

Appendix 2: Selective 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>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>The scale of the issue would mean this would not be a reasonable solution to dealing with the issue and licensing provides the opportunity to deal with broader issues.</p>
<p>Why haven't you done selective licensing before?</p>	<p>The council has to undertake a thorough study to identify areas of concern in relation to factors such as poor property conditions, deprivation, low demand, migration, crime or ASB, in conjunction with levels of private rented housing across areas. Evidence is now available to support a Selective Licensing Scheme.</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 their introduction. The evidence shows a clear correlation between private rented stock and the sector contributing to ASB and general neighbourhood complaints. Evidence also supported that the standard of privately rented properties in the city needs to be improved. 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 both proposed schemes is deemed to be fair and reasonable, when apportioned over the five year period. The 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>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. There are a number of exemptions set out in the Selective Licensing of Houses (Specified Exemptions) (England) Order 2006. These exemptions include “a tenancy or licence that is granted to a person in relation to his occupancy of a house or dwelling as a holiday home”. Therefore if ‘party houses’ and ‘airbnb’ are holiday lets they do not come under the licensing provision and are beyond the scope of the scheme. The vast majority of Airbnb lettings will be holiday lets but in circumstances where they are not selective licensing could be applied.</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 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 reasons was that it would serve as a trial period or that a lot could change within five years. Two to three years was the suggested time length. The council has considered this but on balance consider that five years is the appropriate length to ensure the maximum benefit is gained from the scheme.</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. Fees will be reviewed on a periodic basis to ensure that application fees accurately reflect the cost of administering the schemes.</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) Licensing will have an adverse affect on investment 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. 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. 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>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: 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</p>

<p>Include 'damp'</p> <p>More examples needed on some of the licence conditions e.g. references, overcrowding</p> <p>Some conditions seem excessive e.g. recycling information, ASB requirements</p>	<p>consider them to be unreasonable requirements.</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>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>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 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>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>

