



Mayor and Cabinet

Report title: Selective licensing: Consultation responses and proposals to introduce a new licensing scheme

Date: 08 March 2023

Key decision: Yes.

Class: Part 1

Ward(s) affected: 16 out of 18 wards based on pre-May 2022 ward boundaries (Telegraph Hill and Blackheath excluded)

Contributors:

Executive Director for Corporate Resources, Director of Law and Corporate Governance

Outline and recommendations

Mayor and Cabinet are asked to review and approve the selective licensing consultation report and the Council's response.

Mayor and Cabinet are asked to support the recommendation to proceed with an application to introduce the proposed selective licensing scheme designations to the Department for Levelling Up, Housing and Communities (DLUHC).

Recommendations:

- 1.1. Mayor and Cabinet Committee are asked to review and approve the report of the selective licensing consultation, and the council response to the consultation, as outlined in Appendix 1 – Consultation report and – Response to consultation representations.
- 1.2. Approve three proposed selective licensing designations to apply to all privately rented single occupancy dwellings in the three designated areas as set out in Appendix 5 in line with sections 80 and 81 of the Housing Act 2004.
- 1.3. Approve the proposed post-consultation changes to the scheme. (see section 10)
- 1.4. Note the proposed selective licensing scheme fee, as outlined in section 11 and Appendix 7 on licensing fees;
- 1.5. Approve the proposed new licensing conditions for properties in the Private Rental Sector in the affected wards, as outlined in Appendix 6 – Amended selective licence conditions;
- 1.6. Approve the submission of an application to the Secretary of State for Levelling Up, Housing and Communities to confirm the council's designation for a Selective Licensing Scheme as set out in Section 82 of the Housing Act 2004, as outlined in Section 7;
- 1.7. Delegate authority to the Executive Director for Housing, Regeneration and Public Realm:-
 - 1.7.1. to finalise the submission for approval for the council's designation and submit to the Department for Levelling Up, Housing and Communities (DLUHC);
 - 1.7.2. to implement the Selective Licensing Scheme and publish the 3-month Statutory Notice for the scheme as part of the implementation, pending confirmation from the Department for Levelling Up, Housing and Communities (DLUHC).

Timeline of engagement and decision-making	
24 April 2019	Previous approval to consult on selective licensing
28 May to 21 August 2019	Previous Selective Licensing consultation
11 March 2020	Mayor and Cabinet approved a designation for selective licensing and the submission of an application to the Secretary of State for approval of the proposed scheme (subsequently postponed due to the Covid 19 pandemic).
20 October 2021 – 20 May 2022	Second public consultation (Extended in January 2022)
12 October 2022	Housing Select Committee expressed its strong support for the submission to the Secretary of State for approval to implement the proposed designations.

1. Summary

- 1.1. This report summarises the responses to the public consultation carried out on the council's proposals to introduce selective property licensing in 16 out of 18 wards, based on the pre-May 2022 ward boundaries. The consultation results demonstrate clear overall support for all three selective licensing designations proposed by the council.
- 1.2. The report further sets out the council's proposed changes to the design of the scheme based on the consultation responses and additional data gathering and legal advice, post consultation. The updated response to the consultation is included as Appendix 2.
- 1.3. The report sets out the statutory conditions for designation of a selective licensing scheme and how the council's proposals meet those criteria.
- 1.4. It also sets out officers' recommendations that Mayor and Cabinet should approve the designation of the three proposed areas for selective licensing, and that the Executive Director for Housing, Regeneration and Public Realm should proceed to make an application to the Department for Housing, Levelling Up and Communities (DLUHC) requesting confirmation of the council's designation.
- 1.5. The report of the consultation, is attached as Appendix 1.
The full summary of consultation results and the council's response is included as Appendix 2.

2. Recommendations

- 2.1. Mayor and Cabinet Committee are asked to review and approve the report of the selective licensing consultation, the representations received and the council's response to the consultation feedback, as outlined in **Error! Reference source not found.** and **Error! Reference source not found.**;
- 2.2. Agree to designate a new selective licensing area (to be known as Selective Licensing Designation 1) in the six wards of Brockley, Catford South, Lewisham Central, New Cross, Perry Vale and Rushey Green (pre-May 2022 boundaries) as delineated and edged orange on the map in the draft designation in Appendix 5 for a five-year period, subject to confirmation by the Department of Levelling Up, Housing and Communities

(DLUHC)

- 2.3. Agree to designate a new selective licensing area (to be known as Selective Licensing Designation 2) in the five wards of Crofton Park, Evelyn, Ladywell, Lee Green and Sydenham (pre-May 2022 boundaries) as delineated and edged blue on the map in the draft designation in Appendix 5 for a five-year period, subject to confirmation by the Department of Levelling Up, Housing and Communities (DLUHC)
- 2.4. Agree to designate a new selective licensing area (to be known as Selective Licensing Designation 3) in the five wards of Bellingham, Downham, Forest Hill, Grove Park and Whitefoot (pre-May 2022 boundaries) as delineated and edged green on the map in the draft designation in Appendix 5 for a five-year period, subject to confirmation by the Department of Levelling Up, Housing and Communities (DLUHC)
- 2.5. Agree the proposed Selective Licensing Scheme Fee;
- 2.6. Approve the proposed new licensing conditions for properties in the Private Rental Sector in the affected wards, as outlined in **Error! Reference source not found.**;
- 2.7. Delegate authority to the Executive Director for Housing, Regeneration and Public Realm:-
 - 2.7.1. to finalise and submit the application requesting confirmation of the selective licensing designations from the Department for Levelling Up, Housing and Communities (DLUHC);
 - 2.7.2. to implement the Selective Licensing Scheme and publish the 3-month Statutory Notice for the scheme as part of the implementation, pending necessary confirmation from the Department for Levelling Up, Housing and Communities (DLUHC).
 - 2.7.3. to make such other changes to the schemes as is necessary for the effective administration of the schemes.

3. Policy Context

- 3.1. The contents of this report are consistent with the Council's policy framework. It supports the achievements of the following Corporate Strategy objectives:
 - Tackling the housing crisis – everyone has a decent home that is secure and affordable.
- 3.2. The council is committed to improving standards across all housing sectors and a wider landlord licensing scheme is pivotal to this pledge. The contents of this report support the achievement of the following Housing Strategy 2020-26 objectives :
 - preventing homelessness and meeting housing need;
 - improving the quality, standard and safety of housing, and;
 - supporting our residents to live safe, independent and active lives.
- 3.3. There is a commitment to expanding the licensing regime in the borough under Priority 3: improving the quality, standard and safety of housing in Lewisham; the council aims to 'Improve standards in the PRS, through:
 - *expanding our licensing regime*
 - *working with landlords and landlord associations to improve standards and practice across the borough*
 - *using data from our licensing schemes to improve our service*'.

4. Background

- 4.1. According to the Office for National Statistics (ONS) and the Housing Stock and

Stressors report findings, the private rented sector (PRS) in Lewisham has grown from 24 per cent in 2011 to 31 per cent in 2021; an increase of almost 30 per cent over 10 years. This shift has come as a result of population growth in tandem with a limited supply of new and affordable homes and therefore has resulted in soaring house prices. The private rented sector has helped address the housing shortage and now 39,674 of Lewisham's 128,798 residential dwellings are privately rented.

- 4.2. The increased demand for privately rented homes has, however, also seen an increase in rents being charged in the borough. This, combined with the cost of living crisis, is pushing more residents into difficult choices between affordability and quality of accommodation. The English Housing Survey (2022) indicates that 14 per cent of private rented dwellings in England had at least one category 1 hazard; a hazard that poses a serious or immediate risk to a person's health and safety. In stark contrast, 22.7 per cent of Lewisham's PRS properties were found to have at least one category 1 hazard.
- 4.3. Over half of the residential properties in the borough were built pre-Second World War (Housing Stock and Stressors Report, Metastreet, 2021). Housing conditions tend to be worse in older properties and pose greater risk to the health and safety of its inhabitants. For example, the HHSRS Operational Guidance (2006) published by the Office of the Deputy Prime Minister, stressed that there is a greater risk of winter deaths in dwellings with low energy efficiency ratings and this correlates with the age of the property. Dwellings built after 1980 are more energy efficient and are therefore safer. Wards comprising mainly of older properties are inclined to have more hazards, such as excess cold, fire and electrical issues, damp and mould.
- 4.4. The recent tragic case of Awaab Ishak, the two year old boy who died in 2020 as a result of prolonged exposure to damp and mould serves as a sobering reminder of the importance of addressing health and safety standards in all rented homes. It also highlights the additional resources needed by councils and other public bodies to tackle issues like damp and mould, given the profile of the UK's housing stock.
- 4.5. The national mandatory Houses in Multiple Occupation (HMO) licensing scheme came into operation in April 2006. Following the end of the previous additional HMO licensing scheme in February 2022, a new additional scheme came into force on Tuesday 5 April 2022.
- 4.6. The Council therefore currently operates the following licensing schemes:
 - Mandatory HMO licensing scheme relating to all Houses in Multiple Occupation (HMO) where five or more people across two or more households (families) live in the same property and share facilities such as a kitchen or bathroom. This is a national scheme.
 - Additional HMO licensing. This applies to any HMO property in Lewisham that is not captured by the national Mandatory HMO scheme, so all privately rented properties occupied by three or four people living in two or more households with shared facilities, other than those specifically excluded from licensing.
- 4.7. As of January 2023, 1,166 properties were licensed under both schemes, with a further 676 applications in process meaning somewhere between 20-30 per cent of the estimated licensable HMOs in the borough have been identified and brought into the licensing regime.
- 4.8. The Council previously consulted on introducing a Selective Licensing scheme in 2019; however due to the pandemic, plans to seek approval for the proposals from the Government were put on hold. As lockdown restrictions came to an end, the council reviewed housing conditions in the borough once again to take account of any demographic shifts as a result of the pandemic. Some modifications were made as to how a selective licensing scheme could operate in the borough and consequently, following Mayor and Cabinet approval to do so, the council launched a further public

consultation to gain feedback on the proposals.

5. Rationale for the proposed new selective licensing scheme

- 5.1. Ensuring that residents in the PRS live in high-quality homes and security of tenure is a priority that is jointly shared by both the Mayor of Lewisham, the Council and Government. In Lewisham, we know that the majority of landlords take their responsibilities to their tenants seriously and provide decent, well-maintained and well-managed homes.
- 5.2. However, it is also the case that there are widespread issues of poor housing conditions, housing hazards, disrepair and incidences of antisocial behaviour within the PRS. In addition, there are a small number of criminal landlords who rent out accommodation that is not safe.
- 5.3. These preconditions are only likely to be exacerbated by the current climate in the rental market. In the preceding decade private renting has become the largest single tenure in the London housing market, and private renters have become the residents spending by far the highest proportion of their income on rent. However, in the last six months the market has been plunged into further volatility. The current market is the most competitive it has ever been for private renters – tenant demand has increased by 20 per cent, whereas the number of new properties becoming available to rent in London is down by 24 per cent on last year¹.
- 5.4. Average asking rents in London hit a new record of £2,343 pcm this quarter, a jump of 16.1 per cent on this time last year. For the second time this year, this represents the biggest annual rent increase of any UK region since records began². Against a backdrop of soaring rents and decreasing availability of properties, renters are in an even weaker position than before when it comes to enforcing their scant rights. The conditions for the exploitation of the vulnerable at the hands of the unscrupulous are clearly laid out.
- 5.5. Our comprehensive review of Lewisham's housing stock conditions has given us evidence that the PRS in Lewisham is affected by issues relating to poor property conditions, antisocial behaviour and deprivation. So we now know that:-
 - Survey results have shown Category 1 hazards³ in 22.7 per cent of homes in the PRS, considerably higher than the national average of 13 per cent.
 - Antisocial behaviour (ASB) incidents are higher in wards with more privately rented homes.
 - There were an average of 15 incidents of ASB and statutory nuisance per 100 properties in the PRS in 2021, almost double the level in social housing. In some wards (Catford South), the level was as high as 25 per 100 properties⁴.
- 5.6. Based on this evidence and following public consultation we are seeking approval to implement a selective licensing scheme which will enable us to do more than we are currently able. This licensing scheme will enable us to;
 - Simplify enforcement by bringing almost all properties in the PRS under licensing and by clearly defining operating unlicensed properties as an offence
 - Providing a channel for effective engagement between landlords and the Council thereby enabling us to better raise landlord awareness of their responsibilities

¹ Rightmove rental trends tracker, Q3 2022 report

² Ibid

³ [London Borough of Lewisham Private Rented Sector: Housing Stock Condition and Stressors Report September 2021](#)

⁴ Ibid

- Directly targeting the Council's resources on areas of concern and being able to generate sufficient revenue to cover the costs of our activities
- Provide a proactive approach to inspection, as there will no longer be the need to issue a 24-hour notice for access in circumstances where failure to licence and breaches in licence conditions are suspected
- Improve our ability to identify unlicensed properties and in targeting priority properties, through effective intelligence gathering mechanisms; and,
- Develop and publish clear targets and metrics to measure progress and success.

6. Criteria for designation

6.1. In order to designate a selective licensing scheme, the following criteria must be met:

- a) That the authority considers that the statutory conditions to make a selective licensing designation are satisfied.

The council has set out in our evidence base for the consultation (see appendix 3), the detailed evidence to demonstrate that the statutory conditions for our designations (anti-social behaviour, poor housing conditions, and deprivation) have been met.

- b) Reasonable steps have been taken to consult with persons who are likely to be affected by the designation; and representations made in accordance with the consultation and not withdrawn have been considered.

A summary of the council's wide-ranging public consultation is set out in Section 9, and copies of letters of support from other local authorities and partner organisations are included as Appendix 9.

- c) The making of the designation is consistent with the authority's overall housing strategy.

Section 3 (policy context) sets out how the proposed designations are consistent with Lewisham's housing strategy and corporate strategy.

- d) The authority is seeking to adopt a co-ordinated approach in dealing with homelessness, empty properties and anti-social behaviour, both as regards to combining licensing with other courses of action available to them, and combining such licensing with measures taken by other persons.

Sections 11 (details of the proposed scheme) and 13 (delivering scheme outcomes) set out how the council is already taking a co-ordinated approach with partner organisations to combat homelessness, empty properties and anti-social behaviour, and how licensing will complement and enhance with these approaches.

- e) The authority has considered whether other available courses of action might provide an effective method of achieving the objective(s) that the selective licensing designation is intended to achieve and that making the designation would significantly assist in achieving the objective(s), whether or not any other course of action is taken as well.

Section 12 sets out the alternative courses of action the council considered prior to moving to a selective licensing designation, and why those alternatives alone cannot deliver the scheme objectives.

- f) The authority has considered any potential negative economic impact that licensing may have on the area.

Section 12 also sets out the council's consideration of the potential negative economic impacts of selective licensing, and our conclusion that licensing is unlikely to have a negative economic impact.

- g) That the authority can demonstrate how licensing will work in conjunction with existing initiatives (such as landlord accreditation) and partnerships.

Section 13 (delivering the scheme outcomes) sets out how our proposed licensing scheme will work alongside our existing initiatives to improve the private rented sector, including landlord accreditation and partnership working.

7. Proposed designations

7.1. The council is proposing to introduce selective licensing in 16 of the pre-May 2022 wards, broken down into three designations, designed to tackle the most pressing issues within each set of wards. As set out in section 9, in response to the consultation and following advice from expert counsel and additional data gathering, officers propose amending designation three to include the additional statutory condition of poor housing conditions. The designations are set out below:

7.2. Designation one – high repeated antisocial behaviour (ASB) and poor housing conditions:

- Brockley
- Catford South
- Lewisham Central
- New Cross
- Perry Vale
- Rushey Green

7.3. Designation two – poor housing conditions:

- Crofton Park
- Evelyn
- Ladywell
- Lee Green
- Sydenham

7.4. Designation three – deprivation:

- Bellingham
- Downham
- Forest Hill
- Grove Park
- Whitefoot

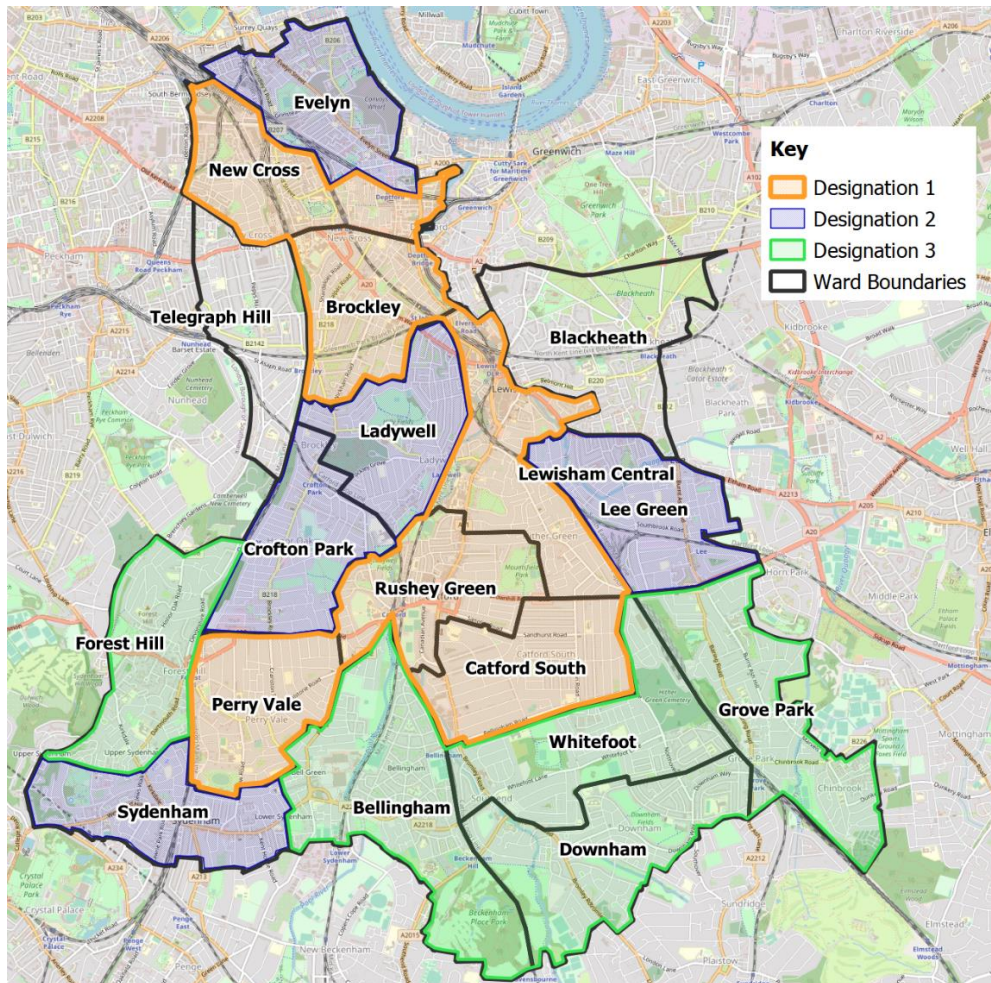


Figure 1 Selective Licensing Designations Map 2023

8. Achievements of the Council's existing licensing schemes

8.1. The Council currently operates the following licensing schemes:

- **Mandatory scheme**, operational since 2006, but expanded to cover a wider range of properties in 2018. Relating to all Houses of Multiple Occupation (HMO) where five people across two or more households (families) live in the same property and share facilities such as a kitchen or bathroom. This is a national scheme. Since its introduction, the council's licensing and enforcement capabilities have developed considerably, with significant issues being addressed through the licensing process.
- **Borough-wide additional licensing**, operational since April 2022, relating to all properties which meet the definition of an HMO as set out in the Housing Act 2004. This scheme replaced the council's previous additional licensing scheme which operated between 2017-2022 and covered smaller HMOs above commercial premises only.

8.2. Since the introduction of additional licensing in 2017 and the extension of mandatory licensing in 2018:

- There have been 13 successful prosecutions of landlords and agents, with another currently before the court. Sentences ranged from fines to suspended custodial sentences:-
 - five of these were convicted of offences relating to harassment and unlawful eviction, and

- the remainder convicted of Housing Act 2004 and Environmental Protection Act 1990 offences
 - 87 Civil Penalty notices have been issued for a range of offences, including failure to license. The income generated from these civil penalties is retained by the council and ring-fenced for enforcement of standards in the private rented sector.
 - officers have responded to 51 cases of illegal eviction and harassment, an average of 4 per month, preventing homelessness and supporting tenants to enforce their rights.
 - Officers have investigated 1,185 complaints of disrepair on a combination of licensed and non-licensed properties using statutory enforcement tools (HHSRS Part 1 Housing Act 2004).
- 8.3. With the introduction of the council's 2017 additional licensing scheme and the changes to the national mandatory licensing scheme in 2018, bringing two-storey properties into licensing, the council more than doubled the number of previously - licensed HMOs in the borough.
- 8.4. Since the introduction of our new borough-wide additional licensing in scheme in April 2022 we have already licensed over 400 new HMOs previously unknown to the council as of 9th February 2023. This takes the total number of licensed HMOs in the borough up to 1,166 with a further 676 applications in the pipeline. We expect to license between 6,000-9,000 HMOs during the lifetime of the scheme.
- 8.5. However, our current schemes are not the panacea for the ills in Lewisham's private rented sector. Introducing a borough-wide additional HMO licensing scheme has had a transformative effect on HMO enforcement. Instead of wasting officer time and resources gathering evidence to prove whether a property meets the mandatory licensable threshold, officers can proceed to inspect and license any property which meets the statutory definition of an HMO. However, an estimated 30,000 PRS properties in the borough fall outside of this definition, and the resources generated by additional licensing cannot be used to conduct inspections and enforcement in these homes.

9. Summary of the public consultation

- 9.1. Lewisham Council carried out a public consultation 20 October 2021 – 20 May 2022 on proposals to introduce a selective licensing scheme in 16 wards. The council proposed introducing selective licensing in three designations, designed to tackle the most pressing issues within the wards. (See section 7 for proposed designations).
- 9.2. To consult with landlords, tenants, residents, stakeholders and other interested parties, the council carried out an online survey. The council also hosted public meetings with landlords, tenants, residents, and landlord groups. The council used digital and print media to advertise the consultation, as well as in-person methods, following the easing of social distancing rules.
- 9.3. The consultation ran for 30 weeks from 20th October 2021 to 20th May 2022. In total 1,356 responses were received from the online survey. Qualitative feedback was received at two public meetings, attended by over 60 people and ten written responses from interested parties. The service also undertook engagement exercises, including stalls in Deptford market, at Lewisham shopping centre and outside train stations across the borough. These exercises raised awareness of the work of the licensing and housing enforcement service, as well as the consultation proposals. The consultation considered the level of support for introducing selective licensing. The consultation also looked at views on the proposed licence conditions, fees, and the respondents' perceptions of the issues in the borough.

Table of key findings:

	Overall	Landlords	Privately renting tenants	Other
Total consultation survey responses	1202	361	257	584
Agree with Selective Licensing in Designation 1	52%	13%	69%	69%
Disagree with Selective Licensing in Designation 1	36%	70%	17%	23%
Total consultation survey responses	1064	337	242	488
Agree with Selective Licensing in Designation 2	47%	10%	66%	63%
Disagree with Selective Licensing in Designation 2	37%	70%	28%	23%
Total consultation survey responses	1036	321	240	475
Agree with Selective Licensing in Designation 3	48%	11%	68%	65%
Disagree with Selective Licensing in Designation 3	33%	65%	23%	20%
Total consultation survey responses	1298	391	271	636
Agree that the standard property conditions should apply to all designations	64%	29%	80%	79%
Disagree that the standard property conditions should apply to all designations	30%	61%	17%	17%
Total consultation survey responses	1250	380	264	606
Agree that the Supplementary ASB and Poor Housing Conditions should be applied to designation 1 & 2	59%	24%	74%	75%
Disagree that the Supplementary ASB and Poor Housing Conditions should be applied to designation 1 & 2	32%	63%	20%	18%
Total consultation survey responses	1307	393	273	641
Agree that the proposed fee for selective licensing is reasonable	44%	7%	47%	50%
Disagree that the proposed fee for selective licensing is reasonable	47%	90%	36%	40%
Total consultation survey responses	1293	387	273	633
Agree that the proposed discounts for selective licensing are reasonable?	37%	13%	46%	47%
Disagree that the proposed discounts for selective licensing are reasonable?	47%	73%	34%	37%

Conclusions

9.4. The result of the public consultation on the introduction of a selective licensing scheme demonstrated clear overall support for all three designations. Though a majority of

landlord respondents disagreed with the introduction of all three designations, an overwhelming majority of both private tenants and other respondents agreed with all three designations.

10. Proposed amendments to the scheme as a result of the consultation

10.1. As a result of the public consultation, further analysis of the data, advice from expert counsel and discussions with the Department for Levelling Up, Housing and Communities officers recommend the following changes to the proposed scheme:

- 10.1.1. Amending the proposed license conditions to combine the standard and supplementary licence conditions proposed in the consultation, and that these combined conditions will be applicable to all licensable properties in all designated areas. This will simplify the licence conditions, making the scheme easier for landlords and tenants to understand, and for the council to administer. The supplementary conditions strengthen landlords' obligations with regard to managing anti-social behaviour within their properties, and conducting repairs in a timely and competent fashion, but do not deviate significantly from the standard conditions consulted on. (see Appendix 6 'amended selective license conditions')
- 10.1.2. The addition of a license condition regarding the exterior of the property, to place an obligation on the licence holder (where they are responsible) to ensure that all boundary walls, fences, communal gardens and yards are kept maintained and in good order. This would mirror HMO management regulations and the importance of such a condition was clearly reflected in consultation responses.
- 10.1.3. With regard to fees, some consultation response comments stated that the fee split is unclear. Officers recommend that the fee information be updated with more information about Part A and Part B, how the parts of the fee will be used, and explanatory text outlining things such as how long the licence lasts, who should pay for the licence, what information can be changed without charge (licence holder). This is set out in Appendix 7 'fee structure' for further information.
- 10.1.4. Clearly setting out which landlord accreditation organisations will be eligible for the landlord discount, to ensure that only reputable accreditation providers are accepted.

Impact of May 2022 ward boundary changes

- 10.2. In May 2022, following the closure of the consultation, ward boundary changes came into effect in the borough. In addition the number of wards in the borough has reduced from 18 to 16 with the removal of Whitefoot and New Cross, which areas have been redistributed amongst the remaining wards.
- 10.3. This was anticipated and the council has taken advice from the Department and expert counsel, and concluded that the best approach is to designate the exact geographical areas consulted on, as opposed to amending the designation to mirror the new ward boundaries.
- 10.4. Our designations (see appendix 5 selective licensing designations) show the geographical areas covered, and the council will create a post-code search tool, as well as publishing maps so that landlords and tenants can clearly see whether a given property is within the designations.
- 10.5. The council's original consultation proposals were that some supplementary license conditions would apply in designations one and two, relating to anti social behaviour and repairs. However, as set out in point 6.5.2 above, the council is now proposing that

the standard and supplementary conditions be combined into one standard set of license conditions. This will help to simplify the scheme and make all three designations appear as one uniform scheme for landlords and tenants, mitigating any impact of the boundary changes. See section 11 below and Appendix 6 'Amended selective license conditions' for further information.

11. Details of the proposed scheme

Objectives and predicted outcomes

11.1. Lewisham residents tell us that they want to live in homes that are safe and secure, on estates and streets that are well maintained and presentable, and in a thriving communities free from crime and antisocial behaviour. The Council's corporate strategy sets a vision for providing our residents with the opportunity to live their best lives, protecting the individual identities of our neighbourhoods and making Lewisham a place our citizens love to live in. Better and safer housing conditions are a key component of this vision and the proposed selective licensing scheme will help to deliver this by:

- Improving property conditions and management standards in the PRS,
- Reducing antisocial behaviour (ASB), and,
- Reducing deprivation.

Improving property conditions and management standards

11.2. The council will improve property conditions and management standards by ensure that all licensable properties in the borough conform to Lewisham's licensing standards.

- All private rented properties covered by the selective scheme will receive a desk-based audit on application
- At least 60 per cent of the properties covered by the scheme will be inspected at least once during the duration of the licence, informed by a data-led risk assessment.
- The council will robustly enforce the conditions of the license, building on our experience of HMO licensing
- The housing services directorate will also use data analytics and risk modelling tools to identify unlicensed properties.

11.3. The council will reduce repeat complaints about housing standards through a combination of informal and formal actions, including:

- Incentivising landlord accreditations through schemes that promote a professional standard of property management
- Supporting eligible landlords to apply for landlord property improvement grants, through joint working with our Housing Improvement and Assistance team
- Use of the data analytics and risk modelling tools to support the identification of properties that are likely to be operating unlawfully or are likely to be high risk
- Serving of notices and orders under relevant legislation e.g. Housing Act 2004 and other Public Health related legislations
- Issuing civil penalty notices
- Prosecuting repeat offenders and those who commit certain offences, in line with our [private sector licensing and housing enforcement policy](#)
- Undertaking joint enforcement with our statutory partners

- A communications campaign to make renters aware of licensing, as well as their tenancy rights and responsibilities

Addressing anti-social behaviour

11.4. The council will tackle ASB in the private rented sector by reducing the instances of repeat ASB linked to licensed properties over the lifetime of the scheme. A recent study by the British Medical Journal into the public health impacts of selective licensing found that complaints about ASB reduced by 15 per cent in areas covered by selective licensing schemes, compared to control areas⁵. The council will deliver a reduction in ASB by:

- Implementing the private sector licensing and housing enforcement team's ASB-handling protocol, recently developed for our additional licensing scheme, but which will also be applicable to selective licensing (included here as Appendix 8).
- Supporting landlords to manage ASB more effectively in their properties by providing a model ASB policy for landlords to implement
- Enforcing the license condition which requires landlords to take 'all reasonable and practical steps' to manage ASB in their properties, by taking statutory enforcement where necessary. This could include refusing license applications, issuing one-year licenses, revoking licenses, issuing civil penalty notices and/or prosecution in serious cases.
- ensuring that any repairs, improvement works or treatments are carried out by a competent person(s). Copies of receipts and/or invoices for any such works must be provided to the Authority within 28 days upon demand.
- Building links with local police to ensure cases are handled in a joined-up manner
- joint enforcement with partners such as Safer Communities, Planning, Building Control, Adult and Children's/young people's social services, Community Mental Health, Revenues and Benefits the Fire Brigade and others

Reducing deprivation

11.5. Some of the most deprived households in the borough live in privately rented homes. The proposed selective licensing scheme will help the council to deal with the poor property conditions and other issues that exacerbate deprivation, including overcrowding and fuel poverty. A recent study has shown that licensing may also have a beneficial effect on mental health outcomes⁶.

11.6. The council is already working on a range of measures to reduce and lessen the impacts of housing-related deprivation, including through:

- building more social housing, designing good quality homes with ample space where people actually want to live
- progressing our housing assistance programme, where we support disabled and low income home owners to improve their homes through grant funding
- tackling empty homes which blight communities by a combination of a data-led approach to identifying properties and responding to reports by members of the public. We inspect properties we identify, encourage property owners and landlords to engage with the council and offer support in the form of grants and

⁵ [Impact of selective licensing schemes for private rental housing on mental health and social outcomes in Greater London, England: a natural experiment study](#) Petersen J, et al. BMJ Open 2022

⁶ Ibid.

VAT exemption certificates if there is a credible plan to bring the dwelling into use. Where property owners do not engage we will look to take enforcement action, including Empty Dwelling Management Orders (EDMOs) and forced sales.

- 11.7. The proposed selective licensing designations will complement this work and help to tackle deprivation in the rental sector by:
- Enforcing the maximum occupancy stipulated in the license conditions to prevent overcrowding;
 - Ensuring the rented property meets a minimum E EPC rating (unless an exemption applies), and that all Category 1 hazards, such as excess cold and damp and mould hazards are eliminated. This will help to alleviate fuel poverty, and have beneficial health outcomes for residents. While these are legal standards with or without licensing, having the designation in place gives the council the resources to be able to enforce them.
 - Using the resources provided by licensing to work with our in-borough temporary accommodation landlords to raise standards, where these properties are licensable.
 - Ensure all vulnerable private renters, including those on or claiming housing benefits or universal credit are housed in properties that are safe and well-managed, including licensable non-commissioned supported housing.
 - Connecting vulnerable residents we identify as part of licensing, who may be at risk of homelessness with housing services and/or wider support services such as adult social care
- 11.8. It is much easier to rectify property issues under the legal framework of the licensing scheme and when the landlord and other property management companies are known to the council. Landlords who fail to license their properties could receive a civil penalty for failure to license. Where possible, the council will work with landlords to address poor property conditions and the factors that make deprivation worse, to help them to comply with the licence conditions in these wards.
- 11.9. The outcome of the designation should be (together with other measures) a reduction in the problems with housing in the private rented sector contributing to the high level of deprivation in these areas.

Selective licence conditions

- 11.10. In our consultation the council proposed that a set of standard licence conditions should apply in all three designations, but that additional conditions should apply in designations one and two, to address anti-social behaviour and poor housing conditions respectively.
- 11.11. Following analysis of the consultation responses, having reviewed the progress of our additional licensing scheme, and having taken expert advice, the council have decided to amend the standard licence conditions so that the proposed additional conditions for designations one and two will apply in all designations.
- 11.12. The council's amended selective licence conditions are included as Appendix 6, 'amended selective licence conditions'
- 11.13. The impact of these changes will be as follows:
- The scheme and its administration will be simplified and easier for both tenants and landlords to understand
 - The license conditions and the council's ability to enforce standards will be strengthened, but without placing any significant additional burden on compliant landlords

- The potential impact of ward boundary changes on the council's ability to communicate the scheme requirements will be mitigated.

Proposed licensing fees

11.14. It is proposed that the fee for a selective licence is £640 per property before applying discounts. This fee has been set to make the scheme cost neutral, taking into account the cost of inspections, compliance checks, and the discounts available to landlords.

11.15. The fee is to be paid in two parts:

- Part 1: Fee of £160 for processing and determination of the application payable on application for a licence.
- Part 2: Fee of £480 for administration, management and enforcement of the scheme payable before a licence is issued. The final licence will not be issued until the full fee has been paid.

Fee element and eligibility	Amount £
Full fee	£640
Part 1 (all applicants)	£160
Part 2 (full fee)	£480
Part 2 – early bird	£352
Part 2 - accredited landlord	£352
Part 2 – eligible charities	£160

11.16. The early bird rate will apply for a period of not less than three months prior to the official 'go live' date of the scheme. The start date for this rate will be set by officers following confirmation from the Department for Levelling Up, Housing and Communities of the approved designations.

11.17. The proposed fee has already been approved by the council's Licensing Sub Committee on 11 August 2020. The council's legal services team have advised that there is no need to seek further approval from the sub committee.

11.18. For more information please see Appendix 7 ' Fee structure'

12. Consideration of alternative options and potential negative impacts

Alternatives to selective licensing

12.1. The consultation report included as Appendix 1 of this report details a number of alternative options to selective licensing that the Council has already considered and these are listed below:

12.1.1. Maintaining current licensing arrangements

The evidence presented demonstrates that additional measures are needed to raise standards in the private rented sector and this cannot be achieved under the current arrangements. Lewisham's current schemes specifically target HMOs and do not cover studios and single-family households. Officers have experienced a significant amount of resistance from landlords who dispute that

their properties fall within the requirements of either the mandatory or additional licensing schemes. This has meant the process to license properties to date has been very labour-intensive, focusing on proving the case, sometimes through court, rather than tackling disrepair and poor landlord practice.

12.1.2. Introducing only borough-wide additional licensing for HMOs

The data shows that issues exist across the private rented sector and an additional scheme alone would not solve these problems. For example, properties converted into studios share many of the same issues associated with HMOs, such as ASB, Waste Management, etc.

12.1.3. Introducing selective licensing to less than 20% of the borough

The problems identified with the private rented sector extend to most areas in the borough and it is therefore necessary to pursue a scheme to tackle issues in all the identified areas, not just a small area. The percentage of PRS properties in each ward ranges between 41.1% (Lewisham Central) and 23.8% (Downham). Therefore, 18 out of 18 Lewisham wards⁷ have a higher percentage PRS than the 23.8% (Downham). Therefore, 18 out of 18 Lewisham wards have a higher percentage PRS than the national average in 2020 (19%). There were two wards (Telegraph Hill and Black Heath) in which it was felt that although the wards had a higher than average proportion of rental properties, in other respects the evidence did not meet the criteria for a selective licensing designation (see section 6 'criteria for designation').

12.1.4. Voluntary accreditation

We recognise and support a voluntary accreditation scheme and a discount is made available to accredited landlords when licensing their properties. Despite this, less than half the landlords who apply are accredited and works are often still needed to bring the property up to standard for a number of the accredited landlords. Accreditation, while an indication of good intentions, is not a guarantee that the landlord is fully aware of their obligations or that the properties they manage will necessarily be up to standard without greater involvement from the Council. We will continue to actively promote the London Landlord Accreditation Scheme (LLAS) and work closely with other providers of accreditation and bodies promoting higher standards, such as the NRLA, and we will provide licensing discounts to accredited landlords.

12.1.5. Use of prosecutions and civil penalty notices as a disincentive to keeping properties in poor conditions.

The absence of large-scale licensing significantly reduces the scope of the Council's ability to impose civil penalties in respect of identified housing breaches. Successful prosecutions, or the imposition of civil penalties, do not in themselves improve property conditions. In all cases, harm caused due to these conditions have already occurred.

12.1.6. Use of improvement grants to subsidise improvement works, improving standards and deriving benefits for both landlords and tenants.

We already operate a discretionary landlord grant scheme of [insert details]. However, we struggle to incentivise take-up amongst landlords, since they are required to match-fund. There are limited grants available and they only fund improvements that the landlord should, in any event, be carrying out to meet their legal obligations.

12.1.7. Use of ASB powers to issue formal notices on individual properties to tackle

⁷ Of the 18 pre-May 2022 wards. There are now 19 wards in Lewisham.

ASB.

In these situations, ASB action is generally taken against the tenant in occupation. There is no obligation on landlords of unlicensed properties to be proactive in managing their properties to prevent or reduce the likelihood of ASB occurring.

Possible negative economic impacts of selective licensing

- 12.2. There is no evidence to suggest that the introduction of a selective licensing scheme will have a negative impact in the proposed designated areas. A recent independent review of the Use and Effectiveness of Selective Licensing commissioned by MHCLG (now DLUHC) determined that there was no substantive evidence of rent rises being passed onto tenants due to the introduction of selective licensing schemes. It is considered that selective licensing, when combined with other measures taken in the designated areas will have a positive economic impact rather than negative by contributing to improved housing conditions.

Conclusion

- 12.3. Having reviewed the above options, it is not considered that they would achieve the same outcome as the proposed selective licensing scheme for the reasons provided. The alternative options would also not help meet the objectives of Lewisham's corporate strategy and would not bring about the much needed improvement in conditions for people living in the private rented sector.

13. Delivering the proposed scheme

Scheme launch

- 13.1. The new Selective Licensing Scheme will be launched no earlier than within three months of obtaining confirmation from the Department of Levelling Up, Housing and Communities. An early-bird discount will run as part of the scheme pre-launch marketing, with the scheme launching after the early bird period.
- 13.2. We have developed a communication strategy and plan to ensure details of the scheme are communicated effectively to tenants, landlords and property management agents.
- 13.3. Applications once submitted will be deemed as "submitted applications" and the landlords, and their agents, will not be penalised if their applications have been submitted with the relevant documents.

Delivering the scheme outcomes

- 13.4. The Licensing and Housing Enforcement team has expanded considerably since the introduction of additional licensing. Many lessons have been learned through launching the borough-wide additional licensing scheme which will support the successful delivery of the proposed selective licensing scheme. Measures to ensure successful delivery include:
- Creating a licensing enforcement and compliance strategy to encompass both schemes, based on the learning of the first year of additional licensing
 - Further expansion of the Licensing and Housing Enforcement team, funded via the proceeds of licensing, to enable the scheme to be effectively administered and enforced, and to provide support to renters and landlords
 - Expanding our existing HMO-finder model to encompass single-family dwellings and improve our intelligence-led approach to enforcement
 - Using the proceeds of licensing to invest in new IT functionality to streamline and speed up the licensing process for landlords and improve efficiency for the

council

- Improving our communications with landlords and tenants via regular forums and communications campaigns, including leafleting, social media and local news
- Reviewing additional powers which could be delegated to licensing and housing enforcement officers to support improved enforcement, including EPA 1990 statutory nuisance abatement notices, Buildings Act 1984 notices, Tenant Fees Act enforcement powers and Minimum Energy Efficiency Standard enforcement powers.
- More effective joint working with other council agencies, including housing needs and refugee services, planning, revenues and benefits, safer communities, commissioning, adult social care, trading standards, and the South London Energy Partnership
- More effective joint working with external partners including the police, London Fire Brigade, organisations representing renters and landlord bodies.

14. Financial implications

- 14.1. The proposed selective licensing fee is set out in section 11 above.
- 14.2. It is the Council's intention to grant all selective licences for a period of five years starting from the date they are granted, unless the Council is satisfied that in the circumstance of a particular property a shorter period is appropriate.
- 14.3. It is anticipated that the largest proportion of applications will be received in year 1 when landlords wish to take advantage of 'early bird discounts'. Thereafter we expect to receive applications consistently throughout the scheme designation and well into year 5 of the designation.
- 14.4. A financial model has therefore been created to be cost neutral over the course of a 10 year period. The model assumes that although the scheme is for 5 year licences there is an ongoing licence enforcement and management requirement over the life of the licence, even though the selective licensing scheme will cease and no new licences issued from year 6 onwards.
- 14.5. The costs of resourcing the schemes in years 6 -10 will reduce in line with the number of licences that need to be managed and enforced during this period.
- 14.6. In setting the fee the Council has had regard to the EU Service Directive and sections 63(7) and 87(7) of the Housing Act 2004 which confirms that "when fixing fees the local authority may take into account all costs incurred by the authority in carrying out their functions".
- 14.7. The Regulatory Impact Assessment on licensing makes it clear that authorities should not use fee income to raise additional revenue.
- 14.8. The proposed licence fees will be sufficient to cover the estimated costs of establishing and administering the schemes and also the undertaking of any enforcement action.

Expenditure

- 14.9. The costs included in the fees model are:
 - additional staff to process applications (including recruitment and training)
 - additional staff to carry out inspections of premises
 - the cost of dealing with appeals against licensing decisions
 - the cost of purchasing new licensing software
 - other costs associated with ensuring compliance with the scheme.

15. Legal implications

- 15.1. Sections 79- 81 of Part 3 of the Housing Act 2004, provide local authorities with power to introduce selective licensing schemes for other houses falling outside of Part 2 of the Act, which deals with licensing of HMOs.
- 15.2. The types of houses to be licensed under a selective licensing scheme are defined within s. 79 (2) of the 2004 Act. Namely, it applies to a house “if (a) it is in an area that is for the time being designated under section 80 [for selective licensing], and (b) the whole of it is occupied either- (i) under a single tenancy or licence that is not an exempt tenancy, or (ii) under two or more tenancies or licences of different dwellings contained in it, none of which is an exempt tenancy or licence...” Further statutory considerations for a local authority apply under Part 3 of the Housing Act 2004 for selective licensing schemes, pursuant to section 80 (2)(a) and (b). These include conditions in relation to housing conditions, deprivation, migration and conditions in relation to crime and anti-social behaviour.
- 15.3. Before making a decision to introduce selective licensing the local authority must:
 - consult with those who are likely to be affected, including those who live, work or operate businesses in adjoining local authority areas where they will be affected
 - consider whether there are other effective methods of achieving the intended objective.
- 15.4. Approval by the Secretary of State is required for selective licensing schemes.
- 15.5. The Secretary of State will take into account when deciding whether to confirm a Scheme, the robustness of the proposed measures to ensure compliance. In particular, the Secretary of State will expect to be assured there are systems in place to monitor compliance and enforcement measures will be in place where there is non-compliance. Approval of the Secretary of State will be required for a selective Licensing scheme as the proposed borough-wide scheme will:
 - cover more than 20% of the authority's area, and / or,
 - affect more than 20% of privately rented homes in the authority's area. Selective licensing may come into force no earlier than three months after the designation has been approved (or it falls under the general approval).
- 15.6. When fixing fees, the local housing authority may pursuant to s. 87 of the 2004 Housing Act (subject to any regulations made under subsection 5) take into account:
 - all costs incurred by the authority in carrying out their functions under this Part, and,
 - all costs incurred by them in carrying out their functions under Chapter 1 of Part 4 in relation to Part 3 houses (so far as they are not recoverable under or by virtue of any provision of that Chapter).

16. Equalities implications

- 16.1. An Equalities Analysis Assessment has been completed and is included at Appendix 10.

17. Climate change and environmental implications

- 17.1. The licensing scheme will complement the council's existing licensing schemes in

identifying climate and environmental issues not already known such as energy performance, fly-tipping and waste management issues directly linked to properties in the PRS.

- 17.2. A coordinated approach will be taken to engage with landlords. Inspections will focus on the eradication of category 1 and 2 hazards on cold and thermal efficiency, especially for vulnerable residents
- 17.3. Inspections of these properties will be conducted on a risk basis including analysis of potential poor standards in the stock and will work to address poor standards including damp and cold.
- 17.4. Our officers will be trained to provide advice on potential issues relating to energy efficiency, root damage, subsidence and light.
- 17.5. The council will undertake targeted work with all landlords and using landlord forums to promote energy efficiency, including engaging with landlord accreditation schemes that promote energy efficiency.
- 17.6. The council will also take steps to engage more effectively with renters across the borough to raise awareness of the Climate Emergency, and to flag up measures to tackle it, in particular by highlighting renters' rights with regard to the removal of category 1 hazards such as excess cold. This will be particularly important in the context of the current cost-of-living crisis.
- 17.7. The licensing and enforcement team is committed in support Lewisham's climate change initiatives by supporting the climate initiative team in:
 - developing a programme to target high-risk streets and neighbourhoods with tailored advice including the publication and promotion of initiatives
 - assessing the actions and investment needed to get all buildings in the PRS to an average of EPC B and in identifying energy inefficient properties

18. Crime and disorder implications

- 18.1. One of the objectives of the proposed schemes includes tackling ASB and crime. The scheme will identify crime and disorder issues as a result of inspections and investigation. This may result in an increase in anti-social behaviour casework, which is investigated primarily by the Council's Safer Communities service.
- 18.2. The Licensing and Housing Enforcement Team will tackle ASB and crime through active and robust enforcement working in partnership with a range of internal and external agencies including the Safer Communities service and the police, where necessary.
- 18.3. However, the council is clear that the licensing scheme confers powers on the council to take action against criminal and unlawful behaviour by landlords with regard to the management and standards of their rental properties only. This is the primary purpose of selective licensing.
- 18.4. The Council's licensing and housing enforcement service has limited powers and remit to deal with anti-social, or unlawful behaviour on the part of tenants, which, in common with any other resident of the borough is properly the purview of the Safer Communities service, or the police. However, the license conditions allow the council to require landlords to demonstrate to the satisfaction of the council that they have taken 'all reasonable and practical steps' to manage anti-social behaviour in their properties.
- 18.5. The licensing and housing enforcement service is committed to working closely with colleagues in all other relevant council services and other public agencies to support the delivery of safer communities in the borough.

19. Health and wellbeing implications

- 19.1. A key component of delivering the scheme outcomes is the promotion of careers in PRS housing to young people. We will create additional opportunities to promote careers in housing and environmental health to young people, to create a long-term pipeline of qualified officers. Providing new, attractive career options for young residents will have a positive impact on their health and wellbeing.
- 19.2. A poorly managed private rented sector detracts from the look and feel of streets and neighbourhoods, and can have a negative impact on residents' perception of themselves and our borough. A good quality private rented offer, which has a positive impact on neighbourhoods by creating genuinely mixed communities will encourage residents to stay in the borough.
- 19.3. Housing has a huge influence on our mental health and wellbeing. Those who are vulnerable – elderly or young, isolated, without a support network, and adults with disabilities – are more likely to be affected. Poor housing conditions have a long-term impact on health, increasing the risk of severe ill-health or disability by up to 25 per cent during childhood and early adulthood. Children living in crowded homes are more likely to be stressed, anxious and depressed, have poorer physical health, and attain less well at school. An improvement in property conditions is expected to lead to a general improvement in residents living conditions and their health.

20. Background papers

- 20.1. List of appendices:

No.	Title
Appendix 1	LB Lewisham selective licensing consultation report September 2022
Appendix 2	LB Lewisham response to selective licensing consultation January 2022
Appendix 3	Consultation materials
Appendix 4	Housing Select Committee report – selective licensing consultation report September 2022
Appendix 5	LB Lewisham draft notice of designations of areas for selective licensing
Appendix 6	LB Lewisham amended selective licence conditions
Appendix 7	LB Lewisham selective license fee structure
Appendix 8	LB Lewisham Private Sector Housing ASB complaint handling protocol
Appendix 9	Letters of support
Appendix 10	Equalities Analysis Assessment

- 20.2. *Please include a list of papers, documents and reports that relate to the report's subject matter with hyperlinks if the documents are available on our website*

21. Glossary

Term	Definition
Socially rented	Homes rented from the council or a housing association
Privately rented	Homes rented from a private landlord
Private rented sector (PRS)	The portion of housing in the borough that is rented from private landlords

Term	Definition
Category 1 hazard (Cat 1 hazard)	A serious or immediate risk to a person's health and safety that is related to housing
Category 2 hazard	A less serious or less urgent risk that can still be regarded as placing the occupiers' health, safety and welfare at risk
Housing Health and Safety Rating System (HHSRS)	A government prescribed system that rates housing hazards based on their risk to occupiers' health, safety and welfare
Designation	A geographical area chosen for licensing based on evidence
Deprivation	Living on low income and not having the money to pay for some basic requirements.
Indices of Multiple Deprivation	A dataset produced by the government to give a relative value to how deprived an area is, compared to the rest of the country.
Barriers to housing and services	One of the government's measures of deprivation. It combines measures relating to housing affordability, overcrowding and homelessness.
Anti-social behaviour (ASB)	Behaviour related to a rented property that causes annoyance and irritation to neighbours and the community. Most commonly noise, litter and waste.
Selective Licensing	A local scheme which requires landlords to have a licence to legally let their property to a family or two sharers
Additional HMO Licensing	A local scheme which requires landlords to have a licence to legally let their property to three or four sharers
Mandatory HMO Licensing	A national scheme which requires landlords to have a licence to legally let their property to five or more unrelated sharers.

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