20% threshold to ensure enough resources for effectively implementing the scheme.</p>
Are we confident the Private Rented Sector will not shrink	Having spoken to a number of local authorities operating similar schemes, there is little evidence to suggest that displacement has occurred. Furthermore, the 2019 MHCLG review of Selective Licensing also supports this view. If anything, it would be mainly rogue landlords that

Question or Comment	Response
as a result from the Selective Licensing scheme?	would be forced to change their practices or be driven out of business. A recent discussion with colleagues in Havering Council also supported this view.
Rents are likely to increase due to licensing – leading to more homelessness?	<p>The fee structure for the proposed scheme has been kept as low as possible to minimise cost to landlords whilst ensuring that the scheme remains cost neutral so it is deemed to be fair and reasonable, over the five-year period. The proposed fee is also fully tax deductible. For well managed homes, costs for the Selective Licensing Scheme should be restricted to the fee.</p> <p>The Council has considered the risk of homelessness as an unintended consequence but on the basis of the requirements of the schemes and costs associated with them it does not believe it should lead to increased levels of homelessness.</p> <p>Selective Licensing aims to stabilise tenants in better managed homes, reducing the high turnover that can lead to homelessness.</p> <p>“The reality is that the PRS is a competitive market. Rents are set at what the market will bear and can respond quickly to market conditions e.g. if a property is hard to let the rent will be adjusted down, and vice versa. There is no conclusive evidence that licensing fees increase rents, and with healthy profits in the private rented sector such licensing fees are usually paid for by landlords’ surplus and do not impact on tenants.” <a href="#">Core Cities Report 2018</a></p>
The inclusion of right to buy properties that were South Essex Homes inside the designated areas.	Once a property is sold under the right to buy it becomes part of the private sector and if the new owner chooses not to live in it but to rent it out instead, it is then liable for all regulation under PRS. Such property can no longer be regulated under social housing as it would have become a privately rented property once sold and as such subject to PRS legislation. Therefore, if such a property is within the designated area, it would be liable for licensing, as there is no formal protection from legislation/licencing due to properties having been acquired under right to buy.

Question or Comment	Response
Proportion of respondents within the proposed areas for designation.	45% of the respondents to the consultation were resident in the proposed areas which represents a good percentage from those who would be most affected by the proposals. This is equivalent to 804 responses out of the 1792 responses received during the consultation period.

### Scope of the designation and where SL has worked

Question or Comment	Response
<p>Some objected to certain roads being part of the designation.</p> <p>Why are some streets with known problems not included while streets with no problems are?</p>	<p>The licensing legislation does not allow this distinction to be applied as the designation is often applied over entire neighbourhoods, whole wards or the entire borough. Lower Layer Super Output (LSOA) data is widely used and regarded as a strong way to target problem areas within neighbourhoods. This allows for targeted focus on problem areas however, the Council acknowledges that at times may mean some streets with lower levels issues are included. Furthermore, it is strongly believed that the positive impacts of Selective Licensing affect the wider area, therefore all streets in a surrounding area would see the benefit.</p>
<p>Why penalise good landlords for the shortcomings of the minority? Most landlords are responsible and professional.</p> <p>Can good landlords be exempted from the scheme?</p> <p>Targeted, street by street approach, working on specific issues, in a co-operative manner with other relevant agencies such as community groups, tenants and landlords, would have a much greater impact.</p>	<p>Selective Licensing is a strategic area-based intervention, based on evidence gathered for these areas. A local authority may designate their whole district or an area (or a number of areas) within its district for the purposes of Selective Licensing.</p> <p>Once made, a local authority has no power to determine its own exemptions within a designated area.</p> <p>The Council recognises that there are good landlords in the proposed neighbourhoods that offer good and well managed accommodation. However, unfortunately there are also badly managed properties which licensing aims to address.</p>

Question or Comment	Response
Was social housing included in the scheme?	Section 79(3) of the Housing Act 2004 exempts socially let properties (both Local Authority and Housing Association tenancies) from the scheme. Selective Licensing only applies to private rented properties therefore Social housing is excluded as there is separate legislation that govern social housing. The Council's social housing is managed by South Essex Homes and there is agreed protocol that is followed when addressing ASB by social tenants. The Council's social housing is also held to decent home standards to ensure safety for all residents.
Exemptions for charities who rent their properties.	Once a designation is made, a local authority has no power to determine its own exemptions within a designated area. Only dwellings subject to statutory exemption, as set out in the Housing Act 2004 and The Selective Licensing of Houses (Specified Exemptions) (England) Order 2006 (SI 2006/370) are exempt. A full list of exempted properties can be found the evidence base report (appendix B) on page 14.
Can you justify this scheme? What is your evidence?	The Council has proposed the scheme using a range of independently gathered evidence to support its introduction. The evidence base was gathered by a company called Arc4 (appendix D) who have done similar work for many other local authorities. The evidence shows that there is clear correlation between private rented stock and the sector contributing to ASB, poor property conditions, crime and deprivation. Evidence also supported that the standard of privately rented properties in the proposed neighbourhoods needs to be improved.
Do we have evidence of where others have introduced these schemes successfully?	<p>There is evidence from other authorities which demonstrates that Selective Licensing will bring benefits to an area. The Council has worked closely with Great Yarmouth who are in their second year of the scheme, we have also been working with Thanet and Doncaster Council who have completed their schemes and are currently working to re-introduce new schemes. We have spoken to some of the people who were involved in Newham's scheme who have shared their knowledge and experience.</p> <p>We are also currently in conversation with Havering Council who are also delivering a scheme in parts of their borough for best practice on how to deliver the scheme. We have</p>

Question or Comment	Response
	also looked to councils like Salford, who have completed their scheme in the past to see what worked well and what didn't.
All landlords need to be licensed. This helps ensure standards are maintained.	The legislation does not allow for this, licensing can only be introduced if certain criteria are satisfied e.g. high levels of private rentals, with poor housing conditions, ASB, deprivation etc. and only in places with high concentration of the private rented sector. The designation criteria would not apply to the entire borough.

### Comments around ASB

Question or Comment	Response
Does SL improve ASB?	Licensing by itself will not completely get rid of ASB but it has been proved to improve persistent issues with ASB through the implementation of licence conditions and joint working with other departments to ensure the issues are effectively addressed.
Some respondents felt that ASB linked to the town centre not Private Rented Sector.  How will Selective Licensing resolve ASB and Crime, these should be resolved by the police.	<p>The evidence base set out in the consultation document focused on the worst affected areas with more than average levels of crime, deprivation and ASB. The Council was careful to note in the consultation documents that some of the ASB and Crime figures were higher in Milton due the town centre but the PRS in the area was confirmed to have similar issues. Residents living in and around the area are aware of this situation and were mostly in agreement as shown by the response to the consultation.</p> <p>Whilst the Council accepts that landlords cannot be held solely responsible for the actions of their tenants, the Council strongly believes that landlords can, more often than not, have some influence on the behaviour of their tenants.</p> <p>The Council believes that good landlords would, once they became aware that their tenants were engaged in unacceptable activities that had a detrimental effect on neighbours, try to take some steps to resolve the situation. It is accepted that landlords have limited options other than to give verbal and written warnings and in extreme cases to evict the tenant(s). However, the threat of eviction may, in some circumstances, bring about a resolution.</p>

Question or Comment	Response
	<p>Clearly, the council does not want to see tenants lose their homes and would hope it would not come to that in most cases. Landlords do not need to be alone in facing difficult tenants.</p> <p>The Council, Police and the proposed enforcement officers can help. Any landlord who asks for help and advice will receive it. The Council recognises that as well as rogue landlords, there are rogue tenants who the Council and its partners will look to deal with.</p> <p>The Council proposes to use its discretionary power to incorporate an ASB condition within the proposed Selective Licensing Designation. It would outline the licence holder to take reasonable steps to try and deal with any ASB caused by their tenants and to cooperate with the Council and Police as necessary. It is also worth noting that a mandatory condition of Selective Licensing relates to tenant referencing. All licence holders, in any Selective Licensing scheme, must require a reference from any person wishing to take up occupation in one of their licensed dwellings.</p>
<p>Why has the Council taken over 2 years to issue HMO (Houses of Multiple Occupation) licences?</p> <p>Some respondents advised that it is the HMO tenants causing issues such as ASB, crime, nuisance and waste issues.</p>	<p>The delay in producing licences for HMOs is largely as a result of the expansion of the eligibility criteria for mandatory licensing in October 2018 which effectively doubled the number of licensable HMOs in the district. The Council has been prioritising the processing of HMO licences whilst also delivering other statutory functions under the Housing legislation.</p> <p>Whilst it is true that poorly managed HMOs can have a major impact upon the community and lead to many complaints, (though not if the HMO is licensed and well managed); the evidence base relied upon indications that there were more properties occupied with individual families that were experiencing ASB issues.</p>
<p>ASB will not reduce under licensing, landlords have limited authority to deal with matters.</p> <p>What support will the Council put in place for landlords?</p>	<p>A significant theme from landlords was how far they should be held responsible for their tenants' behaviour. In this respect some respondents felt that the scheme would not reduce ASB. The licence conditions outline various actions we would expect a landlord to take on receiving a complaint to ensure proactive management. This will be supported by any conditions within the Tenancy Agreement. Landlords can contact the Council's Selective Licensing Team for general advice and guidance, however, they are not able to give specialist legal advice so would signpost landlords to solicitors as appropriate. If the</p>

Question or Comment	Response
	complaint is noise nuisance landlords can speak to the Environmental Health Team so that they can give advice and/or open an investigation. Furthermore, the Council's Housing Solutions Team can work with landlords and lettings agents to prevent homelessness.
Whilst there is a record of more ASB in these areas there is little reference to what % of this is made up of social housing.	The evidence relied upon in the proposal for ASB presented excluded all social housing as it is governed by different legislation. This is why there is no reference to it in the report.
Some of the respondents were not convinced that houses occupied by single families need to be licensed as they believed that these types of occupation lead to anti-social behaviour instead they believe that ASB is solely attributed to HMOs.  How can ASB be linked to the PRS?	The proposed neighbourhoods have the highest number of private rentals, high levels of poor housing conditions, highest levels of ASB, crime and are the most deprived in the borough and have required substantial interventions from the Council.  When analysing ASB figures care is taken to exclude any report which does not relate to residential properties.

### Proposed fees

Question or Comment	Response
Fee calculations/ council resources  Monthly payment option for the second part of the licence fee.	The proposed fee was set at a level that balances the cost of setting up and running the proposed schemes with the lowest impact on landlords. The fees cover the entire five-year duration of the schemes and when calculated at a weekly rate are such that they are not unaffordable when compared with rental income.



Question or Comment	Response
<p>Has the Council considered the financial impact on Landlord?</p>	<p>The scheme does not impose additional costs in terms of compliance with housing standards as the standards apply under existing legislation already.</p> <p>The licensing scheme provides a more effective regulatory framework and brings much of the compliance requirements into one place and aims to prevent rogue landlords undermining good landlords.</p> <p>We are considering the practicalities of applying a reduced “Early-bird” licence fee for full applications received during a fixed period in the early stages of the schemes.</p> <p>The monthly repayment of the second part of the fee was positively received by respondents but it was only available as part of the delivery partner option which was not well received by the respondents during the consultation.</p> <p>The Selective Licensing proposals are not a tax, and nor are they a way to raise income for the Council, because the funds from the scheme, in this case £668 per licence, legally must be spent only on administering, and compliance monitoring of the license and cannot be spent on anything else, even enforcement directly related to Selective Licensing offences.</p>
<p>Many of the respondents raised concerns that with the additional costs from Selective Licensing and complying with it, in addition to loss of income in rent due to some tenants losing jobs or being furloughed as a result of the pandemic, would lead to more landlords selling their properties and so increasing homelessness.</p>	<p>The Council acknowledges that there may be some small cases where landlords do sell some or all of their property portfolio in areas where Selective Licensing is introduced, due to being unwilling, or unable to comply with the scheme requirements for various reasons.</p> <p>However, research shows that where this happens the properties are normally bought by professional landlords who see properties in designated areas as a good, safe investment, as they understand that capital values of properties and rental yields are likely to increase over time as an outcome.</p> <p>If the landlords choose to sell and the properties are bought by other professional landlords, such dwellings would remain full and kept within the private rented sector.</p>

Question or Comment	Response
<p>There were also points made that with the proposed requirement for taking references and managing tenancies, would increase homelessness, by unsuitable tenants not being offered accommodation, or being evicted as a result of their anti-social or criminal behaviour, therefore being displaced into other areas.</p>	<p>Some dwellings of course could be sold on to owner-occupiers, but whilst it's a reduction in the sector, it gives the opportunity for aspiring families and individuals to own their own homes and will also result in stable neighbourhoods.</p>

### Comments around the resources and processes

Question or Comment	Response
<p>Online application and payment only – what if I cannot do this?</p>	<p>All landlords or their managing agents would need to make a licence application online through the Council's website and pay the 2-part fee online at the time of application and granting of the licence. The vast majority of licence applications are already being made in this way for most local authorities. This is in line with the Council's ambition to digitalise services and furthermore, this approach reduces costs which are reflected in the licence fees.</p> <p>We appreciate that some applicants may find this difficult and advice can be sought from the Private Sector Housing Team in the first instance. Reasonable adjustments will be put in place due to any Equalities Act considerations.</p>
<p>The application process should be tested to ensure it is not laborious to landlords and to help ensure it is easy to use. Provide real time advice through chat boxes.</p>	<p>The Council is investigating various potential IT solutions to ensure that the process is as easy and straight forward as possible.</p> <p>Telephone support will also be made available if the scheme proceeds and the Council will ensure that there are enough staff resources in place to support demand.</p>

Question or Comment	Response
<p>Provide a comprehensive Q&amp;A on the scheme website (using some of the questions raised in this report and added to as the scheme rolls out). Provide telephone support for people without internet access.</p>	
<p>Do we have enough resources in? How will you manage a scheme of this size? Selective Licensing is only good if enforced.</p>	<p>The Council's ability to manage the scheme was noted as a concern for some of the respondents. The Council intends to prepare fully for the implementation of the scheme. The scheme will need to be properly resourced and information will be provided on how the scheme will work in practice. This is currently being developed with input cross a range of departments, and also with the advice and guidance of experienced colleagues in other local authorities where similar schemes have been implemented. The Council recognises that there will be a new Selective Licensing function set up to ensure effectiveness and act as the link between landlords, tenants and other Council departments and stakeholders.</p>
<p>How will landlords who do not licence be identified?</p>	<p>The Council recognises that it will be challenging to determine exact number of landlords who do not proactively licence their properties. Occupiers, residents or other landlords and agents will be encouraged to contact the Council in confidence to report properties (or landlords) they feel may be operating poorly managed properties or be unlicensed. The Council will work with its partner agencies including the fire service, police, environmental health and other council departments to identify unlicensed properties.</p>
<p>The Council should publish clear service standards setting out the timescale for processing and approving licence applications and to publish regular updates so that performance in this area can be monitored.</p>	<p>If the scheme gets the go ahead there will be a requirement to regularly review the scheme progress and achievements as well as publishing the service standards it will work to. And relevant reports will be published annually.</p>

Question or Comment	Response
<p>Several consultation responses expressed serious concern that by working with a Delivery Partner, the Council would be allowing private sector profit instead of administering all aspects of the scheme itself, and that there would be no point for the Council to deliver the scheme in this manner.</p>	<p>The Council has noted the concerns and at as search we are exploring all the options in which the scheme can be best delivered before a final decision is taken.</p>

### Comments around enforcement

Question or Comment	Response
<p>Why can the Council not enforce standards under its existing powers?</p> <p>Why choose licensing over enforcement action?</p>	<p>Enforcement of housing standards under the Housing Act Part 1 is a reactive intervention and not a strategic response as there is no impact beyond the property and the wider issues that have been identified in private rented sector would not be addressed. Furthermore, the Council has to follow a number of steps under enforcement, which can take a significant period of time with associated costs and resources.</p> <p>Licensing powers are provided by the Housing Act 2004 (Part 2 &amp; 3) to enable local housing authorities to take a more proactive and quicker route to ensure that management and standards of accommodation are satisfactory. The Council does not need to receive a complaint to inspect a property and landlords are required under the terms of their licence to adhere to the scheme's licence conditions or face enforcement action. Licensing also promotes further engagement with landlords and agents and will enable the Council to communicate effectively with the sector.</p>

Question or Comment	Response
	All available enforcement measures to tackle housing offences will be used alongside licensing to achieve the objectives of the scheme.
Make better use of existing enforcement powers. Powers to deal with disrepair and ASB	<p>While it is accepted that there are some overlapping legislative provisions, Selective Licensing remains a powerful and unique legislative tool that can have a tangible impact on problematic areas where there are higher than average levels of privately rented accommodation.</p> <p>Selective Licensing provides the Council with additional powers to ensure management standards are sufficiently maintained. The use of licence conditions would enable the Council to impose responsibilities on landlords that would otherwise be unenforceable.</p> <p>Furthermore, where there are overlapping legislative provisions, the use of Selective Licensing can make for quicker and more efficient resolutions to housing related problems. As Selective Licensing enhances and widens the range of enforcement options, the Council is of the opinion that it is an effective means of promoting good management standards, better housing conditions, and wider regeneration in the area. The Government introduced Selective Licensing to help Councils increase their chance of successfully tackling social and environmental issues in areas such as those proposed for designation.</p>
Many licensing schemes fail due to the lack of adequate resources needed to undertake the necessary enforcement activity	Enforcement, especially of unlicensed properties, is key to delivering an effective licensing scheme and the Council is currently working to scope the level of resources that would suffice for the proposed scheme.
Licensing schemes heavily focus on the administration involved, often directing staff away from enforcement to process applications	There are some examples of this nationally, however, some other authorities have proven that if the right IT software systems are in place this would increase efficiency and enable more resources to be focussed on monitoring compliance and enforcement.

Question or Comment	Response
<p>With Council's mandatory scheme (HMO) currently still behind in issuing licences and monitoring compliance, the Council should concentrate resources on enforcing the existing licensing schemes before seeking to introduce any further licensing schemes.</p>	<p>The Council is focusing its current enforcement activity on unlicensed properties. Whilst poor compliance with the regulation is a concern and leads to higher overheads for the Council, what is of greater concern is the number of criminal landlords who are renting out properties in very poor conditions most of such properties are occupied by families with young children or other vulnerable groups which is why the Council is taking steps to address this through the proposed scheme in the worst identified neighbourhoods.</p>
<p>How we have found it difficult to make our current enforcement powers effective and estimate the level of resource if we were to be proactive in inspections etc without such a scheme. It would be considerably more than any Private Sector Landlord scheme.</p>	<p>Delivering a large-scale proactive inspection programme in the absence of property licensing powers and income would be very challenging. Licensing provides a legal framework in which the Council can work in partnership with landlords to drive up property standards and reduce ASB. Licensing income will support the recruitment and retention of skilled staff to undertake the work over the life of the scheme.</p> <p>The Council acknowledges that there are lessons to learn from the issues with the current mandatory scheme and the team is undergoing a root and branch review of processes, policy and technology with expert support will ensure the service is ready.</p> <p>The service is currently processing 75 new application related to the change in HMO definition late in 2019.</p>

### Support for the proposals

Question or Comment	Response
<p>There were a great number of positive comments with respect to the Selective Licensing Proposals,</p>	<p>The Council appreciates the level of support for Selective Licensing from across a wide cross-section of the community and other stakeholders.</p>

Question or Comment	Response
<p>and the opportunity to reduce the deprivation affecting residents and the wider community.</p> <p>There were also some specific requests for stringent landlord vetting, public registers, and a borough-wide scope for Selective Licensing.</p>	<p>Should the designation be granted, then any prospective Selective Licence Holder would need to pass a 'fit and proper person' test, which would take into account their past behaviour and any significant unspent criminal convictions.</p> <p>The Council is aware that some of private sector landlords with properties within the proposed designation may not pass the fit and proper person test. In this case they will be left with a choice of making an arrangement with a letting agent, or another person to be the Selective Licence holder for their property/properties. Whilst this is likely to boost business for letting agents in such cases, letting agents will need to be mindful of the risk of whether their new clients will comply with the Selective Licensing legal requirements.</p> <p>If the designation is approved, there will be a public register of licences, giving details with respect to the licensed properties, and the licence holder's names, though personal and address information will be excluded in order to ensure privacy and compliance with the General Data Protection Regulations (GDPR).</p> <p>The Council has no plans of making a borough-wide designation it agrees with the government's intention that Selective Licensing should be selective and only used where it is needed, rather than borough-wide.</p>

### Comments on conditions

Question or Comment	Response
<p>Unreasonable requirements in the property management conditions</p>	<p>The property management conditions require landlords to keep the property in good repair, the exterior of the property in reasonable decorative condition and gardens/yards in a reasonably clear and tidy condition. These requirements fit with good property management and the Council does not consider them to be unreasonable requirements.</p>
<p>That Selective Licensing is proved not to be effective in improving</p>	<p>There are recent reports on the effectiveness of licensing schemes which can be found online;</p>

Question or Comment	Response
<p>living conditions of the tenants in other boroughs</p>	<ol style="list-style-type: none"> <li>1. <a href="#">Chartered Institute of Environmental Health</a>.</li> <li>2. <a href="#">MHCLG's</a> review of the effectiveness of Selective Licensing in 2019</li> </ol>
<p>There is already enough legislation in place for Landlords to comply with in terms of the condition that a property is offered to a tenant and what a Landlord is required to do in terms of electrical and gas safety, smoke alarms etc.</p> <p>Surely the council have enough powers to prosecute Landlords not complying with their statutory obligations already.</p>	<p>The examples given are not all enforced by the same regulatory body e.g. gas safety is regulated by the HSE (Health &amp; Safety Executive). One of the benefits of Selective Licensing is that these can be enforced by one authority under a clear framework rather than by a patchwork of different regulatory bodies. Selective Licensing brings these all under one umbrella and requires the documents to be produced on request which ensure all these are in place.</p>
<p>In 2017/2018 the Council received 596 complaints relating to property conditions in the private rented sector but only served 12 improvement notices</p>	<p>It is because a significant majority of the service requests relating to conditions were addressed informally and resulted in remedies without recourse to formal action. This is in line with the Council's enforcement policy.</p> <p>Furthermore, some of the condition information would likely relate to houses in multiple occupation (HMOs) and specifically to elements of management failure which again would have been addressed informally and most likely without recourse to Improvement notices.</p>
<p>Energy efficiency should be incorporated into the proposed scheme.</p>	<p>The Council understands that one of the significant challenges for the private rented sector in the coming years in the energy efficiency of the properties is the move to an EPC C from 2025. With the proposed scheme an audit of properties energy efficiency (e.g. windows, insulation, boiler etc.) will be included in the inspections that are undertaken if the scheme is agreed, so that government bids can be more targeted. This would allow for landlords to get grants specifically to improve the fabric of their buildings and the licensing scheme to be seen as beneficial to them.</p>



## Other comments

Question or Comment	Response
Why haven't you done Selective Licensing before?	Selective Licensing was first considered in 2011/2012 but the decision was made at the time to use other interventions to address the problems and SEAL was formed as part of such intervention. Due to the problems persisting, the Council has re-visited this again. To deliver the scheme, the Council has to undertake a thorough study to identify areas of concern in relation to factors such as low demand, migration, poor property conditions, deprivation, crime or ASB, in conjunction with levels of private rented housing across areas. We now have evidence for the prevalence of the last four criteria available to support a Selective Licensing Scheme in some of the neighbourhoods.
There was a suggestion that the proposal is being rushed for political advantage.	The proposals were made because there was a recognition that there was a need to intervene in order to address the issues within the private rented sector. This has also been confirmed by the overall positive response to the consultation by respondents from all groups. With most people having to live and work from home due to the pandemic, those living in substandard accommodation will now be most impacted and it is in view of such residents that the Council proceeded with the preparatory work which had been underway before the start of the pandemic.
Low confidence that the scheme will achieve its aims	<p>The proposed scheme is designed to include on-line application and payment facility to provide an easy application process, freeing up staff to ensure monitoring compliance and enforcement are not delayed. Any scheme will be subject to a robust communications and publicity campaign. All properties within the scope of the designation will be inspected during the five-year duration of the scheme.</p> <p>Properties found to be non-compliant with requirements will be referred for enforcement.</p> <p>Enforcement powers include Civil Financial Penalties, application to the first tier tribunal property chamber for a Rent Repayment Order requiring the landlord to re-pay up to twelve months previous rent.</p>

Question or Comment	Response
	Criminal prosecution proceedings will be taken for the most serious offences. Landlords convicted of certain offences can be issued with a Banning Order preventing them from letting or managing properties in England and can have their details placed on a Rogue Landlord database.
The Council are charging the good landlords to fund trying to prosecute the bad ones.	<p>The proposed fee only covers the cost of processing and administration of the scheme. The Council's enforcement policy will place a higher cost burden on 'bad' landlords. This is done by targeting enforcement towards unlicensed properties, reducing the length of the licence if the landlord has a record of poor management or has not licensed their properties when asked to do so.</p> <p>As currently there is no mandate to provide information on what properties are rented, a licensing scheme is the only way to collate this information in a Council area. Having a scheme in place helps identify those that are absent and therefore allows the Council to target enforcement.</p>
Would this be money making scheme for the council?	No. The Council is only allowed to charge a fee which would cover the costs to administer and run the scheme so no extra profit can be gained from operating the scheme and the proposed fees will be reviewed annually to ensure that the scheme remains cost neutral.
Some landlords and agents were not supportive of licensing schemes because most schemes do not support local authorities to improve standards or increase enforcement activities	There is substantial evidence that enforcement is more targeted and increases in areas with Selective Licensing schemes. Raising standards and identifying criminal landlords. If the scheme is introduced, it will be clear which landlords have not applied for a new licence and enforcement action can initially be targeted at these landlords. We will then continue with our intelligence led enforcement to ensure that all landlords are licensed and are complying with licence conditions.
All landlords need to be licensed. This helps ensure standards are maintained.	The legislation does not allow for this, licensing can only be introduced if certain criteria are satisfied e.g. high levels of private rentals, with poor housing conditions, ASB, deprivation etc. and only in places with high concentration of the private rented sector. The designation criteria would not apply to the entire borough.

Question or Comment	Response
<p>More expenses for owners mean less supply of property and pressure to put up rents both due to shortage and costs</p>	<p>There is no evidence to support this, the number of rental properties and rents continue to rise suggesting other economic factors are driving the market. Indeed, the costs associated with the sale of a property and any capital gain tax dues far exceeds the cost of the proposed licence fee over 5 years.</p>
<p>This change proposed by the Council will reduce secure tenancies and increase the cost for tenants; it could also increase homelessness (how will they get a reference) with people being unable to secure a tenancy due to references.</p>	<p>Our research does not support this view. It should also be noted that there are very few secure protected tenancies in the private rented sector. Secure tenancies are often only available to council housing or housing association tenants which are not included in the proposed scheme and therefore would not be affected.</p>
<p>ARLA Propertymark believes that instead of introducing Selective Licensing, the Local Authorities should adopt a collaborative approach with letting agents, landlords and professional bodies to tackle issues within the private rented sector</p>	<p>The Council welcomes a collaborative approach with letting agents and landlords and have been encouraged by the reformation of the landlord forum in the borough.</p> <p>The Council is committed to participating in these and has started re-engaging with landlords through various platforms.</p> <p>However, self-regulation has proven not to be successful in this sector. Due to poor take up of accreditation schemes as it is a voluntary scheme with no real way of enforcing breaches by members.</p>
<p>The testing of fit and proper persons and how we are going to carry this out as we will not be using DBS.</p>	<p>The 'fit and proper test' is a statutory test set out in the Housing Act 2004, section 66. The bar is set quite high and relates to serious and relevant unspent convictions, so to deem someone as not a fit and proper person would mean they have a current conviction or have spent a considerable time in prison.</p> <p>The Council has the option to address someone who passes the fit and proper test but is still a 'person of concern' by reducing the licence term e.g. to 1 year so that</p>

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	<p>their management can be scrutinised over that year, or ask them to do additional training etc.</p> <p>It is important to note, that every licence decision made by the Council is appealable to the Tribunal (Property Chamber) who have the power to overturn council decisions. The Council would be required to remain reasonable and within the law in its assessment of each case.</p>
<p>The proposed inspection regime based on best practice elsewhere.</p>	<p>Most local authorities with a scheme in place only have one inspection per property for the life of the scheme.</p> <p>Three inspections in the five years would be realistic as the first few months of the scheme would focus on processing applications and supporting landlords to ensure that they are in compliance leaving little time to fit in more inspections</p>
<p>How effective is Selective Licensing ?</p>	<p>CIH (Chartered Institute of Housing) research confirmed that Selective Licensing is effective in improving conditions and local outcomes found that Selective licensing is not a 'quick win' and it may be several years before tangible outcomes are achieved. Nevertheless, many of the schemes we looked at are delivering significant benefits.</p> <ul style="list-style-type: none"> <li>• Selective licensing schemes lead to a more proactive approach to housing inspections and sometimes to a better understanding of the local housing market for the local authority.</li> <li>• Some schemes appear to have encouraged greater joint working, with many areas reporting joint inspections with the police and the sharing of various data sources to identify unlicensed landlords.</li> <li>• Some councils are also able to provide clear evidence of reductions in anti-social behaviour but the main outcomes to be demonstrated are to do with improving housing conditions.</li> <li>• Licensing fees vary from scheme to scheme and do not always reflect the true cost of scheme administration. In some cases, the cost of running the scheme has to be met via existing staff resources, drawn from the general housing enforcement fund</li> </ul>

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	There is also more benefits of the Selective Licensing as per research by the <a href="#">MHCLG</a> review of Selective Licensing 2019 confirming that benefits of Selective Licensing.