

Appendix 2: Themes Arising from the Consultation and Responses

Themes	Responses
<p>The top themes resulting from matters on health or safety and associated harm by conditions of private rented properties that respondents occupied in the previous 12 months: <i>poor property conditions (mould and damp, disrepair, impact on health – including physical and mental health – and safety, levels of security, heating, hot water, leaking of gas, lack of insulation, pests or infestations, issues with electrics and fire safety; fear of eviction or being evicted (following any complaints made about conditions); lack of actions, delays or landlords or agents not responding positively to complaints; and experiences of anti-social behaviour.</i> Other themes mentioned were: <i>increased energy costs (associated with costs of living) from poor insulation or property conditions; positive actions by landlords and agents in responding to complaints; properties in good condition; and increased rents after property conditions improved.</i></p>	<ol style="list-style-type: none"> <li data-bbox="887 269 2029 635">1. The proposed Selective Licensing Scheme aims to improve the management and conditions of private rented properties – in particular, the Housing, Health and Safety Rating System (HHSRS) will be used to mitigate any serious hazards (Category 1 or high rated Category 2 hazards). This includes assessing hazards 1. Damp and mould growth; 2. Excess cold (including property insulation) and 12. Entry by intruders using HHSRS. Properties may require improvements or repairs to mitigate any serious hazards. This will benefit occupants’ health, wellbeing and safety. In addition, for the 4 wards proposed for the Scheme then reduced deprivation from a healthier and habitable private rented sector is expected. <li data-bbox="887 675 2029 927">2. Legislation for HHSRS property assessments can only include matters present at properties. Therefore, increased energy costs or cost of living matters would be outside of assessments. In addition, the proposed Licensing Scheme sets licence conditions on disposal of rubbish and recycling facilities, property maintenance and requirements for written tenancy agreements which include conditions prohibiting antisocial behaviour. <li data-bbox="887 967 2029 1155">3. The ask for support from the council on housing tenants, for example on behaviours, then this and any similar occurrences fall between a landlord and tenant. They are private matters and not something legislation would allow the proposed Selective Licensing Scheme to control. In such situations, it is common for housing landlords or agents to seek independent legal advice.

The top themes resulting from any additional comments on the management and condition of private rented properties (including any comments on proposed licence conditions): *enforcement and property inspections are essential; support for the proposed Licensing Scheme, as will benefit and improve lives of housing tenants, providing that the Scheme is enforced properly; fines for non-compliance with the Scheme is essential; lack of actions or compliance by landlords or agents; further feedback on poor property conditions; asks for all landlords to be accredited or registered; comments on unfair costs arising from the Scheme; the Scheme will not improve housing conditions; the Scheme sets requirements which are already covered by legislation, tenancy agreements or landlord accreditation schemes; and views on being against the Scheme due to landlords selling properties and shrinkage of the city's private rented sector.* Other themes mentioned were: *in agreement with the Proposed Scheme, as will improve compliance; costs being passed onto tenants and increased housing rents; landlords not responsible or cannot influence housing tenants' behaviours and request for support from the council on tenants; and the Scheme not applicable for the Build to Rent housing sector.*

4. The proposed Selective Licensing Scheme would provide this council, as well as all other local authorities with licensing schemes, an element of control over the city's private rented housing stock. Licence conditions are set for improved management and standards of properties. This follows evidence which has demonstrated poor property conditions in the city, and for the 4 wards proposed for Selective Licensing levels of significant deprivation. Further information on data and evidence for the proposed Scheme is available within a Selective Licensing Feasibility Study and Private Rented Sector: Housing Stock Condition and Stressors Report. Copies of the reports are available by sending requests to psh@brighton-hove.gov.uk
5. Conversely, throughout the consultation, the council communicated evidence and subsequent reasons for introducing the proposed Selective Licensing Scheme. In addition, the proposed licensing fees are set so that all costs to the council, for administering and running schemes can be recovered.
6. The proposed Scheme acts proactively. It is not a reactive process for enforcing existing legislation, and legislation does not allow any other requirements in tenancy agreements or landlord accreditation schemes for use by the council to improve property conditions. Legislation also prevents the Scheme to require accreditation (with landlord groups) for all landlords.
7. In addition, the use of alternative options to the Scheme (A – do nothing, B – use existing reactive powers, C – targeted use of Management Orders & D – area based voluntary accreditation) were considered at the council's Housing & New Homes Committee on 15 March 2023. None of the options were big enough to address various issues in the city's private rented housing sector.

The top themes resulting from any additional comments on licence conditions and reduced deprivation for the 4 wards proposed for Selective Licensing: *in agreement deprivation will reduce, enhance communities, quality of life, encourage sustainable communities, improve lives of housing tenants and energy efficiency improvements to properties will reduce energy costs; energy efficiency issues must be addressed; enforcement and property inspections are essential; more feedback on poor-property conditions; ineffective at reducing deprivation, as will transfer to another area; ineffective at addressing any non-compliant or rogue landlords; and the proposed licensing scheme is unfair or unjustified.* Other themes mentioned were: *against the proposed scheme and will reduce numbers of properties, by landlords exiting the market; housing rents will increase; and a rent cap is required for rents.*

8. Themes on fear of eviction (following any complaints made about conditions) or lack of action or delays by landlords or agents can be reported to the council in confidence using an online form: <https://www.brighton-hove.gov.uk/housing/private-housing/contact-us-about-your-private-rented-housing> The council also provides advice on revenge eviction: <https://www.brighton-hove.gov.uk/housing/private-housing/revenge- eviction>
9. The council welcomes views expressed on positive actions by landlords and is pleased they and agents take property conditions seriously. However, as highlighted in paragraph 4. above, there is evidence of poor property conditions and deprivation. In addition, for deprivation identified in the 4 wards proposed for Selective Licensing then a healthier and habitable private rented sector is expected in those wards.
10. In view of requirements and associated costs for the proposed Selective Licensing Scheme, there are no reasons indicating why private sector housing rents would increase, any subsequent shrinkage of the private rented sector or landlords selling property. Properties requiring repairs or improvements would be expected to be funded by budgets set for cyclical works and not by raising finance from increasing rents.
11. Letting a property is a business and requires certain investment, like with most enterprises. In addition, legislation would not allow the proposed Scheme to set any caps or limits to housing rents. However, rents cannot be increased without good reason or by any amount. Certain rules must be followed if higher rents are requested by housing landlords. The Citizen's Advice Bureau provides more information on rental increase rules: <https://www.citizensadvice.org.uk/housing/renting-privately/during-your-tenancy/dealing-with-a-rent-increase/>

The top themes resulting from any additional comments on the Housing, Health and Safety Rating System (HHSRS) for improving conditions of private rented properties: *welcome HHSRS, as essential for health; enforcement and property inspections are essential; a current lack of enforcement or compliance in the city; the proposed Licensing Scheme is being introduced from failings by the council; and a lack of compliance in the city's private rented sector contributes to health issues.* Other themes mentioned were: *the proposed Scheme is unfair, unnecessary and based on bureaucracy; and the city's private rented sector is already compliant.*

12. There have been rare occasions where costs of private rented housing (associated with Selective Licensing only) have increased in certain English and Welsh local authorities. However, such costs were identified where councils had introduced 'blanket' selective licensing schemes - across all areas or districts covered by a local authority.

Selective licensing of private rented housing in England and Wales, Research Briefing, By Wendy Wilson, Published 19 March 2023, House of Commons Library:

<https://researchbriefings.files.parliament.uk/documents/SN04634/SN04634.Pdf>

This council's proposed Selective Licensing Scheme for 4 wards or the subsequent second phase for 13 wards would not form a 'blanket' selective licensing scheme. Even if all 17 wards were designated for selective licensing there are still a further 6 wards not receiving such designation. There are a total of 23 wards in Brighton & Hove.

13. Throughout the consultation, the council communicated evidence and subsequent reasons for introducing the proposed Selective Licensing Scheme. Further information on data and evidence for the proposed Scheme is available within a Selective Licensing Feasibility Study and Private Rented Sector: Housing Stock Condition and Stressors Report. Copies of the reports are available by sending requests to psh@brighton-hove.gov.uk. In addition, the proposed licensing fees are set so that all costs to the council, for administering and running schemes can be recovered.

14. The council has a Private Sector Housing Enforcement Policy. It sets the authority's approach for compliance with legislation by housing landlords or letting agents and the right for all to live in decent, safe accommodation. The Policy also includes enforcement around property licensing. In addition, there are suitable resources in place for enforcement of legislation at the council.

Education and information on how to achieve compliance are the first steps of the Policy. If this does not succeed then taking enforcement action as appropriate, are the Policy's next steps.

<https://www.brighton-hove.gov.uk/housing/private-housing/private-sector-housing-enforcement-policy>

The council will not hesitate to use enforcement for non-compliance with legislation. For instance, against persons who do not proactively come forward to licence their properties. Furthermore, against licence holders who do not meet licence conditions.

Moreover, intelligence from various sources may be used to identify any unlicensed properties. Housing tenants, other residents, landlords or letting agents will be encouraged to contact the council to report (in confidence if desired) any suspected unlicensed properties. The council will also work collaboratively with other organisations or departments for sharing intelligence. For example, East Sussex Fire & Rescue Service, Police, other local authorities, Environmental Health, Planning, Building Control and Council Tax.

15. The council notes comments on the proposed Selective Property Licensing Scheme not applying to the Build to Rent housing sector. If this sector wishes to be exempt from the proposed Scheme, and any other new build developments, then any exemption requests would be made to the council.

Exemptions would be considered on a case by case basis, at the licence application stage. In a number of cases the council may be able to grant exemptions, if statutory criteria for exemptions under Housing Act 2004 or The Selective Licensing of Houses (Specified Exemptions) (England) Order 2006 is met. There is also provision under the Act 2004 to grant temporary exemptions, normally for 3 months and a further 3 months if circumstances allow. For example, if a housing landlord has passed away and the property is marketed for sale.

In addition, where no statutory exemption exists then the council would not exclude the Build to Rent housing sector, and any other new build developments, from the proposed Selective Licensing Scheme.

However, in line with the request for reduced licence fees from the Build to Rent sector, the council is proposing a multi-dwelling licence application discount. Where there are multiple flats in the same block (and the same ownership and management) then licence holders would be eligible for a Multi-Dwelling Selective Licence fee.

For the first property, all applicants would be required to pay Part A £447 and Part B £223 for up to a 5-year licence. For the second property onwards, all applicants are required to pay Part A £447 and Part B £173 (£50 less than the first property) for up to a 5-year licence.

The top themes surrounding respondents' views on the 5 year proposed duration of the Selective Licensing Scheme: *rejection of the Scheme; pilot it first; review the Scheme annually; Scheme will increase housing rents; introduces unfair costs to landlords or agents; and the consultation survey questionnaire does not allow a no response for the question (on this topic).*

16. Further to comments in paragraphs 4., 5. and 9. above, the proposed Selective Licensing Scheme seeks introduction for documented reasons and costs. There are issues in the city's private rented housing sector needing attention. The legislation does not allow local authorities to pilot licensing schemes. In addition, there are no indications of private sector housing rents increasing.
17. Further to paragraph 7. above, alternative options to licensing were considered at the council's Housing & New Homes Committee on 15 March 2023. None of the options were big enough to address various issues in the city's private rented housing sector.
18. The council intends the length of the proposed Selective Licensing Scheme to remain at 5 years. The request to review the Scheme annually has been noted. If it were to be introduced, the council would look at reviewing the effectiveness of the scheme throughout the Scheme's duration.
19. Following feedback on the questionnaire not allowing a "no response" for the question (topic) then a no option would not have been a valid question. A licensing scheme would only be set for between 1 to 5 years and not 0 (zero months) to 1 year. In addition, there were open questions at the end of the questionnaire for any further comments on the proposed Selective Licensing Scheme (for 4 wards and 13 wards).

The top themes resulting from views on proposed licensing fees for the Selective Licensing Scheme: *fees should be increased for licence applicants with multiple properties; licence fee income to the council should be ringfenced and not shared across other departments; fees should reduce for smaller portfolio landlords or landlords with single properties; fees being enough to cover running costs by the council for the Scheme (and so the Scheme is effective); costs to licence holders (from fees) being passed onto tenants and subsequently creating negative impacts; the Scheme is unfair and fees too high; and fees too low in order for the council to provide an effective service. Other themes mentioned were: fees creating negative impacts on the city's private rented housing sector (reducing supply) and deter housing landlords; and fees being too low (given high property rental revenues).*

20. Further to comments in paragraph 5. above, evidence and reasons for introducing the proposed Selective Licensing Scheme were communicated throughout the consultation. More information on data and evidence for the proposed Scheme is available within a Selective Licensing Feasibility Study and Private Rented Sector: Housing Stock Condition and Stressors Report. Copies of the reports are available by sending requests to psh@brighton-hove.gov.uk
21. The proposed licensing fees are set so that all costs to the council, for administering and running the Scheme can be recovered. Licence fee income is used only by the council for administering a licence scheme. In addition, licence fee costs are proportionate. This includes resources projected for use by the Scheme and when taken up by the council for pursuing licence applications (prompted licence fees).
22. In the majority of cases prompted licence fees are pursued - for the existing Mandatory Housing in Multiple Occupation Licensing Scheme. The fee setting process is not set by the number of properties owned by landlords or housing market rents. The fee structure for the proposed Scheme is also deemed fair, especially when apportioned over a five year licensing period. The fee is also fully tax deductible.
23. The council recognises there are housing landlords in the city who offer suitable and well managed accommodation. It is intended to offer a reduced licence application fee – for the proposed Selective Licensing Scheme – for landlords who are accredited and meet national standards of good practice.
24. Further to comments in paragraphs 10., 11. and 12. above, there are no reasons for private sector housing rents to increase, any subsequent shrinkage of the private rented sector or landlords selling property.

Other themes, related to proposed licence fees, from views on prompted licence fees (raised where a licence application is not made and the council incurs extra costs in pursuing the application) for the Selective Licensing Scheme were: *the prompted fees are too low and higher fees needed as a deterrent for non-compliance; enforcement of the Scheme is essential; licensing fee costs will be passed onto housing tenants; licensing fee costs are unfair; prompted licensing fees are too low to provide an effective service; prompted licensing fees penalise good landlords and are unfair; and there should be a fine or penalty for non-compliance with the Scheme.*

25. Further to comments in paragraph 14. above, the council has a Private Sector Housing Enforcement Policy. It sets the authority's approach for compliance with legislation by housing landlords or letting agents and the right for all to live in decent, safe accommodation. The Policy also includes enforcement around property licensing.

<p>The top themes resulting from comments on the proposed discounted licence fee for properties with an Energy Performance Certificate (EPC) rating of C or above: <i>a rating of C should be the minimum requirement for a property licence; having a rating of C or above does not justify a discounted licence fee; not possible for properties to achieve a rating of C or above; further incentives required for energy performance; in agreement, as an incentive for landlords; and changes required to remove planning restrictions preventing energy improvements to properties.</i> Other themes mentioned were: <i>discounted licence fee should only apply for properties with A or B ratings; and the discounted licence fee will not work and is a waste of money.</i></p>	<p>26. The council notes concerns raised about some properties not able to achieve an EPC rating of C or above and for further incentives. It is now proposed to offer the discounted licence fee where: (1) a property has an EPC rating of C or above; or (2) a property's "potential" energy efficiency rating has been met and has an EPC rating of E or higher. However, it should be noted that since 1 April 2022, landlords can no longer let or continue to let properties by the Minimum Energy Efficiency Standards Regulations if they have an EPC rating below E. Unless, there is a valid exemption in place.</p> <p>27. The council notes views on making a rating of C the minimum requirement for the proposed Selective Licensing Scheme. In addition, that a C rating does not justify the discounted licence fee, should only apply for A or B ratings and will not work and a waste of money. However, improving a property's EPC rating also goes towards mitigating any serious HHSRS hazards (Category 1 or high rated Category 2 hazards) specifically hazards: 1. Damp and mould growth; and 2. Excess cold. Therefore, incentivising improvement of energy efficiency, by discounted licence fees, encourages best practice by landlords.</p>

The top themes resulting from comments on the proposed discounted licence fee for landlords who are accredited with landlord groups (those are ihowz Landlord Association, National Residential Landlords Association and Safeagent): *general disagreement on discounting licence fees, for various reasons, or not appropriate to offer discount; being accredited does not make landlords anymore responsible; and accreditation is not a reason for discounted licence fees.* Other themes mentioned were: *support for the discounted licence fees; and make accreditation a requirement of the proposed Selective Licensing Scheme.*

28. The council recognises there are housing landlords in the city who offer suitable and well managed accommodation. It is intended to offer a reduced licence application fee – for the proposed Selective Licensing Scheme – for landlords who are accredited and meet national standards of good practice. It is also common in many other local authorities, with property licensing schemes, that discounted fees feature for landlords accredited with landlord groups. In addition, legislation would not allow landlord accreditation to be a requirement of the proposed Scheme.
29. The council notes there are disagreements in offering discounted licence fees for accredited landlords. However, there was support in the consultation for discounted licence fees. In addition, being accredited with a housing landlord group would be a positive step for achieving compliance with the proposed Scheme.
30. At the Housing and New Homes Committee meeting on 20 September 2023, the report Private Sector Housing – Discretionary licensing proposed fee structure and licence conditions also highlighted research in 2022 by the Department of Levelling Up, Housing and Communities and in line with the English Housing Survey.
31. The research explored compliance with legislation and other requirements by private sector housing landlords. It found 30% of landlords show good practice, 24% follow legal requirements, 35% had mixed compliance and 11% had lower compliance and awareness. It is considered that offering discounted licence fees, for landlords accredited with landlord groups, encourages further landlords to follow good practice and legal requirements.

The themes resulting from comments on proposals to make the Selective Licensing Scheme application and payment process online only via the council's website: *make the system simpler for access by large property portfolio holders and reducing the numbers of entries into the system; expectations of a poor service by the payment, online process; and requests for telephone and staff help line and a paper or face to face option for licence applications.*

32. The council notes comments received on the online payment system and will be reviewing it. Following the review, adjustments or improvements will be made. In addition, the system does have joint access capability. It allows users to save their current progress for up to 14 days. A subsequent email with a unique link then gives access back into the system. The link can be shared by email between landlords and agents for joint access. This should offer some assistance and share resources between landlords and agents.
33. The council is disappointed that some customers have expressed an anticipated poor service. The council's Private Sector Housing Team staff who will be involved with the proposed Selective Licensing Scheme are routinely available by email or telephone. They can assist with any queries or questions on the Scheme's Licensing Conditions, matters at licence application stage or how to achieve compliance with the Scheme. This includes for landlords and tenants.
34. The council intends to move away from paper licence applications. This will reduce costs and encourage greater efficiencies. However, as highlighted in paragraph 33. above, council staff will be available by email or telephone for any queries on making online licence applications.

The themes resulting from further comments on the proposed Selective Licensing Scheme (for 4 wards): *in support of the Scheme and will improve property standards; and objections to the Scheme, as costs will be passed onto housing tenants and increased rents, shrinkage of private rented properties in the city and landlords exiting the market and the Scheme is not required. Other themes mentioned were: funding and enforcement of the Scheme is essential; and the council should look at addressing wider issues (outside of the proposed Scheme).*

35. The council recognises there are good landlords in Brighton & Hove who offer suitable and well managed accommodation. However, further to comments in paragraphs 1., 4., 5., 6., 10., 11. and 12. above, discussion has focused on justification for the proposed Selective Licensing Scheme. Again, further information on data and evidence for the proposed Scheme is available within a Selective Licensing Feasibility Study and Private Rented Sector: Housing Stock Condition and Stressors Report. Copies of the reports are available by sending requests to psh@brighton-hove.gov.uk
36. In addition, in response to the theme on the council should look to address wider issues (outside of the proposed Scheme) then in line with paragraph 35. above, there are significant justifications for the proposed Scheme. The purpose of the public consultation was on the proposed Licensing Scheme and not for any wider issues.
37. Further to comments in paragraphs 10., 11. and 12. above, there are no reasons for increased costs or rents or shrinkage of private rented housing in the city. In addition, paragraphs 21. and 22. above provide information on licence fee income and how it would support the proposed Licensing Scheme. Paragraph 14. above details the council's Private Sector Housing Enforcement Policy, a key document for the proposed Scheme.

The top themes resulting from further comments on the proposed Selective Licensing Scheme (for 13 wards): *in support of the Scheme and will tackle rogue landlords; make the proposed Scheme citywide (apply to all wards in the city); enforcement of the Scheme and making licence holders accountable is essential; the Scheme is not justified and will make no difference; costs will be passed onto housing tenants; and shrinkage of private rented properties in the city and landlords exiting the market.* Other themes mentioned were: *the council should be responsible for wider issues (outside of the proposed Scheme); the Scheme is not applicable to the Build to Rent sector; and the Scheme will penalise good landlords.*

38. The council recognises there are good landlords in Brighton & Hove who offer suitable and well managed accommodation. However, further to comments in paragraphs 1., 4., 5., 6., 10., 11. and 12. above, discussion has focused on justification for the proposed Selective Licensing Scheme. Again, further information on data and evidence for the proposed Scheme is available within a Selective Licensing Feasibility Study and Private Rented Sector: Housing Stock Condition and Stressors Report. Copies of the reports are available by sending requests to psh@brighton-hove.gov.uk
39. With regard to homelessness in Brighton & Hove then loss of accommodation from the private rented sector is a major cause of homelessness in the city. The council routinely provides information on this to the Department of Levelling up, Housing and Communities (DLUHC) and can be viewed publicly. For more information go to tables on homelessness <https://www.gov.uk/government/statistical-data-sets/live-tables-on-homelessness> -)
40. In addition, in response to the theme on the council should be responsible for wider issues (outside of the proposed Scheme) then in line with paragraph 38. above, there are significant justifications for the proposed Scheme. The purpose of the public consultation was on the proposed Licensing Scheme and not for any wider issues.
41. For the theme on making the proposed Scheme citywide (for all wards) then the council's Housing & New Homes Committee on 15 March 2023 approved a public consultation for a phased selective licensing scheme (4 wards and 13 wards). Not a scheme applying to all wards in the city. See paragraph 7. above, for more details on alternative options to the Scheme considered by the Committee.

	<p>42. Further to comments in paragraphs 10., 11. and 12. above, there are no reasons for increased costs or rents or shrinkage of private rented housing in the city. In addition, paragraph 14. above details the council's Private Sector Housing Enforcement Policy, a key document for the proposed Scheme.</p> <p>43. Further to comments in paragraph 15. above, on exemptions from the proposed Licensing Scheme then where no statutory exemption exists the council would not exclude the Build to Rent housing sector from the Scheme. This includes any other new build developments being excluded from the proposed Scheme. However, the proposed multi-dwelling licence application discount would offer licence holders (for multiple flats in the same block and the same ownership and management) a discounted licence fee of £50 for the second property onwards.</p>
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