

# Lewisham Council consultation into extending additional licensing for HMOs and introducing a selective licensing scheme

## Officer Response to Respondent Comments

Autumn 2019

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## 1. Overview

- 1.1. Many respondents provided additional comments to the questions posed in the consultation, or general statements in support of or opposing the scheme. These are captured above, and where appropriate the Council has also captured these comments below alongside a council response.
- 1.2. One landlord stated specifically that they "... support the new license scheme of Lewisham borough for the rental property. The scheme provides guidance for a private landlord to follow which ensure the best practice of our industry."

## 2. Council's response to the general themes

- 2.1. Some organisations sent in letters during the consultation which represented their response to the consultation, these letters have been included within the appendices. Below is the Council's response to the general themes raised in those letters.

### **Anti-social behaviour**

- 2.2. The Council accepts that the powers of landlords to deal with antisocial behaviour are limited to enforcing the terms of the tenancy agreement. The Council asks that landlords have provisions within their tenancy agreements to deal with ASB committed by their tenants and act appropriately to enforce these. This is not considered to be unreasonable or onerous, particularly as landlords may find themselves civilly and/or criminally liable for refusing or failing to address the antisocial behaviour of their tenants. Lewisham Council is committed to providing support to landlords in these circumstances, but cannot offer direct legal advice. Landlords should seek independent legal advice and/or advice from their professional body regarding the strength of cases and the steps to take to bring any case to a successful conclusion. There are a number of steps that landlords can take that fall short of eviction, and the Council do not suggest that managing ASB should mean possession proceedings as the first port of call. Tenant and landlord training along with access to mediation services will be included in our plans to help reduce malicious complaints. Relevant complaints will be assessed and a robust evidence gathering process will help identify unsubstantiated allegations. A training course for tenants will be established to equip them with the necessary knowledge and skills to sustain a tenancy and understand both what is expected of the landlord but also what is expected of them. This will go some way to addressing concerns about tenant exclusion and foster better landlord tenant relationships.

### **Displacement of tenants**

- 2.3. The schemes will allow us to be in contact with landlords, and provide support around ways to deal with ASB that don't conclude with evictions. In addition, there will be more contact between landlords and the Council. This will provide more opportunities to work together on issues including ASB and homelessness. There will also be more contact between tenants and the Council, facilitating more opportunities to provide advice on being a good tenant. Neighbouring boroughs are increasingly implementing licensing schemes and we are working with them to discuss any potential impact on their boroughs.

An equalities analysis assessment has been undertaken utilising the data in the original evidence base and consultation responses.

### **Evidence base**

- 2.4. The Council are clear that there is a case for introducing selective licensing across the whole of the borough, whilst recognising that some areas show stronger evidence than others. Officers have maintained a close dialogue with officers at MHCLG throughout the process of gathering our evidence. The Secretary of State will decide whether enough robust evidence has been presented to support a borough wide scheme.
- 2.5. Crime data included in the report is publically available from data.police.uk. To understand the extent of crime across the borough the rates of crime for each ward were displayed graphically and compared to the national crime rate, both overall and then by crime. The percentage change between 2017 and 2018 was also shown.
- 2.6. There was a positive relationship between crime and private rented housing, i.e. there was generally higher crime in areas with higher numbers of private rented properties. In contrast, when compared with levels of owner occupied housing there is a negative correlation. The more owner occupied housing a ward has, the less crime (Rsquared value of 0.35); and when compared with the amounts of social housing, there is no linear correlation (Rsquared value of 0.01).
- 2.7. The Council has followed specific guidance issued by MHCLG when compiling the evidence base and have included these types of crime in accordance with this guidance. The guidance is available at the following link:  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/418551/150327\\_Guidance\\_on\\_selective\\_licensing\\_applications\\_FINAL\\_updated\\_isbn.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/418551/150327_Guidance_on_selective_licensing_applications_FINAL_updated_isbn.pdf)

### **Sufficient funding**

- 2.8. Plans are being developed to train existing and new members of the licensing team on specific areas of interest for partners, for example children's safeguarding. A number of new roles specifically focused on partnership working have been added to new structure for the Licensing and Enforcement team. These roles have been specifically created to ensure there is capacity to manage the impact of the new licensing schemes on partners' work and improve joint working.

### **Enforcement and raising standards**

- 2.9. In 2018/19 Lewisham served over 330 fixed penalty notices for waste and other offences, 33 notices requiring waste removal from land, 4 warnings for waste on private land, 31 improvement notices for private sector housing and has taken a wide range of enforcement action beyond the above mentioned.
- 2.10. These figures do not support the idea that Lewisham has not used its existing powers. The introduction of selective licensing provides a complementary framework to assist the Council in taking action using a wide range of approaches. Other selective licensing schemes have revealed that there is a huge quantity of unreported hazards and serious disrepair.
- 2.11. The council has a team of Housing Fraud and Intelligence officers focussing on allegations of harassment and unlawful eviction and to assist the team in enforcement work. They are all HHSRS trained. The number of officers in the team will be increased accordingly and the

additional and selective licensing schemes will complement existing enforcement powers, allowing premises to be identified and resources to be targeted.

### **Partnership working**

- 2.12. The team already actively works with partners, particularly around enforcement. Key partners for the Licensing and Enforcement team include the Crime, Enforcement and Regulation Service (CER), planning department, Housing Needs service, the Council's safeguarding services, London Fire Brigade and Metropolitan Police. It is proposed that this type of work continues and increases with the new licensing schemes.
- 2.13. To strengthen joint working arrangements, discussions have taken place with these partners about potential impacts on their work and improving the services provided to our residents. Partners are also asked to feed into the best practice guides and other advice for landlords that is being introduced as part of the schemes. This will encourage professional management of properties and reduce potential for increased workload for partners.
- 2.14. In addition, the Council's Enforcement Board has been recently reinstated to develop collaborative approaches to enforcement around complex cases. The membership is made up of the Council's Housing, Planning and CER services.
- 2.15. A number of new roles specifically focused on partnership working have been added to the new structure for the Licensing and Enforcement team. These roles have been specifically created to ensure there is capacity to manage the impact of the new licensing schemes on partners' work and improve joint working.

### **Air BnB**

- 2.16. Rent to rent is a breach of the tenancy agreement. The "Licence to Rent" report shows that selective licensing schemes can have a positive effect on enforcement activity in this area. Harrow Council were able to identify 82 cases of subletting and take appropriate action. If the concern is that landlords will be unfairly penalised for their tenants' criminal behaviour, we would suggest that this is misplaced. The management and control of a property is defined by s263 Housing Act 2004. "Managing" is defined as the person who receives the rent from the tenants or licenses. This would describe the sub letter rather than an innocent and deceived landlord. The offence contrary to s72 (HMO specific) and s95 (selective licences) both have a statutory defence of "reasonable excuse". Any decision to prosecute or issue a Civil Penalty Notice has to be subject to the public interest test. It is difficult to conceive a situation in which it would be in the public interest to penalise a landlord who is an innocent victim of criminality. This would be equally so in the case of overcrowding. Properties used as Airbnb are Exempt.

### **Section 257**

- 2.17. Not all converted properties will fall into the s257 definition. The Council does not take issue with points raised regarding the application of the Building Regulations 1991. The issue with licensing these properties remains the safety of tenants, and it is not clear how any objection to licensing properties that have poor fire safety, resistance to the passage of sound, ventilation, waste disposal and potentially other issues is inconsistent with this objective.
- 2.18. The objections raised regarding expert evidence are valid, in that the Council accepts that licensing these properties is likely to be more resource intensive than either selective licensing or the more standard HMO. The Council note that the objection raised, while cogent, is one that relates to the practicality of administering the scheme and identifying these properties

rather than an objection to licensing in principle. The Council is committed to working with Building Control and surveyor colleagues to progress this. Officers will consider using independent experts such as surveyors if it is appropriate.

- 2.19. So far as the concern about agents being unfairly targeted and penalised when the nature of occupation might bring a property into licensing without their knowledge, the Council notes that the prosecution and Civil Penalty Notice process carries its own safeguards. The Full Code Test under the Code for Crown Prosecutors must be applied to every decision to prosecute or issue a civil penalty notice. The evidential stage of the test requires there to be a realistic prospect of conviction. This would include a consideration of any defence of reasonable excuse. Even if the evidential test is satisfied, the Council would suggest that the second stage, whether it is in the public interest to proceed, is unlikely to ever be satisfied in circumstances in which a landlord or agent has failed to licence because he has been unaware of a change in tenure in a property he or she does not control. The Council agree that there are some s257 properties that are worse than others. The suggestion that single ownership or control should determine whether a property is licensable is considered unduly restrictive and likely to remove some of the more poorly designed and dangerous properties from the licensing scheme arbitrarily. The Council welcome any further suggestions as to how to amend this aspect of the selective and additional schemes in a way that is consistent with the primary objective of maintaining tenant safety.

#### **Fees**

- 2.20. It is proposed that the fee for an Additional or Mandatory HMO licence remain £500 per lettable unit to cover the cost of administering and enforcing the scheme for five years. This figure is also based on the Council's experience in operating its previous licensing schemes.
- 2.21. The fees have been scrutinised by officers across the key services and compared with fees charged by other boroughs with additional licensing schemes. A discount period for early applicants will run for three months.
- 2.22. The Council are exploring extending the current discount scheme that covers NLA and RLA accredited landlords to ARLA members and would also consider extending this to Safeagent members, subject to more information about your training and accreditation process. We would not consider extending this discount to an agent who was not a member of a professional regulation scheme.
- 2.23. As a result of the consultation responses, it has been decided that a flat fee will apply to all Selective Licence applications prior to discounts being applied, rather than basing the fees on council tax bandings. The proposed fee per application for a selective licence without discounts is £640.

#### **Property inspections**

- 2.24. Lewisham Council will be employing an additional 16 licensing and housing enforcement officers as part of delivering borough-wide selective licensing and the additional HMO licensing scheme. The Council's aim is to deploy staff to inspect every property over the five year life of the scheme. The basis for this aspiration is found in the Chartered Institute of Housing and Chartered Institute of Environmental Health report "Licence to Rent" of January 2019, which found that 69-84% of properties in licenced areas needed works to bring them up to a decent standard.
- 2.25. Using your quoted "120 inspections per week", this level of inspection would be less than one property per day per officer. The Council does not consider this to be unfeasible. A risk matrix will be used to set priorities, and to inspect those properties that present as being at

the highest level of risk first. It is anticipated that this risk matrix will include factors such as previous disrepair complaints, previous ASB linked to the address and previous complaints about poor or inadequate waste management. The Council would welcome input into deciding which factors to include in this process.

**Service standards**

- 2.26. This key service information will be set out on our website when the schemes are launched and performance updates will be reported to Lewisham Housing Select Committee. The documents for these meetings are publically available.

**Existing service**

- 2.27. The purpose of licensing properties is the safety and wellbeing of tenants. While the Council have been able to prosecute or issue CPNs to landlords where they have fallen into dispute with their tenants, this has only been for a minority of tenants, and the Council contend that retrospective, punitive enforcement fails to secure the primary objective of the licensing scheme.
- 2.28. The effect of the proposed additional HMO licensing scheme would be to remove the occupation level threshold from licensing. The selective scheme would have a substantial impact in encouraging compliance amongst all landlords. Officers anticipate that these schemes will increase the number of mandatory HMO’s identified, reduce the number of officer hours required to bring a property into the scheme and result in a consequential saving of public money. It is also likely to remove the incentive for landlords to procure tenant collusion by threats of eviction and thereby increase tenant wellbeing and security.
- 2.29. The Council acknowledges that there are difficulties with our current system and will be moving to a new client facing application package.

**3. Council’s response to individual comments**

- 3.1. The comments received as part of the free text responses to questions included in the online consultation and from individual letters and emails have been grouped below, alongside the Council’s response.

<b>Summary of free text responses raised as part of the online consultation</b>	
<b>Comments</b>	<b>Council’s response</b>
<b>Comments regarding the proposed extension to the HMO licensing scheme</b>	
It will deter/penalise good landlords, reduce stock and increase rents	The Council recognise that HMO properties provide vital opportunities for individuals to meet their housing needs. However, officers are aware of many cases where tenants are being forced to live in unsuitable and unsafe conditions, and are too scared to report issues to the landlord for fear of retribution. The Council takes the view that this is not acceptable and action must be taken. The licence fee split over five years accounts for a small element of a landlord’s income. It is not commercial necessity that makes landlords pass this cost on to tenants but choice.

<p>Requiring a HMO licence will disadvantage landlords who let to groups of individuals as shared house HMOs. Only one fee should apply for households with up to 4 sharers on one AST, not per bedroom</p>	<p>Charging per lettable unit will allow for the more effective use of licensing and enforcement. The fees and fee structure has been based on the actual cost of providing this service, where a property is split up into accommodation as in the manner outlined, this is likely to take longer to inspect and undertake licensing activity on.</p>
<p>The Council does not have a good track record of licensing properties under the current additional licensing scheme, any extension to the scheme will need to be fully resourced to ensure tenants and landlords do not become disenfranchised</p>	<p>Officers have experienced a significant amount of resistance from landlords who dispute that their properties fall within the requirements of either the existing mandatory or additional licensing schemes. This has meant the process to licence properties to date has been very labour intensive, focusing on proving cases of disrepair and poor landlord practice. An extended additional HMO scheme, covering all properties, will remove the option for landlords to challenge whether or not a property needs to be licensed and will therefore enable officers to focus on carrying out more engaged enforcement work. This will allow the service better opportunity to work with good landlords and target criminal landlords.</p>
<p>The problems are a result of the shortages of social housing</p>	<p>The Council is very aware that the supply of social housing in the borough does not meet the demand from households registered on the housing waiting list. Amongst other things, the Council has committed to delivering 1,000 new social homes, which will go a long way to help alleviate housing need in the borough. The private rented sector is increasingly needing to accommodate households who are not able to access other tenures and is therefore expanding substantially. It is therefore essential that the accommodation in the private rented sector is of a good quality and that schemes are in place to address poor standards.</p>
<p>Evidence base is not strong enough</p>	<p>The Council believe there is a case for introducing additional licensing across the whole of the borough, whilst recognising that some areas show stronger evidence than others. As demonstrated above, officers are reviewing the comments and responses received as part of the consultation in detail and are taking these into account when recommending in what form the proposals could be developed.</p>
<p>Licensing will reduce the availability of low cost housing</p>	<p>It is recognised that HMO properties provide vital opportunities for individuals to meet their housing needs. However, officers are aware of many cases where tenants are being forced to live in unsuitable and unsafe conditions, and are too scared to report issues to the landlord for fear of retribution. The Council takes the view that this is not acceptable and action must be taken</p>

	The licensing scheme will endeavour to work alongside landlords to help them ensure their properties are safe and secure and remain available for letting.
How will the Council target the bad landlords?	Presently there are three Housing Fraud and Intelligence officers in the team who deal with allegations of harassment and unlawful eviction and assist the team in enforcement work. These officers are HHSRS trained. The number of officers in the team will be increased accordingly and the additional and selective licensing schemes will complement existing enforcement powers, allowing premises to be identified and resources to be targeted.
Licensing will result in properties being left empty	There is no evidence to suggest that the introduction of such schemes will result in properties being left empty. The Council has an Empty Homes officer who works with owners to bring empty homes back into use and properties that are left empty will be identified and addressed through their work.
<b>Comments regarding the proposed selective licensing scheme</b>	
Selective licensing will not deter bad landlords. Rogue landlords will continue to operate under the radar, only good landlords will bother to apply for a licence	The Council propose to use the legislation available to us to target those who do not comply with the required standards, bringing enforcement action against non-compliant landlords where required. Improved processes of data collection and analysis have resulted in the Council being able to take a much more targeted approach to identify properties which are likely to require a licence
Will the scheme apply to lodgers in family homes	Properties with lodgers in certain circumstances are specifically exempted from the scheme. However, where there are more than 2 lodgers from different households it will fall within one of the HMO licensing schemes.
This is only necessary for HMOs, there is already too much regulation. Focussing on HMO licensing should be the priority.	A range of other courses of action have been considered as an alternative to introducing selective licensing, however we do not feel that these alternatives will enable the same objectives to be achieved. The alternative options would not help meet the objectives of the Council's Corporate Strategy and would not bring about the much needed improvements for people living in the private rented sector.
Properties made available to the Council for letting at below market rent should be excluded from paying a fee	Dependent on the nature of the arrangement with the Council, some properties made available to the Council will be exempt from licensing. The Council is considering the introduction of a discount for those properties made available to it at lower than market rent where the exemption would not apply.
The Council should not be involved in short term letting arrangements	The licensing scheme does not intend to interfere in a landlord's decision around who to let their property to and what rent to charge. Providing the landlord ensures they comply with the proposed license



	conditions and existing legislation, they will be free to manage their property how they see fit.
Query the evidence and the Council's motivations	<p>The Council is committed to ensuring all residents have safe and secure homes. The Corporate Strategy commits to tackling the housing crisis and ensuring everyone has a decent home that is secure and affordable. This includes a commitment to improve standards across all housing sectors, including the private rented sector which has expanded rapidly in recent years.</p> <p>The Council believe there is a case for introducing selective licensing across the whole of the borough, whilst recognising that some areas show stronger evidence than others. As demonstrated above, officers are reviewing the comments and responses received as part of the consultation in detail and are taking these into account when recommending in what form the proposals could be developed.</p>
Landlords will not rent to families with children	Families with children are increasingly seeking accommodation in the private rented sector due to affordability issues in the owner occupied sector and lack of availability in the social sector. Some respondents have commented that landlords may be reluctant to let to families with children for fear of receiving ASB complaints. It is not clear that this will be borne out in actuality, and the mitigating steps outlined elsewhere in this report including advice to landlords and training for tenants should mitigate this impact.
Will not be successful without well-resourced enforcement measures	The Council are expanding the service substantially to ensure the delivery of an effective licensing service at all stages of the process, including enforcement.
<b>Comments applicable to both the HMO and selective schemes</b>	
There will be issues with enforcement of such regulation	The Council have set a target to inspect 100% of properties which will enable non-compliance issues to be identified and addressed accordingly. The licensing schemes will provide officers with additional powers to take enforcement action against landlords who do not comply with the licensing requirements.
This is an exercise for the Council to get more money	Sections 63 (3) and 87 (3) of the Housing Act 2004 allow the Local Authority to require an application for an HMO or selective licence be accompanied by a fee, fixed by the authority, to cover the cost of administering and enforcing the scheme. The costs have been calculated in accordance with this legislation to cover the costs of the scheme only, the Council is not allowed, and would not wish to, raise additional funds from these licensing schemes.
There are already adequate regulations in place which need to be enforced.	A range of other courses of action have been considered as an alternative to extending HMO

Local authorities are not using their existing powers to enforce.	licensing and/or introducing selective licensing. The alternative options would not help meet the objectives of the Council's Corporate Strategy and would not bring about the much needed improvements for people living in the private rented sector.
The schemes will alienate and penalise good landlords and will not do anything to stop bad landlords	The Council are very aware of the contribution made by good landlords who manage their properties well, however there are also a considerable number who do not take responsibility for their properties. It is proposed to use the legislation available to us to target those who do not comply with the required standards, bringing enforcement action against non-compliant landlords where required.
The Council should focus on their own stock before interfering in private stock	The Council is committed to ensuring all residents have safe and secure homes, regardless of tenure. The Corporate Strategy commits to tackling the housing crisis and ensuring everyone has a decent home that is secure and affordable. As part of this is a commitment to improve standards across all housing sectors. The Council has an arrangement with Lewisham Homes and Regenter to manage the social rented and leasehold stock in the borough and performance is monitored closely. In addition, the Council is committed to delivering 1,000 new council homes for borough residents. Households in the private rented sector live in some of the worst accommodation and can be subject to appalling treatment and living conditions. It is important that measures are also taken to improve the quality of private rented accommodation in the borough.
<b>Licensing conditions</b>	
Clarity needed for different types of rental – e.g. lodgers	<p>Properties with lodgers in certain circumstances are specifically exempted from the scheme. However, where there are more than 2 lodgers from different households it will fall within one of the HMO licensing schemes.</p> <p>Other exemptions for HMO licensing include</p> <ul style="list-style-type: none"> <li>• Buildings managed by public bodies (Local Authorities, Police Authorities, Hospitals etc)</li> <li>• Buildings managed by Registered Social Landlords or Registered Providers of social housing.</li> <li>• Buildings managed by cooperatives</li> <li>• Student housing managed by educational establishments</li> <li>• Buildings occupied by religious communities</li> </ul> <p>Other exemptions for selective licensing include</p>

	<ul style="list-style-type: none"> <li>• Registered Social Landlords (Housing Associations)</li> <li>• Registered providers of Social Housing (Local Authorities and ALMOs)</li> <li>• Public bodies (health services, police and fire authorities)</li> <li>• Student accommodation managed by educational establishments</li> <li>• Tenancies of over 21 years where the tenancy is occupied by the original tenant, their successors or their family</li> <li>• Tenancies between family members where the person granting the tenancy is a freeholder or a leaseholder with 21+ years remaining on the lease.</li> <li>• Holiday lets</li> </ul>
<p>What about properties to be rented out for less than five years?</p>	<p>All licences will be issued until the expiry date of the licensing scheme, regardless of the period of time a property is intended to be let for. This is to ensure consistency and to avoid disproportionate complexity or cost that would be passed on to the schemes members.</p> <p>Where properties come into rental use during the term of the scheme a pro-rata discount will be applied to the enforcement element of the fee dependant on the number of years or part years remaining in the scheme.</p>
<p>Impact of tenants behaviour – how can the licence enable a landlord to deal with unruly tenants</p>	<p>The requirement is that landlords have provisions within their tenancy agreements to deal with ASB committed by their tenants and act appropriately to enforce these. Lewisham Council is committed to providing support to landlords in these circumstances, but cannot offer direct legal advice. Landlords should seek independent legal advice and/or advice from their professional body regarding the strength of cases and the steps to take to bring any case to a successful conclusion. There are a number of steps that any landlord can take that fall short of eviction, and we do not suggest that managing ASB should have possession proceedings as the first port of call. The Residential Landlords Association publishes a very helpful guide to taking action in these circumstances. This can be found here: <a href="https://www.rla.org.uk/landlord/guides/dealing-with-antisocial-behaviour.shtml">https://www.rla.org.uk/landlord/guides/dealing-with-antisocial-behaviour.shtml</a>.</p>
<p>How can landlords deal with ASB and avoid breaking rules around evictions</p>	
<p>Use of fees</p>	<p>The total estimated costs are calculated over the five year scheme. They include all attributed expenditure including salaries with associated on costs, premises and equipment for staff, publicity, consultations and legal costs. Consideration has been given to any adverse effect on other council teams and additional</p>

	project officers have been included to help mitigate those effects.
Clarification is needed regarding restrictions or prohibition on the use or occupation of particular parts of the house.	The Council works to the statutory definition in such instances. This is available at the following link: <a href="http://www.legislation.gov.uk/ukpga/2004/34/section/20">http://www.legislation.gov.uk/ukpga/2004/34/section/20</a>
A requirement to obtain references unfairly punishes people at the low-income end of the housing market, such as students, first-time renters, immigrants, ex-offenders	The requirement to obtain references is contained in statute – the detail is at the following link: <a href="http://www.legislation.gov.uk/ukpga/2004/34/schedule/4">http://www.legislation.gov.uk/ukpga/2004/34/schedule/4</a>
Unreasonable to require the landlord to take reasonable steps to prevent antisocial behaviour by occupiers or visitors.	The proposed requirements are not considered onerous or unreasonable. The inclusion of robust measures in tenancy agreements will empower landlords to take effective action to tackle ASB where this is appropriate and to provide further evidence to support legal action should this be required.
What is the definition of a fit and proper person	The definition of a fit and proper person is set out in statute at the below link: <a href="http://www.legislation.gov.uk/ukpga/2004/34/section/66">http://www.legislation.gov.uk/ukpga/2004/34/section/66</a>
Landlords are already required to carry out safety checks	As many of the checks required by the scheme are already required prior to let the Council does not consider this to be an onerous or unreasonable requirement. A recent report by the CIH found that 69-84% properties in licensed areas required works and the Council is committed to working with landlords to ensure that all properties are up to the required standard.
Unclear what is meant by selective licensing	The term selective licensing is used to refer to the process whereby all landlords in a designated area subject to selective licensing must apply for a license to rent their property. We have picked up a few comments that respondents did not always understand the difference between additional and selective licensing, or what is meant by selective licensing. We sought to explain this within our consultation, our consultation documents and on the consultation website, but see that perhaps some respondents were confused.
The proposals (licensing conditions) contain too much jargon	The Council endeavour to ensure that the licensing conditions are clear and easily understandable. Officers will take this comment on board and aim to address this when reviewing the licensing conditions. Landlords who are unsure as to the specifics of certain should call the Council or seek legal advice.
People renting rooms in their own homes should not be included	Properties with lodgers in certain circumstances are specifically exempted from the scheme. However, where there are more than 2 lodgers from different

	households it will fall within one of the HMO licensing schemes.
<b>Licensing fees and discounts</b>	
Too low, the licence needs to be enforced well	The fees for the proposed Selective and Additional licence applications have been calculated, taking into account all costs associated with administering and enforcing the scheme.
Concern regarding a lack of resources to administer the scheme	
Too low, the income generated from renting is very high	
Too low, should be incentive based with 'bad' landlords being charged more and reductions for good practice	The requirements are that local authorities charge a fee which covers the costs of the licensing scheme. In the scenarios mentioned, it is not possible to determine in advance which landlords would be charged a lower fee and which would be charged a higher fee and therefore the fee cannot be set on this basis, as it would not be known if the fees were sufficient to cover the costs of the scheme until the scheme has ended.
Too low, should be based on the rent charged rather than council tax	
Too low, HMO landlords should be charged more as this is where most issues arise	The additional scheme for licensing HMO properties proposes to charge landlords a fee based on each lettable unit. Therefore the charges to HMO landlords will be higher than the charges to landlords who let out their property to a single household. As part of the licensing process, all properties will be inspected, so officers will be able to determine whether a landlord has applied for the correct license when they visit the property. Any attempts by landlords to deceive the Council will be addressed according to the enforcement policies.
Too high, the fees will stop landlords declaring that they are renting out rooms	
Too high, the cost will be passed on to tenants	
Too high, the fee is not in line with other boroughs and needs to be justified	The proposed fees are at a level which takes account of the costs of administering and enforcing the scheme. The licence costs are predicted to be 1% of rent over the five year period of the licence. While we appreciate that landlords are operating on smaller margins than previously experienced, we would question whether a modest cost of this nature is likely to render any viable business untenable. It is not commercial necessity that makes landlords pass this cost on to tenants but choice.
Too high, the cost will deter landlords and decrease stock	
Too high, it is a way for the Council to supplement their budget	Sections 63 (3) and 87 (3) of the Housing Act 2004 allow the Local Authority to require an application for an HMO or selective licence be accompanied by a fee, fixed by the authority, to cover the cost of administering and enforcing the scheme. The costs have been calculated in accordance with this legislation to cover the costs of the scheme only, the Council is not allowed, and would not wish to, raise additional funds from these licensing schemes.
Unfair to penalise good landlords who do not belong to a landlord	Landlords can either apply for a discount via the accreditation scheme or early applicant discount, the maximum discount available is 20%. Those landlords

accreditation scheme (e.g. those with one property)	who do not wish to become members of an accredited scheme can still achieve a 20% discount by applying during the early applicant discount period.
Unfair to base fee on outdated council tax bands	As a result of the consultation responses, and in light of legal advice received, it has been decided that a flat fee will apply to all Selective Licence applications prior to discounts being applied, rather than basing the fees on council tax bandings. The proposed fee per application for a selective licence without discounts is £640.
Unfair to offer an early bird discount	The Council recognises that many landlords will be reluctant to apply for a licence and the early applicant discount offers an incentive for them to do so and will help offset the cost of licensing their property. It will also help the Council manage the flow of applications.
Unfair to implement a fee	Sections 63 (3) and 87 (3) of the Housing Act 2004 allow the Local Authority to require an application for an HMO or selective licence be accompanied by a fee, fixed by the authority, to cover the cost of administering and enforcing the scheme. Unless a fee is charged to landlords, these costs would need to be met by borough residents through their council tax, which is not fair or appropriate.
<b>Are landlords doing enough to address nuisance and antisocial behaviour?</b>	
No, penalise the landlord	The proposed licensing conditions will require that landlords abide by a range of conditions. If they do not do so, the Council will have more powers than at present to take action against these landlords.
No, penalise the tenants	The proposed licensing schemes set out requirements which landlords must abide by in order to meet the conditions of the license. Tenants are required to abide by the terms of their tenancy agreement. There are well established legal channels for landlords to take should a tenant be in breach of their tenancy agreement. The Council is proposing to introduce sessions for tenants to help promote the behaviours required to encourage successful tenancies.
No, more council support is needed	The schemes will allow us to be in contact with landlords, and provide support around ways to deal with ASB that aren't about evicting people. In addition, there will be more contact between landlords and the Council. This will provide more opportunities to work together including on issues such as ASB and homelessness. There will also be more contact between tenants and the Council, facilitating more opportunities to provide advice on being a good tenant.
No, improved noise abatement service needed	
No, better communication channels are needed across the community	
Not the landlord's responsibility	The Council do not believe that the proposed requirements are onerous or unreasonable. Tenancy management is considered to be part of a landlord's responsibility and by introducing these schemes the

	Council is committing itself to working more closely with landlords and agents to tackle ASB and other issues.
A more thorough referencing system	This is not something which the Council has the power to assist with. A number of private companies exist who are able to provide landlords or agents with comprehensive referencing checks as appropriate.
A public database of landlord contact details in order to report issues	This is a mandatory requirement of the scheme and will be introduced accordingly.
More efficient process of eviction for problem tenants	The requirements of the scheme ensure that landlords have effective tenancy agreements in place that allow for such eventualities if they are necessary. The Council would encourage landlords and letting agents to work with tenants to tackle issues before this point arises.
No, landlords need to enable good behaviour – e.g. communicate what needs to be done and provide enough bins	The licensing conditions will require landlords to provide information to tenants around refuse collection and to provide tenants with sufficient means to store refuse.
<b>What else can Lewisham Council do to make sure landlords are held accountable?</b>	
Impose penalties on landlords who mistreat tenants	The proposed licensing conditions will require that landlords abide by a range of conditions. If they do not do so, the Council will have more powers than at present to take action against these landlords. Where landlords are committing criminal offences, such as harassment or illegal eviction, officers would take active steps to tackle this offence. Where a relevant housing offence is committed the Council would support tenants in seeking rent repayment orders.
Carry out regular inspections of properties	We have set out a target to inspect 100% of properties which will enable non-compliance issues to be identified and addressed accordingly. The licensing schemes will provide us with additional powers to take enforcement action against landlords who do not comply with the licensing requirements.
Ensure there is a clear reporting line for tenants and any complaints are followed up	There will be more contact between tenants and the Council, facilitating more opportunities to provide advice on being a good tenant. The proposed licensing conditions will require that landlords abide by a range of conditions. If they do not do so, the Council will have more powers than at present to take action against these landlords. The Council has a designated phone line and inbox for any such enquiries, detailed below 020 8314 9285 or 020 8314 6420 and email <a href="mailto:Rogue.Landlords@lewisham.gov.uk">Rogue.Landlords@lewisham.gov.uk</a>
Support landlords too	The schemes will allow us to be in contact with landlords, and provide support around ways to deal with ASB and other issues. In addition, there will be more contact between landlords and the Council. This will provide more opportunities to work together including on issues such as ASB and homelessness.

Impose a cap on rental payments	This is not something that the Council has legal authority to introduce.
Increased enforcement of the current rules	The proposals that have been made for an additional HMO licensing scheme and a selective licensing scheme are intended to complement existing powers. This will provide officers with a wide range of tools to ensure the safety of our residents.
Public register/rating system of landlords	A public register is a mandatory requirement of the scheme and will be introduced accordingly. The Council will not be introducing a rating system given the subjective nature of such an approach. The Council will work to ensure all licensed properties are inspected during the period of the license and necessary works undertaken.