
Landlord Licensing in the Private Rented Sector:

Research Report for Core Cities UK

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Summary

Introduction

This report has been commissioned by Core Cities UK to provide background information and recommendations relating to landlord licensing in the private rented sector (PRS). It is informed by a literature review and survey research conducted with members of the Core Cities group, as well as desk-based research and case studies of established schemes.

The report is made up of five sections:

- Section 1: Literature Review: landlord licensing in England
- Section 2: Survey results: Core Cities views and experience of licensing schemes
- Section 3: Case studies
 - 3a: RentSmart Wales
 - 3b: Scottish register of landlords
 - 3c: Selective licensing in Liverpool
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- Section 4: Summary of the benefits and criticisms of landlord licensing
- Section 5: Recommendations

Findings

The report argues that large-scale selective licensing schemes are an important tool for local authorities seeking to tackle rogue landlords and improve standards in the private rented sector, as well as helping to address wider issues such as anti-social behaviour. Mandatory licensing of Households in Multiple Occupation (HMOs), is not sufficient to address the scale of problems in many areas as it excludes smaller HMOs and is challenging to enforce without the additional powers and resources that selective licensing provides.

Benefits of selective licensing identified include:

- **Greater enforcement capability, including powers of entry:** This increased capacity can be clearly seen in London, where the four London councils with borough-wide selective licensing account for 73.7% of all prosecutions across the capital's 33 boroughs.
- **Resources:** In a context of significant cuts to council budgets, licensing provides ring-fenced income for local authorities to fund regulation and enforcement over a sustained period.
- **Data and intelligence:** Enabling councils to better understand the scale of the private rented sector and target their interventions.
- **Improved housing conditions and tackling Anti-Social Behaviour (ASB):** Licensing conditions, backed by enforcement, can lead to improvements in standards and safety as well as helping local authorities to tackle crime and ASB.
- **Joint working:** Licensing provides the intelligence and legal framework that enables enhanced partnership working with other agencies.

- **Engagement with landlords:** Licensing enables councils to engage with landlords and helps to inform and professionalise the market.

However, licensing itself is not a 'catch all' solution. Criticisms raised in relation to schemes that are overly bureaucratic, insufficiently targeted, and poorly enforced, are valid where the approach has not been well designed and implemented. To maintain effectiveness and legitimacy, large-scale licensing schemes should be backed by robust, targeted enforcement, and be part of a wider strategy to improve the PRS and/or tackle ASB.

The report also looks at national registration and licensing schemes in operation in Wales and Scotland. It finds that they are beneficial in encouraging a widespread focus on the PRS and ensuring information on landlords is available in every area. However, they cannot adequately replace local selective licensing and particularly, locally-led enforcement. Enforcement appears to work best when administered locally, where local intelligence and accountability can help to drive it forward.

Recommendations

Most of the disbenefits of licensing raised during interview of Core Cities members, related to challenges in implementing schemes and the bureaucracy of national guidance and legislation, rather than problems with licensing itself.

The report makes a series of recommendations for government, given the evidence that licensing is valued by many councils and residents, and can bring significant benefits in improving the PRS, including:

- **Return selective licensing powers to local authorities**, rather than requiring a lengthy and bureaucratic application to the Secretary of State to introduce or renew any large scheme. Decisions to implement licensing should ultimately rest with local authorities, where there is greater understanding of local need.
- **Consider introducing a national landlord registration scheme** that could support and complement local selective licensing schemes by making it easier for local authorities to identify landlords, while recognising the need for locally-led enforcement.
- **Introduce stronger penalties for the very worst landlords**, including higher financial penalties and property forfeiture. This will help drive out the worst landlords, ensure enforcement activity is self-sustaining, and support councils to step up enforcement.
- **Review and simplify existing regulation around selective licensing**, to make the process less bureaucratic and costly for both councils and landlords.

Section 1: Literature Review, Landlord Licensing in England

The private rented sector in England

While the private rented sector (PRS) has traditionally been a short-term or transitional form of housing tenure, significant growth has occurred due to changes in tenure as owner occupied and social rented properties were purchased by landlords¹. The PRS in the UK has grown from 9.4% of housing stock in 2000², and now accounts for approximately a fifth of all households in England – with a significantly higher proportion in the PRS in many urban areas.³ It is now the second largest housing tenure in England, with a growing number of households renting from a population of around 1.5 million private landlords.⁴

These changes mean that the PRS is increasingly becoming a long-term home for a range of households with different housing needs including those on low incomes, families with children and previously homeless households⁵. A recent review of private landlords in the UK by the Council of Mortgage Lenders (2017)⁶ found that almost 63% of landlords surveyed owned a single property, with the most usual tenant types being couples or single people. 30% of landlords surveyed said they rented to families with children, while 6% said they rented to households claiming Local Housing Allowance.

Alongside the growth of the PRS, there is evidence of problems relating to tenure insecurity, poor housing conditions,⁷ and high rents causing hardship and insecurity for many households in this sector. National and local house condition data identifies the PRS as having the worst conditions overall compared to other tenures, while research suggests that many landlords are unaware of key property management responsibilities, and do not understand their responsibilities to adhere to a wide range of legislation and standards.⁸

The significant growth in the size of the PRS has led to calls that it be better regulated, particularly in relation to the insecurity experienced by many tenants.⁹ This includes calls for greater regulation in tenancy length and protection from eviction; control of rent levels; regulation of relationships between landlords and their tenants¹⁰; and the standards/quality of the accommodation itself.¹¹

¹ Regulation of the private rented sector in England using lessons from Ireland. Moore T & Dunning R Joseph Rowntree Foundation/Uni of Sheffield. 2017

² *The profile of UK private landlords* Scanlon K & Woodhead C CML research. LSE London. December 2017 www.cml.org.uk

³ Department for Communities and Local Government (DCLG) (2016) English housing survey 2014 to 2015: headline report.

⁴ Landlord Licensing. Interim report-overview of the incidence and cost of HMO & discretionary schemes in England. February 2015. www.landlords.org.uk

⁵ Rugg, J and Rhodes, D (2008) *The private rented sector: its contribution and potential*. York: University of York

⁶ *The profile of UK private landlords* Scanlon K & Woodhead C CML research. LSE London. December 2017 www.cml.org.uk

⁷ Department for Communities and Local Government (DCLG) (2016a) English housing survey 2014 to 2015: headline report.

Available at: <http://bit.ly/1U9OFde>

⁸ Pennington, J (2016) *Renters put at risk*. London: Shelter. Available at: <http://bit.ly/2odOB02>

⁹ De Santos, R (2012) *A better deal - towards more stable private renting*. London: Shelter. Available at: <http://bit.ly/2odOB02>

¹⁰ Regulation of the private rented sector in England using lessons from Ireland. Moore T & Dunning R Joseph Rowntree Foundation/Uni of Sheffield. 2017

¹¹ Department for Communities and Local Government (DCLG) (2016) English housing survey 2014 to 2015: headline report.

Landlord licensing

The Housing Act 2004 gave local authorities powers to tackle poor property conditions in the private rented sector. The Act also introduced different types of landlord licensing scheme, with mandatory licensing for larger HMOs; additional licensing, allowing local authorities to introduce licensing for a wider range of HMOs; and selective licensing, which allows local authorities to apply for licensing of all private rented properties, in order to address issues such as low housing demand, antisocial behaviour, poor housing quality, and deprivation.

Selective licensing was initially slow to take-off after the Act came into force in 2006 but an increasing number of authorities now operate schemes.¹² Initially, all applications for selective licensing schemes had to be approved by the Secretary of State. While this step was removed in 2010, further guidance was published by the Department for Communities and Local Government (DCLG, now MHCLG) in 2015 requiring local authorities to seek confirmation from the Secretary of State where selective licensing schemes would cover more than 20% of their geographical area or more than 20% of privately rented homes in that area¹³.

The Act¹⁴ requires local authorities to consult with those likely to be affected by any designation - including landlords, managing agents and tenants - and to consider any representations made during that process. There have been examples of schemes being quashed by the Courts where local authorities have failed to consult appropriately.¹⁵

Key aspects of selective licensing schemes include:

- **Granting of licenses:** The local authority must consider whether the landlord or managing agent is a 'fit and proper' person as outlined in the Act ¹⁶, and can refuse to grant a license if it determines that the relevant criteria are not met. The authority also has to be assured that the person it is granting the license to is the most 'appropriate' person, to ensure that unfit landlords cannot apply for a license using a third party.
- **Fees:** Landlords have to pay a charge for a license issued under a selective licensing scheme, and local authorities can set their own fees, although these should be transparent and cover the costs of the administering the licensing scheme¹⁷. Fees cannot be used to raise extra revenue for the local authority¹⁸.

¹² Selective Licensing of the Private Rented Sector (2017) House of Commons Library, Briefing Paper Number 4634. Available: <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN04634>

¹³ *Housing Minister letter* to local authorities. DCLG. 11 March 2015 <https://landlords.org.uk/sites/default/files/15-03-11%20BL%20to%20LAs%20re%20Selective%20licensing.pdf>

¹⁴ Housing Act 2004 <https://www.legislation.gov.uk/ukpga/2004/34/contents>

¹⁵ *R (Regas) v LB Enfield* (2014) EWHC 4273 (admin). December 2014 [https://landlords.org.uk/sites/default/files/NEW%20-%20eflash%20578%20-%20R%20\(Regas\)%20v%20LB%20Enfield_0.pdf](https://landlords.org.uk/sites/default/files/NEW%20-%20eflash%20578%20-%20R%20(Regas)%20v%20LB%20Enfield_0.pdf)

¹⁶ Housing Act 2004 <https://www.legislation.gov.uk/ukpga/2004/34/contents>

¹⁷ ODPM (March 2006) Regulatory Impact Assessment: Houses in Multiple Occupation and Selective Licensing and Management Orders

¹⁸ The licensing and management of houses in multiple occupation and other houses (miscellaneous provisions) (England) regulations. 2006 no 373. http://www.legislation.gov.uk/uksi/2006/373/pdfs/uksi_20060373_en.pdf

- **Sanctions:** In addition to the original 2004 legislation, the Housing and Planning Act of 2016¹⁹ has enabled local authorities to impose civil penalties, up to a maximum of £30,000 as an alternative to prosecution for offences committed under the Housing Act (2004), with the London Borough of Newham being the first to do so when the powers were first introduced. Other sanctions available to local authorities within the powers of the 2004 Act include:
 - Seeking a Rent Repayment Order for properties that should be licensed but are not;
 - Liability for a fine on summary conviction for persons breaching the obligation to license a property;
 - Provision of enforcement actions in respect of licensable properties, such as Interim Management orders and Final Management Orders.

Impact of selective licensing

As noted above, local authorities were initially slow to introduce selective licensing schemes. An early evaluation conducted by DCLG (2007)²⁰ found that the main reasons for local authorities considering licensing schemes were: low demand, empty properties, and poor housing conditions, with bad management and lack of interest by landlords, and antisocial behavior also mentioned. However, many local authorities were concerned about the capacity and resources required to deliver and support licensing schemes.

A Building Research Establishment report in 2010²¹ looked at the impact of the relatively few selective schemes in operation at the time, and found early evidence of positive impacts:

- 1) **Housing markets and demand:** the impact was mixed, however the largest rise in house prices and demand occurred in areas where designation had been granted and enforcement focus had been on tackling anti-social behaviour.
- 2) **Standards of property management:** early indications of improvements due to the requirements in licensing schemes for proper referencing and written tenancy agreements.
- 3) **Property conditions:** Tenants and residents noted improvements to the conditions of some properties, although many properties had been licensed without an inspection, so it was acknowledged that there would still be many poor properties.
- 4) **Neighbourhood cohesion:** The process of applying for designation and associated intensive working in designated areas provided local authorities with a greater depth of knowledge/understanding of both the nature and severity of issues in these areas.
- 5) **Displacement to neighbouring areas.** Some concerns were expressed that selective licensing could displace poor landlords and tenants to other areas, although there was no evidence to support this at the time.

¹⁹ *Housing and Planning Act 2016* <http://www.legislation.gov.uk/ukpga/2016/22/contents/enacted>

²⁰ DCLG (August 2007) *Housing Research Summary 239, Evaluating the Impact of Houses in Multiple Occupation and Selective Licensing: The baseline before licensing in April 2006*

²¹ *Evaluation of the impact of HMO licensing and selective licensing*. BRE DCLG 2010
<http://webarchive.nationalarchives.gov.uk/20120920022551/http://www.communities.gov.uk/documents/housing/pdf/1446438.pdf>

- 6) **Lasting impact of licensing.** Both councils, officers and residents expressed concern about what would happen after the initial 5 years granted for selective licensing schemes passed.
- 7) **Selective licensing as part of a wider strategy.** Schemes were often introduced alongside other initiatives to support regeneration, community cohesion, ASB. Selective licensing appeared to have added the following:
 - a. Safeguarding investment in regeneration by avoiding ‘cheap’ properties being purchased by investors from outside the area.
 - b. Helping to control ASB and security of the tenancy, by involving the landlord and having properly drawn up tenancy agreements that could be used to deal with persistent ASB.
 - c. Ensuring that landlords who were unwilling to join voluntary accreditation schemes took steps to improve the physical standards and management of their properties
 - d. Giving local authority staff and others contact with good landlords, building relationships and helping to change each other’s perceptions of the other.

Between 2010 and 2015, when councils no longer needed to apply to the secretary of state, a number of local authorities began to introduce larger-scale selective licensing designations. The London Borough of Newham was the first local authority to introduce borough-wide selective licensing for all PRS landlords in January 2013, with other urban local authorities including Barking and Dagenham, Waltham Forest and Liverpool also introducing schemes across their local authority areas. Some of these are considered in further detail in the case studies section of this report. In their consultation on extending their borough-wide selective licensing scheme beyond the original 5 years, The London Borough of Newham identified the impact of selective licensing as:²²

- Reduced levels of anti-social behaviour which benefits the whole community and reduces costs to the council and the public purse.
- Improved management and conditions of privately rented accommodation and a significantly increased level of enforcement against criminal landlords.
- Quicker responses and resolution rate by landlords to tenants’ complaints about repairs.
- Identifying landlords who are not paying the appropriate Council Tax for their properties.
- Requiring absentee or unprofessional landlords to employ a professional property management approach to actively manage their properties and make sure suitable arrangements are in place to deal with any problems that arise.
- Promoting of landlord accreditation and encouraging landlords to let property to a higher standard and to act in a professional manner.
- Improvement of the image and desirability of the borough.

²² London Borough of Newham (2016) *Rented Property Licensing: Proposal Report for Consultation* available here: <https://www.newham.gov.uk/Documents/Housing/RentedPropertyLicensingProposalConsultation.pdf>

More recent Select Committee reviews on the PRS in 2013 and 2018 have received mixed evidence on the value of larger-scale selective licensing, due in part to opposition from landlord groups and different circumstances and levels of enforcement across the country. While in some areas licensing has clearly been backed by robust enforcement, and has helped to improve standards, the CLG committee's 2018 enquiry raised concerns that enforcement levels in other areas has been far too low and inconsistent.²³ Landlords have also reported inconsistent administration and processing procedures when applying for property licenses, and believe that there is no mechanism to hold local authorities to account for the decisions made by their licensing schemes.²⁴

A recent report produced for Karen Buck MP by Dr Stephen Battersby, also revealed issues with a shortage of skilled staff in local authorities to drive forward improvements in housing standards.²⁵ Figures revealed that there are only 2.2 Environmental Health Officers (EHOs) per 10,000 PRS households in urban unitary councils, with this ratio likely to be much worse due to the rapid 'rentification' of towns and cities since the 2011 ONS figures used to calculate ratios.

Despite these concerns, Select Committee reports in both 2013 and 2018 have on balance recommended that decisions to implement selective licensing should be made locally, and that more funding should be available to local authorities to strengthen enforcement.²⁶

Calls for reform and further regulation

Rugg and Rhode's original review of the private rented sector (2008)²⁷ argued for compulsory registration (licensing) for all private rented sector landlords, and their review concluded that a system of 'light-touch' regulation be introduced. The government's initial response in 2009 was to consider a national register of private landlords, although this was not taken forward.

Later reviews have recommended a reformed approach to licensing that would give councils greater freedom over how and when to introduce schemes²⁸, although no changes were made to amend legislation or introduce new regulations. The government's response stated that they did not want to place additional burdens or costs on reputable landlords, and following a 2014 consultation, the government were critical of borough-wide schemes²⁹. This led to the reinstating of Secretary of State approval for larger schemes in 2015.

²³ The Private Rented Sector: Fourth Report of Session 2017-19, House of Commons Housing, Communities and Local Government Committee. Available: <https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/440/440.pdf>

²⁴ Landlord Licensing. Interim report-overview of the incidence and cost of HMO & discretionary schemes in England. February 2015. www.landlords.org.uk

²⁵ See: http://www.sabattersby.co.uk/documents/Final_Staffing_Report_Master.pdf

²⁶ The Private Rented Sector: Fourth Report of Session 2017-19, House of Commons Housing, Communities and Local Government Committee. Available: <https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/440/440.pdf> & The private rented sector. First report of session 2013-14 House of Commons and Local Government Committee. 18 July 2013 HC50 <https://publications.parliament.uk/pa/cm201314/cmselect/cmcomloc/50/50.pdf>

²⁷ *The private rented sector: its contribution and potential* Rugg J & Rhodes D. Centre for Housing Policy. University of York. 2008

²⁸ The private rented sector. First report of session 2013-14 House of Commons and Local Government Committee. 18 July 2013 HC50 <https://publications.parliament.uk/pa/cm201314/cmselect/cmcomloc/50/50.pdf>

²⁹ The private rented sector. First report of session 2013-14 House of Commons and Local Government Committee. 18 July 2013 HC50 <https://publications.parliament.uk/pa/cm201314/cmselect/cmcomloc/50/50.pdf>

A more recent review of the PRS conducted by Rugg and Rhodes (2018)³⁰ has suggested that England is heading for a clear 'bi-tenural' housing market of owners and renters and recommended a fundamental change to how the PRS is regulated - to be based on a roadmap of required interventions as part of a new over-arching strategy for the sector.

The review also goes on to suggest developing a new regulatory framework, to remove the burden of property oversight from local authorities including³¹:

- Establishing a national landlord and letting agent register which every landlord would have to sign up to before being able to let out a property.
- All properties to be certified as 'fit for letting' and gain an "MOT" by being independently inspected.
- All properties to be required to meet a minimum property standard, which should be developed in consultation with industry, environmental health professionals and tenants.
- All properties to be inspected annually.
- Replacement of existing regulation (mandatory, additional and selective licensing) by simpler regulation - all property used as HMO to be registered with local authorities and remain subject to 'MOT' requirements.
- Reform the redress system by expanding the remit of the Ombudsman and creation of a specialist housing court.

In 2018, the UK government published new guidance for landlords to extend mandatory licensing and further protect tenants from poor living conditions³². As of 1st October 2018, any landlord who lets a property to five or more people (or 2 separate households), irrespective of the number of storeys the property has must be licensed by their local housing authority. This will affect around 160,000 households in multiple occupation (HMOs) and will mean that councils will be able to take further action on the small minority of landlords renting out sub-standard or overcrowded accommodation.

At the same time, the government also announced that it will undertake a review into how selective licensing is being used and how well it is working. Independent commissioners will gather evidence from local authorities, bodies representing landlords, tenants and housing professionals, with findings being reported in Spring 2019, although a progress update is expected for Autumn 2018³³.

³⁰ *The evolving private rented sector: its contribution and potential* Rugg J & Rhodes D. Centre for Housing Policy. Univ of York. 2018

³¹ *The evolving private rented sector: its contribution and potential* Rugg J & Rhodes D. Centre for Housing Policy. Univ of York. 2018

³² Government publishes key licensing changes to further protect tenants: New guidance for landlords to further protect tenants from poor living conditions has been published. 20 June 2018

<https://www.gov.uk/government/news/government-publishes-key-licensing-changes-to-further-protect-tenants>

³³ Government publishes key licensing changes to further protect tenants: New guidance for landlords to further protect tenants from poor living conditions has been published. 20 June 2018

<https://www.gov.uk/government/news/government-publishes-key-licensing-changes-to-further-protect-tenants>

Section 2: Survey results: Core Cities views and experience of Licensing schemes

A survey was conducted with the ten Core Cities' local authority areas to understand more about their experience of landlord licensing. The ten cities are: Birmingham; Bristol; Cardiff; Glasgow; Leeds; Liverpool; Manchester; Newcastle, Nottingham, and Sheffield.

Of these areas:

- One had a city-wide selective licensing scheme (Liverpool).
- Six had selective licensing schemes covering some of their local authority area (Bristol; Cardiff, Manchester, Newcastle, Nottingham, and Sheffield).³⁴
- Two had no current selective licensing scheme but are looking to introduce one (Birmingham & Leeds).
- One had no selective licensing scheme and is not currently able to introduce one due to a different regulatory framework in Scotland (Glasgow).³⁵

Why introduce selective licensing

Areas that had introduced a selective licensing scheme, or were planning to, highlighted the following reasons for doing so:

- **Low housing demand:** Liverpool, Newcastle, Manchester and Sheffield highlighted challenges relating to low housing demand as a driver for establishing their schemes.
- **Response to ASB complaints and waste management issues:** Nottingham and Manchester both highlighted high levels of ASB as a driver for establishing their schemes, while Birmingham highlighted ASB and waste management issues as a reason they are interested in establishing a scheme.
- **Deprivation:** Manchester and Nottingham both also highlighted deprivation, while Leeds are also consulting on introducing licensing in two deprived areas that were getting worse on the Indices of Multiple Deprivation.
- **Poor housing conditions:** Nottingham were awarded a selective licensing scheme on the basis of poor housing conditions, while Manchester also highlighted addressing poor housing conditions as a reason for identifying selective licensing areas. Sheffield undertook targeted enforcement in an area with a high concentration of private rented accommodation above commercial premises and as a result of the conditions found, a *Selective Licensing Area* has just been declared, which covers 680 homes.
- **Raising management standards:** Cardiff highlighted a desire for a more focused, area-based approach for raising management standards in the PRS as a driver, while Manchester's selective licensing scheme is part of a wider strategy to support the professionalisation of the Private Rented Sector.
- **Increase in the PRS changing neighbourhoods:** Cardiff highlighted the impact of increasing numbers of students and the changing nature of neighbourhoods as

³⁴ Note: Nottingham's selective scheme covers most of the city (approx. 32,000 properties), and the main areas it does not cover are ones with high levels of social housing.

³⁵ Glasgow are unable to introduce a scheme, as there is no Scottish legislation permitting local authorities to instigate or develop private landlord licensing schemes. Licensing is limited to Houses in Multiple Occupation under separate Housing legislation.

reasons for introducing selective licensing. Leeds also raised a rapid increase in the PRS as a reason for seeking a licensing scheme in areas of the city. Sheffield cited the challenge to community cohesion from the rapid increase in properties rented to migrants as one of the reasons for their licensing scheme.

- **Mandatory HMO licensing not sufficient:** Two areas specifically stated that mandatory HMO licensing was insufficient to deal with the problems in their private rented sector. This may be due to a number of factors, in particular that it excludes smaller HMOs and is challenging to enforce without the additional powers and resources that selective licensing provides.

Benefits and challenges in licensing

Respondents were also asked to comment on the benefits and disbenefits of landlord licensing. Key benefits highlighted included:

- **Improved housing conditions and safety:** Cardiff, Newcastle, Manchester and Liverpool all highlighted greater ability to improve conditions through the inspection process and licensing conditions. Manchester and Cardiff also both pointed to improvements in basic safety standards, with Manchester highlighting a significant increase in landlords with a gas safety certificate, attributable to licensing.
- **Tackling ASB, crime and waste:** Leeds³⁶, Liverpool, Manchester and Newcastle all highlighted improvements in addressing anti-social behaviour and waste issues relating to PRS properties. Newcastle reported improved partnership working with police around crime and ASB, while Liverpool has introduced specialist officers in the Licensing team that work with landlords to help them comply with conditions in relation to ASB.
- **Intelligence:** Cardiff, Liverpool and Newcastle all highlighted building a greater understanding of the nature and extent of the private rented sector in their area as a benefit. Newcastle also highlighted opportunities for better communication with landlords as a result of their scheme.
- **Driving out poor landlords:** Liverpool and Leeds highlighted increased ability to prosecute and drive out poor landlords. Leeds also noted that there was no evidence of a dispersal effect in their previous scheme.
- **Improvement in area and community confidence:** Leeds reported increased community confidence and a reduced population turnover in licensed areas following their previous scheme. They also noted a **reduction in empty homes, and above average increase in property values** in the licensed area.
- **Professionalisation:** Manchester noted positive early signs in terms of greater professionalisation of landlords, including greater use of letting agents, although it is still early to assess the impact fully.

Most of the disbenefits raised by areas related to challenges in implementing the schemes, rather than any particular issues with licensing in itself. Implementation issues raised related to engaging with and enforcing compliance from landlords (Cardiff); partnership working (Leeds); and sustaining the impact of licensing beyond the end of the licensing

³⁶ Leeds referred to experience of a previous licensing scheme, operating from 2009-2014.

scheme (Leeds). Newcastle also highlighted that initially they had focused too much on administration of applications for licenses and not enough on compliance, which limited the schemes' impact. This was subsequently addressed with a new application process, and rebalancing to focus on compliance.

Wales and Scotland

Cardiff and Glasgow Councils were also asked to provide a local authority perspective on their particular national licensing schemes under the devolved administrations in Wales and Scotland.

Scotland has a national landlord register, as well as a national scheme governing HMOs (see below), although there is no legislation allowing local selective licensing. Glasgow felt that this national licensing scheme in Scotland is largely fit for purpose, although highlighted that there are drawbacks in terms of difficulty securing prosecutions where landlords are operating illegally.

Wales has passed legislation requiring all landlords to register with Rent Smart Wales, and all landlords or lettings agents that directly manage properties must have a license. Rent Smart Wales also provides training, and a database of landlords (see case study below).

Housing enforcement officers in Cardiff felt that that Rent Smart Wales had brought a welcome focus on landlords who are not fit and proper, and the Rent Smart Wales team highlighted a number of positives in providing:

- a co-ordinated approach across Wales, helping to bring consistency - with every local authority focussing to an extent on the PRS;
- availability of information (particularly email addresses) in distributing information, and helping to improve the knowledge and professional approach of landlord;.
- a bespoke IT system, that allows the landlord applicant to interact directly and update information at any time, meaning that (in theory) data is always up to date, and
- marketing and communications that has been resourced by the Welsh Government and Rent Smart Wales.

However, some concerns were also raised by Cardiff's housing enforcement team that the combination of Rent Smart Wales and local authorities' mandatory HMO or selective licensing schemes caused confusion for landlords, while respondents felt that the administrative burden that Rent Smart represented for the local authority was not sufficiently recognised in grant funding provided by the Welsh government. In addition, concerns have been raised over how the national scheme is enforced (see below).

Section 3: Landlord Licensing case studies

3a: Rent Smart Wales – Summary

The Housing (Wales) Act 2014 established mandatory landlord registration and licensing in Wales, with the aim of improving standards and management in the private rented sector. The scheme to deliver this, known as Rent Smart Wales (RSW), launched in November 2015, with landlords given 12 months to comply.

Under the legislation, every landlord in Wales must register themselves and the address of each of their properties, while any landlords and lettings agents who directly manage properties must complete training and obtain a license to do so. In addition to providing a single body for landlords and agents to register with, RSW also provides them with relevant information and training to comply with the law and manage properties to a decent standard. If a license holder fails to comply with any condition of their license, or is no longer considered ‘fit and proper’, their license can be revoked.

The role of RSW is in addition to the regulatory functions that local authorities in England and Wales already have within the private rented sector, including mandatory HMO licensing and the potential to introduce selective licensing schemes. Where these schemes are operating, landlords are still required to have a RSW license. RSW is intended to provide additionality, by providing: an up to date register of landlord details; an overview of where rented accommodation is; and powers of enforcement – as well as ensuring a focus on PRS standards across all 22 Welsh local authorities.

Since RSW was established in November 2015, 92,409 landlords have been registered; 33,632 landlords and agents have been licensed; and 35,085 people trained. The Welsh Government have undertaken an extensive evaluation of the scheme, with the final report published in June 2018.³⁷ This identified a range of positive impacts, including:

- the development of the Rent Smart Wales database, providing a valuable source of information to inform policy decisions relating to the private rented sector;
- a good working relationship developing between the local authorities and Rent Smart Wales, and
- training and providing information to landlords and letting agents that they would not have received otherwise.

However, there have been a number of implementation challenges, not least in relation to enforcement and the clarification of overlapping roles and responsibilities with local authorities. The final evaluation raised issues around:

- need for greater clarity on enforcement, and local authorities’ precise role in carrying out enforcement in their area;

³⁷ <https://gov.wales/statistics-and-research/evaluation-rent-smart-wales/?lang=en>

- challenges in local areas providing proactive enforcement, with local authorities reporting that relatively little dedicated enforcement was occurring outside of their usual activity, and
- provision of adequate resources for local authorities to enforce the act and deal with the additional administrative burden, including the audit of agents.

3b: Scottish Landlord Registers - Summary

The Scottish Landlord Registers (SLR) was introduced in 2006 by the Antisocial Behaviour etc. (Scotland) Act 2004 ("the 2004 Act"). The regime has been strengthened further in subsequent legislation. The combined legislation requires all landlords in Scotland to register with a central online system. Licenses last up to 3 years.

SLR operates a 'fit and proper person test' which takes into account convictions for a range of relevant offences, including fraud, violent and sexual crimes, drugs, discrimination and housing offences. The scheme has a maximum penalty of £50,000 for failing to register and landlords can be banned for up to 5 years. Landlords can also be fined up to £1,000 for not providing accurate information on how the property is being used. Responsibility for the enforcement of the scheme lies with local authorities.

In addition, Scotland also operates an HMO licensing scheme administered by Scotland's 32 local authorities. The scheme covers all properties rented out by at least 3 unrelated people who share facilities. Licenses usually last for 3 years and fines for failing to license are £50,000 and up to £10,000 for breaches of licensing conditions.

Since SLR has been introduced, 268,000 entries on the register have been made, linked to 362,000 registered properties. In March 2018 the Scottish Government commenced a consultation on the review of applications and fees. The aim of the consultation is to:

- raise awareness about landlord responsibilities;
- identify where further advice or support may be required;
- provide better information for local authorities to carry out the fit and proper person test;
- improve confidence that anyone who is approved and entered onto the register is a suitable person to let houses, and
- other amendments are also proposed, to simplify the application process.

3c: Liverpool City Council, city-wide selective licensing

Liverpool City Council (LCC) approved a city-wide selective licensing scheme in October 2014 which came into force on 1 April 2015. The scheme runs for five years until 31st March 2020 and therefore has reached its half way point. The council's case for the introduction of the scheme was primarily based on low housing demand. Long term vacant properties, low property values compared to other core cities and lower rental values underpinned the case.

Based on data from the last Census (2011), it was estimated that Liverpool had 50,000 properties in the private rented sector (PRS). Selective licensing was introduced as part of a wider housing strategy, including housing renewal initiatives in deprived neighbourhoods, schemes to encourage owner occupation, and initiatives with housing providers to develop affordable housing and improve housing choices.

The overriding objective of selective licensing was to improve the quality and management of the private rented sector in the city by setting clear standards for the sector. The city-wide approach was selected to ensure a level playing field and emphasis was placed on ensuring landlords complied with the conditions of the licences and basic quality standards.

Before the licensing scheme was introduced, LCC focused limited resources on complaints from tenants and other statutory duties. The service had experimented with voluntary registration to improve standards of management, however take up by private landlords was low.

Scheme development

Proposals to introduce a city-wide licensing scheme was supported by a majority of residents (59%-89%), however was overwhelmingly opposed by landlords (82%) and letting agents (87%). People who were broadly in favour felt that selective licensing would make it easier to identify landlords, especially absentee landlords. Tenants would have improved 'consumer protection' and this would be a particular benefit for vulnerable people.

The council expressed concerns that a targeted licensing area could result in the displacement of poor housing condition from one part of the city to another. The designating Cabinet report stated:

"The possible displacement of poor landlords is alleviated by a citywide designation which addresses the potential issue of problem landlords seeking to avoid Selective Licensing by moving into unlicensed areas".

Offering a light touch for good landlords was an objective of the scheme. A co-regulation model was developed following representations made by a range of landlords and letting industry bodies that operate in Liverpool. This meant that accredited landlords are deemed to comply with the licence conditions having satisfied the requirements of accreditation and agreed to opt into the Liverpool licence conditions. This approach was accepted by the council to help reduce the cost of introducing the scheme while working in partnership with compliant landlords.

Three co-regulation schemes were set up in January 2016, including Association of Residential Letting Agents (ARLA), the National Approved Letting Scheme (NALS) and the Residential Landlord Association (RLA). Co regulation schemes are hinged on a commitment by each professional body to act against members who do not comply with the scheme. Each co regulator has its own working methods, processes and sanctions.

LCC envisioned that the sector would support and promote compliance responsibility for self-management although they do not have the legislative powers of the City Council.

Fees

Generous discounts for landlords accredited with co-regulation schemes were offered:

- £412 - First property;
- £360 - Each additional property, and
- £206 - Discount for co-regulation membership.

Achievements

To date, LCC have granted 46,656 licences applications to 7681 licence holders. The scheme has focused on identifying and tackling landlords who fail to licence. This has resulted in 129 offences being prosecuted and 148 formal cautions being administered.

To date 71% of properties were not fully compliant on initial visit. 2,506 properties improved management standards as a result of City Council intervention. In addition, 2,218 category 1 and category 2 hazards have been identified. Failures in licence conditions include:

- lack of tenant's information;
- not addressing ASB ;
- not completing regular property checks, including safety certification, and
- Fire hazards.

16,674 compliance activities have been undertaken to robustly enforce the licence conditions focusing on an intelligence and risk-based approach meaning the highest risk properties will be checked first.

Civil Penalties have been used as an alternative to prosecution. Unlicensed properties (58 penalties), Licence breaches (12 penalties) and Management Regulations breaches (4 civil penalties).

Officers have worked with licence holders to address disrepair and ensure compliance. The most serious breaches have faced enforcement.

LCC has found important benefits in using property licensing to address ASB. Working with other council officers and external partners it has developed an effective tool to address ASB. Since the scheme started, 1,425 ASB case referrals have been made to the team, and 90 per cent have been satisfactorily resolved.

The scheme has reported that there is some evidence to indicate improvements in property management, however it is acknowledged that it remains too early in the scheme to draw conclusions in this area.

Interviews with key members of LCC Property Licensing team have revealed the following benefits and challenges.

Benefits

- Licensing in Liverpool has helped shape the letting industry and got many landlords to comply with key standards, including holding a valid Gas Safe certificate. Officers reported that many landlords' perception of acceptable property standards are "way too low".
- Licensing has enabled LCC to upgrade its enforcement and regulatory capability and enabled the council to help protect vulnerable tenants.
- By identifying unlicensed properties, officers are often led to other housing offences and serious hazards.
- Resources provided by licensing has allowed the council to target landlords who are cutting corners and breaking the law. This has had the effect of driving standards up across the city – although it is challenging to provide concrete evidence of this shift.
- Licensing offers LCC a tool to help support their sustainable neighbourhood objectives. In itself not a solution, but in combination with other targeted interventions, licensing is helping to reduce 'housing stress' and preventing slip back once improvements have been achieved.
- Licensing now provides an effective link between the council, residents and PRS and is a clear framework to engage with issues that arise in the PRS, including ASB.
- Intelligence and information provided by licensing enables the council to build a profile of an area and understand the scale of the problems, including uncovering serious housing disrepair cases which would not have previously come to light.
- The new approach has opened up opportunities to work with a range of multi-agency partners to tackle issues related to the PRS.
- Licensing enables the council to be proactive and take risk-based enforcement, this includes targeting worst offenders and criminal portfolio landlords.
- A city-wide licensing scheme provides the council with flexibility to target resources into an area to deal with housing challenges, including empty properties and ASB.
- Provides the service with a sustainable funding source to plan longer term, build skills and deliver lasting improvements.

Challenges

- Setting up a scheme for the first time presented many new technical and organisational challenges.
- Licensing has revealed the true scale of the problems in the PRS, requiring more rigorous regulation than originally planned for.
- Co-regulation has many advantages, however it's not clear what benefits have been achieved and it's not understood if tenants support self-regulation.
- Licensing can be viewed as a "fix all" and therefore managing expectations of residents can be challenging.

- Technological solutions for large licensing schemes have been slow to materialise which has meant councils have been forced to use software that is not fit for purpose.
- Landlords' frustration with licensing bureaucracy and time linked to making a licence application could be reduced.
- Growth in demand by councils in the region for skilled housing and environmental health professional has resulted in staff and skill shortages.
- Large scale licensing requires a service cultural shift which can take some time, including building an enforcement culture.

Case Study – Liverpool

The landlord licensing team were made aware of a potentially unlicensed property from neighbours who also believed that the occupants of the property were causing ASB in their street due to the property being used as a brothel.

Landlord Licensing visited, all the blinds were closed and looking through the front door window the property did not appear to be lived in like a residential property and there was a red lightbulb in the ceiling light.

The landlord was identified and warned about the ASB. The property was licensed and the landlord was asked to take a closer look at how the property was being used. The landlord questioned the present tenants and challenged them on the use of the property and that a web site had been found advertising “massages” at the property. The property was vacated within a week and complaints stopped.

3d: London Borough of Newham – borough wide selective licensing

The London Borough of Newham (LBN) was the first local authority in the country to introduce borough-wide selective licensing in 2013. The original scheme ran for 5 years and ended 31 December 2017. An application for a further 5 years was approved by the Secretary of State in November 2017 and went live on 1 March 2018.

During 2011, there was a growing understanding within LBN that poorly managed privately rented properties were having a negative effect on neighbourhoods. Anti-social behaviour, noise nuisance, and accumulations of refuse were identified as significant issues, while concerns were identified over the growth of 'beds in sheds' and an increasing number of criminal landlords operating in the borough. In response, justification for the original scheme was based on significant and persistent anti-social behaviour related to the private rented housing stock together with poor tenancy and property management.

The consultation on renewing the scheme found that residents were supportive of the scheme, with 81% of residents agreeing (35% strongly agreeing) that the scheme had been effective in improving the condition and management of PRS properties

Scheme development

Before LBN considered licensing the whole borough, it experimented with a small selective licensing pilot in the Little Ilford ward, set up in March 2010. The scheme licensed 257 rental properties and resulted in 30 housing prosecutions for poor property management and conditions. A significant decrease in ASB was reported, and the pilot provided conditions to develop a new multi-agency approach to poor housing, involving a wide range of partners including: Metropolitan Police, London Fire brigade, Planning enforcement and the Home Office.

LBN also ran a parallel landlord accreditation initiative; however the uptake with free membership was less than 5%. Much of LBN's borough wide scheme was based on lessons from the Little Ilford pilot, including:

- Simple fee structure;
- Enforcement focused on landlords that breached the licensing scheme;
- Strong multi agency approach to tackle criminal landlords, and
- Light touch for good landlords and meaningful enforcement for those who fail to license.

The borough wide licensing scheme went live in January 2013, by which time 27,500 applications had been received, approximately 75% of the expected total (35,800). Within 5 years the total increased to 49,038 applications.

The schemes benefited from full political support and a genuine wish to drive behaviour change amongst landlords to ensure tenants were protected.

Licence applications by year (accumulating)

December 2013	31,534
December 2014	34,851
December 2015	39,135
December 2016	42,625
December 2017	49,038

Licence holders by year (live licence holders)

December 2013	19,070
December 2014	21,803
December 2015	23,516
December 2016	25,337
December 2017	27,559

Fees

LBN offered a significant reduction for all landlords that licensed early. LBN does not offer discounts for professional body membership.

First scheme (2013-2017)

Early discounted rate (application before 31.01.13)	£150
Standard licence	£500
New build properties	£150

Second scheme (2018-present)

Early discounted rate (application before 31.01.13)	£400
Standard licence	£750
New build properties	£400

Achievements

Robust enforcement is central to LBN's licensing scheme. A large PRS enforcement team was built up, including 15 PRS enforcement officers supported by 18 licensing officers. In addition, up to 25 Metropolitan Police Officers that LBN directly funds were made available to support enforcement operations. The team was initially supported with funding from LBN's core budget for the first two years, after which the entire scheme became self-funding through a combination of licensing fees and enforcement action.

LBN anticipated that a proportion of landlords would not licence and preparations had been made to ensure all landlords complied. Unlicensed landlords were identified using pioneering data analytics, utilising council held data and data analytics to identify tenure at

the property level. This data innovation allowed LBN to uncover the unlicensed properties landlords with a high level of accuracy, and target enforcement activity accordingly.

Properties failing to comply were visited by an Environmental Health Officer, often supported by Police officers, with operations conducted at least weekly. Evidence gathered by council officers during property visits was used to make prosecutions where multiple housing offences could be evidenced. For lesser offences, including failing to licence, simple Cautions were issued. Between 2013 -2017 LBN issued 1,292 prosecutions, 1,026 (79%) directly relate to licensing offences.

Benefits

- LBN private housing team developed close working relationships with the Metropolitan Police, Fire Service, Home Office as well as teams within the council, such as council tax, ASB, planning, building control, the housing needs service and social services.
- Licensing offers use additional powers to tackle landlords who fail to comply with simple property standards
- Borough wide licensing provided the council with important intelligence. Licensing allows LBN to quickly identify landlords where there is disrepair and ASB. In the absence of licensing this process can be a complicated and lengthy process.
- 61 Rent Repayment Orders have been issued (worth £380,000 of reclaimed benefit)
- 756 arrests have been made by the police during licensing operations.
- Private housing officers work alongside the council's homelessness team and provide support and take enforcement action where LBN believe there has been an illegal eviction and/or harassment.
- Borough-wide licensing scheme has helped the council to clampdown down on property related ASB in partnership with private landlords and other partners in a far more efficient manner.
- Licensing conditions help ensure landlords take their responsibility to deal with tenant ASB seriously and provide a clear expectation set out in the licensing conditions.
- Licensing details (including name, address and contact details) are held on a public register and this enabled neighbours of licensed properties to inform landlords about poor tenant behaviour, avoiding the need to involve the council.
- Council officers are able to take a proactive approach to informing and advising landlords in how to prevent ASB (e.g. by providing sufficient refuse facilities) and encouraging landlords to address tenant ASB when it occurs. This early intervention approach can prevent the need for more expensive and time-consuming formal action.
- Where landlords are unresponsive the powers provided by property licensing means that the council can ensure that landlords take reasonable steps to prevent ASB and tackle it when identified.

Challenges

- Initially up to 10,000 PRS properties failed to license. This required LBN to introduce a data innovation to identify unlicensed properties
- New software developed specifically for the new scheme slowed down during high demand periods, which resulted in landlord frustration.
- Over the life of the scheme criminal landlords have moved their operations into the surrounding boroughs.
- Borough wide licensing required a complete service redesign to manage new processes and significant investment was made to achieve this
- Large numbers of license applications received in a short period meant that the service remained under pressure over a 6-9-month period to issue 95% of licenses.
- Maintaining weekly multi agency operations placed significant pressure on a range of services, including lawyers, licensing officers and environmental health officers – although the activity is financially self-sustaining.
- Renewing the scheme after the first 5-year scheme had ended posed a serious challenge and created an uncertainty for the service.
- Due to delays in receiving a decision from the government to extend the licensing scheme, Newham experienced difficulties renewing large numbers of licenses.

Case Study - Newham

Mr M faced more than 10 Housing Act criminal convictions and 67 statutory notices from 2008-2012. These interventions were made against 30 of the 45 properties in his portfolio. This was absorbed by his business and the poor practices continued.

The introduction of borough wide licensing in 2013 resulted in Mr M being found not 'fit and proper' to hold a property licence and he was eventually forced to hand over the control of his 45 properties to a Housing Association.

Mr M closed his Newham office and reopened it in a surrounding borough. Since the properties have been under new control there has been a 35% reduction in ASB from the start of selective licensing and only 4 properties linked to ASB over the last 12 months.

Section 4: Benefits and criticism of landlord licensing

The previous sections have highlighted a range of commentary on the impact of landlords licensing. While there is evidence to suggest a range of benefits in improving local authorities' ability to hold poor landlords to account and improve standards in the private rented sector, landlord licensing remains controversial and has been restricted by the government and criticised by landlord groups.

This section aims to summarise some of the benefits and criticisms of licensing.

Benefits of landlord licensing

Landlord licensing can bring benefits for local authorities and residents through greater powers and ability to improve standards in the private rented sector. In particular:

- **Greater enforcement and regulation capability:** Councils with licensing schemes have demonstrated a greater capacity to deliver effective regulation and enforcement. This benefit is a product of a spread of other benefits, including additional powers; resources; and intelligence. This increased capacity can be clearly seen in London, where the four London Boroughs with borough wide selective licensing (Newham, Barking and Dagenham, Croydon and Waltham Forest) account for 73.7% of prosecutions across the capitals 33 boroughs. Including all London boroughs with some level of selective licensing in the same year takes the total to 87.5%.³⁸
- **Improved powers of entry:** linked to the above, licensing schemes provide councils with enhanced powers of entry (the Housing Act 2014 gives local authorities powers to inspect a property without notice where it is suspected that it a property is in breach of a licence condition or doesn't have a licence).
- **Resources:** significant cuts to council budgets over recent years have reduced resources available to tackle landlords who provide poor or unsafe living conditions. Licensing provides a ring-fenced income stream for local authorities to fund greater regulation and enforcement at local level over a sustained period. Without licensing fees, many councils would be forced to cut back on PRS regulation and forced to deal with tenants' complaints only. Experience shows that these reactive complaints are not always where most of the worst conditions or housing crimes exist.
- **Comprehensive data and intelligence:** Through the data that licensing provides, local authorities can better understand the scale and profile of the private rented sector. This enables councils to shape and target their interventions, reducing the

³⁸ See:

https://d3n8a8pro7vnm.cloudfront.net/ldlondon/pages/2177/attachments/original/1508957318/Caroline_Pidgeon_AM_Rogue_Landlords_Report.pdf?1508957318

burden on good landlords and providing a much more cost-effective approach for the council.

- **Housing conditions and safety:** Licensing is being used in a range of ways to improve property standards, including:
 - Alerting the authority to properties that are more likely to have issues with poor standards and management. Licensed properties with Category 1 hazards can be more effectively dealt with because landlord information is readily available, including name, address and contact details.
 - Convicted landlords can be found 'not fit and proper', and other landlords subject to enforcement can be issued with shorter licences and additional licensing conditions.
 - Preventing overcrowding by specifying the number of people and households permitted in the property.
 - Ensuring the good condition of the property by requiring the landlord to inspect the property at least every six months.
 - Risk based documents audits of licensing conditions can be checked to ensure key hazards are properly managed, including safety certificates and tenancy management documents This includes:
 - Ensuring gas and electrical safety by requiring the landlord to have a valid gas safety certificate and provide an electrical appliance test report to the council.
 - Tackling pest infestations by requiring the landlord to take pest control measures, if required.
 - Ensuring Fire Safety by ensuring that the landlord tests all smoke alarms and fire equipment. The Licence requires the landlord to provide a copy of periodical test certificates/reports to the council.

- **Anti-Social Behaviour:** Licensing offers information and powers covering a range of common ASB issues, including:
 - Requiring the landlord to take steps to address anti-social behaviour with tenants.
 - Requiring the landlord to ensure there are formal arrangements for the disposal of rubbish and bulky waste.
 - Working in partnership with landlords to reduce and prevent ASB at an early stage.

- **Crime and disorder:** Through private rented sector licensing councils are able to help tackle criminal activity, including:
 - Tax evasion by sharing data with HMRC about landlords not paying all their tax.
 - Recovering Council Tax by working in partnership with council tax enforcement teams to recoup unpaid council tax from HMO landlords.
 - Illegal immigration through joint working with Immigration Enforcement.
 - Sharing data to detect and prevent crimes, enabling the council to identify properties that are in the private rented sector but also the occupants. This has assisted the police with serious crime prevention activity. It also assists

other Council departments, for example assisting social services to identify children who may be at risk.

- **Joint working:** Licensing provides intelligence and a legal framework that enables enhanced joint working with other enforcement partners. The additional intelligence and powers offered by licensing enable councils to jointly target properties of concern.
- **Engagement with landlords:** Licensing enables councils to engage and communicate with large numbers of landlords on a range of issues, helping to inform and professionalise the market through newsletters and meetings.

Criticisms of landlord licensing

Despite these reported benefits, there have been some recurring criticisms highlighting perceived disbenefits of landlord licensing – particularly from landlord groups. This section will examine the main criticisms raised in relation to licensing schemes, with source information taken from formal responses to recent licensing consultations and the NLA landlord licensing report in 2015.

The most commonly highlighted disbenefits are:

- **Costly and bureaucratic:** A common criticism is that the licensing regime is overly inflexible and bureaucratic, particularly in relation to the application process. The Housing Act 2004 and its associated regulations and best practice guides set out how to designate, consult, publicise and process applications. This process is indeed prescriptive and overly bureaucratic, which can incur significant costs for councils – although these administration and processing costs are recouped by councils through the licensing fees. Some of the guidance is out of date and, as has been highlighted in a number of recent reports, would benefit from a review and simplification.³⁹

Similarly, the three different types of licence in operation, Mandatory (larger HMOs), Additional (wider range of HMOs where local authorities have introduced) and Selective licensing (for all other private rented dwellings) can lead to confusion as the differences are due to the way in which the property is occupied. In some of the smaller properties it may move back and forth between being occupied by a single household and a shared property during a 5-year period – making it challenging for landlords to navigate the system.

³⁹ As recommended in: The Private Rented Sector: Fourth Report of Session 2017-19, House of Commons Housing, Communities and Local Government Committee: <https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/440/440.pdf> ; The private rented sector. First report of session 2013-14 House of Commons and Local Government Committee. 18 July 2013 HC50 <https://publications.parliament.uk/pa/cm201314/cmselect/cmcomloc/50/50.pdf> ; & *The evolving private rented sector: its contribution and potential* Rugg J & Rhodes D. Centre for Housing Policy. Univ of York. 2018

- **Insufficiently targeted and poorly enforced:** A common criticism from landlord bodies is that selective licensing penalises the majority of good landlords, rather than targeting a small number of rogue or criminal landlords. As highlighted in the Residential Landlord Association (RLA)'s evidence to the recent Select Committee Report on the private rented sector, landlord groups have also criticised the limited amount of enforcement conducted by some local authorities in support of their licensing schemes.⁴⁰

Where councils administering a scheme focus their resources on robust enforcement, this criticism holds considerably less weight – particularly where councils are focused on tracking down unlicensed properties and dealing with poor conditions. As demonstrated by the example from Newham above, it is possible to pursue this enforcement in a cost-neutral way through the fines levied for non-compliance. Newham has also ensured the largest burden and cost is felt by rogue landlords, by using data to target those at the highest risk of non-compliance while delivering a light touch to the majority of landlords operating in the Borough.

Unfortunately, the operational delivery can vary greatly between councils. Some local authorities focus their resources on inspecting properties which are licensed rather than seeking out unlicensed properties, which are proven to have the highest proportion of housing crimes.

The financial burden should be greatest on non-compliant landlords - this can be achieved through reducing the term of the licence and use of financial penalties, whilst also tackling poor conditions. Guidance on good enforcement practice, and investment in data intelligence infrastructure and training would greatly improve the effectiveness of licensing and help to drive out criminal operators.

- **Increasing rents:** A common complaint is that licensing will lead to an increase in rents, with the costs of licensing passed on to tenants. However, there is little evidence that this is case.

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.

Any potential price impacts of licensing are dwarfed by the wider supply and demand issues for housing. Particularly in London, but also in other cities, due to more and more competition for a scarce resource, rents have grown rapidly in a way which far outstrips any licensing fee levied.⁴¹ For example, the median monthly rents

⁴⁰ The Private Rented Sector: Fourth Report of Session 2017-19, House of Commons Housing, Communities and Local Government Committee: <https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/440/440.pdf>

⁴¹ <https://www.gov.uk/government/collections/private-rental-market-statistics>

in Barking and Dagenham, which has a borough-wide licensing scheme, have gone up 7.5 times the cost of a licence (£506 for a 5-year licence) - indicating that it is the market which is influencing the level of rents rather than the licence fee itself.

- **Reducing investment and available housing stock to rent:** An argument often made by the industry is that licensing schemes will result in landlords fleeing the rental market and therefore reducing the houses available for rent. There is little evidence to support this argument. Newham, which has had a licensing scheme in operation since January 2013 and has just renewed its scheme, has seen the PRS increase in that period from 40% to 51% of its total housing stock. There are other stronger economic factors other than licensing which attract buy-to-let investors to an area or retains them.

Similarly, property owners have seen no impact in their capital asset value when comparing areas with borough-wide licensing to those without. In addition to rents, landlords have seen an increase in their capital asset since 2013 outperforming inflation and savings growth.

- **Landlords should not be held responsible for ASB from bad tenants:** Landlords have criticised the anti-social behaviour conditions attached to licensing, arguing that they have no way of dealing with their tenants' anti-social behaviour and often suffer economic loss themselves due to their tenant's behaviour.

This criticism misses the fact some of the most common types of ASB are caused by poor property management, in particular overcrowding of properties which can lead to: overflowing bins; rubbish in front and rear gardens; domestic arguments sparked by lack of amenities, noise etc. Most of these issues could be resolved through better provision of bins or arrangement of a commercial contract, proper management when tenants move in and out to ensure rubbish is cleared before a new tenancy starts. All these factors cause ASB, affect the local community, and are an additional financial burden on the council.

Feedback from Liverpool and Newham suggests that discretionary licensing schemes can have a real effect on ASB in an area, especially in respect to the type of ASB described above. In addition, the licensing scheme ensures that information is available on all landlords so that the local authority and the police, where working closely in partnership, can respond more quickly and effectively to ASB complaints and incidents.

It should be noted that landlords make no financial contribution to local councils where there is no licensing in place, as in most cases the burden of council tax falls on tenants. The disproportionate impact on local communities from poorly managed PRS properties is a financial drain on hard pressed councils, and residents are effectively subsidising business.

- **Enough legislation in place already:** An argument is often made that the PRS sector is already over regulated, and that local authorities are not making the most of their existing powers. Therefore, there is no need for selective licensing.

As noted above, there are a range of different regulations related to the PRS. As Rugg and Rhodes observe in their recent 2018 report, *“There needs to be an entirely new regulatory framework for the PRS. The current law is confused and contradictory. The law should be revised and simplified.”*⁴²

There are a number of flaws in legislation which mean that without licensing, local authorities struggle to act effectively to regulate the sector and hold bad landlords to account. For example, the requirement to give notice to a landlord before inspecting can result in retaliatory evictions, and no time to serve improvement notices before the eviction takes place. This results in a cycle of wasted resources with little improvements in accommodation. Indeed, it is often because of the lack of impact possible through the use of traditional enforcement that local authorities and politicians look for alternatives such as selective licensing schemes to effect change at larger scale in parallel with increasing need to improve the growing PRS.

It should be noted that authorities with licensing schemes have a much better record of taking successful enforcement action compared to those only using the traditional Housing Act improvement notice approach, suggesting that the legislation alone is not fit for purpose. Even the extension of mandatory licensing from October 2018 is not sufficient, because:

- It excludes HMOs that are occupied by 3 and 4 persons. These smaller HMOs remain widespread and make up the majority of HMOs in the country. Small HMO can be just as disruptive to the community and dangerous as larger HMO;
- Mandatory licensing excludes flats in multiple occupation in purpose-built buildings with 3 or more units, post Grenfell this makes little sense, and
- Enforcing mandatory licensing can be difficult as authorities must prove beyond reasonable doubt that properties are occupied by 5 persons and 3 households, in practice this is difficult to do as tenants are understandably reluctant to give evidence against their landlord.

⁴² *The evolving private rented sector: its contribution and potential* Rugg J & Rhodes D. Centre for Housing Policy. Univ of York. 2018

Section 5: Recommendations

Overall, having analysed feedback from core cities and reviewed relevant literature and case studies, the conclusion of this report is that selective licensing is an important tool in local efforts to improve standards in the private rented sector, as well as helping to address problems such as anti-social behaviour and poor property management which can have a significant impact on local areas.

However, licensing is clearly not a 'catch all' solution, and some of the criticisms raised above in relation to schemes that are overly bureaucratic; insufficiently targeted; and poorly enforced are valid where the approach has not been well designed and implemented. To maintain effectiveness and legitimacy, large-scale licensing schemes should be:

- backed by robust, targeted enforcement, and
- part of a wider strategy to improve the PRS and/or tackle ASB.

This report makes the following recommendations, divided into recommendations for central and local government.

Central Government Recommendations

To support local authorities to provide more effective regulation of the private rented sector, central government should:

- **Return selective licensing powers to local authorities:** Since April 2015, local authorities have had to seek approval from the Secretary of State for selective licensing schemes which would cover more than 20% of their geographical area or would affect more than 20% of privately rented homes in the area. The current application process places a significant burden on applying authorities: it is bureaucratic, subject to lengthy delays, and based on unclear, outdated criteria. While acknowledging a potential role for central government in quality-checking the operation of schemes, decisions to implement selective licensing should ultimately rest with local authorities, where there is a greater understanding of local need. This would require a review of the general approval powers and changes to The Selective Licensing of Houses (Additional Conditions) (England) Order 2015.
- **Consider introducing a national landlord registration scheme:** This could support and complement selective licensing schemes by making it easier for local authorities to identify landlords in their area. While this would not completely remove the need for data matching and other exercises to find unregistered landlords, it would help local authorities to build a much better picture of the PRS in their areas and reduce the resources needed to start a new scheme. Any national scheme would require local enforcement to work effectively and should learn from the experience of Rent Smart Wales on the need to set out clearly defined roles in the relationship between national and local schemes, particularly in relation to enforcement.

- **Introduce stronger penalties for the very worst landlords and support local authorities to step up enforcement:** While local authorities can currently issue civil penalties up to a maximum of £30,000, we support calls for higher financial penalties and property forfeiture in the worst cases. The government should also look at a new fund to support local authorities with initial investment to step up enforcement.
- **Review and simplify existing regulation around selective licensing:** While licensing is valued by many councils and residents, landlords and many councils also find current regulations bureaucratic and costly. While acknowledging the value of selective licensing, the government should seek to simplify regulations and processes where possible. For example, reducing the mandatory application questions landlords must answer.
- **Update government guidance on fees, licensing conditions, and enforcement policy:** the government could provide improved guidance to encourage greater standardisation in the operation of licensing schemes across the country, learning from existing best practice. Areas where guidance could be updated include:
 - **Fees:** Licensing fees vary significantly from scheme to scheme, and government should consider introducing clearer guidance on fees, while taking into account the need to sustainably fund the costs of administering an effective licensing scheme.
 - **Licensing enforcement policy:** There is significant variation in how licensing schemes are enforced. Government could create a more consistent approach by encouraging councils to adopt a national enforcement policy and publishing clear guidance, as well as ensuring enforcement in this area is adequately funded.
 - **Licensing conditions:** The wording of licensing conditions varies outside of the mandatory conditions set by government. Government could consider introducing clearer guidance on what new licensing conditions can be set to help provide greater consistency.
- **Review of linked legislation and addressing loopholes:** Definitions contained in council tax, housing benefit and planning are contradictory and often confusing, especially around HMOs. In particular, the turning of bedsit accommodation into 'self-contained' properties has led to exploitation at the lower end of the market. These units are not truly self-contained and often lack kitchen areas and are below acceptable room sizes to accommodate proper amenities.

Local government recommendations

As noted above, the most effective selective licensing schemes are backed by robust enforcement and operate as part of a wider strategy. Beyond this, local authorities should prioritise:

- **Intelligence Led Enforcement:** Councils should be encouraged to adopt a data and intelligence-driven approach to identify PRS properties at greater risk. Councils using this approach are having more success, particularly in addressing unlicensed properties.
- **Encourage proactive multi-agency housing enforcement:** Councils should be supported to develop effective and proactive multi agency housing enforcement. This might include Environmental Health Practitioners (EHP), the Police, Planning Enforcement, Immigration Enforcement (UKBA) and Her Majesty's Revenue and Customs (HMRC). Police presence is also a useful asset to assist in accessing properties.
- **Develop licensing skills and resources strategy:** As noted in the literature review, a recent report highlighted that a shortage of skilled council officers to set up and deliver a licensing scheme is developing.⁴³ Councils and regions should work together to develop a workforce plan to ensure that skilled resources are available to deliver effective licensing schemes into the future.

⁴³ See: http://www.sabattersby.co.uk/documents/Final_Staffing_Report_Master.pdf

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