



**Cabinet Report**  
**Private Housing Licensing in Brent**

**Appendix 2:**

**Title: Summary of Representations made to the Consultation  
and of the Council's Considerations and Responses**

**Introduction:**

Sections 56(3) and 80(9)(b) Housing Act 2004 requires the Council to consider any representations made in accordance with the consultation which are not withdrawn. The representations received are captured in this document. The table also shows the Council's considerations, responses. Some representations are duplicated and as such the Council's response may not be repeated where the presentation has been considered earlier in the table. We have considered and detailed more comprehensively in a thematic way (Tables 1-6) those comments which have come across more passionately or frequently.

**September 2019**

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Submission	Consultation Response	Council's Response
ARLA	<p>In general, ARLA does not believe that discretionary licensing schemes are an effective way of promoting higher quality accommodation, feeling that they penalise good landlords, while allowing 'rogues' to operate under the radar. Specifically, ARLA states;</p> <p>» Many councils have indicated that the schemes cost more to operate than the funding generated from licence fees.</p> <p>» Licensing schemes can be time-consuming, administrative exercises and they can divert staff away from enforcement in order to process large volumes of applications</p> <p>» Recent research has highlighted that relatively few penalties are being issued; the issue therefore does not lie with existing legislation, but rather with a lack of enforcement and councils failing to utilise their existing powers</p> <p>» A more collaborative approach, working with letting agents, landlords and professional bodies to tackle issues, would better recognise good practice and would enable local authorities to better target their resources on effective intelligence-led enforcement.</p>	<p>We have employed other measures to work alongside licensing. We do not think that there are absolute alternatives to licensing which will in isolation deliver the improvements needed in the private rented sector.</p> <p>Brent has calculated the scheme costs to ensure that is balanced over the life of the scheme.</p> <p>We have included evidence of the enforcement work done to ensure that additional funding is levered in from the prosecution and civil penalties. Brent Council is profiled as one of the leading Councils taking private Housing enforcement action</p> <p>Since the introduction of discretionary licences in Brent there are many instances of better collaboration externally e.g. the well attended Brent Landlord Forum, together with the involvement with UKLAS, NLA, RLA, tenants groups</p>
NLA	<p>The NLA contends that the proposals are flawed e.g. because of the limits on a landlord's authority to deal with ASB (especially outside of the curtilage) and because it feels the council has not made sufficient use of existing powers. There are concerns about impacts arising from changes to Section 21 and the possible displacement of problem tenants around the borough, as well as about the impacts on homelessness and on services like adult social care. The NLA also feels there are certain gaps in the information provided e.g. in terms of the council's strategies for dealing with problematic tenants, and how it proposes to support landlords and tenants impacted by issues like subletting and overcrowding. A</p>	<p>The Council recognises that there are limitations to dealing with the occurrences and responsibilities of certain types of ASB. However, the Council believes that licensing along with other measures is an effective tool to reduce to deal with the problems.</p> <p>The proposals have included considerations from the Council's Homelessness Team and asserted that overall licensing has a positive impact on tenants. However, we have noted that the issue of the s21 reforms were raised at several forums during the consultation</p>

<p>more detail summary of the issues raised is provided in the following list:</p> <ul style="list-style-type: none"> <li>» Licensing fuels the cost of renting and exacerbates issues around a lack of affordable housing; this will have a particular impact on those who are most vulnerable</li> <li>» The council already has existing powers that it is failing to use; .... rather than relying on licensing to bring about improvements over a five-year period)</li> <li>» Regulatory burdens should be balanced: while some enforcement is required, it is also important to recognise and encourage good practice (which the NLA feels is not currently the case)</li> <li>» Councils must work with all stakeholders (including the NLA, which is keen to engage with LBB) and not simply blame one group (i.e. landlords)</li> <li>» The proposal does not address issues such as rent-to-rent, illegal subletting and exploitation, nor does it consider AirBnB</li> <li>» It is difficult to address subletting, or to manage overcrowding when the tenants are responsible; these practices hurt landlords as well as tenants, and so affected landlords should be supported to help them address the issues</li> <li>» A joined-up approach is required but there is little information on how, for example, services like adult social care will be impacted (given that many tenants will have issues with addiction or mental health), nor does the proposal consider possible link with homelessness</li> <li>» If a tenant is causing problems and the landlord ends the tenancy, they will have</li> </ul>	<p>period. Brent Council will be responding to the Government consultation which closed on 12<sup>th</sup> October 2019</p> <p>We have no particular evidence that Licensing drives up renting costs. Our Licensing fees are reasonably set, but we note that some properties and landlords will need to invest funds to become complaint. Bad landlords may face enforcement costs. These costs will help tenants, especially those who are most vulnerable.</p> <p>Brent Council has stepped up its enforcement. Our proposals show extensive use of prosecutions and civil penalties.</p> <p>We accept the Council could do more to recognise good practice as good landlords feel tarnished by the reports of the bad landlords. The Council works with the London Accreditation Scheme regarding licence discounts and their annual achievement awards</p> <p>Rent to rent and sub-let situations are discovered during application processing and when carrying out inspections of properties. Where such accommodation is found to be occupied on this basis we will alert the relevant persons and reflect the corrective measures needed as part of our compliance schedules. Properties used as Airbnb are exempt from property licensing and the objectives of the scheme are to tackle housing conditions and ASB, etc.</p> <p>In 2017 the Council undertook a study on the impact of licensing on tenants. The action plan was recently reviewed. The plan involved the work of Community Champions and Our Housing Need colleagues in assisting vulnerable tenants.</p> <p>Addressed above</p>
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<p>fulfilled their obligations under the licensing scheme; however, this just displaces the issue and the tenant gets 'lost in the system'</p> <p>» Referencing requirements, along with changes to Section 21 will also make it harder for tenants (especially those who have been evicted) to get housed in the PRS in Brent (e.g. because landlords will be more risk averse, and refuse to take on any tenants who do not have perfect references and histories)</p> <p>» The landlord can manage a tenant only to the extent of their contract for living in the property; s/he cannot be responsible for activities that occur outside the property or in neighbouring streets</p> <p>» It is almost impossible to the landlord to know if a tenant is the subject of a false or malicious allegation (the tenant can be labelled as guilty without the allegations having been tested)</p> <p>» Landlords can resolve issues by ending a tenancy, but this will exacerbate, rather than resolve, the issue of high tenancy turnover (the council should instead adopt a policy similar to Leeds or Doncaster)</p> <p>» Waste issues are exacerbated by the difficulties involved in accessing municipal waste points. NLA would be willing to work with LBB on a strategy for the collection of excess waste at the end of tenancies (mentioning Leeds Rental Standard is an example)</p> <p>» Given that the size of the PRS is being used as a justification for licensing, the NLA would like clarification on whether the council has any policies to reduce or grow the PRS in particular areas</p> <p>» Introducing licensing into areas identifies them as 'problem zones' – this stigmatises the area (affecting property prices, insurance premiums and so on, in ways that stakeholders might not be aware of) and also deters investment.</p> <p>» The social rented sector has made many efforts to remove problem tenants – how can</p>	<p>Referencing is a mandatory condition in relation to selective licences. There are good agencies who assist landlords in tenancy checks to help to ensure that landlords know more about the tenants they will be renting their properties to. The Council will work with landlords and tenants on the approach to the changes to s21.</p> <p>The landlord is being required to take steps to address ASB. We believe that regular property inspections, communication with the tenants, neighbours and the Council will assist in reducing or eliminating problems which may arise at the licensed property.</p> <p>Our practices allow for advice and support to landlords and tenants e.g. referrals to landlord bodies, tenant agencies and internal Housing Needs colleagues.</p> <p>The Council has looked closely at the licensing condition relating to waste. We have included a web-link to information about Brent's Waste Strategy and will continue to work closely with our Waste Management Service.</p> <p>Due to housing pressures and housing supply initiatives we expect that the PRS in Brent will continue to grow. Please refer to the Council's Housing Strategy for information on new Homes etc.,</p> <p>Licensing Schemes are meant to address particular problems in an area. Certain costs and decisions may be due to market forces, not just licensing which many believe creates a level playing field.</p> <p>Our experience is that ASB link with the PRS is more positively correlated</p>
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	<p>the PRS be expected to deal with the issues when the social sector has failed?</p> <p>» Some of the conditions the landlord is expected to comply with conflict with the tenant’s right to ‘quiet enjoyment’</p> <p>» The council needs a strategy to deal with tenants who are persistent offenders, especially where the problems arise from complex needs (e.g. drug and alcohol addiction) that landlords are not qualified to address</p> <p>» The NLA is concerned about gaps in evidence and justification and would appreciate: clarification on how the council will support landlords when notices are served or there are issues involving tenants; more data on ASB incidents, including breakdowns by tenure, how homelessness has been considered, and what additional services will be provided to deal with mental health</p> <p>» Once this information has been provided, it feels that the council should then re-consult on its proposals with all relevant stakeholders.</p>	<p>than ASB in the social sector. Our evidence shows profiles in areas of high social housing e.g. Stonebridge ward. The matters will be referred to the Housing Management Team to consider as part of their action plan</p> <p>We have addressed matters of conditions separately in this response. However, by working with tenants support agencies tenants will be able to get better information on their rights.</p> <p>The ASB Team in Brent are working on an ASB action plan. PHS Licensing is part of the working its working party.</p> <p>The 2017 report provides evidence of ASB at tenure level. These proposals have built on the 2017 report adding data from the BRE Housing Stock Condition study (2019) on property conditions and deprivation to detail the problems in the ward areas and also at LSOA level. It is not possible to include the full reports and reference is made to evidence at various sections of the proposal document. In addition, we have duly carried out an Equalities Analysis to consider and to address the impact of licensing on Brent’s population and notably with regard to the protected characteristics, socio-economic and homelessness status. The reports mentioned above can be made. As such there is no need to re-consult on our proposals.</p>
<p>RLA - Residential Landlords Association</p>	<p>Though we appreciate the issues that Brent Council have mentioned and the impact they can have on tenants, landlords and the housing market in areas proposed, the RLA is opposed to the scheme and has many general objections to Licensing overall.</p> <p><b>Enforcement Powers</b></p>	<p>The proposal document provides detailed evidence of the use of formal</p>

<p>There are over 150 Acts of Parliament and more than 400 regulations affecting landlords in the private rented sector.</p> <p>Councils should use the enforcement powers already granted to them by the Housing and Planning Act 2016 and Housing Act 2004 to their full extent, rather than rely on Licensing Schemes to regulate landlords in addition to these powers. The Council has also not taken into consideration the amount of informal enforcement activity undertaken between local authorities and private landlords.</p> <p>The Tenant Fees Bill has also introduced a lead enforcement authority to provide guidance and support to local authorities regarding the enforcement of letting agent requirements.</p> <p><b>Raising Standards</b></p> <p>There is little evidence that licensing schemes improve housing standards. The focus of staff becomes the processing and issue of licences, while prosecutions centre on whether a property is licensed or not, rather than improving management standards and property conditions. Additionally, the decent homes standard is a measure of the standard of housing and has no legal applicability to PRS housing. The Housing Health and Safety Rating System (HHSRS) is the relevant standard for the PRS.</p> <p>The Council already has the necessary tools to tackle poor housing management and conditions in the PRS. Rather than introduce a bureaucratic licensing scheme that will see scarce resources focused on processing applications, the council should continue to direct these limited resources at identifying private rented properties and taking effective enforcement action.</p> <p><b>Fee Structure charges - Finder's Fee</b></p> <p>Only one licence fee can be charged per application. The proposed fee of £300 for "where a licensable property was found by the Council (landlords may still be subject to prosecution by the Council for operating an unlicensed rental accommodation). The</p>	<p>and informal enforcement powers by Brent</p> <p>Brent will be working with its Trading Standards Team in relation to The Tenant Fees Act. Landlords and tenant will be signposted to our websites for guidance e.g. 'How to Rent' and 'How to Let', and policies. Referrals for enforcement will be shared with colleagues and entries made on the relevant rogue databases.</p> <p>We argue strongly that licensing particularly where backed by robust inspection and enforcement drives us PRS standards.</p> <p>The Council aims to use Part 1 – HHSRS enforcement measures to tackle poor property conditions but recognise the extra burdens that Local Authorities have expressed concerning the use of the HHSRS, albeit any improvements to be made following the reviews of the system.</p> <p>We believe that licensing and enforcement offers better tools than enforcement alone.</p> <p>See earlier response</p>
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	<p>council should, therefore, remove the proposed Finder's Fee.</p> <p><b>Licence Conditions</b></p> <p>The proposed licence conditions relating to the licence holder requesting information about previous unspent convictions goes beyond the scope of information a landlord should ask a tenant as it raises concerns of privacy. A tenant's unspent convictions should not be a barrier to a tenancy.</p> <p><b>Amenity Standards</b></p> <p>Appendix 1 of the document titled "Annexe B Additional Licensing Proposed Conditions" sets out the Council's Amenity and Space Standards that licence holders must ensure there are compliant. Although a local authority can produce local guidance on such standards, they cannot overrule mandatory standards set by national legislation.</p> <p>The relevant case law is Clark v Manchester City Council [2015] UKUT 0129 (LC). Therefore, the RLA recommends that the council, should it go forward with licensing, amend Condition 3 to state that the Amenity and Space Standards are only guidance, and would not constitute a breach in licence should they not be complied with by the licence holder.</p> <p>Table 16 of the summary of findings (page 53) show that it is not necessary for certain wards to be included in the licensing designation. Examples primarily include designated area D4 (Alperton, Preston, Sudbury, Northwich Park, Tokyngton) which does not qualify all the elements of poor property conditions outlined. If the council were to proceed with licensing, we strongly argue that certain wards do not need to be included and the designation should be redone to reflect this.</p>	<p>See Licence conditions responses - Table 1.</p> <p>See Licence conditions responses - Table 1.</p> <p>Condition amended See Table1 and Appendix 8</p> <p>Table 16 shows that these wards fail the poor housing conditions category for either all Cat1 hazards (Northwick Park, or for at least 1 Cat hazard (Alperton, Preston, Sudbury, Northwick Park and Tokyngton). Northwick Park also has high Cat 2). In addition, Tokyngton fails for disrepair. All four wards except Northwick Park fails for ASB. The findings are from a BRE 2019 study commissioned by Brent for this purpose.</p>
Safeagent previously NALS	<p>» High levels of gang and drug-related crime reflect wider societal problems that cannot be addressed by landlords (e.g. because these are 'street crimes' that don't tend to affect individual properties)</p> <p>» The fact that criminality has increased over the lifetime of the current scheme indicates</p>	<p>The analyses show a link between high levels of ASB in the vicinity of high levels of PRS properties. Hotspot maps provide evidence.</p> <p>There is evidence from the Brent Safety Partnership on Police reported crime and hotspots.</p>

<p>both a lack of causation between the PRS and street crime, as well as the difficulty of using property licensing as a means to address this issue</p> <p>» There is a very high level of non-compliance under LBB’s existing HMO licensing scheme, but there is no suggestion as to how this would be addressed moving forward (it is unfair, meanwhile, for a small proportion of landlords and agents to be subsidising the scheme).</p> <p>» It is queried whether the council would be required to undertake HHSRS inspections on all properties over the next 5 years to address concerns around property conditions, doubting it has the resources to do so.</p> <p>»Some specific issues are identified around the inclusion of section 257 HMOs. Safeagent feels it would be difficult for a typical agent to know if the building qualified as a HMO under the section 257 definition<sup>1</sup> (and therefore if an Additional Licence was needed...</p> <p>» To address the above it is recommended that Brent follows a similar approach to LB Ealing e.g. in terms of restricting licensing only to section 257 HMOs where the whole building and all the flats within it are in single ownership or effectively under the same control, and where the number of flats</p>	<p>We have found an increase in ASB in Harlesden, Wembley Central and Willesden Green since the introduction of selective licensing in those areas. Reviews of licensing schemes report that ASB rises, giving one reasons as the increased awareness, reporting and recording of incidences by residents and the Council. We believe that it is necessary to continue with licensing to realise the scheme benefits</p> <p>Whereas mandatory HMO licensing has seen greater than the predicted number of licence applications, we have found the take up for additional licensing much lower. We expect that the new mandatory licensing definition, and the widening of selective licensing will create more voluntary applications. We will be using data analytics (following our BRE data), as well as continuing with targeted enforcement, publicity, and will be encouraging reporting of unlicensed properties to identify those landlords who fail to apply for licences.</p> <p>The resources aim to strike a balance between getting all HMOs licensed and ensuring compliance with HMO standards and licence conditions. In stating how HMO licensing will work, performance measures will be set.</p> <p>It is accepted that the complex definition of s257 makes it difficult for some landlords. The HMO scheme continues the approach to s257 with Licensing officers working with our Building Control and Planning colleagues to apply to fair and consistent approach to licensing these properties. Several other authorities have not sought to restricted the HMO description for licensing purposes.</p>
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<p>exceeds the number of storeys in the building.</p> <p>In relation to fees, Safeagent is pleased there is no uplift in the proposed fees and it welcomes the proposed discount associated with renewal. However:</p> <p>» It is unconvinced about the legality (under the Housing Act 2004) of LBB’s proposed additional fees for reminder letters and missed inspections</p> <p>» It encourages LBB to follow the example of Ealing and Islington, by extending the £40 discount for accreditation to include those licensed properties where the designated manager is an accredited letting agent e.g. via Safeagent’s own accreditation scheme</p> <p>In relation to the proposed licence conditions:</p> <p>» Safeagent identifies what it sees as various issues in the proposed conditions for both HMOs and other privately rented properties (specifically, it believes that some of the licensing conditions contravene the judgement in the case of Brown v Hyndburn Borough Council 2018)</p>	<p>Comments regarding the levels of the basic fees. Fees are responded to separately in the report.</p> <p>The basic fee i.e. Part 1 and 2 charges have been examined and have been properly structured. Additional charges are not made with the same legality. We believe that it is fair to level the additional costs on those landlords who have not yet licenced or who caused the service to incur costs, without spreading such costs onto compliant landlords. Brent works in Partnership with UKLAS (LLAS), in hosting accreditation for training for landlords. The discount promotes this training locally. Landlords are able to recover training cost as a business expense.</p> <p>Given the number of comments received ton regarding the licensing conditions, the considerations for both selective and HMO conditions are in a table below as a part of this document</p>	
<p>» In other boroughs, licence approvals have taken 6 months or more due to backlogs in processing applications. Safeagent therefore asks the council to publish clear service standards, setting out the timescale for processing licence applications and allowing its performance to be monitored;</p> <p>» The council must maintain an appropriately sized, well-resourced and effective enforcement team (to prevent the regulatory burdens falling solely on those who apply for a licence)</p> <p>» The council is encouraged to explore mechanisms for effective liaison with letting</p>	<p>It is proper that standards and expectations around application processing are clear. Whilst at peak times of applications being received delays can occur, in general licences are processed within 6 weeks. We will provide resources to minimise any backlog and will keep landlords informed about the status of the applications, expediting cases as necessary.</p> <p>Enforcement has already responded but given the strength of the representation made regarding enforcement, the theme is responded to further in the Table 5 below. Licensing works with the Brent Consumer Protection Team with</p>	

	<p>agents and to acknowledge the benefits of encouraging landlords to use regulated letting agents</p> <p>» To achieve better regulation of the private rented sector and improve consumer protection, it is important the council takes a 'holistic' approach that extends beyond licensing, recognising (for example) efforts to regulate lettings agents in legislation by requiring them to belong to a government-approved redress scheme. Safeagent has produced an Effective Enforcement Toolkit, to assist councils in regulating the private rented sector and in effectively using enforcement powers against lettings and management firms.</p>	<p>regard to regulating letting agents. This area is worth further examination to ensure that we are working with others holistically.</p>
<p>Quintain /Tipi</p>	<p>Quintain and Tipi object to the inclusion of the site within the proposed Additional Licensing designation, for the reasons summarised below:</p> <p>» All Tipi properties are professionally managed by a dedicated Build-to-Rent management company, and therefore are unlikely to give rise to the problems that justify Additional Licensing;</p> <p>» The 'uniqueness' of Wembley Park's regeneration justifies its exclusion e.g. in terms of the <i>'scale and quality of housing being delivered in one location by one developer'</i>;</p> <p>» The Build-to-Rent sector is distinctive and for these purposes should not be classed as part of the PRS; moreover, the consultation document provides no evidence of a link between the sector and those issues said to be affecting the PRS;</p> <p>» In recent years, Get Living London successfully argued that East Village in Stratford should be excluded from Additional and Selective Licensing in London Borough of Newham; this has set an important precedent for excluding Build-to-Rent from discretionary licensing schemes;</p> <p>» Wembley Park is unaffected by Mandatory HMO Licensing (due to the exemptions around having three or more self-contained flats in a purpose-built block) and it has also been excluded from LBB's proposed new Selective Licensing designations. It is</p>	<p>Brent Council recognises the circumstance of Wembley Park. Its proposals have excluded the area from the selective licensing, but have included the area for additional licensing.</p> <p>The key reason is that for additional licensing we have considered the "area" as the entire borough and that the problems associated with HMOs extend across the area.</p> <p>The consultation responses do not support the exclusion of Wembley Park from either scheme and in the online questionnaire have given overwhelming support to detailed designations.</p> <p>Whilst we understand that tipi feel that they are not a typical landlord, as the legislation stands their properties are not statutorily exempted from licensing. The Authority will monitor the decision to exclude their area from selective licensing.</p> <p>Going forward we would be interested to hear of the reasons for the Newham decision to exclude Build-to-Rent HMOs from their additional scheme.</p> <p>We have applied the mandatory licensing definition. HMO which fall</p>

	<p>‘irrational’ for it to be included it in the Additional Licensing proposals when these other forms of licensing will not apply;</p> <p>» Properties built by Quintain that go on to be managed by a Registered Provider are exempt from Additional Licensing; however, as there is no difference between these and the remaining Quintain properties (in terms of the standard of the properties and of the quality of their management), they should all be exempt;</p> <p>» Crime and ASB are continuously monitored on the site and are not a significant issue. Moreover, security is enhanced because Quintain (through Wembley Park Estate Management Co Ltd and Tipi) controls and manages not only the homes themselves, but also <i>‘the common parts and the public realm’</i> – which is very different to the situation under which an ordinary residential landlord operates.</p>	<p>outside that scope (subject to the exemptions) will be included in the additional scheme.</p> <p>We have considered ASB, Crime, etc., in relation to selective licensing and have applied the parameters for designation the “area”. We have looked at HMO and selective licensing separately. As mentioned earlier, we feel that it was reasonable to exclude the “area”.</p>
Harlesden Area Action (HAA)	<p>HAA is fully supportive of the continuation of the scheme but has further suggestions to improve its effectiveness, which include:</p> <p>» Reaching out to landlords: making sure s/he is the person responsible for the licence, and making sure s/he reads the conditions (e.g. by making them sign each page of the conditions booklet)</p> <p>» Introducing a knotweed policy for gardens</p> <p>» Stipulating the number of grey and blue bins needed per property, so that landlords have no excuse not to provide adequate number, and to prevent situations where tenants are wary of requesting additional bins due to the possibility of an additional charge;</p> <p>» Requiring landlords to display posters in the common areas of shared accommodation, which would provide information on recycling and waste disposal (these posters would be designed by HAA in conjunction with partners)</p>	<p>The legislation already makes that the licence holder and the manager, if any bound by the conditions imposed. Every effort will be made to ensure landlords understand their obligations</p> <p>The licence conditions have been reviewed to include areas which are lawful and enforceable. (see Table 1 below)</p> <p>We note where other regulations and strategies will complement licensing and aim that licensing does not become too bureaucratic or an unnecessary burden on landlords.</p>
Willesden Green Residents Assoc.	<p>WGRA agrees that the present licencing scheme is ‘only a small positive step’ and more needs to be done. It ‘fully and emphatically’ endorses the additional measures suggested by HAA (described above, and included in HAA’s additional</p>	<p>Supportive of schemes</p> <p>See considerations under HAA immediately above</p>

	submission to the Council i.e. the marked up copy of the conditions).	
Willesden Green Town Team	The Willesden Green Town Team also shared some proposed amendments to the licence conditions including proposals for additional posters/information and additions to the conditions around external areas, refuse and waste, pest control, means of escape and various other aspects of the property condition and management.	See considerations under HAA immediately above
BAWRC	<p>Brent Advisory Women’s Resource Centre believes all private landlords should be registered, and that there should also be rent control mechanisms to regulate ‘extortionate’ private landlords. It notes the benefit system is not meeting the total rent cost for those on low income and this should be addressed.</p> <p>It is noted that many low-income people are struggling with high rents which, BAWRC regards these as ‘innocent victims’ of unreasonable landlords. More broadly, it is concerned about the ways crime operates in families and the role contributed by financial hardship in family breakdowns</p> <p>BAWRC recognises these issues might seem to be beyond the scope of the current exercise; however, it feels they should be considered as part of the consultation and would ask the council to consider them.</p>	<p>Our proposals justify borough wide HMO licensing and an evidence base application of selective licensing. The Council has area level data on the economic status and deprivation. We have undertaken a thorough Equalities Analysis (Appendix 10), detailing several of the protected characteristics and issues in relation to women.</p> <p>We have involved tenants and residents’ associations, welfare groups and Community champions. The consultation is via an open questionnaire but the process has also been designed to capture the views of the cross-section of Brent’s residents through the sampling of participants selected for the residents and tenants’ forums and the for the face-to-face interviews.</p>
Submissions from individuals	<p>» There is already plenty of existing legislation to address issues in the PRS</p> <p>» The costs of obtaining a licence will be passed on to tenants</p> <p>» Many landlords act responsibly and operate to good standards, without being compelled to by licensing</p> <p>» Where ‘slum’ landlords are identified, enforcement action is not always taken against them (with the implication that this is unfair on the compliant majority)</p>	<p>In adopting these discretionary licensing, the Council is able to extend the use regulatory powers available.</p> <p>See the fees/impact on tenant response</p> <p>We recognise that many landlords manage their properties responsibly, but where landlords negligent we will to use our licensing schemes to enforcement and support them.</p> <p>Relatively, Brent has an excellent record in Private Rented Sector enforcement (see Table 5 below for further on enforcement)</p>

## **Main Themes emanating from the consultation responses**

The Consultation generally sought submissions and the questionnaire provided respondents with three opportunities to comment on the proposals in their own words, specifically:

- a) The conditions table (1) is significantly drawn from the written submissions
- b) The Text comments in the consultation questionnaire provided respondents with three opportunities to comment on the proposals in their own words, specifically:
  - If they disagreed with the proposals, asking them to explain why and to suggest any alternatives they would prefer to address the problems
  - If they disagreed with any of the licensing conditions, to explain why
  - Whether there was anything else the Council should consider to help improve the condition and management of properties, ASB, deprivation and other issues about the private rented sector in Brent, or whether they had any further comments in general

Tables 2-6 are selected (notably where there were a high percentage of respondents with that particular view) comments drawn from the findings and summarised under the main themes.

### **1. Specific Responses in relation to Property Conditions**

<b>HMO / Selective Licensing Condition</b>	<b>Consultation Response</b>	<b>Council's Consideration</b>
<b>HMO Condition 2 Overcrowding:</b>	This clause does not reflect the regulations	Appendix 8 Condition 2 has been redrafted
<b>HMO Condition 3 Amenity and space (size of rooms) standards:</b>	Do not agree that the property must comply precisely with the council's amenity and space standards.	Appendix 8 Condition 3 Reworded and Council's standards shown as appendix.
<b>Selective Condition (3) Rent Payments:</b>	Rent books are only appropriate if the tenant pays their rent in cash.	Considered where payments are made otherwise but no change
<b>HMO Condition 7 Deposits: Selective Condition 4 Deposits:</b>	The requirement is to give the tenants prescribed information within 30 days of taking a deposit	Both Appendices amended
<b>HMO Condition 8 Complaints Selective Condition 5 Complaints:  HMO Condition 9 (ASB): Selective Condition 6 Anti-social behaviour (ASB):</b>	It is excessive to require every tenant to be given a copy of a written complaints/ ASB procedure at the start of their tenancy	Conditions considered – No changes

<b>HMO Condition 9a Prevention:</b> <b>Selective Condition 6a Prevention:</b>	In relation to references, landlords may be restricted from releasing such personal information under GDPR	No change
<b>Selective Condition 11 External areas:</b>	Clause (a), the Court of Appeal have ruled that the condition of the property cannot be dealt with by way of a selective licence condition  Clause (b), for single family properties, it is highly likely that the upkeep of any garden where the tenant has exclusive use would be the tenant's responsibility under the terms of the tenancy.	Condition amended to remove requirement to carry out works
<b>Selective Condition 13 Repairs:</b>	Clause (b). The condition of the property cannot be dealt with by way of a selective licence	Condition essentially deleted to leave requirement for the licence holder to detail arrangement for repairs
<b>Selective Condition 14 Compliance Works:</b>	The condition of the property cannot be dealt with by way of a selective licence condition. Any perceived hazards would need to be dealt with under the HHSRS.	Action to be taken under Part 1 Housing Act 2004 and therefore condition is deleted.
<b>HMO Condition 15(c) Common Parts (shared areas):</b>	For the purposes of this clause, it would be helpful for the council to define "common parts"	HMO Management Regs. Definition clarified. See Appendix 8, condition 15
<b>Selective Condition 16.1 Smoke alarms:</b>	Exceeds the mandatory licence condition. The requirement to install mains wired smoke alarms with battery back up in some single family dwellings cannot be imposed as a selective licence condition	Deleted the mains wired specification and amended to say that the smoke alarms are to be appropriate to the house. LACORs will be considered in deciding the appropriateness.
<b>HMO Condition 17 Refuse and waste</b>	It would be useful to attach a brief summary of the council's waste policy or to provide a web-link where information can be found.	Web-link inserted
<b>Selective Condition 17 Means of escape:</b>	Condition should be deleted as it is not appropriate in the context of a single family house or flat. There is no designated fire escape route in a single family dwelling and the licence holder or their agent cannot stop families placing items in their hallway. Secondly, a selective licence condition cannot apply to the area outside the licensed property – for example in the	Amended see Condition 16, Appendix 9

	<p>common parts of a building containing a licensed flat.</p> <p>As such, the condition is also not appropriate in that context. This clause is more appropriate to HMOs which are licensed under a separate scheme.</p>	
<b>Selective Condition 18 Electrical Installations</b>	<p>This condition should be deleted completely. Whilst the government are considering making this a legal requirement, the Court of Appeal have ruled that an electrical inspection report cannot be required by way of a selective licence condition.</p>	<p>Deleted. Condition of the property and not management or use</p>
<b>HMO Condition 22 Fire precautions: In clause (b),</b>	<p>The wording should clarify that it applies to properties that fall within the remit of the Fire Safety Order.</p>	<p>Condition 22 clarified</p>
<p><b>HMO Condition 33 Absence of the licence holder:</b></p> <p><b>Selective Condition 21 Absence of the licence holder</b></p>	<p>Think it is excessive to require the licence holder to display a notice in the communal hallway in the event of their absence.</p>	<p>No change not accepted. For all HMO information should be given where the licence holder is absent, for selective licensing if not displayed, then appropriate 24hr emergency information must be given.</p>
<p><b>HMO Condition 34 Compliance inspections:</b></p> <p><b>Selective Condition 22 Compliance inspections</b></p>	<p>For an HMO let on a single tenancy it would not be possible to guarantee compliance with this condition</p>	<p>No change. As a minimum it is reasonable to ask that access must be facilitated.</p>
<b>HMO Condition 36 Documents to be displayed within the property:</b>	<p>Whilst it may be reasonable to display all the documentation in a bedsit-HMO occupied we do not think the same approach is appropriate in a property rented to a small group of sharers on one tenancy</p>	<p>No change not accepted. This reasonably covers HMOs whilst allowing flexibility in enforcement.</p>
<b>HMO Appendix 1:</b>	<p>The advice on bedroom sizes, kitchen, bathing and sanitary facilities should be published separately as guidance document.</p>	<p>Mandatory requirements are clear. The Council HMO amenities and space standards are provided as guidance. These standards will be applied in deciding the suitability of the HMO at the time of the licence approval and its compliance.</p>

## 2. Specific Responses in relation to Fees

Consultation Response	Council's Consideration
<p>The intention to offer a £100 fee discount for the renewal of HMO licences and a £40 discount for renewal of selective licences is welcomed. Regarding the charge of £15 for a reminder letter and £100 for a missed inspection appointment. It is unclear what power exists under the Act to charge fees for other purposes.</p>	<p>The additional charges referred to are not fees. The additional charges are as existing s existing. However, the point is being referred for Legal to clarify the powers being used. The Council has set out its basic fees, which will be collected in two parts in accordance with the legal requirements.</p>
<p>Proposal is just another money-making scheme/additional tax/increased cost/waste of money/money could be spent on improvements, etc.</p>	<p>The Council is permitted charge a fee to cover the licensing function. The scheme is not designed to make a profit and should break even over the 5-year period.</p>
<p>Proposed licensing scheme will mean rental prices will go up/cost will be passed on to tenants/rent is too high already</p>	<p>Over the course of the 5 years the fee is quite small given the rental income. We have no evidence to suggest that rents will go up or costs passed on to tenants and believe that market forces has the most impact on the level of rents in the borough</p>
<p>If the fee comprises two separate amounts to cover the assessment of the property and of the licence holder, then the element that refers to the vetting of the licence holder should only be charged once, not across all properties that the individual owns or manages (in other words, if a landlord is deemed a 'fit and proper' person to manage one property, then presumably they are 'fit and proper' to manage all of them)</p>	<p>The fee is worked out across the number of licence applications we estimate in the scheme.</p> <p>We do undertake basic the "fit and proper", but the process is not unduly bureaucratic with more extensive checks as necessary.</p> <p>Certain accredited landlords will be able to get the £40.00 accreditation discount for each property application, not per landlord</p>
<p>There should be pro rata licence fees (i.e. fees adjusted according to the remaining duration of the scheme) and discounts for multiple properties</p>	<p>We note that some authorities have addressed this issue by measures such as prorating, discounted. We believe that this is best addressed by having a clear policy in relation to the duration of the licence, such that licences may be granted for the full five years to extend beyond the end of a designation. This policy will need to be subject to Cabinet approval. The policy will also consider the varying of licences already granted or granted during the period of "overhang" between designations.</p>
<p>The licence fee should be linked to the rental value of the property. Fees need to take account of other expenses (e.g. loans, regulatory changes, agency fees, letting fees, maintenance fees) impacting on landlords</p>	<p>We appreciate that the rental income and expenses vary and that landlords have business considerations. The fees are set as low as possible so as not to be a burden on landlords or to impact negatively on tenants. For larger HMO, there is an additional room charge.</p>
<p>The fees should be higher, as they would be 'nothing' to the typical landlord of a HMO</p>	<p>Brent's fees have been calculated to reflect the costs of the activities in the process. Good landlords will pay the basic cost but non-complaint landlords will incur further enforcement costs</p>



### 3. Specific Responses in relation to the area Designations

Consultation Response	Council's Consideration
<p>We would encourage the council to delay implementing selective licensing in new areas so that resources can be focused on enforcement of the HMO licensing schemes.</p>	<p>If approved by Cabinet, we intend that additional licensing come in force on 1<sup>st</sup> February 2020. Given that selective licensing will require Government approval, and if granted, we will look to introduce renewal of the scheme for Harlesden, Wembley Central and Willesden Green in the Spring of 2020, and the scheme for extending selective licensing at a convenient date as soon as possible thereafter, in the Summer of 2020.</p>
<p>The proposal licensing scheme should cover all of borough/not just selected properties.</p>	<p>We recognise the benefits of borough-wide schemes and the proposal to renew and extend provides a significant coverage of private rented sector of the borough area.</p> <p>The additional licensing scheme is proposed borough-wide which gives a blanket coverage of all HMOs (except for those with statutory exemption) in the borough. For example, we have specifically considered s257 HMOs, and any HMOs within the new Wembley Park area of Tokyngton ward.</p> <p>With regard to selective licensing, we are unable to include the wards of Dollis Hill, Kenton and Stonebridge as our evidence should that these wards have less than the 20% private rented properties, which is one of the legal criteria that we must satisfy. There is the option to designation these areas if the evidential situation changes.</p>
<p>Wembley Park should be included in the licensing scheme.</p>	<p>The proposal includes Wembley Park in the additional HMO scheme. We have seriously considered also including the area for selective licensing but do not feel that the area satisfies the condition for inclusion. We note however that the consultation responses suggests the inclusion of the entire Tokyngton ward for selective licensing.</p>
<p>Some of these areas are included in the proposed or existing Selective Licensing designations. In particular, there was some concern that the Council's figures underestimate the scale and size of the PRS in a couple of areas. On the other hand, there was some scepticism around the justification for including certain wards, including Brondesbury Park and Alperton:</p>	<p>We are confident that each area for selective licensing meets one or more of the conditions for the licensing scheme, as well as the satisfying all of the other criteria.</p> <p>An independent housing stock review was Commissioned by the Council and undertaken by the Building Research Establishment (BRE) provides data at borough, ward and Lowest Super Output Areas (LSOA) in Brent. The data is analysed for (poor) property conditions, disrepair, Health and Safety Hazards (HHSRS) and deprivation in particular. Building on our 2017 selective Licensing evidence report, our own ASB evidence from this report shows that there are high levels of ASB linked directly to private rented properties across the borough</p>

	<p>compared to other tenures. We are not able to insert all of the evidence in the proposal document, but details and extracts were included as part of the proposal evidence.</p> <p>This evidence was used as part of the evidence pack and was published during the consultation. The BRE report and also the 2017 report is a background document to the cabinet report.</p>
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#### 4. Specific Responses in relation to resourcing the schemes

Consultation Response	Council's Consideration
<p>We understand that if the property conditions criterion is applied, the council would be required to undertake HHSRS inspections on all those properties over the next 5 years. Would there be adequate staffing resources available to undertake the thousands inspections required?</p>	<p>We strongly believe that Conditions in relation to housing conditions only require that it would be appropriate for a significant number of the properties referred to be inspected,</p> <p>We will the balance staffing needed for HMO licensing and HHSRS inspections, both with a view with a view to determining whether any category 1 or category 2 hazards exist on the premises, and carrying out any necessary enforcement action.</p> <p>We have included target in our proposal and if the schemes are approved, we will finalise our targets and performance measures, ensuring adequate staffing to meet the objectives of the schemes.</p>
<p>We would encourage the council to delay implementing selective licensing in new areas so that resources can be focused on enforcement of the HMO licensing schemes.</p>	<p>See above and issue also raised under enforcement</p>

#### 5. Specific Responses in relation to Enforcement

Consultation Response	Council's Consideration
<p>It is a concern that after operating a borough wide additional licensing scheme for five years, the council acknowledge that only 20% of HMOs have been licensed, with inadequate enforcement resources to target those that fail to apply. In this context, we would encourage the council to focus their additional licensing scheme in the areas of greatest concern to achieve maximum impact.</p>	<p>The BRE stock condition survey and other tools provide better data on the locations of the HMOs in the borough.</p> <p>This will allow proactive targeting to identify unlicensed HMO and lessen responsive work.</p> <p>The BRE maps and other analytical tools identify "hotspots", drilled down to LSOAs.</p>

Proposals will need to be properly managed/enforced efficiently/inspections will need to be made/vetting landlords etc.	We agree, but priorities will be to ensure that all applications are submitted for licences, and that the licensing objectives as specified, including compliance to management and property standards are met, if necessary using enforcement in accordance with our enforcement policy
We would encourage the council to delay implementing selective licensing in new areas so that resources can be focused on enforcement of the HMO licensing schemes	It is clearly agreed that licensing will not be effective unless it is supported by robust enforcement. Though we intend that the schemes come into force on different dates, we believe that a balanced strategy and balanced resources is needed to deliver the aims of both the discretionary and mandatory schemes.

## 6. Specific Responses in relation to alternatives or enhancements to licensing

Consultation Response	Council's Consideration
Star ratings awarded to landlords or areas, to make them more proactive to obtain recognition and learn how to look after their properties and tenants.	We work with UKLAS, where there is an annual awards ceremony
Limits on the numbers of HMOs that are permitted in any given street (e.g. no more than 2 allowed in a street of 20 i.e. 10%)	Brent Council is pursuing the use of Article 4 Directions, where the Planning Service is seeking Cabinet approval to remove permitted development rights for change of use from offices and light industrial to residential and other development rights between residential dwellings and houses in multiple occupation. This will apply to the whole borough. HMO Powers under the Housing Act are different to those found under the Town and Country Planning Act, and therefore licenses may be granted for HMOs which do not have planning permission to operate. An Article 4 Direction which would require planning permission would remove any uncertainty that planning permission is required. The HMO Licensing and HMO Article 4 Direction proposals will assist in a complementary and co-ordinated approach between the Housing and Planning functions in regulating HMOs in the borough, for which clear policies will be developed.
A register (with much lower fee) where landlords could submit their documents via an online portal, which (it is claimed) would be less intrusive than licensing and still achieve could standards	We have considered alternatives e.g. registration, landlord accreditation, co-regulation, but these are voluntary and rogue operators are unlikely to attend/engage.) Licensing provides a legal framework to tackle poor property conditions and bad management practices associated with the private rented

	sector. Alternatives considered are detailed in the proposal document.
A national 'rogue landlords' database, with benefit payments withheld to these landlords until they comply	Brent assisted with the Greater London Authority (GLA) pilot and introduction of the GLA rouge landlord database and have provide entries following successful enforcement. The national rogue database is being consulted upon, with question about the what information should be mandatory. We will be required to make "Banning Order" entries. Both registers mentioned are consulted as part of the "fit and Proper person" test.
A database of anti-social tenants, to help landlords decide whom they should let to	We do not propose to keep a database on anti-social tenants. Though this may help in choosing tenants, professional tenant references bodies already exist. Our licensing conditions demand that licence holders demand references from persons who wish to occupy the house. This condition is made mandatory for selective licences (under Part 3) must include conditions requiring the licence holder to demand references.
There are alternatives to licensing. The RLA supports a system of self-regulation for landlords whereby compliant landlords join a co-regulation scheme which deals with standards and complaints in the first instance, while those outside the scheme remain under the scope of local authority enforcement. We also support the use of the council tax registration process to identify private rented properties and landlords. Unlike licensing, this does not require self-identification by landlords, making it harder for criminals to operate under the radar	We considered the alternative of co-regulation as part of the 2016 selective licensing consultation at the time meeting with The Home Safe Scheme Ltd. Reference was made to schemes at Doncaster MBC, Blackpool Borough Council and West Lindsey District Council.  We do not believe that voluntary or accreditation schemes offer the same degree of a framework or intervention that is needed to effectively tackle poor problems associated with the PRS in Brent.

**END**