

Birmingham City Council's Response to Selective Licensing Consultation

Introduction

The consultation exercise on the Council's proposal to introduce a selective licensing scheme across some of the City's wards ran for a period of ten weeks from Monday 25 October 2021 to Tuesday 4 January 2022.

The Council was supported with the consultation by Opinion Research Services, an independent social research practice that works with the public, voluntary and private sectors in areas of research that cover a wide range of social issues such as community safety, housing, health and many other local priorities.

A large number of responses were received via the online questionnaire, consultation events with landlords, private tenants, and residents, and direct written responses.

This document seeks to address the main issues during the consultation. Some responses have led to a change in the proposed scheme.

The responses have been grouped under six themes to simplify the process.

Theme 1 - Proposed objectives, outcomes, and alternatives

Theme 2 - Related strategies

Theme 3 - Proposed area for designation

Theme 4 - Proposed property licensing conditions

Theme 5 - Proposed fees

Theme 6 - Other comments

Under each theme heading, responses are categorised under sub-theme headings, with example or summary responses included.

The number and proportion of questionnaire responses from each stakeholder type is shown in the table below. Written responses are not included in the table but were considered separately as part of the wider consultation.

Stakeholder type	Count	% Valid responses
Letting or managing agent with properties in Birmingham	33	4%
Private landlord in Birmingham	292	35%
Own or manage a business in Birmingham	28	3%
Represent an organisation based in/covering Birmingham	37	4%
Live in Birmingham	415	50%
Other respondents	35	4%
Total responses	839	100%

The open consultation questionnaire could be completed by anybody with an interest in the proposals e.g. landlords and agents, local residents or those responding on behalf of organisations. Respondents were asked to state what connection(s) they had to the City. Many respondents would have had more than one connection to the City; however, for analysis purposes respondents have been classified into single categories e.g. any respondent identifying as a landlord or a letting or managing agent has been classified as such in the profiling tables below, even if they happened to also live in the city – and so on.

It can be seen that half of the responses received were from tenants/local residents, while around two-fifths were from private landlords and letting and managing agents, and the remainder were a mixture of businesses, organisations and others (i.e. respondents with another connection to Birmingham such as working in the city, and other interested parties with no real connection to the area, plus one case that did not specify their connection to Birmingham).

Theme 1 – Proposed objectives, outcomes, and alternatives

The Council has set out a number of objectives and desired outcomes within its proposal.

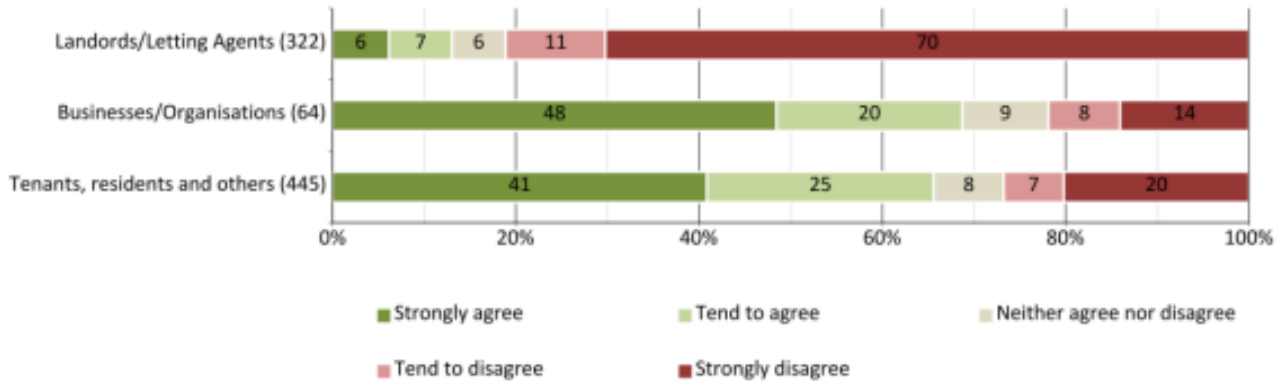
The key objectives of the proposed scheme are to:

- Reduce deprivation in conjunction with other key Council strategies. These include the Homelessness Prevention Strategy 2017+ and Corporate Plan.
- Reduce crime linked with the private rented sector in conjunction with the Police and community safety team.
- Improve the condition of privately rented housing in the City and thereby the wellbeing of residents from that sector.

The targeted outcomes for the proposed scheme over the five year period are:

- Ensure that at least 75% of licensable properties are licensed.
- In at least 95% of licensed properties, compliance with licence conditions and improved property conditions has been achieved or enforcement action taken or in progress.
- Reduce incidents of home burglary and non-domestic violent crime.
- Improve 1000 properties in the Private Rented Sector per annum as a result of the Local Authority's intervention
- Reduce the deprivation gap between that found in the 25 proposed wards and that of the city's other wards
- Reduce the number of wards within the selective licensing area that are designated as the 10% most deprived Super Output Areas nationally

Only a minority of landlords/agents agree that a selective licensing scheme would address crime and deprivation, but within other stakeholders the majority of respondents agreed. A summary of respondent views to the question to what extent they agree or disagree that a selective licensing scheme would contribute towards the Council's objectives of reducing crime and deprivation shown in the table below.



Consultation Response	Council Response
<p>Sub theme - Some respondents questioned the appropriateness of selective licensing as a tool to meet the proposed objectives</p> <p>Example comments:</p> <p>The council misjudges selective licensing as a tool to reduce home burglary, as selective licensing is designed to address property conditions, not burglary. Should the council wish to address this issue, there are alternatives such as offering grants to tenants for home security improvements and strengthening community ties with police and voluntary organisations.</p>	<p>The consultation responses reflect the current model in dealing with issues as a reactive response to complaints. This approach relies on tenants and landlords coming forward to seek assistance.</p> <p>Tenants may be reticent to make complaints regarding security concerns for fear of losing their homes or indeed may not know their housing rights.</p> <p>Selective licensing seeks to be proactive in tackling these issues.</p> <p>Landlords are responsible for ensuring their house has suitable and sufficient provision for the storage of and collection of waste arising from the household occupying the property, including having the correct type and number of waste bins.</p> <p>Individuals who flout regulations in relation to waste will continue to be dealt with under current legislation and these breaches will be covered by the Council’s Environmental Waste Enforcement Unit. The Council will seek to provide support and guidance through its officers and on its website to assist licence holders in their responsibilities.</p>
<p>Securing entry points, i.e., secure doors and locks, falls under HHSRS and Section 11 of the landlord and tenant act. Selective licensing is not needed to tackle these issues.</p>	<p>However, selective licensing provides another tool for addressing these issues. This, together with other complementary measures and initiatives as part of a wider strategy, would allow the Council and partners to address the complex range of issues that are evident in the area and improve housing management and conditions in the private rented sector through licence conditions.</p>
<p><i>“Reduce incidents of environmental crime by ensuring the provision of appropriate waste and recycling facilities at the property”</i>. Selective licensing is not needed to achieve</p>	<p>By visiting all licensed properties, officers would not only check that they were safe to live in and</p>

<p>this aim and is outside the purview of a scheme.</p>	<p>managed properly but would also identify individuals who may need help and advice with issues such as access to training and employment, household budgeting and debt management, health and support around the home.</p> <p>Officers would be able to make referrals to relevant agencies and act as a link between occupants and other council departments. These include the Council's Community Safety Team, Housing Options Service, and also external agencies such as the police and the third sector.</p>
<p><i>"Reduce benefit fraud. The Department of Works and Pension estimate that £6.3 billion were overpaid in benefits in 2020/21 due to fraudulent benefit claims. Selective licensing will enable the council to gather and share information with the Council's Corporate Fraud Team and benefits agencies to reduce fraud".</i></p> <p>One respondent representing a landlord group advocated using council tax records to identify tenures used by the private rented sector and those landlords in charge of those properties. Unlike discretionary licensing, landlords do not require self-identification, making it harder for criminal landlords to operate under the radar. With this approach, the council would not need to seek permission from the government and would be able to implement it with no difficulty.</p>	<p>Birmingham has one of the highest rates of fuel poverty in the country. A household is said to be in fuel poverty if their fuel costs are above average (the national median level), and, were they to spend that amount they would be left with a residual income below the official poverty line.</p> <p>Figures from the Department for Business, Energy and Industrial Strategy (BEIS) show nearly one in five households in the City, over 70,000 in all, would be pushed into poverty by the cost of heating and lighting their homes properly. This is considerably higher than the national average of one in 10.</p> <p>Landlords can help with providing homes that are energy efficient and meet the minimum energy efficiency standard (MEES).</p> <p>Identifying fraud is a complex exercise that requires the use of multiple tools and partnership data. It is therefore thought that any additional processes that will support this objective are beneficial to the overall goal.</p>
<p>Selective Licensing alone will not reduce crime; additional measures such as community development and Policing are also required.</p>	<p>Selective licensing works in unison with other strategies and with partners such as West Midlands Police to address issues at a neighbourhood level in a holistic manner. Selective licensing will enhance the community safety partnership response.</p>
<p>Some respondents questioned how selective licensing will help address fuel poverty, specifically what role private landlords have in this.</p>	<p>Whilst online training would aid in improving management standards, training would only be mandatory if it was part of a licensing scheme. Selective licensing requires landlords to evidence compliance with the proposed licence conditions and the Council will ensure that licence holders are compliant through property inspections.</p>
<p>A better route would be to have better educated landlords by online</p>	

<p>questionnaire that would be mandatory.</p>	<p>The Council recognises the importance of raising awareness and knowledge, and intends to deliver online resources and training to landlords to raise awareness of property management standards.</p>
<p>How will you monitor these properties? Will you be inspecting them? Or will you just charge a licence and wait for a problem to crop up i.e. reactive</p>	<p>The Council will also make information available to landlords and tenants on matters that benefit them such as energy initiatives, updated guidance, and details of local initiatives.</p>
<p>Sub theme – The Council does not have the ability or resources to administer the proposed scheme</p> <p>Example comment:</p> <p>If the council have a substantial backlog of mandatory licence applications, then we question the council’s ability to take on and run a discretionary licensing scheme efficiently and effectively. If the council is running behind on mandatory stock, then further licensing would not be beneficial for either landlords or tenants. Instead, the council should focus its efforts on using existing enforcement powers on the private rented sector to target substandard properties and root out criminal landlords, not pouring already stretched resources into a discretionary licensing scheme.</p>	<p>The selective licensing team will be a separate entity to the mandatory HMO licensing team. Extensive work has been done to quantify the resource required to deliver this scheme and the proposed licence fee set at a level to ensure this resource can be funded.</p> <p>Following a review of the consultation comments, the proposed fee will be increased to reflect the need for extra staffing to be provided within the enforcement team to deal with landlords/properties that are operating without the appropriate licence.</p> <p>The mandatory HMO licensing scheme has recently undergone a significant review and any existing backlog has been significantly reduced and is forecast to be eliminated by the 31 March 2022. From the 1 April 2022 a new operating model will be introduced.</p> <p>The Council’s Private Rented Sector team carries out a range of reactive housing inspections and will continue to do so regardless of selective licensing or not.</p> <p>Whilst addressing conditions and tackling poor landlords and agents in the private rented sector, this work does not address the wider issues in the area or address property management by the sector.</p> <p>Selective licensing, together with other complementary measures and initiatives as part of a wider strategy, would allow the Council and partners, working with landlords and agents, to address the complex range of issues that are evident in the area and improve housing conditions in the private rented sector that the current approaches have not managed to address.</p>

<p>Sub theme – Respondents questioned the link between crime and high levels of private rented accommodation</p> <p>Example comments:</p> <p>Crime is linked to other areas more than private rented homes (for example, some agreed that more affluent areas had more burglaries often by people from outside the area, and some said they associate crime with council properties so it would be more effective for the City Council to target their own properties.)</p>	<p>The 2015 report “Safe as Houses? Crime and changing tenure patterns” by the independent think tank, The Police Foundation, found that there was a correlation between levels of burglary and the proportion of private rented housing in an area.</p> <p>There are two possible reasons for this. One, that the quality of security measures in place in some properties is poor which makes unlawful entry easier, and two, that areas with poor housing environments will experience a higher rate of resident churn or movement. This churn can make it harder for areas to come together as a community and challenge unlawful activity.</p> <p>The report also found that opportunities for local partners to undertake positive action to address crime problems linked to the private rented sector are greater in places where a firmer regulatory grip has been achieved through private rented sector licensing schemes licensing and related measures.</p>
<p>Some respondents saw little connection between private rented housing in itself, and crime. They felt that there were more effective ways to tackle crime. From one perspective, respondents suggested community development and support such as community groups, youth centres, education, and increasing green space. From another perspective, participants suggested increased policing.</p>	
<p>Sub theme - Respondents asked if non-mandatory HMO’s, Airbn’s, Exempt Accommodation, and the Council’s own social housing could be included within the proposed scheme?</p> <p>Example comments:</p> <p>It's probably something entirely separate - but is it possible that air Bnb's also be targeted in policy of some sort? These cause a lot of noise and cause social problems in many city apartment blocks</p>	<p>Section 79(3) of the Housing Act 2004 exempts socially let properties (both Local Authority and Housing Association tenancies) from selective licensing. There are other exemptions, which are detailed in The Selective Licensing of Houses (Specified Exemptions) (England) Order 2006 (http://www.legislation.gov.uk/ukxi/2006/370/made). These exemptions include Airbnb and Exempt Accommodation.</p> <p>Selective licensing will cover smaller HMOs within the 25 wards. The Council are committed to considering additional licensing and other interventions for other neighbourhoods if this is supported by evidence.</p> <p>The Council is aware of a number of issues in the supported exempt accommodation sector, which</p>

<p>Additional licensing should also be considered for HMOs</p>	<p>have arisen largely due to insufficient legislation and regulation in place nationally. The Council are piloting a multi-agency approach to tackling issues related to exempt accommodation.</p>
<p>Almost all problems stem from one section of the market. That is social HMOs or exempt HMOs. To have a dramatic effect on crime and rubbish and sub standard accommodation. The social housing providers should come under more scrutiny</p>	<p>The pilot has included the roll out of a new Birmingham Quality Standard and new multi-disciplinary teams who are undertaking a regime of inspections of property and support standards and investigating anti-social behaviour and organised crime.</p> <p>In December 2021, a report from the Birmingham City Council Overview & Scrutiny Committee has produced some further key recommendations which include the following</p>
<p>To have a dramatic effect on crime and rubbish and sub standard accommodation. The social housing providers should come under more scrutiny. If you keep making it harder to make single let's a viable business you will be left with HMOs and serviced accommodation only. Then no doubt blame landlords for moving into SA (supported accommodation)</p>	<ol style="list-style-type: none"> 1. Building on the success of the pilot, continuing inspection teams and ensuring resolution of concerns from local citizens 2. Ensuring council-wide practice is consistent with the aims of the Quality Standards for providers, Charter of Rights for tenants and the Supported Housing Strategy 3. Supporting the Housing Benefit process through additional multi-disciplinary reviews 4. Strengthening planning controls through a review of existing practices and enforcement policies 5. Working with regional partners and other local authorities to reduce 'lifting and shifting' of vulnerable people from elsewhere in the country 6. Continue to lobby the government to address the national issues and lack of regulation set out in the Scrutiny Committee report

Theme 2 – Related Strategies

The guidance requires that any selective licensing scheme must be consistent with other related strategies. The following information evidences that a selective licensing scheme would be consistent with the Council's related strategies.

The Council believes that the introduction of selective licensing supports the:

- Council Plan 2018 – 2022
- Homelessness Prevention Strategy 2017+
- Empty Properties Strategy

Consultation Response	Council Response
<p>Sub theme - Some respondents questioned how selective licensing would support the delivery of other Council strategies</p> <p>Example comment:</p> <p>Empty Property Strategy. The Council has stated they want selective licensing to reduce the number of empty homes within the proposed wards; however, the council has outlined no strategy beyond this. There is no mention of previous activity from the council on how empty homes have been tackled in the form of Empty Dwelling Management Orders, loans/grants available to bring these properties back into use or case studies involving empty properties. The council should provide further information into what active steps have been taken that reduce the number of empty properties within the city to aid the high number of people waiting on the housing list for social housing.</p>	<p>The selective licensing scheme seeks to work in conjunction with other strategies. For example, by raising standards within the private rented sector it is less likely that these premises will fall into disrepair and become vacant i.e. an empty property, that would have a negative impact on the neighbourhood and be unavailable for housing purposes.</p> <p>The Council's Help to Rent Scheme supports homeless households into the private rented sector and provides landlords with suitable tenants rather than leave the property unoccupied.</p>
<p>Sub theme – Some respondents made recommendations to include selective licensing as a piece of work to address wider housing and community issues</p> <p>Example comment:</p> <p>I believe the selective licencing should be used alongside community building measures, giving local communities more say in what happens in their area, and more</p>	<p>The purpose of selective licensing is to enhance and exploit opportunities for delivering overall neighbourhood improvements.</p> <p>It is not intended to be a standalone scheme, and for that reason we have sought to demonstrate how it fits into the Council's Plan and other strategies.</p>

<p>community-friendly policing. I also feel that measures around street cleaning, and keeping the environment in good repair, coupled with the mobile recycling scheme will play a part in making people take more pride in their areas. All of these measures should be accompanied by education - for example making people aware of the support services are around them, what recycling is taken where and when, etc.</p>	<p>The proposed designation has been identified as having high deprivation and crime, it therefore falls that any intervention within standards of housing are likely to impact positively with respect to environmental conditions of the neighbourhood, the safety and wellbeing of tenants, and by providing a safe and stable environment, increase the life chances of children.</p>
<p>Birmingham's route to zero policy is significant. Is there an opportunity to link it in with this? Landlords rarely invest in insulation, draught proofing, energy reduction measures, solar hot water etc. Because they don't gain from it. Could minimum standards be required to install certain features. To improve living conditions and reduce tenant overheads</p>	<p>Selective licensing meets with the aims and objective of the Council's Levelling Up Strategy which has as its vision and objective:</p> <p><i>Our vision for levelling up is to increase growth and harness it to create a fairer, stronger city, where all citizens share in the benefits, including through a just transition to net zero, where our citizens live longer, healthier and happier lives with opportunities to shape their own lives and communities, and we overcome long-standing inequalities such as child poverty. This means developing places where all residents regardless of their background, and especially those most in need, have the capabilities and access to shape and benefit from a good education, skills progression, fulfilling well-paid jobs, affordable and high-quality housing, effective public services, better health outcomes, high-quality and connected physical and digital infrastructure and a living environment, rich in culture, amenities and green open spaces.</i></p>
<p>Great to focus on crime & housing but needs recognition that each only account for 9.3% within the seven domains of IMD. Income & employment both account for more than double that percentage with education & health at 13.5%. Questions remain whether action to address deprivation need to be multi-faceted or whether bcc's strategic focus should be on those two domains where actions could have a much bigger impact</p>	<p><i>Our vision for levelling up is to increase growth and harness it to create a fairer, stronger city, where all citizens share in the benefits, including through a just transition to net zero, where our citizens live longer, healthier and happier lives with opportunities to shape their own lives and communities, and we overcome long-standing inequalities such as child poverty. This means developing places where all residents regardless of their background, and especially those most in need, have the capabilities and access to shape and benefit from a good education, skills progression, fulfilling well-paid jobs, affordable and high-quality housing, effective public services, better health outcomes, high-quality and connected physical and digital infrastructure and a living environment, rich in culture, amenities and green open spaces.</i></p>

Theme 3 - Proposed area for designation

Government regulations and guidance for the introduction of selective licensing requires local authorities to meet strict criteria before a selective licensing scheme can be implemented in an area/s. Based on the research the Council has undertaken, opinion was sought on a proposal to introduce selective licensing on the following statutory grounds:

A significant proportion of the stock is privately rented and that this stock is in:

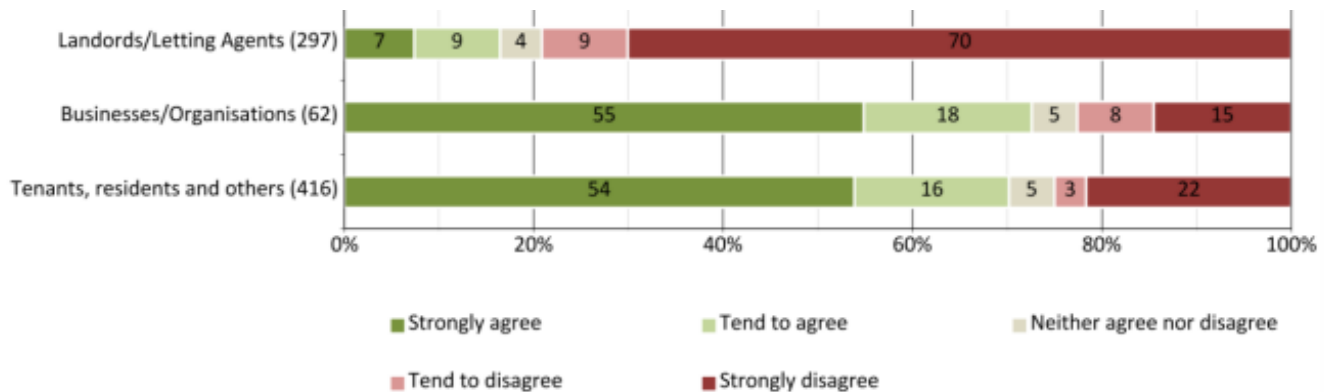
- an area that experiences high levels of deprivation
- an area that experiences high levels of crime

The data shows the proposed designation meets the criteria for selective licensing in that:

- It contains a high proportion of privately rented homes compared to the national average (greater than 20%).
- The area is experiencing levels of crime higher than the Birmingham average.
- The area within the designation is experiencing higher levels of deprivation amongst its population than the Birmingham average.

- Acocks Green
- Alum Rock
- Aston
- Balsall Heath West
- Birchfield
- Bordesley Green
- Bordsley & Highgate
- Bournbook & Selly Park
- Edgbaston
- Gravelly Hill
- Handsworth
- Heartlands
- Holyhead
- Ladywood
- Lozells
- North Edgbaston
- Small Heath
- Soho & Jewellery Quarter
- South Yardley
- Sparkbrook & Balsall Heath
- Sparkhill
- Stockland Green
- Tyseley & Hay Mills
- Ward End
- Yardley West & Stechford

The extent to which respondents agreed or disagreed with the Council's proposal to introduce a selective licensing scheme covering these areas is shown in the table below.



Fewer than a fifth of landlords/agents (16%) agreed with the specific proposal for a scheme covering the identified 25 wards, whereas nearly four-in-five disagreed (81%).

On the other hand, almost three-quarters of businesses and organisations agreed with the proposal (73%), as did seven-in-ten tenants, residents and other stakeholders (70%). Around a quarter of respondents from these two groups (23% of businesses/organisations and 25% of tenants, residents and other stakeholders) disagreed with the proposed selective licensing scheme.

Consultation Response	Council Response
<p>Sub theme - Many respondents were unhappy that only certain wards in Birmingham had been selected for licensing, saying that it felt 'discriminatory', with some feeling that a City wide scheme would be more appropriate. Many felt that other wards, or specific areas within other wards, should be included in the proposed scheme</p> <p>Example comments:</p> <p>While fully supporting selective licensing for the city. There is evidence from other areas of the country, that a ward based approach is not the most effective targeting method. This is especially true when looking at issues around displacement effects.</p> <p>A ward plus lower super output area gives a much clearer measure. Erdington, Weoley & Selly Oak and Handsworth wood all have areas which would benefit from control and in some respects deserve inclusion as whole wards in the proposed licensing scheme</p> <hr/> <p>There is need to consider a wider number of wards and smaller areas in the city. The original cabinet paper recommended a number of wards that were subsequently removed. They should be reinstated. There are also smaller than ward locations/concentrations that would benefit from licensing. The scheme has flaws but it is a start. The issues around landlords moving their activities to unlicensed areas being the most immediate concern.</p>	<p>Selective licensing is a legislative tool that should only be used by local authorities to address specific problems in a particular area, subject to qualifying criteria being met. More affluent areas may not have the significant, concentrated problems which meet the criteria for selective licensing.</p> <p>A City-wide scheme would not be able to deal with specific local problems. Whilst a small number of local authorities in the UK have been given permission to introduce city-wide schemes, the Government generally does not support the use of licensing across an entire local authority area.</p> <p>The Council notes the comments in favour of including additional wards or lower super output areas to be included in the proposed scheme. It is not possible to add additional wards into the proposed scheme as the additional wards have not met the original thresholds set for % PRS per ward, deprivation and crime. It is not possible to include additional lower super output areas as the city's original proposals were based on wards only.</p> <p>However, we are committed to providing local initiatives for local issues and as such will work with partners and communities to establish effective interventions where problems relating to private rented sector properties are evident. This may include establishing whether further selective</p>

licensing or additional licensing (HMOs only) schemes should be pursued.

The Council acknowledges that there is the potential for any landlord or tenant to move from one area to another. This already occurs and will continue to occur regardless of whether selective licensing is introduced or not.

Holding a licence and being fully compliant with licence conditions will enable landlords to demonstrate to tenants good standards of management. This should be seen as a positive and will be increasingly so when the majority of properties are licensed.

There is always the potential that private rented accommodation outside the scheme could increase, however market forces are a far greater driver in establishing which areas have a high percentage of private rented sector accommodation e.g. student housing and rental returns.

The impacts of the scheme will be monitored by the Council, to determine if there are any issues as a result, and subsequently managed.

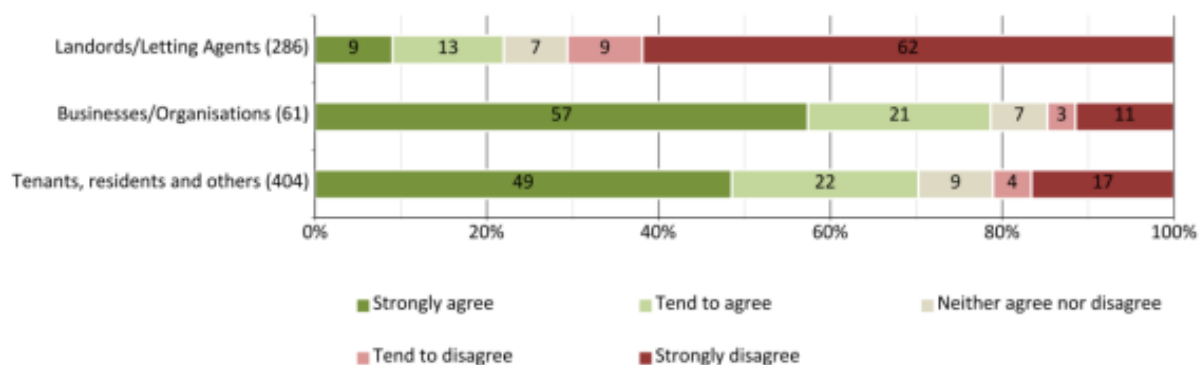
However, any risks should be balanced against the evidence of the need for action to be taken to improve the issues related to private sector housing in the wards identified.

Theme 4 – Proposed Licence Conditions

The proposed licence conditions include the mandatory conditions set out in Schedule 4 of the Housing Act 2004 as well additional licence conditions designed to assist in meeting the objectives and desired outcomes of the scheme. The proposed conditions can be found in Appendix ? on pages 38 to 43.

Views on the proposed licence were mixed. Many respondents felt that these standards should be met anyway, regardless of the proposed licensing scheme. Some agreed with inspections to control crime, illegal immigration, and other social issues. However, some disagreed, as they argued that inspections would be an invasion of privacy for regular tenants.

The table below shows the percentage of respondents who either agreed, neither agreed or disagreed with the proposed licence conditions.



Just over a fifth of landlords and agents agreed with the proposed licence conditions (22%), with the majority disagreeing (71%). Conversely, most businesses/organisations (79%) and most tenants, residents and other stakeholders (70%) agreed with the proposed conditions.

One participant suggested that landlords complete a short online learning programme to better understand their legal and moral obligations.

Participants also felt that the conditions put too much pressure and responsibility on landlords. They felt that certain conditions should be the responsibility of the Council or tenants. Some argued that Birmingham City Council was trying to evade responsibility by putting that responsibility on landlords. Some also felt that the Council should ensure that all their properties were up to standard and any antisocial behaviour, or crime, by City Council tenants dealt with effectively.

Some participants agreed that the conditions are positive and will improve living conditions for people in the area.

Consultation Response	Council Response
<p>Sub theme – Some respondents questioned the inclusion of licence conditions that they felt were outside the scope of a licence holder’s responsibility</p> <p>Example comments:</p> <p><i>Antisocial behaviour.</i> Landlords are usually not experienced in managing antisocial behaviour and do not have the professional capacity to resolve tenants' mental health issues or drug and alcohol dependency. Suppose there are any allegations about a tenant causing problems, and a landlord ends the tenancy. In that case, the landlord will have fulfilled their obligations under the selective licensing scheme, even if the tenant has any of the above issues. This moves the problems around Birmingham Council but does not help the tenant, who could become lost in the system, or worst, move towards the criminal landlords. They will also blight another resident's life.</p>	<p>Landlords are required to manage their properties and tenancies effectively as part of the proposed licence conditions. This includes them taking all reasonable and practicable steps to prevent or reduce antisocial behaviour, by for example having robust tenancy agreements in which breaches are dealt with properly.</p> <p>A landlord's responsibility for the occupiers of their properties does not replace the responsibility of the Council and partners to deal with antisocial behaviour, either in the area, or at individual properties.</p> <p>There may also be causative factors e.g. structural at the address that is exacerbating the situation, or drug and alcohol dependency which is encouraging the behaviour and this needs to be identified with the help of the landlord. It is in the interest of the landlord to identify and try to resolve the issues so as to ensure a continued tenancy and income.</p>
<p>Regarding reducing antisocial behaviour and those landlords must tackle such activity within their properties, it should be highlighted that landlords and agents can only enforce a contract; they cannot manage behaviour.</p>	<p>Guidance on how to comply with the proposed condition relating to antisocial behaviour will be available for licence holders and managers. At the same time, officers from the Selective Licensing team, with the support of partner agencies, will be able to assist licence holders who find themselves having to deal with ASB caused by their tenants or that is affecting their tenants.</p> <p>The Council has a number of teams who are tasked with resolving incidents of anti-social behaviour in City The first step is trying to resolve the problem and provide support for parties who may be suffering from illness, mental health or other problems. The first aim must be for the tenancy to be sustained. Landlords are asked to respond to complaints of antisocial behaviour quickly and try and understand the root cause of the problem. The Council would look to provide support with advice, templates, recording actions and signposting. The Council can advise on enforcement powers that are available. The Council can advise on the steps to take to properly record problems and start eviction</p>

	<p>processes. The Council will develop clear pathways which support landlords and tenants.</p> <p>Many tenants will not want to lose their homes and proposed eviction action is impactful. The landlord should give the tenant a final warning before progressing legal action to recover the property. This would put the tenant on notice and give them an opportunity to abate the nuisance.</p> <p>The Council will consider, as it does now, using its statutory powers to deal with issues such as serious antisocial behaviour where reliance on a landlord taking County Court proceedings would result in excessive delay and will not remedy such issues in a timely manner.</p>
<p>Sub theme – Respondents asked what assistance will be offered to landlords who have concerns regarding their tenant</p> <p>Example comments:</p> <p>Respondents sought clarification on the council's policy concerning helping a landlord when a section 21 notice is served, the property is overcrowded, or the tenant is causing antisocial behaviour, as per the council's consultation. What steps will the council take to support the landlord? It would be useful if the council were to put a guidance document before introducing the scheme to outline its position regarding helping landlords remove tenants who are manifesting antisocial behaviour.</p>	<p>The Council intends to provide a Call Before You Serve service, the aim of which is to support landlords who are minded to seek possession of their property.</p> <p>Under the Homelessness Reduction Act 2017, the Council's housing advice service has duties to assist households who are threatened with homelessness, this could include direct liaison with both landlord and tenant, a referral to the mediation service, or appropriate support provider e.g. children or adult social services.</p> <p>If the scheme implemented the Council would welcome entering into discussions with the landlord associations or other organisations with a view to developing a dispute resolution service.</p>
<p>The change in section 21 legislation and how tenancies will end will mean landlords will become more risk-averse to taking tenants with a perfect reference and history. We would be willing to work with the council and develop a dispute resolution service with other local authorities.</p>	

<p>Overcrowding. The issue of overcrowding is complicated for a landlord to manage if it is the tenant that has overfilled the property. A landlord will tell a tenant how many people are permitted to live in the property and that the tenant is not to sublet it or allow additional people to live there. Beyond that, how is the landlord to manage this matter without interfering with the tenant's welfare? Equally, how will the council assist landlords when this problem arises? It is impractical for landlords to monitor tenants' everyday activities or sleeping arrangements.</p>	
<p>Where overcrowding occurs, the people involved know what they are doing and that they are criminals, not landlords. The council already has the power to deal with this.</p>	
<p>Sub theme – The cost of the proposed scheme may result in some landlord moving their property portfolio to another part of the City or country</p> <p>Example comment:</p> <p>The additional costs of ensuring a property meets the licence conditions will force landlords to sell up and buy elsewhere.</p>	<p>The proposed licence conditions consolidate what a landlord should already be doing regardless of whether there is selective licensing or not. Good, compliant landlords should not need to spend significant sums of money in order to meet the proposed licence conditions.</p> <p>The cost to ensure that a property meets the legal minimum standard is one which a landlord has to bear regardless of any licensing scheme.</p>
<p>Sub Theme - Respondents questioned the appropriateness of seeking reference, citing difficulties in obtaining these and concerns over data protection</p> <p>Example comments:</p> <p>Some landlords and managing agents already ask for references, and some have expressed concerns that it has or would be difficult to sometimes get a reference from new tenants.</p>	<p>Obtaining a reference for prospective tenants allows landlords and letting agents to make sure the tenant they are considering letting their property to has the right credentials e.g. the ability to pay rent and that they will look after their property. The process should help ensure they have good tenants which will not only benefit them but also the neighbourhood.</p> <p>A 2019 House of Commons Briefing Paper - Selective licensing of private rented housing in England and Wales (https://researchbriefings.files.parliament.uk)</p>

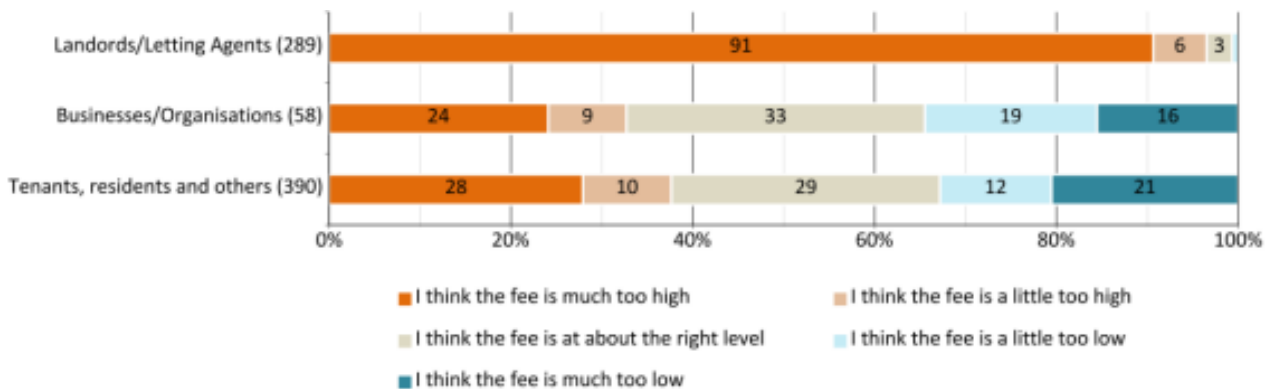
<p>Some prospective tenants that have recently arrived from abroad or it is their first home may not be able provide a reference</p>	<p>/documents/SN04634/SN04634.pdf) - identifies that tenant referencing has had a positive impact in three selective licensing schemes operated by local authorities.</p>
<p>My concern is that I do not feel that condition 15, whereby license holders would need to obtain references from potential tenants, is at all necessary or proportionate. This provides an extra hurdle for renters to have to manage and will not help to increasing available housing. The provision of tenancy history and the like is surely an invasion of privacy of the renter and, more to the point, will undermine one of the primary purposes of this scheme by making it impossible for those coming out of homelessness (or trying to escape an abusive situation, or recovering from substance abuse issues, etc.) To 'get on the ladder' and obtain housing. Employment and income checks are already undertaken by estate agents, a full history of tenancy and checks is excessive. If anything, more support needs to be given to those who do not have a history of tenancy and references to provide.</p>	<p>It is not unusual for landlords to ask for references and so prospective tenants need to be prepared for this.</p> <p>Options do exist as not all references need to have come from the landlord from a past tenancy, some tenants will be letting for the first time.</p> <p>If the proposed scheme is introduced, the Council will provide support, guidance and template references to assist landlords with this stage of a tenancy.</p>
<p>In the detailed guidance, it states that no new occupier's should be allowed to occupy the property if no reference is given. What happens if a current tenant, or perspective tenant, is unable to provide a reference. For example, a homeless person may not be able to provide a reference and this may prevent them from securing accommodation.</p>	
<p>The extent of conditions to be imposed is excessive eg requiring references and a written record of rent payments. References are probably worthless</p>	

<p>Sub-Theme: Some respondent felt that the scheme would be positive if implemented correctly, with others suggesting that it would not be enforceable, and that 'rogue' landlords would find ways of evading it.</p> <p>Respondents advised that landlords already have measures and checks in place to maintain standards.</p>	<p>The proposed team structure includes an Enforcement and Compliance sub team, the aim and objective of which is to identify and address those landlords who have failed to licence their properties.</p> <p>As part of the Council's enforcement work in identifying unlicensed landlords, the Council will look to check property records against the databases held for council tax and housing benefit purposes. This can help with identifying whether a property is rented.</p>
<p>Some participants were sceptical about Birmingham City Council being in a position to implement the scheme effectively.</p>	<p>As the Council is required to publicise the designation widely. This will ensure that landlords, tenant, and residents, will be aware of the legal requirement for a private rented property to be licenced. The Council also expects to receive reports of unlicenced properties via the residents and tenants, the Police and fire service, and other agencies.</p>
<p>Sub-Theme – Respondents sought clarification of some of the proposed licence conditions, with some offering alternatives</p> <p>Example comments:</p> <p>With regard to electrical safety - this should be more specific to include certification for annual and periodic inspections</p>	<p>The licence condition relating to electrical safety is a mandatory ground required by Part 3 Housing Act 2004 and as such cannot be changed.</p> <p>Only furniture and furnishings provided by the licence holder must be compliant with the Furniture and Furnishings (Fire) (Safety) Regulations 1988 (as amended 1989 and 1993).</p>
<p>I have a question about the following point - 'carrying out a lock change prior to a new tenant taking up occupation when the previous tenant has not returned all keys' - this may become a problem in large shared households where turnover of residents can be quite high and may prove quite disruptive for other tenants who may have keys changed every few weeks. I agree action needs to be taken to ensure the security of the property, but other ideas and proposals should be put forward to see if there is an alternative way to ensure this. For example, can keypads be placed on entry doors as it is easier to change a key code than issue new keys to all tenants.</p>	<p>When assessing whether conditions have been met, the Council will be reasonable and if the objective of the condition has been met by another means, it would not seek to take enforcement or compliance action relating to that.</p>

Does furniture that residents bring into the home have to be checked by the license holder to ensure they are compliant with furniture and fire safety regulations 1988. If so, this this may prove problematic for landlords to regulate and also mean that many people will have to get rid of and buy new furniture which is wasteful and expensive

Area 5 – Proposed Fee

The Council have received a range of responses in relation to the proposed fee structure. Many respondents considered that the licence fees should be lower and offer discounts, and there were some that felt that the fee should be higher. The views of respondents who completed the questionnaire is summarised in the table below.



Almost all (97%) of the landlords and letting/managing agents who responded felt that the proposed licence fee was too high (including around nine-out-of-ten overall who felt it was much too high).

In contrast, the views of the remaining stakeholder groups were quite evenly split. Among businesses and organisations, a third felt the proposed fee was about right (33%), a third felt it was too high (33%) and the remaining third or so (34%) felt it was too low.

Similarly, around three-in-ten tenants, residents and other stakeholders felt the proposed fee was about right (29%). Nearly two-fifths (38%) felt it was too high, whereas a third (33%) felt it was too low.

The Council have considered the representations and provide a summary response as follows.

The Council is entitled to charge a fee that would be used to cover the costs of administrating and enforcing the selective designation whilst in force. The decision is that the grant of a licence would be subject to the payment of a fee. The proposal that was consulted on was to set fees for licence applications that took into account all of the Council's costs in

administering and carrying out its licensing functions and carrying out its functions under Chapter 1 of Part 4 Housing Act 2004. The proposed fee structure was calculated on the basis that the scheme would be cost-neutral to the Council, with the licence fee covering the costs of administering the schemes and meeting the objectives. The proposed fee was underpinned by assumptions about the number of licence applications each year over the period of the designation and the likely levels of compliance based on existing schemes in operation by other Local Authorities.

Below is a sample representation of responses received that relate to the licence fee structure along with the Council's response.

Consultation Response	Council Response
<p>Sub theme - The council has proposed a variation licence fee of £80 as part of the proposals to introduce selective licensing in the city. This type of fee is unlawful and should not have been proposed. A licence variation fee principle has already been settled by <i>Oxford City Council v Crompton CAM/38UC/HMV/2013/0006-7</i>. The Housing Act 2004 only allows charging fees for the licence application process, not the variation process, regardless of the amount a variation is being charged for. The council should remove this licence variation fee as it is unlawful.</p>	<p>This proposed charge has been withdrawn in response to the consultation.</p> <p>The costs associated with the administration of variations will be incorporated within the overall costs of the scheme.</p>
<p>Sub-Theme – Some respondents felt that the proposed fee is too high and/or discounts should be offered for landlords who are members of a recognised accreditation scheme</p> <p>Example comments:</p> <p>Provide discounts or exemptions for accredited professional landlords in the proposed guidance for the scheme</p>	<p>The fee has been calculated on the predicted costs of the overall administration of the scheme including compliance and enforcement (except prosecution costs). The fee is based on the Council recovering reasonable costs. Whether a landlord is accredited or holds multiple properties would not affect the overall cost of considering the application, or the cost of administering the whole of the scheme. If a reduction was given, this would result in a short fall of income which would result in an ability to administer the scheme appropriately.</p>
<p>A concern was that good landlords who already meet the standards would have to pay additional fees with no benefits in return for the landlord or the tenant.</p>	<p>The Council supports landlords in being members of accreditation schemes and recognises the benefits it can bring to both landlord and tenant in the successful management and sustainment of tenancies.</p>
<p>The fee is too high</p>	

<p>Offer a reduced fee for block licences, multiple property landlords, and for accreditation membership.</p>	<p>Accreditation requires voluntary landlord engagement and rogue landlords are unlikely to actively engage in these initiatives</p>
<p>Provide discounts or exemptions for accredited professional landlords in the proposed guidance for the scheme, it states the council has calculated that the cost for a five year license to be £670 per property; if a landlord does not lease the property for the full time period, will they be able to claim back part of this payment.</p>	<p>The Council also encourages landlords to join professional bodies and associations so that they have access to sound advice, up to date news and peer advice where it is needed.</p> <p>There is no provision in the fee structure for refunding the licence fee where the property is vacant or changes ownership as the majority of costs in administering the licence application and undertaking a compliance inspection have already been undertaken.</p>
<p>Provide discounts for volume of units owned by professional landlords</p>	
<p>Sub-Theme – A concern raised by many was that landlords might pass on additional costs to tenants. Respondents felt this would be unfair. This concern was often expressed in the context of a general feeling that household budgets are being eroded from all sides, with this being one of many additional costs. Some specific concerns include the rising cost of living, particularly energy, and the loss of the £20 temporary uplift to Universal Credit.</p> <p>If a landlord pays the application fee (part a - £375), but is refused a license, do they have to pay for a new application fee when the agreed changes are made and they want to apply again? If they do have to pay a new fee, this may become very expensive for landlords and this may impact on rents and service charges paid by tenants and also lead to private rented accommodation becoming unaffordable to run and lead to many people losing their homes.</p>	<p>Should a landlord be refused a licence on application, yes, they will have to pay a further application fee. This is because the application will have to be reassessed.</p> <p>The 2019 report commissioned by the Government “An Independent Review of the Use and Effectiveness of Selective Licensing” found no evidence to support the claim that licensing has had a demonstrable effect on rent levels.</p> <p>The actual cost over five years based on the proposed licence fee is quite small.</p> <p>The Council provides support for any tenants in difficulties.</p>
<p>Sub-Theme – Some respondents felt that the fees received from landlords would be used on other Council activities</p> <p>Example comments:</p> <p>The fees were just another way for the council to make money.</p>	<p>Whilst the Housing Act 2004 allows councils to charge a licence fee to cover the cost of administering selective licensing, it does not allow them to make a financial gain. The Government’s Regulatory Impact Assessment attached to SI 2006/373 on selective licensing makes it clear that fees cannot be used to raise extra revenue for the local authority.</p>

<p>Some respondents felt that landlords would be discouraged by the fees and stop renting. This could add to existing lack of private rented homes in the area.</p>	<p>It should be noted that it was stressed at least three times in each consultation event that fees are ringfenced for use on the proposed selective licensing scheme.</p> <p>Overall the costs of the scheme to landlords, and the landlords objections to paying this cost, have been taken into consideration, however, this does need to be balanced against the strong evidence of crime and deprivation, and the need to address this in the proposed designation.</p>
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Theme 6 – Other comments

Consultation Response	Council Response
<p>Sub theme – Outcome and monitoring</p> <p>Example comment:</p> <p>If the scheme is approved, the council should consider providing an annual summary of outcomes to demonstrate to tenants and landlords' behaviour improvements and the impact of licensing on the designated area over the scheme's lifetime. This would improve transparency overall.</p>	<p>Comment noted and accepted.</p> <p>The Council has set clear objectives as part of the proposed scheme. The aim is that these objectives will be used as part of determining the progress that the Council has made. The Council will report its performance annually against these objectives at landlord forums and on its website.</p>
<p>Sub-theme - Some expressed scepticism regarding Birmingham City Councils ability to implement the scheme effectively and a concern that the Council should deal with issues such as property condition, antisocial behaviour, and crime in its own properties before the private rented sector</p> <p>Example comment:</p> <p>Are you going to put your own house in order and start managing local authority properties and dealing with tenant behaviour, crime, anti social behaviour and deprivation in those properties. The issues aren't exclusive the private</p>	<p>Section 79(3) of the Housing Act 2004 exempts socially let properties (both Local Authority and Housing Association tenancies) from selective licensing.</p> <p>The Council are fully compliant with all statutory health and safety requirements. We have robust Quality Assurance Control (QAC) procedures in place to ensure gas servicing, asbestos management, electrical testing, Legionella control, fire safety and mechanical and engineering equipment safety including procedures for continued monitoring and compliance. These QAC procedures have been shared with the Regulator for Social Housing and Birmingham City Council have offered RSH to provide feedback.</p>

<p>rented, your own housing section creates problems</p>	
<p>Some respondents asked why the Council cannot include its own housing in the scheme</p>	
<p>Sub theme: Respondents made recommendations to ensure that at risk children are more easily identified</p> <p>Example comment:</p> <p>There are houses that frequently have multiple families register with health services as living there, yet none of the families do. There needs to be a register that can be cross referenced to ensure children's needs are been met and prevent children from being at risk of neglect within the city.</p>	<p>Comment noted.</p> <p>This suggestion falls outside the remit of selective licensing but does raise a good point. Where the scheme can help identify those children who may be risk, is by ensuring that officers raise concerns with the appropriate department or agency when concerns are identified.</p> <p>Training on identifying concerns and how to raise these is included as part of the induction of new staff members.</p>
<p>Sub theme – Some respondents recommended great information sharing to address antisocial behaviour and criminality</p> <p>Example comment:</p> <p>Police must be granted powers to tackle street crime and community police visits to be carried out with power to interrogate anti-social behaviour. The police should be provided contact data of landlords, especially HMO owners, to be able to contact them if a complaint is received about anti-social</p>	<p>Section 232 Housing Act 2004 requires Local Housing Authorities to publish a public register of HMO's. This register includes contact details for the licence holder.</p> <p>Should the proposed scheme be implemented, the Council will agree a Memorandum of Understanding (MoU) with relevant agencies to facilitate the sharing of information. This MoU will be compliant with the General Data Protection Regulations and Data Protection Act 2018.</p>

<p>behaviour. The owner who does not control the situation must have the license revoked. The current environmental health officer system is not working and complaints keep going in circles. This is especially affecting professionals and the elderly.</p>	
<p>Sub theme – Some respondents queried how the Council will identify and tackle landlords who do not register</p> <p>Example comment:</p> <p>It is not clear how actively council will pursue landlords who do not register and what resources will be allocated for such function.</p>	<p>The proposed team structure includes an Enforcement and Compliance sub team, the aims and objectives of which are to identify and address those landlords who have failed to licence their properties.</p> <p>If approved, the Council is required to publicise the designation widely. This will ensure that landlords, tenant, and residents, will be aware of the legal requirement for a private rented property to be licenced. Where a property is not licensed, these will be identified through data sharing with internal departments, reports from residents and tenants, and the Police and Fire Service.</p>