

APPENDIX I

CONSULTATION REPORT – ADDITIONAL LICENSING SCHEME FOR PRIVATE RENTED SECTOR PROPERTIES

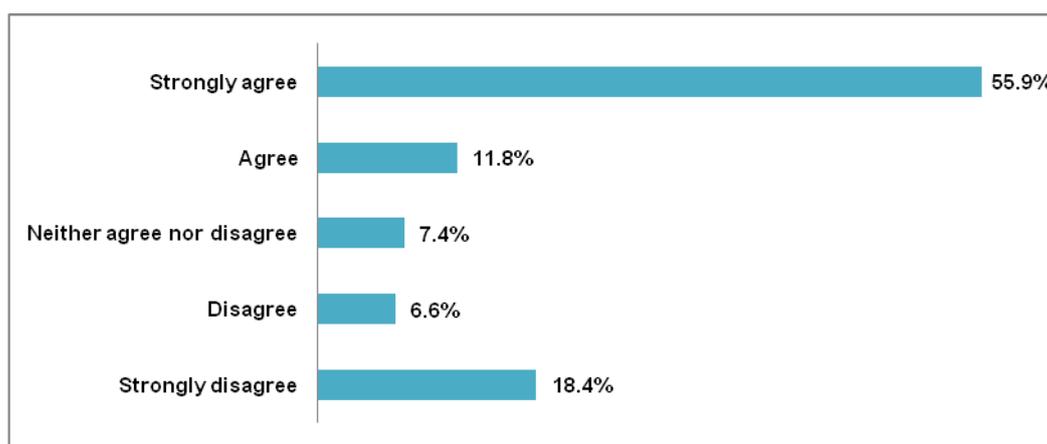
Introduction

The consultation on proposals to introduce an additional licensing scheme to cover all multi-occupied private rented accommodation above commercial properties in the borough (such as flats above shops) ran from 2 September 2015 to 24 November 2015. This report analyses the responses to the proposal in principle, the proposed standards that landlords would need to reach in order to be eligible for a licence and the fees to be charged.

Overall Survey Responses

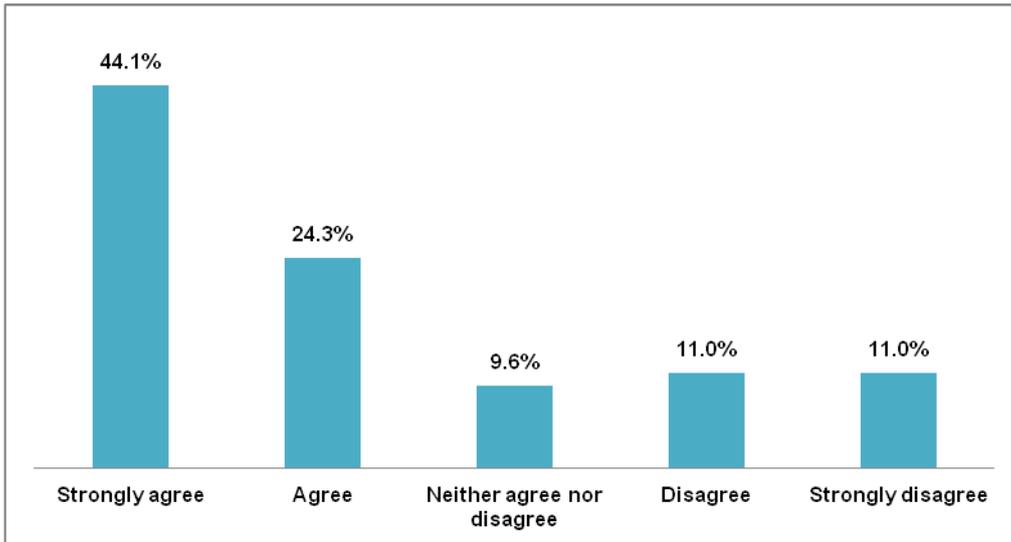
In total, there were 136 responses to the consultation.

Q1) More properties for private rent should be licensed



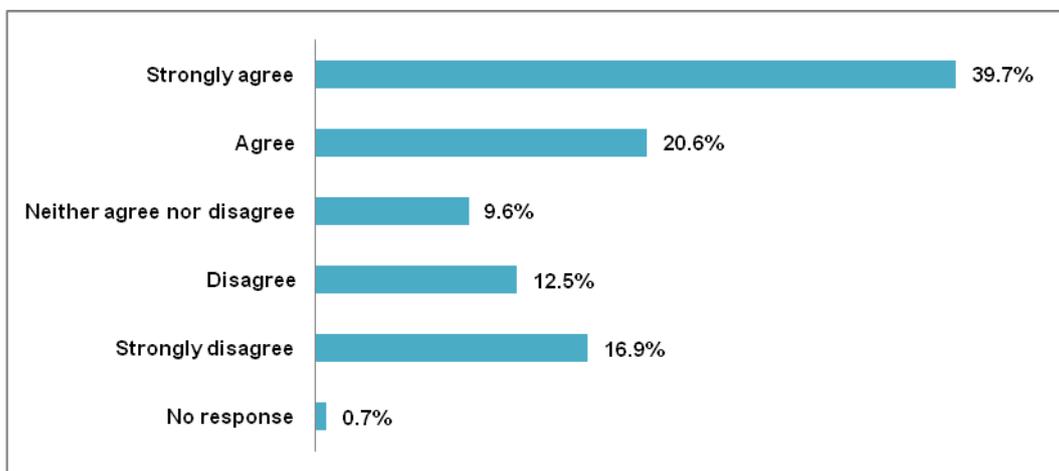
A total of 92 respondents (67.7%) either agreed or strongly agreed that more properties for private rent should be licensed. Of these, 7 respondents identified themselves as a private landlord whilst 27 were private tenants. A total of 34 respondents (25%) either disagreed or strongly disagreed with this statement (none were private landlords and only 6 were private tenants).

Q2) Licensing more private properties will help improve living conditions



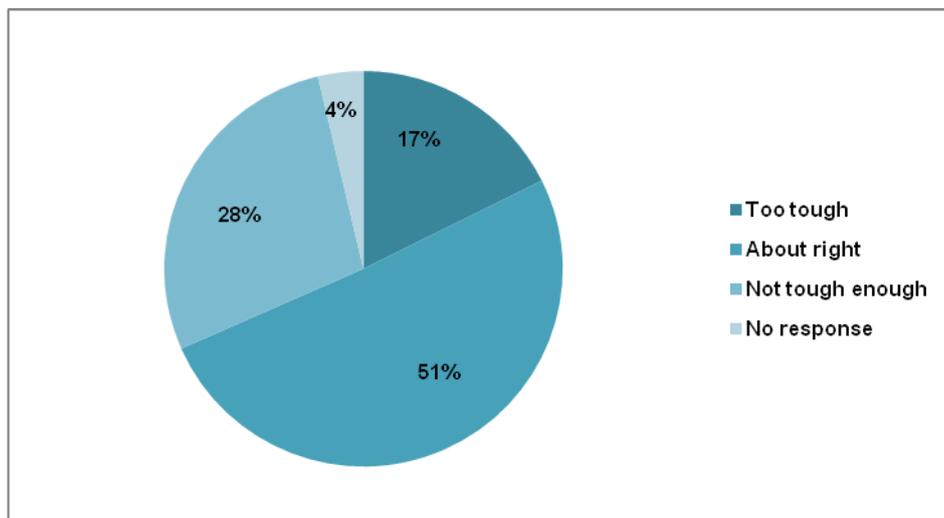
A total of 93 respondents (68.4%) either agreed or strongly agreed that licensing more private properties will help to improve living conditions. Of these, 9 respondents identified themselves as a private landlord whilst 26 were private tenants. A total of 30 respondents (21%) either disagreed or strongly disagreed with this statement (21 of whom were private landlords or private tenants).

Q3) It is right to target flats above shops and other commercial properties



A total of 82 respondents (60.3%) either agreed or strongly agreed that it was right to target flats above shops and other commercial properties. A total of 40 respondents (29.4%) either disagreed or strongly disagreed with this statement. Overall, private landlords were more likely to disagree (21 respondents versus 5 who were in favour) whilst private tenants were more likely to agree (27 respondents versus 3 who were not in favour).

Q4) Do you think the standards required to meet to be eligible for a licence are:



A number of standards that landlords would be required to reach in order to be eligible for a licence were proposed in the consultation documentation, including ensuring there were no health hazards in their property and meeting the legal requirements for managing their property (as set out in the Management Regulations Act 2006). The licence holder and any person appointed by them to manage the property on their behalf would also need to be a 'fit and proper person'.

In total, 69 respondents (51%) felt that the standards proposed in the consultation were about right. However, 38 respondents (28%) felt that the standards were not tough enough – interestingly, the vast majority (33 respondents) were private tenants. In contrast, only 24 respondents (17%) felt that they were too tough, although over half (13 respondents) were private landlords.

Q5) Please tell us if you think there are any standards or conditions that should be added or removed?

46 respondents provided additional comments – the key themes are summarised below by tenure type:

Owner occupiers

- The licensing scheme will discourage, penalise and further tax private landlords – as a result, there will be fewer landlords and fewer properties available for rent
- Perception that the scheme is simply a way for the Council/central government to increase revenue
- All individuals should be taxed or incentivised to look after themselves and the local community (wider focus than private rented properties)

- Tenants already have rights if the property is sub-standard (e.g. withholding rent, breaking contract or moving out)
- Landlords already have an obligation to provide decent housing for tenants under existing legislation
- The proposed standards should include requirements relating to energy efficiency, adequate soundproofing, insulation, limits on the number of occupants, minimum square footage per tenant and minimum requirements for health & safety (including fire regulations)
- The scheme should also require landlords to keep their properties in good cosmetic condition
- Almshouse should be exempted from the scheme
- All HMOs should be included in the scheme, rather than only those above commercial properties
- Explore whether fees can be levied via Council Tax or NHS registrations (otherwise landlords may increase rents to cover the costs of the licence, which will impact poorer and more vulnerable tenants)

Private tenants

- Tenants who request improvements to the property may be at risk of 'revenge evictions' by landlords – could there be a requirement for tenancies/leases to stipulate that existing tenants have priority at renewal?
- The proposed standards should include requirements relating to energy efficiency, insulation, dampproofing, soundproofing, minimum square footage per tenant, pest control, adequate heating
- All private rented properties should be included in the scheme, rather than only those above commercial properties
- Perception that the scheme is simply a way for the Council/central government to increase revenue and will not improve conditions
- Landlords may pass the costs of the licence and any improvements required to the property onto tenants – could there be a requirement that rent increases do not exceed the average level of inflation over the previous 12 months unless the landlord can prove that extensive improvements had been done to the property, the overall cost of which exceeded 5% of the market value of the property?
- The Council should tighten up the rules for defining an HMO and review all non-HMO rental properties in the borough to ensure that they still meet these tighter rules to be exempted from being considered an HMO
- The licence scheme should also protect tenants from exploitative landlords and lettings agents e.g. ensuring deposits are capped, allowing a six-month break clause, requiring repairs and maintenance to be dealt with within an agreed time frame and permitting residents to have their names on Council Tax even if their bills are inclusive
- Properties should be maintained/refurbished every 3-4 years to maintain liveable conditions

- There should be tighter regulation for buy-to-let properties, which would ensure transparency in agency fees, proper protection for deposits, an increased awareness of landlord obligations, full tax on rental income, a better complaint route for tenants and a cheaper mediating space (rather than the courts)
- The licence scheme should not apply to fully-mutual housing co-operatives

Social housing tenants

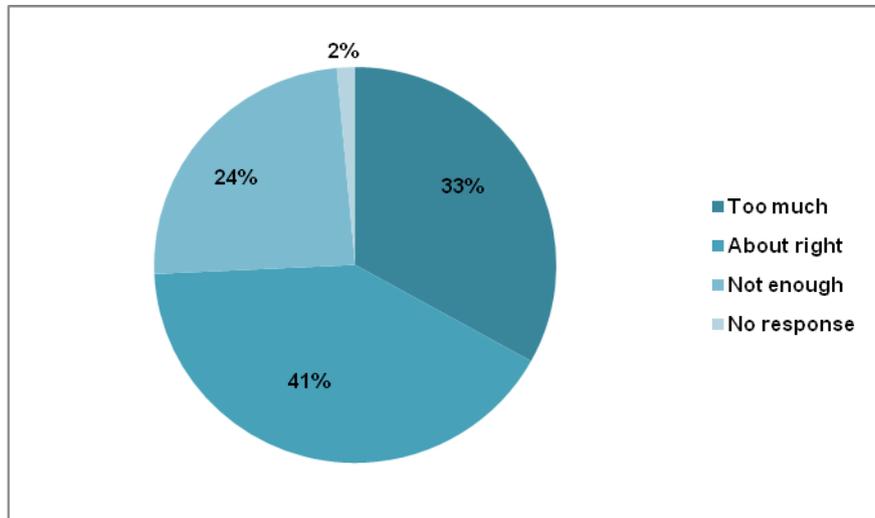
- All landlords should be held responsible for antisocial tenants
- The licence scheme should meet the Lewisham Decent Homes standard
- Commercial properties should include spaces above pubs which are rented out by owners
- Landlords with two or more properties should have a different licence, which is much stricter in its terms and conditions
- Agents that breach conditions should first be fined for breaches, with a second penalty of five times the amount of the first penalty, followed by a closure order
- Individuals that run agencies should be registered and should any closure/winding up order be imposed on their businesses, they should have a life time ban from running another agency
- Owners (both private and commercial) or directors should be required to put their own homes down as security and these could be seized if they repeatedly breach conditions
- Landlords should be obliged to have an annual inspection of their properties carried out by qualified Local Authority Property Inspectors

Private landlords

- The licence scheme penalises good landlords (bad landlords will not comply) and only adds more 'red tape' to an increasingly bureaucratic process – they will simply pass the costs of the licence onto tenants via a rent increase
- There is already a high-level of law and protection for the tenants that live in any flat above shops or flats (e.g. they can contact the Council in regards to repair issues), although landlords should be fined if they do not meet standards
- Perception that the scheme is simply a way for the Council/central government to increase revenue and will not improve conditions
- The proposed standards should include building regulations and safety of structures, particularly extensions and outbuildings (to address the 'beds in sheds' issue)
- The licence scheme will only be effective if it is properly enforced (the Council already has legislative powers to address property standards, but has only prosecuted five landlords since 2011)
- The Council should consider alternative schemes, such as the Home Safe scheme in Doncaster and SEAL in Southend, which are more cost effective

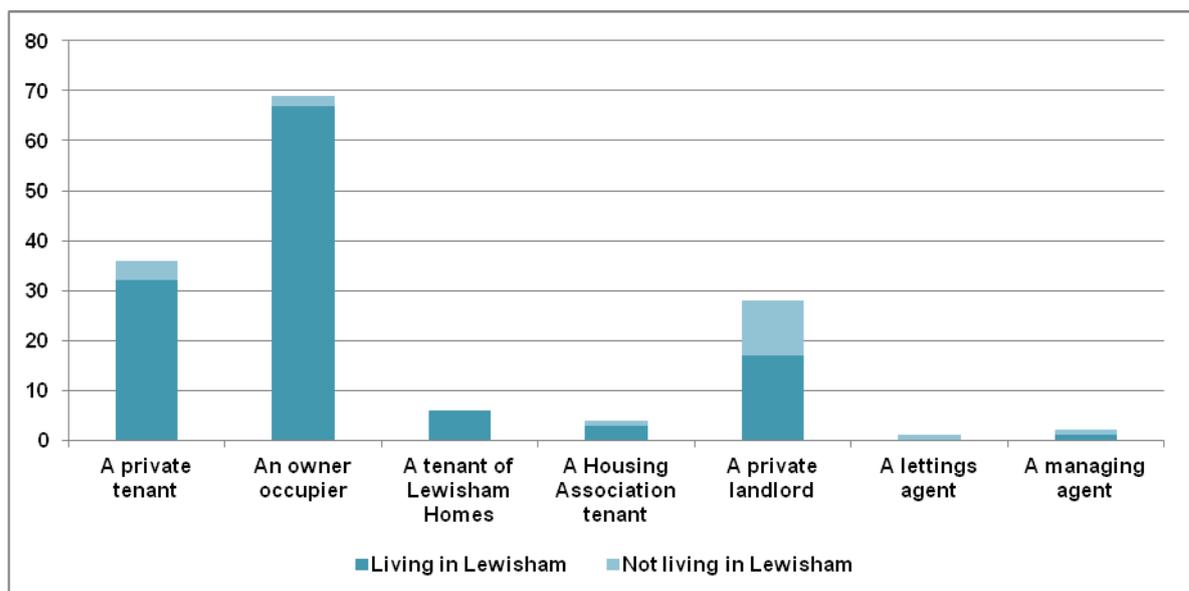
- All private rented properties should be included in the scheme, rather than only those above commercial properties

Q6) Do you think the proposed fee of £100-£110 per year (£500 for a five year license) is:



In total, 56 respondents (41%) felt that the proposed fee of £100-£110 per year was about right. However, 45 respondents (33%) felt that the standards were too much – of these, 20 respondents were private landlords. In contrast, 33 respondents (24%) felt that the proposed fee was not enough, although only 10 of these respondents were private landlords or private tenants. Overall, 65% of respondents were in favour of charging at least £100 per year for a licence.

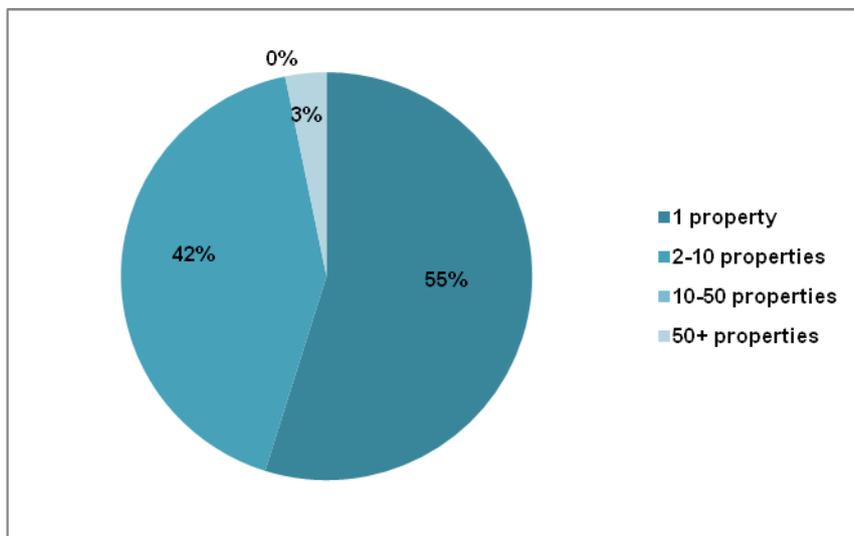
Q7) What is your tenure type?



Tenure Type	Living In Lewisham	Not Living In Lewisham	Total
A private tenant	32	4	36
An owner occupier	67	2	69
A tenant of Lewisham Homes	6	0	6
A Housing Association tenant	3	1	4
A private landlord	17	11	28
A lettings agent	0	1	1
A managing agent	1	1	2
TOTAL	126	20	146

There were 146 individual responses to this question (as respondents were able to select multiple options). A total of 69 respondents stated that they were owner occupiers whilst 36 respondents were private tenants and 10 respondents were social housing tenants. Overall, 28 respondents were private landlords – 8 of these respondents also identified as owner occupiers (2 of whom were additionally managing agents). None of the private tenants were also owner occupiers, lettings agents or managing agents.

Q8) If you are a private landlord, how many properties do you let out?



A total of 31 respondents identified as private landlords (which does not correlate exactly with the number above). All but one of the respondents (97%) stated that they let out between 1-10 properties each, with more than half (55%) only letting out 1 property.

APPENDIX 2

Additional Licensing - Equality Analysis Assessment

1. Introduction

1.1 Public bodies such as local authorities are legally required to consider the three aims of the Public Sector Equality Duty (set out in the Equality Act 2010) and document their thinking as part of the process of decision making. The Act sets out that public bodies must have regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation;
- advance equality of opportunity between people who share a protected characteristic and those who do not share that characteristic;
- foster good relationships between those who share a protected characteristic and those who do not share that characteristic.

1.2 This equality analysis assessment sets out how the Council has considered the likely impact of the Additional Licensing scheme on the characteristics protected under the Equality Act of 2010.

2. Additional Licensing - background and context

2.1 The Housing Act 2004 (Part 2) introduced a mandatory duty for local housing authorities to administer a licensing scheme for all large Houses in Multiple Occupation (HMO). It became a criminal offence for anybody to run an unlicensed HMO.

2.2 It also introduced a power for local authorities to decide to extend the Mandatory licensing scheme to include additional types of HMO – i.e. smaller HMOs and illegally converted properties that do not meet planning requirements or Building Regulations. This is known as additional licensing.

2.3 The proposal here is to introduce additional licensing for HMOs classified as ‘Private Rented Sector Flats over Commercial Premises’. In order to introduce a scheme of this type, the Council must consider that a significant number of properties of this type are likely to be managed ineffectively and therefore cause problems for people who live in those properties and the wider environment. It must also carry out consultation with persons likely to be affected by the scheme.

2.4 The rationale for extending Lewisham’s HMO licensing scheme is that the properties identified – those over commercial premises – have similar characteristics to properties which fall under the mandatory licensing scheme. That is, tenants of these properties are more likely to be vulnerable and the properties are more likely to be poorly managed and maintained. Therefore the Council is seeking to intervene to extend

the protection of HMO licensing to this additional designation of properties and vulnerable tenants.

- 2.5 Between the 2001 and 2011 censuses the Private Rental Sector in Lewisham has doubled and is continuing to grow. There are an estimated 3,700 Landlords operating in the borough, the majority of which are small and own a handful of properties. Localised additional licensing of private rented flats and HMO's above commercial premises is estimate to cover 4,223 lettings across 1813 addresses.
- 2.6 There is a clear pattern of concentration whereby the poorest standards, conditions, hazards and services are concentrated along the high roads of 6 secondary shopping streets (Deptford, Lee, Hither Green, Brownhill Road, Sydenham and Brockley).
- 2.7 It is important that the Council strikes a balance between taking action that will reduce the supply and affordability of decent private sector housing and taking licensing action to prevent those in the sector from risk of unacceptably low physical and management standards.
- 2.8 Fewer than 60% of tenants in the Private Rental Sector in Lewisham are from White ethnic groups, just under 22% are from Black ethnic groups and 10.5% are from Asian ethnic groups. 44% have a gross income below £20,800 per annum, 29% have a gross income between £20,800 and £31,2000 per annum and the remaining 27% have a gross income over £31,2000 per annum. Those with health problems or a disability comprise over 8% of those in this sector. 58% of tenants in this sector are working full time and 16% are working part time. 55% are aged between 16 and 34, 32% are aged between 35 and 49, 10% are aged between 50 and 64 and 2% are aged over 65. Just under 34% of households in the Private Rental Sector in Lewisham are in receipt of Housing Benefit.

3. Consultation

- 3.1 A letter was sent to over 4000 properties where there is a mix of commercial and residential use with a summary of the proposal, an invitation to a public meeting and a link to the website. 136 responses were received of which 56% were received from Private Tenants and 44% were received from private landlords.
- 3.2 The consultation asked respondents to answer five questions relating to the proposal, the outcome was as follows.
- **“More properties for private rent should be licensed”**: this question showed the strongest positive agreement and biggest consensus, including a quarter of the private landlords. No private landlords disagreed with the statement.

- **“Licensing improves conditions”**: a large majority agreed with this statement, including just under a third of private landlords, although 21% disagreed with the statement.
- **“It is right to target flats above commercial premises”** 60% agreed though private landlords were divided on the question with only one quarter of them agreeing. 90 % of tenants were in agreement.
- **Proposed standards to be met for a license**: a small majority felt standards proposed are about right, but 28% who were overwhelmingly private tenants, felt the standards were not tough enough. Just under half of landlords considered them too tough.
- **On the proposed fee of £100- £110 pa** : opinion was most divided on this question; a small majority favoured the fee being *at least* the proposed sum but more than two thirds of landlords thought the fee too high

3.3 Whilst there is concern that the introduction of additional license will result in an increase in rent to cover the costs, it was felt that the main driver for current rent increases was the opportunity to increase profit, and that there are no grounds to believe that not introducing an additional fee will reverse this trend. To monitor this it was suggested that the PRS survey be undertaken again in two years’ time to assess the impact.

3.4 The overall opinion is strongly in favour of extending private licensing and there was a broad agreement that flats above commercial properties was a suitable area for such an extension. Generally speaking, private landlords favoured the view that the proposals are too tough and the fee as too high, whereas private tenants were inclined to see the proposals as not tough enough and the fee as too low. On balance it seems that the proposals have a broad consensus.

4. Impact of proposed changes on specific groups

4.1 In developing Lewisham’s Additional Licensing Scheme, consideration has been given to the impact of the proposals on specific groups protected under the Equality Act 2010. The Act provides specific protection to the following:

Age	<p>There is no intention or foreseeable impact of the policy to mean that people would be treated more adversely on the grounds of age as a consequence of additional licensing to flats above commercial premises.</p> <p>Only a small proportion of residents of PRS accommodation are children or older adults, however improved standards of</p>
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	<p>accommodation as a result of additional licensing will be particularly beneficial to these vulnerable groups.</p> <p>Additional licensing will increase Landlord’s knowledge of legal requirements positively impacting vulnerable tenants.</p> <p>Additional monitoring of Landlords of flats above commercial premises will prevent unlawful practice in the form of discrimination on the grounds of age, disability, gender, race, religion, sexual orientation, gender reassignment and marriage and civil partnership.</p>
Disability	<p>There is no intention or foreseeable impact of the policy to mean that disabled people would be treated more adversely as a consequence of additional licensing to flats above commercial premises.</p> <p>The negative health impacts of poor standards of accommodation are well documented. The worst housing conditions have been identified in flats above commercial premises in Lewisham. Additional licensing will improve the standards of accommodation to flats above commercial premises positively impacting on people with disabilities.</p> <p>Additional licensing will increase Landlord’s knowledge of legal requirements positively impacting vulnerable tenants.</p> <p>Additional monitoring of Landlords of flats above commercial premises will prevent unlawful practice in the form of discrimination on the grounds of age, disability, gender, race, religion, sexual orientation, gender reassignment and marriage and civil partnership</p>
Gender	<p>There is no intention or foreseeable impact of the policy to mean that people would be treated more adversely on the grounds of gender as a consequence of additional licensing to flats above commercial premises.</p> <p>Additional monitoring of Landlords of flats above commercial premises will prevent unlawful practice in the form of discrimination on the grounds of age, disability, gender, race, religion, sexual orientation, gender reassignment and marriage and civil partnership</p>
Gender reassignment	<p>There is no intention or foreseeable impact of the policy to mean that people would be treated more adversely on the grounds of gender reassignment as a consequence of additional licensing to flats above commercial premises.</p> <p>Additional monitoring of Landlords of flats above commercial</p>

	<p>premises will provide Lewisham council with greater control over poor landlord practice such as not tackling ASB. As a result instances of ASB, discrimination and hate crime will be reduced.</p> <p>Additional monitoring of Landlords of flats above commercial premises will prevent unlawful practice in the form of discrimination on the grounds of age, disability, gender, race, religion, sexual orientation, gender reassignment and marriage and civil partnership</p>
Marriage & civil partnership	<p>There is no intention or foreseeable impact of the policy to mean that people would be treated more adversely on the grounds of marriage and civil partnership as a consequence of additional licensing to flats above commercial premises.</p> <p>Additional monitoring of Landlords of flats above commercial premises will prevent unlawful practice in the form of discrimination on the grounds of age, disability, gender, race, religion, sexual orientation, gender reassignment and marriage and civil partnership</p>
Pregnancy & maternity	<p>There is no intention or foreseeable impact of the policy to mean that people would be treated more adversely on the grounds pregnancy and maternity as a consequence of additional licensing to flats above commercial premises.</p> <p>A child's physical and mental health and education attainment is negatively impacted by poor accommodation standards. The worst housing conditions have been identified in flats above commercial premises in Lewisham. Additional licensing will improve the standards of accommodation to flats above commercial premises positively impacting pregnant women, mothers and their children.</p> <p>Additional monitoring of Landlords of flats above commercial premises will prevent unlawful practice in the form of discrimination on the grounds of age, disability, gender, race, religion, sexual orientation, gender reassignment and marriage and civil partnership</p>
Race	<p>There is a risk that landlords of flats above commercial premises for whom English is not their first language are negatively impacted by the additional licensing scheme as a result of language and literacy barriers. Landlords may not understand the legislative requirements and therefore be at increased risk of enforcement action. In order to mitigate this risk information, notifications, application forms and guidance will be made available in multiple languages.</p>

	<p>Additional licensing will improve the standards of accommodation to flats above commercial premises resulting in better accommodation and security of tenure for tenants. As a consequence tenant turnover may be reduced resulting in increased community cohesion.</p> <p>Additional monitoring of Landlords of flats above commercial premises will prevent unlawful practice in the form of discrimination on the grounds of age, disability, gender, race, religion, sexual orientation, gender reassignment and marriage and civil partnership</p>
Religion & belief	<p>There is no intention or foreseeable impact of the policy to mean that people would be treated more adversely on the grounds religion and belief as a consequence of additional licensing to flats above commercial premises.</p> <p>Additional licensing will improve the standards of accommodation to flats above commercial premises resulting in better accommodation and security of tenure for tenants. As a consequence tenant turnover may be reduced resulting in increased community cohesion.</p> <p>Additional monitoring of Landlords of flats above commercial premises will prevent unlawful practice in the form of discrimination on the grounds of age, disability, gender, race, religion, sexual orientation, gender reassignment and marriage and civil partnership</p>
Sexual orientation	<p>There is no intention or foreseeable impact of the policy to mean that people would be treated more adversely on the grounds sexual orientation as a consequence of additional licensing to flats above commercial premises.</p> <p>Additional monitoring of Landlords of flats above commercial premises will provide Lewisham council with greater control over poor landlord practice such as not tackling ASB. As a result instances of ASB, discrimination and hate crime will be reduced.</p> <p>Additional monitoring of Landlords of flats above commercial premises will prevent unlawful practice in the form of discrimination on the grounds of age, disability, gender, race, religion, sexual orientation, gender reassignment and marriage and civil partnership</p>

5. Conclusion

- 5.1 As noted above, it is anticipated that the introduction of Additional Licensing will have a positive impact on all groups protected under the Equality Act 2010 because additional monitoring of landlords of flats above commercial premises will prevent unlawful practice in the form of discrimination on the grounds of age, disability, gender, race, religion, sexual orientation, gender reassignment and marriage and civil partnership.
- 5.2 This Equalities Analysis Assessment recognises that there is a risk that landlords of flats above commercial premises for whom English is not their first language are negatively impacted by the additional licensing scheme as a result of language and literacy barriers. In order to mitigate this risk information, notifications, application forms and guidance will be made