

**Private Rented Property Licensing Selective Scheme 2019.**

**Response to Public Consultation 24<sup>th</sup> September 2018 – 15<sup>th</sup> December 2018 (12 Weeks)**

In response to the consultation exercise that was carried out between the 24<sup>th</sup> September and the 15<sup>th</sup> December 2018, the council have considered the feedback and have responded.

**Background**

In accordance with current legislation, Barking and Dagenham Enforcement Service run a 12-week public consultation exercise from the 24<sup>th</sup> September through to the 15<sup>th</sup> December 2018 where we consulted on the proposal to extend the Selective Licensing Scheme when the current one ends on the 31<sup>st</sup> August 2019.

The survey and supporting evidence were supplied on the council public interfacing website, and this was advertised externally using National Press, Social Media and Public Events, Landlords Forum and drop in Sessions at Council Buildings (Appendix 1).

This report provides an overview as a summary of the report and final consultation document that was produced on the 17<sup>th</sup> December 2018.

The report indicates that 1017 people responded using the online portal. Of those who responded, 367 (36.34%) were landlords with a property or a number of properties managed in LBBD.

We received feedback from 353 (39.63%) residents who reside in privately rented accommodation within LBBD and 86 residents who were council tenants living in Social Housing.

In addition, we received feedback from 384 people who were owner occupiers.

87 managing agents responded as part of the consultation, however from the survey we are not able to distinguish if they are in support or object to a continuation of a scheme.

5 charities or community groups

33 residents, landlords or business in another borough

**Metropolitan Police**

We also received supporting correspondence from the Metropolitan Police stating that the scheme since the launch has assisted to address a number of Crime and ASB issues related to the Private Rented Sector. The police have indicated that without a launch of a

new scheme, they would lose a considerable amount of intelligence and information in relation to criminal activity, ASB and the protection of vulnerable people such as sex workers

### **Redbridge**

Redbridge council have sent correspondence fully supporting the launch of the launch of a new scheme which will fully complement their schemes. They confirm that there is a close correlation between housing markets in both boroughs and therefore have suggested that further work needs to be planned to tackle some of the local issues in respective boroughs but working jointly to ensure there is consistent regulation, and appropriate enforcement action taken against rogue landlords and agents.

### **Waltham Forest**

Waltham Forest Council fully support Barking and Dagenham and have recognised that our current scheme has demonstrated how licensing has supported a reduction in anti-social behaviour associated with the private rented sector. Waltham Forest feel that the continuation of the licensing scheme would benefit surrounding local authorities who share both rogue landlords and letting agents.

### **Havering**

Havering confirm they support the Councils proposals for a Boroughwide Selective scheme. They recognise the importance of such schemes, regionally in ensuring private sector landlords meet the highest standards possible. They believe their scheme has helped them address the behaviour of rogue landlords in the area. They noted that our current scheme achieved a significant reduction in anti social behaviour in private rented properties. As landlords often have properties in more than one Borough, consequently we would see the continuing ability of Barking and Dagenham to regulate the operation of landlords such as these through licensing to have a significant benefit for surrounding local authorities and provide a consistent approach to regulation.

### **Newham**

Newham strongly support the councils proposals of continuing our highly successful scheme. Newham shares many landlords and lettings agents with Barking and Dagenham and our other neighbours and it is very clear that unscrupulous landlords do not respect borough boundaries. The ability of Barking and Dagenham to effectively regulate these businesses through licensing therefore has significant benefits for Newham residents as well as other surrounding local authorities.

They feel licensing provides local authorities with the data to identify and pin point those properties that are likely to be problematic, the resources to address poor practice and most importantly additional powers to enforce appropriate standards.

## **Hounslow**

Agree with the proposal to extend the Licensing Scheme, they believe selective licensing can deal with wider issues of poorly managed properties and dealing with associated anti-social behaviour from tenants.

Selective Licensing can strengthen the Councils powers to tackle rogue landlords.

They feel that a boroughwide scheme will promote equality and consistency of enforcement and will allow the Council to target interventions to those properties that present the greatest risk of health and safety of the occupiers.

## **Residential Landlords Association**

The RLA oppose the continuation of a scheme in LBBB in their letter dated 19th November 2018. They state that they have general objections to licensing overall as schemes do not address the issue but moves vulnerable or difficult tenants to other areas. They object to the fees and state that the fees for licensing are passed onto tenants with rogue landlords avoiding licensing and paying anything.

They feel that landlords are not best placed to deal with anti-social behaviour issues so may seek to evict tenants which could mean additional costs to other council services and moving the problem on.

The financial burden of licensing is a fee that could put some landlords into financial difficulty which means they could leave the PRS altogether.

They raise a concern and the impact of Welfare Reform and increased rent arrears within the PR since 2016 meaning more tenants are claiming benefits.

The RLA have stated that the councils should use existing powers to tackle rogue landlords, namely the Housing and Planning Act as an alternative to licensing.

The RLA also state that the council should wait until a decision is made on the Governments review of selective licensing and HHSRS policy prior to making a decision on whether to make an application to the Secretary of State to extend Selective Licensing. In conclusion, the RLA believe LBBB should consider alternatives to licensing based on a system of self-regulation for landlords whereby compliant landlords join a co regulation scheme. They support the use of council tax registration process to identify landlords, they would like to co regulate with the local authority, using existing powers to reduce number of complaints. There should be stronger links with the landlord community.

## **National Landlords Association**

The NLA state that licensing is a powerful tool if used correctly using both regulation and increasing the professionalism of landlords, thus improving privately rented accommodation whilst driving out the criminal landlords.

They claim that landlords are not experienced enough in the tackling of anti-social behaviour and do not have the professional capacity to resolve tenant mental health or drug and alcohol dependency meaning tenants will simply be moved on with no issues resolved. It is felt that the council should use current enforcement tools as a way of managing the issues and not through licensing.

The NLA also feel that the council have powers to rectify problems and have abilities to rectify some of the issues locally as an alternative to licensing.

They believe that the cost of licensing will be passed onto the tenants through rental increases.

The NLA state that Barking and Dagenham have failed to address in their consultation documents the link between homelessness and the effect the licensing scheme will have on the tenants within Barking and Dagenham.

The NLA claim that licensing can lead to harassment claims against the landlord due to the increased burden of record keeping and management of properties.

They are keen to work with the council to develop tenancy packs, accreditation of landlords and will target the worst areas across the borough to support LBBD.

Council to develop a strategy that includes action against re offending tenants as landlords can only manage tenancies and not tenant's behaviour.

### **National Approved Letting Scheme (NALS)**

NALS commented that the council should adopt a scheme which supports the majority of complaint landlords and agents and to concentrate enforcement recourses at a target and intelligence led approach. The scheme proposals focus enforcement action on non-compliant landlords and letting agents and will provide a frame work where those whom provide a good service will be recognised both in terms of the fees and charges applied and a more light touch regulatory approach.

Any proposal for a new scheme which will come into force after September 2019 will be in accordance with the licensing and management of houses in Multiple Occupation and other Houses (Miscellaneous provisions) (Amendment) (England) 2012. As a new scheme we are introducing an easier online application process and will support landlords in providing information online.

The consultation response highlighted that the council has a range of enforcement powers to regulate the private sector. However as set out in the report, the private rented sector makes a significant contribution to the local economy. Discretionary licensing is the only scheme which enables the council to regulate the management and occupation of all properties let in the private sector, ensuring that those moving to the borough are not financially exploited and accommodation is of a decent standard.

NALS also highlighted that the license fee is being charged back to tenants, thereby pushing up rents. The licence fee is currently set at £506, as a one-off payment until the expiry of the current 5 year licensing scheme in August 2019. Our evidence however is that rental provides in Barking and Dagenham have risen at a far greater rate since the current scheme came into effect in September 2014. A 2 bedroomed flat has increased in rent by 15% from £1,000 – 1,150 per calendar month, and a 3 bedroomed flat has risen by 23% from 1,300 - £16,000 per calendar month.

In response from the feedback from NALs in relation to the fee charges, the council is proposing the following. A landlord who is considered a fit and proper person, has held a current licence with LBBD for a minimum of two years and has not been subject to any enforcement or legal action including conviction, caution or civil penalty, will be eligible for a 50% reduction in the Part B fee only. It is anticipated on current statistics that 80% of landlords will be eligible for this discount.

The council is also considering supporting landlords who rent properties and are approved accredited schemes such as the NLA, NALS, ARLA which could result in an additional discount to landlords in these circumstances.

Prior to the introduction of a new scheme, the council would look to review the conditions of the licence to ensure these did not adversely impact a landlord or letting agent.

In terms of the inspection regime, the council will continue to inspect all new licence applications received, as well as re-inspecting properties which do not meet the conditions of the licence. It will not be the council's intention to re-inspect properties where there has been a history of well managed and maintained accommodation from a minimum of a two year period.

Since the beginning of 2018, all new licence applications have been processed and inspected within a three-month period. Whilst there was a backlog at the early inception of the scheme, this has been cleared and is no longer an issue.

The figures set out in the submission are the total number of predicted privately rented accommodation by 2020. These figures are based on current trends and analysis. We will continue to focus on landlords who have failed to licence their privately rented properties and make an application. The council will however, consider a light touch approach for those landlords who are compliant as already highlighted.

## **Survey Responses**

We asked people to respond as to whether they agree or disagree that the current selective licensing scheme has been effective in improving the overall condition and management of Private Rented accommodation within LBBD.

Out of the 1017 people surveyed 55.63% either agreed or strongly agreed that it has had a positive impact.

21.44% either disagreed or strongly disagreed

We gave respondents the opportunity to further comment on how the current scheme could be improved.

15% responded

## **Fees**

In response to the proposed licensing fees, the written summaries highlighted that the main concern in relation to licensing fees. Landlords who responded felt that they receive little or no support from the current scheme in dealing with problematic tenants. The scheme provided no value to landlords and was just a money-making exercise.

Only 38.66% either agree or strongly agree with the proposed licensing fees set out in the consultation report. 33.3 % either disagreed or strongly disagreed.

The consensus amongst the feedback is that the current fee is too high, a discount should be applied to good landlords. There is a recommendation that a discount be applied for compliant and those landlords who are accredited with a National Body such as the NLA, RLA.

## **Enforcement**

Stakeholders responded in suggesting that there should be more checks on residential properties. Not enough being done to monitor properties. More officers to undertake the enforcement.

## **Proposal to continue with a Selective Licensing Scheme post 2019.**

60.9% of people either agreed or strongly agreed with a continuation of the licensing scheme, 24.58% either disagreed or strongly disagreed with the proposals.

From the responses that were received, most of the comments related to the cost of the current scheme being too expensive and that landlords felt there was no value for money. There were comments that made reference to the council operating a scheme to generate income for the local authority.

## **Support**

We asked what measures they felt the Council could put in place. 15.54% responded. Responses included:

- Random checks to be carried out
- Reduce the fee/ Make fee more fairer
- Make the fines more substantial
- Coming down on the tenants rather than the landlord
- Free licensing as a reward for good landlords
- Help landlords more

- Focus on bad landlords
- Licence letting agents instead, and insist all properties have to be let via one of the approved agents
- Properties to have annual inspections
- Have complaints procedure for tenants to report rogue landlords
- A register of anti-social tenants

### **Agree with Boroughwide?**

59.4% of respondents either agreed or strongly agreed with the proposals of a borough wide scheme. 20.94% either disagreed or strongly disagreed.

If they did not agree they were asked why not, 12.49% made comments. These include:

- The scheme is a money-making scheme/ Waste of money
- No benefits for landlords
- More pressure on landlords
- There has been no changes so far
- Very expensive for landlords
- The Council have provided no evidence that the current scheme has made any improvements
- No protection for landlords against tenants
- Making it more difficult to find private rented properties
- Good landlords shouldn't be penalised for bad landlords

### **Do you think the council should consider any alternative measures other than Selective Licensing?**

32.74% said yes, 62.44% said no.

Comments included:

- Random checks/ Annual inspections
- Provide more social housing
- Licences should be displayed outside the properties
- Have a rogue tenant list
- Exclude members of recognised landlord associations
- Support the landlords
- Selective licensing should just be for rogue landlords
- More policing
- Do more to penalise landlords who provide poor condition properties
- Reduce fee
- Use existing laws to prosecute bad tenants
- Maintaining register of anti-social tenants
- Use the powers the Council already have
- Hefty fines for those that not meeting the current legislation requirements
- Register of approved tenants
- Register of unlicensed properties

**Do you agree or disagree that the continuation of a selective licensing scheme would continue to improve the conditions and management of private rented properties within LBB?**

61.45% either agreed or strongly agreed. 18.78% either disagreed or strongly disagreed.

41.1% agreed or strongly agreed the scheme will contribute to the reduction in crime. 30.68% disagreed or strongly disagreed.

47.79% agreed or strongly agreed the scheme will contribute to the reduction of anti-social behaviour. 28.22% disagreed or strongly disagreed.

45.42% agreed or strongly agreed the scheme will contribute to the reduction of deprivation. 25.27% disagreed or strongly disagreed.

44.44% agreed or strongly agreed the scheme will contribute to the reduction of Environmental Crime. 27.63% disagreed or strongly disagreed.

**How do you feel the proposed scheme could be improved to reduce crime, deprivation or ASB**

31.47% made comments. These included:

- More checks
- More support from police to work closely with the Council
- Increase security and policing
- Checks on tenants
- More CCTV in the Borough
- Reduce the costs as this only gets passed to tenants
- Higher fines if landlords do not comply/ Confiscate properties
- More staff patrolling
- Tougher rules for tenants
- Make the fee more affordable
- Help tenants with rogue landlords
- More enforcement and more staff required

**If a new scheme as approved by the Secretary of State, do you agree or disagree that the Council's priority should be to target landlords who fail to licence properties?**

69.12% either agreed or strongly agreed. 14.65% either disagreed or strongly disagreed.

**Do you agree that the Council needs to continue taking enforcement action against rogue landlords?**

91.84% either agreed or strongly agreed. 5.9% disagreed or strongly disagreed.

**Do you agree that the duration of the licence should be 5 years?**

71.78% either agreed or strongly agreed. 25.07% either disagreed or strongly disagreed.

**Do you agree or disagree that the Council should have the discretion to issue annual licensing?**

52.61% either agreed or strongly agreed. 29.01% either disagreed or strongly disagreed.

**To what extent do you agree or disagree with the proposed licensing conditions?**

50.34% either agreed or strongly agreed with the proposed licensing conditions. 21.14% either disagreed or strongly disagreed.

**Do you think they can be improved?**

52.31% believed that the current licensing conditions cannot be improved. 36.38% believed they can.

We asked their comments on how we can improve the conditions. Comments included:

- Regular checks
- Stronger punishment for not abiding by the terms and condition's within the Licence
- Offer incentives to the landlords
- Conditions should protect just not the landlord and tenant but local residents in the area too
- Easier eviction processes for bad tenants
- Register of rogue landlords and tenants

**Do you agree or disagree with the proposed licensing fee structure in relation to Selective Licensing?**

38.66% either agreed or strongly agreed. 33.33% disagreed or strongly disagreed.

**Do you agree that the fee charged should be discounted to acknowledge landlords who have a good history of compliance?**

83.58% said yes, 12% said no.

**Do you agree or disagree the proposed application form and online process is fit for purpose?**

46.31% either agreed or strongly agreed. 17.6% either disagreed or strongly disagreed.

**Can the application form and online process be improved in any way?**

32.65% feels it can be improved, 53.20% feels it cannot.

**Suggestions for improving the application form:**

- Applicants to have to submit all relevant documents before application proceeds.
- Unclear and unnecessary questions

- To be more user friendly and easier to navigate
- Check list to be provided
- Paper form to also be available
- Give discount if applying online.

**Any further comments in order to shape or refine the proposed designated scheme**

22.71% responded. Comments included:

- Tackling rogue tenants as well as landlords
- Good landlords should have a reduce fee
- Include additional licensing
- More inspections and spot checks
- Online tracker to monitor landlord licence
- Fees to be more reasonable
- If you apply through the scheme you shouldn't have to pay the full fee
- Fee should be dependable on how many properties you have.

Are there any comments you wish to make in relation to the licensing proposal?

8.46% said yes, 84.37% said no. Comments included:

- Tenants to be accountable too
- Scrap the scheme
- Include additional licensing
- Tougher penalties for miss management of properties
- Discount for landlords with multiple properties
- Very unfair scheme
- Put more checks in place
- Reduce the licensing fees
- Have financial incentives for landlords
- Discounts for members of National Landlords Association.