

Appendix 2: Additional Licensing Scheme consultation comments and responses - comments have been themed together appropriately.

Question/Comment	Response
<p>Why can the council not enforce standards under its existing powers?</p> <p>Why choose licensing over enforcement action?</p>	<p>The council has to follow a number of steps under enforcement, which can take a significant period of time with associated costs and resources. It 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 rented stock will not be addressed.</p> <p>Licensing is 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 schemes' licence conditions or face enforcement action. Licensing also promotes further engagement with landlords and agents. Enforcement measures do have a role to play alongside licensing and since April 2009, 26 prosecutions have taken place.</p>
<p>Why penalise good landlords for the shortcomings of the minority? Most landlords are responsible and professional.</p>	<p>The council recognises that there are good landlords in Brighton & Hove that offer good and well managed accommodation. However unfortunately there are also badly managed properties which licensing aims to address.</p>

	<p>We propose to offer a reduced fee across all the private sector housing licensing schemes to landlords who are accredited and who are meeting national standards of good practice.</p>
<p>Can you justify this scheme? What is your evidence?</p>	<p>The council has proposed the scheme using a range of independently gathered evidence to support its introduction. The evidence concluded there was ineffective management of HMOs which supported the introduction of an additional licensing scheme citywide. Further evidence of problems and issues were collated through the consultation responses.</p>
<p>Rents are likely to increase due to licensing – where will these people go?</p>	<p>The fee structure for the scheme is deemed to be fair and reasonable, when apportioned over the five year period. The fee is also fully tax deductible.</p> <p>Under the proposed Additional Licensing Scheme HMOs may require higher levels of investment to meet the required standards. However the majority of smaller HMOs in the city have already been subject to licensing and investment made into these properties where it was required. The properties that have been licensed previously will also be able to benefit from a reduced licensing 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>Licensing aims to stabilise tenants in better managed homes, reducing the high turnover that can lead to homelessness.</p>

<p>ASB will not reduce under licensing Landlords have limited authority to deal with matters. What support will the council put in place for landlords?</p>	<p>A significant theme from landlords was the lack of powers landlords have to tackle anti social behaviour leaving landlords with little choice but to end tenancies. In this respect some respondents felt that the scheme would not reduce ASB.</p> <p>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.</p> <p>Landlords can contact the council's Community Safety Casework Team's duty service 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 complaint is noise nuisance landlords can speak to BHCC Environmental Health Team so that they can give advice and/or open an investigation. Furthermore the council's Housing Options Team can work with landlords and lettings agents to prevent homelessness. The council is developing an information leaflet on dealing with anti social behaviour to include with licences to provide more guidance and support to landlords.</p>
<p>Why are airbnb and party houses not included?</p>	<p>This was a significant theme within the consultation. For the purposes of an additional HMO licensing scheme the property must be the occupiers only or main residence. Therefore 'party houses' and 'Airbnb' do not come under the licensing provision and they are beyond the scope of the proposed scheme.</p>

	<p>The council is aware that this is an increasing issue for residents in the city. A scrutiny review panel on short term holiday lets (Party Houses) was held in 2014 and made a number of recommendations for improved management practices. Further research has been commissioned to review the scale of issue within Brighton & Hove and to make recommendations for future possible responses.</p>
<p>The council is producing a stock condition survey so why not wait until that is complete?</p>	<p>The council has not commissioned a new stock condition survey for private rented homes in the city.</p>
<p>The length of the scheme should be shorter</p>	<p>The proposed scheme is intended to be in place for 5 years. As part of the consultation feedback was sought on whether the scheme should be shorter. Where respondents were in favour of this the primary reason was that it would serve as a trial period with 2-3 years being the suggested time length. The council has considered this but on balance consider that 5 years is the appropriate length to ensure the maximum benefit is gained from the scheme in line with how other additional licensing schemes have operated in the city.</p>
<p>Why is there no staged payment option?</p>	<p>A fee is required at the time of application. This would also require additional resources to process and chase payment and this option is not considered viable. If pursued fees would be increased to reflect any additional costs.</p>
<p>Fee – there re no auditable figures to support it</p>	<p>The proposed fee structure and the elements that make up the fee were published in the Housing & New Homes Committee report in June 2017.</p> <p>Fees will be reviewed on a periodic basis to ensure that application fees accurately reflect the cost of administering the schemes.</p>

<p>Wait and see the outcome of government consultation on HMOs before putting in place another scheme.</p>	<p>The government proposals relate to the number of storeys and not to lowering number of occupiers.</p> <p>The government's 'Houses in multiple occupation and residential property licensing reform' consultation took place in Autumn 2016. Legislative changes are expected to come into effect in April 2018 but we are not aware of the detail as yet.</p> <p>The evidence and results of the council's consultation show the need for action and we do not propose delaying action. The schemes would be changed, if necessary, in line with any future legislative changes.</p>
<p>Lots of changes for landlords at the moment -reduced mortgage interest relief, increased stamp duty, loss of wear and tear allowance, lettings agents fees (pending)</p> <p>Licensing will have an adverse affect on investment</p> <p>What change may this make to the market (e.g. selling up)</p>	<p>This is noted but the council can not comment on wider changes.</p> <p>Licensing can also have a positive effect for landlords through benefiting from area improvements that potentially have a positive impact on property values and tenancy turnover.</p>
<p>How will landlords who don't licence be identified?</p>	<p>The council recognises that it will be difficult to determine exact number of landlords who don't proactively licence their properties.</p> <p>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.</p> <p>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>Will we put enough resources in? How will you manage a scheme of this size? Only good if enforced.</p>	<p>Manageability of the scheme was noted as a concern for many. The council intends to prepare fully for the implementation of any scheme. The scheme will need to be properly resourced and information provided on how the scheme will work in practice.</p>
<p>Online application and payment only – what if I can not 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 a fee online at the time of application. The vast majority of licence applications are already being made in this way. This move to all applications being online is in recognition of the improvements that have recently been made to our online application form making it easier to apply and submit information. It is also in line with the council's ambition to digitalise services. 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>Would this be money making scheme for the council?</p>	<p>No. The council is only allowed to charge a fee which would cover the costs to administer and run the scheme.</p>

<p>Suggestions/comments on conditions:</p>	
<p>Expensive 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 do not consider them to be unreasonable requirements.</p>
<p>Duplication of existing law and regulations</p>	<p>For the purposes of the HMO licence conditions and standards we have brought all requirements into one document to give one comprehensive view of requirements. This is reflected in the introductory text for the conditions. The council has also applied discretionary conditions.</p>
<p>Include 'damp'</p>	<p>The licence conditions include a requirement to ensure the property is free from significant hazards that could affect the health and safety of tenants. Significant structure-caused dampness would come under this requirement.</p>
<p>Fire safety – provide further guidance</p>	<p>Thank you for this suggestion. We will review the information we hold on the council's website and where needed improve the information available.</p>
<p>More examples needed on some of the licence conditions e.g. references, overcrowding</p>	<p>The council has provided some illustrative examples to explain the conditions. There will be other examples and these can be discussed when a licence application is made/assessed.</p>
<p>Some conditions seem excessive e.g. recycling information, ASB requirements</p>	<p>The evidence has highlighted there are particular issues with the management of homes – waste management is one of these so ensuring information is available to tenants is</p>

<p>Minimum room sizes cause difficulties</p> <p>Remove the need for wash hand basins in bedrooms</p>	<p>considered important. The ASB conditions highlighted on page 3 of this document aim to address and reduce anti social behaviour complaints in a timely manner.</p> <p>This is not a new condition and one that has applied within our current HMO licensing standards.</p> <p>This requirement is specified in the HMO licensing standards and conditions. The current standards state 'where practicable' and circumstances when this should apply should be discussed with the case officer.</p>
<p>Six monthly inspections are intrusive</p> <p>Unannounced inspections should be carried out</p>	<p>Six monthly inspections by landlords are deemed reasonable, while still allowing quiet enjoyment of the property.</p> <p>The council is only able to do unannounced inspections in exceptional circumstances, such as where an offence is suspected of being committed. Otherwise it is legally obliged to give owners at least 24 hours' notice of any inspection.</p>
<p>The conditions state 'reasonable' time – what does it mean?</p>	<p>Whilst the licence conditions have not been prescriptive in determining timescales for emergency, routine and planned repair works we would expect these to be set out in the tenancy agreement and adhered to.</p>