



Ministry of Housing,
Communities &
Local Government

An Independent Review of the Use and Effectiveness of Selective Licensing

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Contents

Executive Summary	6
Introduction to selective licensing	6
Summary of effectiveness of selective licensing	7
Key mechanisms by which licensing effects change	7
Characteristics of effective schemes	8
Factors that can impede the effectiveness of licensing	9
Other Considerations	10
Recommendations	11
1. Introduction	14
The private rented sector	14
Selective licensing	16
Scheme components	18
2. Methodology	19
3. Survey Results	21
Authorities with a designation in place	22
Authorities considering the introduction of licensing	28
Authorities that have previously considered the introduction of licensing	29
Attitudinal questions	30
4. Depth Interviews	35

5. The Effectiveness of Selective Licensing	36
Key mechanisms by which licensing effects change	37
Joint Working	40
6. Evidence	43
7. Finances	49
Fee Setting	49
Lack of resources	53
8. Enforcement	57
Inspection regime	57
Powers under Part 1 and Part 3 of the Housing Act 2004	62
9. Scalability	69
10. Setup and Administration	79
11. Other Considerations	88
Exemptions	88
National registration scheme	91
12. Conclusions	95
Key mechanisms by which licensing effects change	95
Common characteristics of effective schemes	96
Challenges	98

Annex 1 - Literature review	102
Legislation	102
Guidance	103
Review	103
Annex 2 - Desktop based analysis	106
Annex 3 - Survey results	124
Methodology	124
Summary of Results	124
Annex 4 – Questionnaire	193

Executive Summary

1. The private rented sector has doubled in size since 2002 and now houses 19% of households¹. Alongside this growth, some local authorities have noted an increase in the prevalence of problems such as anti-social behaviour, poor property conditions, low housing demand and elevated levels of crime, deprivation and migration in areas containing high concentrations of privately rented properties. The Housing Act 2004 introduced selective licensing to give these authorities an additional tool to help tackle these problems.
2. Opinion Research Services was commissioned by the Ministry of Housing, Communities and Local Government to carry out a review into the use and effectiveness of selective licensing, and to give recommendations for positive change.

Introduction to selective licensing

3. Part 3 of the Housing Act 2004 gave local authorities the power to designate areas of selective licensing to help tackle concerns over anti-social behaviour and low housing demand. In 2015, the conditions for designation were expanded to include poor property conditions, high crime, high levels of deprivation and high migration. Local authorities can designate an area for selective licensing for five years, but must first demonstrate the evidence for their concerns, look at alternative approaches and consult widely. Subject to limited exemptions, a valid licence must be held by the appropriate responsible person in respect of all privately rented properties in such a designated area, typically the landlord or managing agent.
4. Licences contain conditions with which the applicant must comply over the life of the designation. Local authorities inspect properties in the area and enforce compliance with the conditions of the licence. The licence requires payment of a fee, one part of which covers processing of the application and the remainder supports the associated enforcement scheme.
5. The process of evidence gathering and consultation prior to designation is rigorous and challenging. Where the proposed designation covers either 20% of the total geographic area of the authority or 20% of the total privately rented stock (based on census figures), the designation requires approval by the Secretary of State.
6. This research found that as of the 1st of January 2019, 44 local authorities reported operating one or more such schemes. 4 local authorities operate schemes that cover 100% of the local area, and 9 further authorities report operating a scheme that required approval because of the 20% criterion.

¹ English Housing Survey Headline Report 2017-18

7. The survey results indicated that poor housing conditions and pervasive anti-social behaviour are the most common reasons for the introduction of selective licensing, followed by deprivation and low demand. When London boroughs are excluded from the calculation, low demand as a reason for the introduction of selective licensing is relatively common.
8. With a single exception, local housing authorities with schemes in operation considered their schemes to be at least “fairly effective” in tackling one or more of the issues licensing was introduced to address. Of the responses to this question, 41% were “very effective”, 51% were “fairly effective” and only 9% were “fairly ineffective” or “very ineffective”.² The figures clearly suggest that, in the opinion of authorities currently operating schemes, selective licensing is an effective policy tool.

Summary of effectiveness of selective licensing

9. The research overall indicates that selective licensing can be an effective policy tool with many schemes achieving demonstrable positive outcomes. However, this study also indicates that when implemented in isolation, the effectiveness of selective licensing is often limited. Schemes appear to be more successful as part of a wider, well planned, coherent initiative with an associated commitment of resources – a finding entirely consistent with the aims of the Housing Act.

Key mechanisms by which licensing effects change

10. The research highlighted a number of factors through which selective licensing helps to achieve effective change:
 - It focuses resources on areas of concern whilst simultaneously generating revenue to contribute to the costs involved;
 - It provides a clearly defined offence (licensed/unlicensed) which simplifies enforcement - and where a landlord is intentionally operating without a licence it is highly likely the inspection process will uncover further offences;
 - There is no 24-hour notice requirement for access before an inspection for licensing purposes. This is particularly important where criminal (‘rogue’) landlords are present;
 - The proactive inspection approach frequently brings other problems to light;
 - Licensing provides a clear driver for effective engagement between landlords and local authorities and drives up landlord awareness of their responsibilities;

² These figures exclude the 44% of overall responses given as “too early to tell”. Figures do not sum to 100 due to rounding.

- The pre-designation process focuses local authority minds on the development of clear, transparent and robust enforcement policies;
- Selective licensing encourages the development of effective intelligence gathering mechanisms – extremely valuable both in identifying unlicensed properties and in targeting priority properties, especially where the ideal inspection figure of 100% cannot be achieved;
- Promotion of joint working within the authority and other agencies - fire and rescue service, police, border control/immigration, social services, HMRC etc;
- Development of clear targets and metrics to measure progress and success.

Characteristics of effective schemes

11. The research identified a number of characteristics commonly found in effective schemes:
 - Careful planning, in particular with respect to anticipated costs and also to mitigate the potential impact of underestimating the number of licensable properties;
 - Well thought through and diligent approach to evidence gathering and consultation;
 - A realistic approach to area definition with boundaries carefully drawn to focus on areas with demonstrable problems, although it was clear that problems could genuinely be district wide in some authorities;
 - Licensing forming part of a wider suite of community-based measures aimed at effecting change consistent with the aims and objectives of selective licensing, with a clear political will to support the scheme;
 - Effective engagement with both landlords and tenants, but especially raising, through dialogue and training, landlord awareness of their responsibilities;
 - An inspection regime that is robust, consistent and targeted – dealing with contraventions firmly but fairly, where possible dealing with the worst first;
 - Regular and open publication of progress against targets and outcomes - this encourages trust and support from stakeholders;

Factors that can impede the effectiveness of licensing

12. One factor repeatedly raised by local authorities was that they are not permitted to include conditions on the licence relating directly to property conditions, despite that often being the key reasons for designation. The issue is compounded by the requirements for 24 hours notice for formal action under the Housing Health and Safety Rating System (HHSRS).
13. One of the primary difficulties for local authorities is identifying the true extent of the private rented sector. Virtually all local authorities reported finding more privately rented properties than anticipated, with consequent pressure on resources causing delays and other difficulties.
14. To be effective, any scheme must maintain a focus on identifying unlicensed properties; the research highlighted a high correlation between failure to license and unsatisfactory management and property conditions. An effective policy for identifying such properties (with intelligence gathering a key factor) should be developed at the planning stage.
15. Local authorities consistently highlighted the need for examples of best practice in a range of areas and for formal guidance in respect of evidence requirements, fee setting, enforcement policy, licence conditions, etc.
16. The process of making a designation is perceived to be highly complex and unnecessarily bureaucratic, requiring significant time, money and other resources. However, the importance of thorough consultation was stressed by numerous stakeholders.
17. Where there is a clear and demonstrable case for re-designation after the initial five-year period, the authority needs to repeat the full process required for designation before expiry of the first five years. This diverts resources from the initial scheme and hampers effectiveness. In cases where Secretary of State approval is required, delays to this process can also cause significant concerns, especially to staff working on fixed contracts.
18. Size of the scheme - as schemes get larger, any problems caused by unanticipated circumstances are magnified. Many costs cannot be set directly against the licence fee (e.g. landlord training, tenant support, increased workload for the legal department) and the larger a scheme is, the more problematic resourcing such services can prove. Larger schemes also tend to suffer particular difficulties with recruitment and retention of staff. Any inadequacies in initial fee setting can be severely exposed.
19. Inflexible licence fees - most licence fees take no account of the remaining time of the licensing designation, with landlords required to pay the full cost of re-licensing after holding a licence for a short time only. This can result in understandable resentment and increased non-compliance from landlords.

20. Genuinely self-supporting (no subsidy) schemes are in the minority and typically have higher licence fees.³ The largest single cost of operating a scheme is staffing; setting a fee too low can have significant consequences – usually a reduction in the percentage of properties inspected, delays in issuing licences etc.
21. The 20% criterion was criticised by some contributors for the disproportionate impact it can have on small local authorities. There is also a perceived lack of clarity about the process of validation itself, along with concerns about potentially significant delays.
22. Several respondents reported that completion of the application form was often undesirably onerous, with a typical application form comprising 15-25 pages. The length is dependent on the extent of information required by local authorities in addition to extensive mandatory questions required by legislation. Many considered several of these mandatory questions to be of limited relevance or utility.
23. Currently the only legal mechanism available to challenge a designation is an application for judicial review. This is a complex and extremely expensive process and in reality limits the opportunity for external review, whilst the threat of such action in some cases is sufficient to dissuade authorities from introducing licensing even where there is a legitimate need.

Other Considerations

24. Exemptions - a strong case can be made that purpose-built student accommodation (that adheres to a Government approved code of practice) and non-profit charities that are not registered providers of social housing should be presumed exempt from the licence fee.
25. The introduction of a national registration scheme requiring landlords to identify themselves and the properties they operate was supported by many stakeholders including local authorities and both landlord and tenant groups. Problems for authorities considering or operating a licensing regime frequently relate to a lack of data and associated difficulties in identifying rented properties. A national registration scheme for landlords would help greatly in resolving such problems in addition to other, wider advantages such a scheme could offer. receipt

³ The average cost of a licence amongst authorities reporting a need for subsidy was approximately £570; amongst authorities reporting no subsidy the average was approximately £610.

Recommendations

The evidence presented in this review supports the overall recommendation that selective licensing should be retained.⁴ The research undertaken indicates that the effectiveness of selective licensing could be improved through implementation of the following further recommendations:

1. In its current form, selective licensing legislation precludes authorities from taking direct enforcement measures against landlords where issues of property condition (in particular significant hazards under the Housing Health and Safety Rating System⁵) are discovered during a selective licensing inspection, despite licensing schemes often being introduced specifically to tackle such issues.

To address this, Government should consider amending the mandatory licence conditions with which a landlord must comply to include a standard requirement on property condition that covers the absence of serious hazards, for example:

“the landlord should ensure that the property is in such a condition as to comply with the condition obligation of a landlord under section 9A of the Landlord and Tenant Act 1985 to let and keep a property fit for human habitation within the meaning of section 10 of the Landlord and Tenant Act 1985”⁶

Authorities should be permitted to enforce directly against this condition if prescribed hazards (or other matters set out in section 10) which amount to the property not being fit for human habitation are discovered during a selective licensing inspection (see paragraphs 8.19 to 8.48).⁷

2. Government should consider issuing best practice/guidance as appropriate to support local authorities and improve the implementation of schemes. This best practice/guidance should seek to address the issues summarised in paragraphs 10.31 and 10.32.
3. Government should consider adding to the specific exemptions from selective licensing schemes where the case can be made; such as purpose-built student accommodation that follows a Government approved code⁸ and non-profit charitable institutions that are not registered social housing providers (see paragraphs 11.1 to 11.14).⁹

⁴ As set out in Part 3 of The Housing Act 2004.

⁵ A local authority can take emergency remedial action without 24 hours notice in respect of a Category 1 HHSRS hazard if there is an imminent risk of serious harm; but may not make an emergency prohibition order.

⁶ As amended by the Homes (Fitness for Human Habitation) Act 2018.

⁷ The current list of conditions is found in Schedule 4 to The Housing Act 2004.

⁸ See Housing Act 2004 s233.

⁹ The current set of specified exemptions can be found in The Selective Licensing of Houses (Specified Exemptions) (England) Order 2006.

4. Appropriate criteria that engage validation by the Secretary of State for all designations above a certain level should remain in place at a similar level to the current “20% of the privately rented sector (based on figures from census data) or 20% of total geographic area” threshold.¹⁰ However, Government should consider reviewing this threshold to ensure (see paragraphs 9.11 to 9.29):
 - i. That it relates to up-to-date data sources in the absence of a recent census (but not necessarily private rented sector specific data – see iii);
 - ii. That smaller authorities are not disadvantaged by the criteria; and
 - iii. That it is not based on the current size of the private rented sector in a local authority, given the difficulties inherent in enumerating this accurately.
5. Government should explore options for a “light touch” process for authorities seeking to re-designate an area at the end of a period of licensing. This should apply where there is no substantive change proposed to the existing scheme; and should maintain a requirement for consultation. (see paragraphs 10.5 to 10.10).
6. Government should consider introducing a national registration scheme for landlords to support and complement selective licensing (see paragraphs 11.15 to 11.31).
7. Government should explore alternatives to judicial review as the primary method of challenging a designation, as the process of judicial review can be prohibitively expensive (see paragraph 10.11).
8. Government should consider reviewing requirements for advertising upon designation to ensure they are appropriate; this should reflect the reduction in the circulation of existing newspapers and the widespread use of social media and other electronic formats for the dissemination of information (see paragraphs 7.15 to 7.17).¹¹
9. Currently, in most cases, licenses are issued for a full five-year period regardless of the time remaining on the designation. Local authorities introducing new schemes should adopt the practice of charging the enforcement element of the licence fee on a prorated basis to allow this element of the charge to reflect the remainder of the designation period. This should only apply in cases where there is no evidence of a deliberate attempt to avoid applying for a licence (see paragraphs 10.26 to 10.30).

¹⁰ The current “20%” threshold is found in The Housing Act 2004: Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2015.

¹¹ Current requirements can be found in sections 9 and 10 of The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006.

10. Currently there is an extensive mandatory list of questions that must be asked on any licensing application.¹² Government should consider allowing local authorities to streamline the licence application process for landlords by allowing local authorities to include on the application form only those questions that they consider relevant to their specific scheme. (see paragraphs 10.20 to 10.25).
11. Government should consider expanding the range of offences which can trigger a landlord failing the “fit and proper person” test as part of an application for a licence to include breaches of planning law. (see paragraphs 10.12 to 10.19).¹³
12. Currently, local authorities with a selective licensing designation can investigate housing benefit and council tax data for the purpose of gathering intelligence about the private rented sector.¹⁴ Government should explore options for usefully expanding the range of data that can be shared with local authorities beyond this. This might include revising the appropriate guidance and legislation to take account of the introduction of universal credit (see paragraphs 6.4 to 6.7).

¹² As set out in Schedule 2 to The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006.

¹³ The current set of valid reasons for refusal of a licence is set out in The Housing Act 2004 s89(1-3).

¹⁴ As set out in the Housing Act 2004 s237.

1. Introduction

The private rented sector

- 1.1 The English Housing Survey (EHS) 2017-18 identified that 19% (4.5 million) of households were renting from a private landlord, much higher than the rate of 13.9% a decade earlier in 2007-08, and double 2002 levels. The EHS also shows that households aged 25-34 were more likely to be renting privately (44%) than buying a home, up from 28% in 2007-08. Owner occupation in this age group dropped from 55% to 38% over the same 10-year period.
- 1.2 In Greater London, 29% of households rent privately compared with 21.7% outright ownership, 26.6% buying with a mortgage, and 22.6% renting in the social sector. Outside of London, the privately rented sector is the third largest tenure and is now larger than the social housing sector; 36% outright ownership, 30.1% buying with a mortgage, 17.8% private renting, and 16% social renting.
- 1.3 Growth in the sector seems likely to continue, driven by a combination of demand and supply factors:
 - Increasing demand as the number of households continues to grow;
 - Recent reductions in incomes (in real terms);
 - Reductions in the affordability of owner occupation;
 - Changing bank lending practices;
 - Pensions reform: pension drawdowns invested in buy to let property.
- 1.4 The role of the private rented sector as both a growing and long-term option for meeting the nation's housing need has been acknowledged by range of organisations working in the housing sector. For example, the Intermediary Mortgage Lenders Association forecasted that the private rented sector will increase in size to 35% nationally by 2032.¹⁵ On this basis, the number of households renting privately could double again over the next twenty years.
- 1.5 As the private rented sector expands and other sectors contract, it is clear that many households who would traditionally meet their housing needs in other sectors are now renting privately. This includes many households currently unable to afford their housing costs, which can be seen from the expansion of families receiving housing benefit in the sector; in particular since the start of the most recent recession in 2008.

¹⁵ <http://www.imla.org.uk/resources/publications/reshaping-housing-tenure-in-the-uk-the-role-of-buy-to-let.pdf>

- 1.6 The Office for Budget Responsibility analysis of the UK's public finances for Government explicitly recognises a likely growth in the share of housing benefit claimants in the private rented sector in its Economic and Fiscal Outlook (March 2014).¹⁶

“The share of [housing benefit] spending accounted for by the private rented sector is forecast to rise from 30 per cent in 2007-08 to 40 per cent by 2018-19. ... We expect the share of claimants in the private rented sector to continue rising over the forecast period, but for average awards to rise more slowly than nominal GDP per capita due to policy, including on uprating.”
(paragraphs 4.152-154)

- 1.7 Importantly, the Government sees the private rented sector as having an important and long-term role in meeting the housing needs of the nation; the policy to support low-income households in the private rented sector with housing benefit is long-standing and housing benefit is explicitly factored into the long-term forecasts for public spending. The advent of universal credit will change the manner in which these funds are distributed, but there remains no indication that the spending will reduce or cease.

- 1.8 Policy by both Government and local authorities is focused on improving management and maintenance in the sector (via licensing or self-regulation schemes) and expanding supply (including the Build to Rent investment scheme). The Government published “Improving the Private Rented Sector and Tackling Bad Practice: A guide for local authorities” in March 2015 in which the foreword by the Minister stated:

“The private rented sector is an important and growing part of our housing market, housing 4.4 million households in England. The quality of housing in the sector has improved dramatically over the last decade. It is now the second largest tenure and this growth is forecast to continue growing. I am proud of this growth as it shows increasing choice, improving standards whilst helping to keep rents affordable. The Government supports a bigger and better private rented sector and wants to see this growth continue.”

- 1.9 One of the key powers available to available to authorities to improve management practices in the sector is selective licensing, an option taken by an increasing number of authorities to address problems associated with a large proportion of privately rented properties, especially in areas of low income. Opinion Research Services was commissioned by the Ministry of Housing, Communities and Local Government to conduct an independent research study into the use and effectiveness of selective licensing as a policy tool.

¹⁶ <https://obr.uk/efo/economic-fiscal-outlook-march-2014/>

Selective licensing

- 1.10 Selective licensing was introduced in Part 3 of the Housing Act 2004 (“the Act”), alongside Part 1 (Housing Conditions) and Part 2 (Houses of Multiple Occupation). In its initial form, Part 3 of the Act allowed local authorities to designate an area of their district as subject to selective licensing for up to five years where the area suffered with problems of low demand (e.g. low value properties, high turnover of occupiers, significant vacancy¹⁷) or high levels of anti-social behaviour (in particular where it was felt that the landlords are failing to intervene, and that designation could, in conjunction with any other initiatives, reduce the problem¹⁸).
- 1.11 Such a designation requires all private rented properties within the area (excluding properties falling within certain exemption criteria) to be registered with the authority with an associated fee. The legislation permits funds raised to be used for administration of the scheme and (subject to constraints) enforcement.¹⁹ In its initial form, the designation of an area needed to be “confirmed by the appropriate national authority”. In England, this is currently the office of the Secretary of State for Housing, Communities and Local Government (hereafter referred to as “the Secretary of State”).
- 1.12 In 2010 the requirement for Secretary of State approval was removed and a General Consent granted to prospective designations.²⁰ In 2015, this requirement was revised such that Secretary of State approval was required only in cases where:
- a) *“the designation, either by itself, or in combination with other selective licensing designations made by the local housing authority, would cover more than 20% of the geographical area of the local housing authority; or*
 - b) *the designation, either by itself, or in combination with other selective licensing designations made by the local housing authority, would affect more than 20% of privately rented homes in the local housing authority area, based on figures from census data.”²¹*

¹⁷ Housing Act 2004 (as enacted) 80(3) and (4)

¹⁸ Ibid. 80 (6)

¹⁹ Ibid. 87 (7)

²⁰ The Housing Act 2004: Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2010 para 3

²¹ The Housing Act 2004: Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2015 para 6

- 1.13 In addition, the 2015 revisions to Part 3 of the Act introduced further conditions which, if present, would allow for the introduction of selective licensing. These reasons include anti-social behaviour (ASB), low demand, poor property conditions, high levels of inward migration, high levels of deprivation, and high levels of crime.²²
- 1.14 Obtaining a designation is a significant undertaking; and should be a power only engaged after proper consideration of all alternative options. The Act stipulates that an authority should not make a designation unless:
- “81 (4) (a) they have considered whether there are any other courses of action available to them (of whatever nature) that might provide an effective method of achieving the objective or objectives that the designation would be intended to achieve, and*
- 81 (4) (b) they consider that making the designation will significantly assist them to achieve the objective or objectives (whether or not they take any other course of action as well).” Housing Act 2004*
- 1.15 As of the 1st of January 2019, 44 local authorities reported operating one or more such schemes. Four local authorities operate schemes that cover 100% of the local area, and nine further authorities report operating a scheme that covers more than 20% of the local area.

²² The Selective Licensing of Houses (Additional Conditions) (England) Order 2015

Scheme components

1.16 Important elements of all selective licensing schemes include:

- Planning and setup – this must include consideration of range of elements, such as staffing, IT systems, fee setting and evidencing gathering for the consultation phase.
- Consultation - The Act requires local authorities to engage in meaningful consultation with those likely to be affected by the prospective designation (including landlords, tenants and letting agents).²³ Failure to consult appropriately has led to some schemes being quashed by the courts following judicial review.²⁴
- Licence Conditions – The licence contains a number of conditions which the applicant must meet. In addition to the mandatory conditions stipulated by the Act (section 90(4) and schedule 4), local authorities have leeway to impose “*such conditions as the local housing authority consider appropriate for regulating the management, use or occupation of the house concerned.*”²⁵ As a consequence, in practice there is significant variation between the conditions imposed by different local housing authorities as they seek to address local circumstances in the most effective manner.
- Administration – As part of any application for a licence the local authority is required to establish whether the applicant (whether it be landlord or managing agent) is a “fit and proper person”, and the most “appropriate” person to hold the licence. In addition, mandatory licence conditions require submission of paperwork from the applicant such as gas safety certificates for the property which must be processed, along with any further documentation required by conditions imposed by the specific local authority.
- Inspection/Enforcement – Key to any scheme is an inspection and enforcement regime that ensures that both licences (where required) are applied for and held, and that there is compliance with the conditions of licences issued. In addition to informal action, enforcement powers available to the authority include prosecution for failure to license or breach of licence conditions, revocation of a licence, rent repayment orders, civil penalties, interim and final management orders etc.

²³ In accordance with Gunning principles: R v Brent London Borough Council, ex parte Gunning (1985) 84 LGR 168

²⁴ E.g. R (Regas) v LB Enfield [2014] EWHC 4173 (Admin), December 11, 2014

²⁵ Housing Act 2004 90(1)

2. Methodology

- 2.1 The purpose of the review was to assess how selective licensing has been used as a policy tool, specifically examining design, use and operation across different local authorities. The review set out to establish whether the powers selective licensing provides are sufficient to deliver the intended outcomes, to identify the mechanisms by which licensing achieves its aims, to seek commonalities of successful schemes, and to identify issues impacting on the effectiveness of selective licensing. In addition, it set out to objectively establish whether selective licensing achieves its intended outcomes, through analysis of publicly available data.
- 2.2 The review consisted of four distinct phases with oversight from a board of stakeholders. These stakeholders included representatives from the Chartered Institute of Environmental Health, Greater London Authority, Local Government Association, National Landlords Association, Residential Landlords Association, Shelter, Rotherham Metropolitan Borough Authority (an authority in which selective licensing is in place) and Fenland District Authority (where the authority gave serious consideration to selective licensing but ultimately did not proceed).
- Review of Existing Literature – see Annex 1
 - Desktop Research – An attempt was made to demonstrate the effectiveness or otherwise of selective licensing through the examination of publicly available datasets such as house price changes and the Index of Multiple Deprivation. The analysis consists of comparing areas with designations against similar areas without. A discussion of methodology and findings is presented in Annex 2.
 - Survey – an email invitation to complete an online survey was sent to all 326 lower tier and unitary authorities in England, irrespective of whether or not they had a selective licensing designation in place.²⁶ 273 local authorities completed and returned the questionnaire. An overview of the results is presented in Chapter 3. More detailed results and the questions themselves are presented in Annex 3 and 4.
 - Depth Interviews – In-depth interviews were conducted with representatives of 30 local authorities, alongside 16 other stakeholders drawn from landlord organisations, tenant organisations and other interested parties. The content of these interviews was shaped by both the responses to the survey and informal interviews with a range of stakeholders.
- 2.3 The methodology of the desktop research utilised the Index of Multiple Deprivation as the key dataset for analysis due to its scope (i.e. living environment, crime, barriers to housing and services etc.) and by virtue of the fact that it is the only available dataset produced at a sufficiently small geography (lower-layer super output areas). This

²⁶ Prior to the formation of new unitary authorities in 2019.

allowed for the aggregation of these small areas, such that results could be established for an area that geographically approximates a given area of designation. However, the index does not differentiate by tenure, and as such the private rented sector could not be analysed in isolation. As a result, it cannot be discerned whether a given output (e.g. an improving living environment) is directly associated with owner occupied, privately rented, or social housing. Since licensing pertains specifically to the private rented sector, this was a serious limitation.

- 2.4 As is explained later in the report, outside of the Census, detailed or reliable information on the privately rented sector at any local geography is difficult to obtain. Until such data is available, it appears that an objective analysis of the effectiveness of a selective licensing scheme cannot be successfully undertaken without access to data held by the local authority in question.

3. Survey Results

- 3.1 The survey consisted of two main sections: the first gathered details about scheme(s) or plans for schemes that are/were present in the authority in question, whereas the second section gathered opinions concerning the effectiveness of licensing. These opinion-gathering questions took the form of statements taken from other published literature on selective licensing (both for and against), and the subject was asked to what extent they agreed or disagreed with these statements. Multiple free text sections were also included for responses to questions about the effectiveness (or otherwise) of selective licensing and any ways in which its effectiveness could be improved.
- 3.2 A completed response to the survey was obtained from 274 of 326 (84%) local authorities. Follow up desktop-based research established that, of the authorities that elected not to respond, none had a selective licensing designation in place. All London boroughs responded to the survey. Unsurprisingly, the most detailed responses were mostly from authorities who currently run a scheme.
- 3.3 The breakdown of respondents as of January 1st 2019 was as follows:
- 44 local authorities reported having one or more schemes in operation,
 - 4 authorities had a borough-wide scheme in place,²⁷
 - 15 of the 44 authorities with one or more schemes currently in operation reported having previously run schemes
 - 38 authorities reported never having run a scheme, but were considering or intending the designation of an area in the foreseeable future,
 - 3 authorities reported having previously had one or more areas designated (since time expired or revoked), and that they were considering the reintroduction of selective licensing,
 - 2 authorities reported having previously had one or more areas designated (since time expired or revoked), and that they were not considering the reintroduction of selective licensing,
 - 40 authorities reported previously having considered introducing a scheme, but it did not come into effect,
 - The remaining 146 respondents reported having never considered there to be a need for selective licensing in their authority.

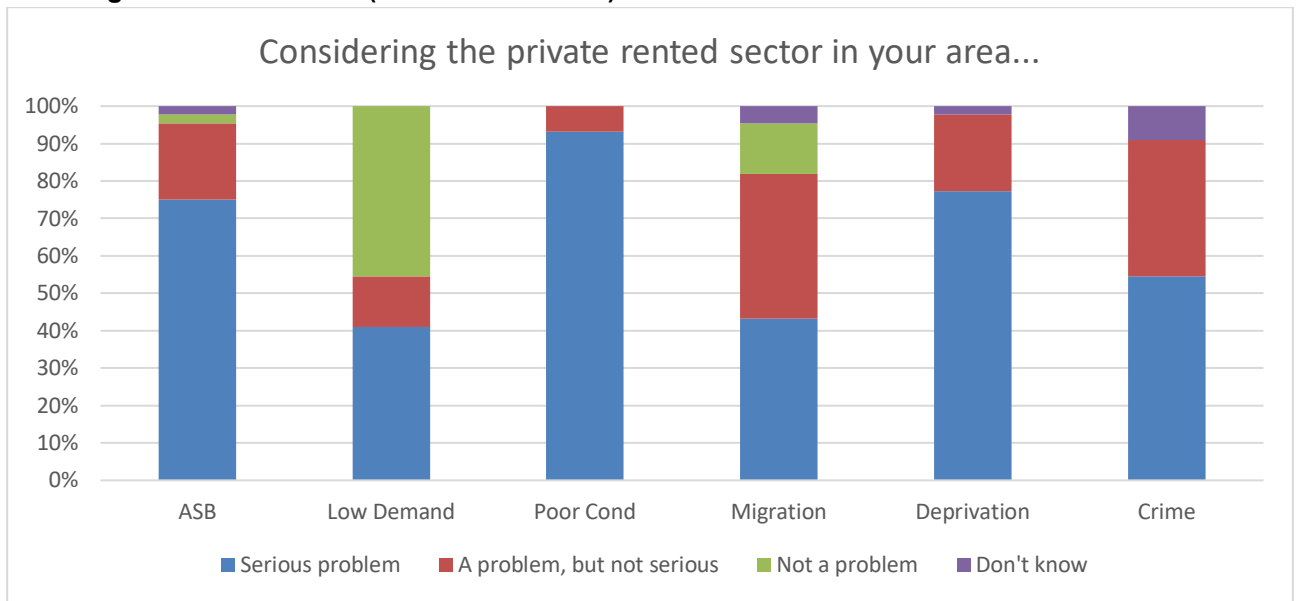
²⁷ The first two bullet points tally with other publicly quoted figures, e.g. from the Guardian newspaper: *“There are currently 44 local authorities in England and Wales with selective licensing schemes running. Of those, just four cover the whole of the borough in which they are enacted, according to the property technology company GetRentr.”* – Source: <https://www.theguardian.com/business/2018/oct/23/the-rogue-landlords-loopoles-how-the-law-fails-renters> 23rd October 2018.

Authorities with a designation in place

Reasons for introduction

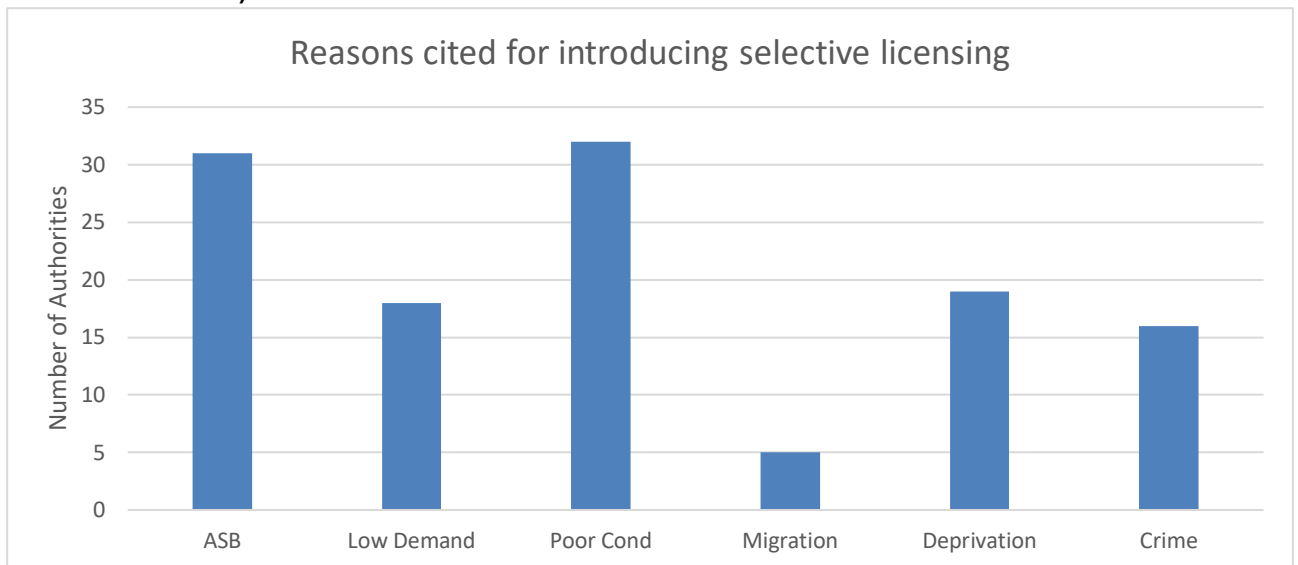
- 3.4 Considering only the 44 authorities that have a designation in place, the graph below (Figure 1) illustrates local perception of the scale and extent of the various problems for which selective licensing can be introduced:

Figure 1: Local perceived levels of problems in the private rented sector for which selective licensing can be introduced (Source: ORS 2019)



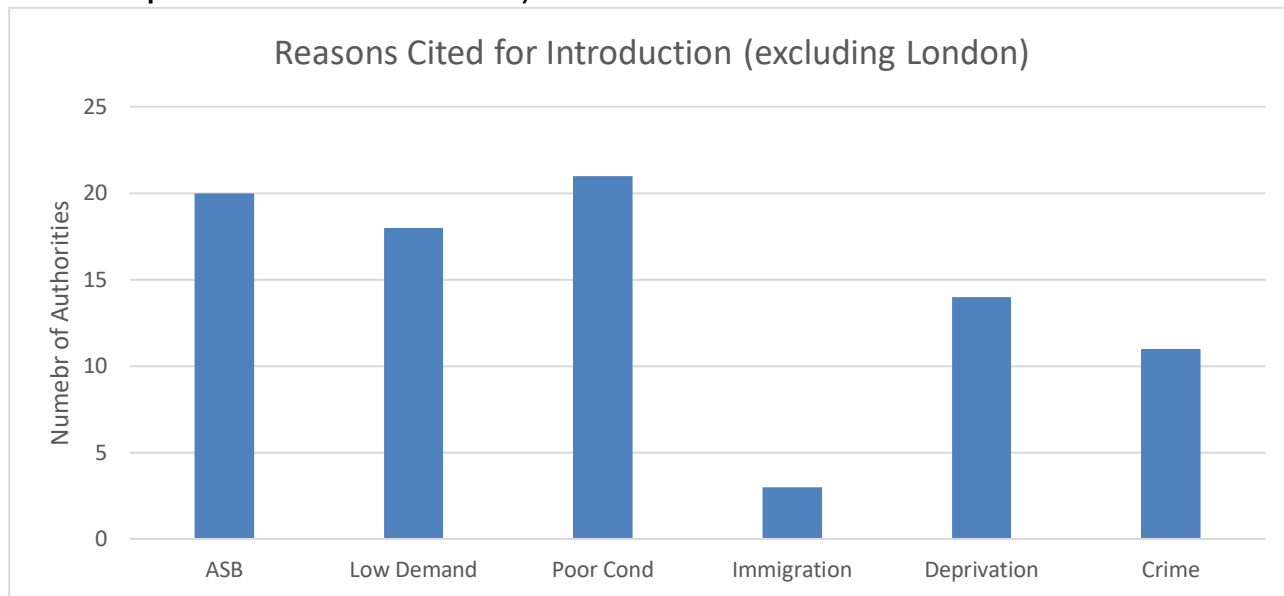
- 3.5 The most consistently serious problem noted was that of poor property conditions, followed by deprivation and anti-social behaviour (ASB). This graph is consistent with the reasons given for the introduction of selective licensing (Figure 2). Note that many local authorities cited more than one reason for introduction:

Figure 2: Reasons cited for the introduction of selective licensing (multiple selections permitted. Source: ORS 2019)



3.6 It can be seen from the above that poor conditions and ASB are the most common reasons for the introduction of selective licensing, followed by deprivation and low demand. When London is excluded from the calculation (where low demand is not a significant issue) low demand as a reason for the introduction of selective licensing is relatively more common in other parts of the country than Figure 2 would indicate (Figure 3):

Figure 3: Reasons cited for the introduction of selective licensing, excluding London (multiple selections permitted. Source: ORS 2019)



3.7 7 of the 44 (16%) authorities reported that their scheme(s) had been the subject of an application for judicial review, or that there was a credible prospect of such an application being made.

3.8 27 of the 44 (61%) authorities reported that their scheme was administered by a dedicated selective licensing team, with an average team size of 13.6 persons. However, it should be noted that the size of these teams varied between two and 76 persons, dependent on the size and operation of the scheme in question.

3.9 Only 19 of the 44 (43%) authorities reported that the monies raised through licence fees supported the scheme in full. 36 of the 44 (82%) authorities charged landlords separately for the costs of formal enforcement against them, and of these 36, 11 reported that this covered the full cost of such enforcements (see paragraph 8.13).

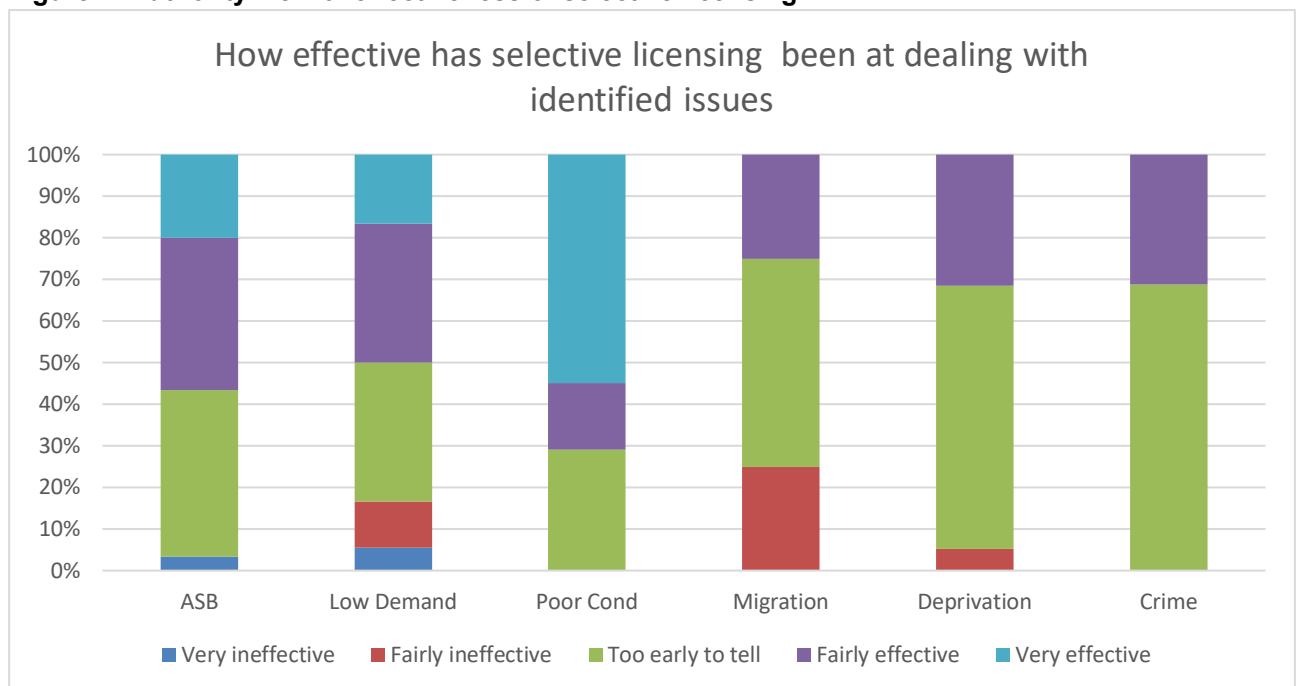
3.10 The survey responses indicate that the average cost of a licence fee is approximately £600; and that typically around a third of this cost goes toward processing applications.²⁸

²⁸ It is difficult to calculate an accurate figure due to the variety of fee structures across local authorities, e.g. early application discounts, multiple property discounts, accreditation discounts, pro rata reductions etc.

Effectiveness

- 3.11 With a single exception, local housing authorities unsurprisingly considered their schemes to be at least “fairly effective” in tackling one or more of the issues licensing was introduced to tackle. A single authority rated their scheme “very ineffective” at dealing with both of the issues which led to its introduction. Nonetheless, they have recently made a new designation in a separate area of the authority.²⁹ Of the responses to this question, 41% were “very effective”, 51% were “fairly effective” and only 9% were “fairly ineffective” or “very ineffective”.³⁰ This total of 91% “fairly effective or better” clearly suggests that, in the opinion of authorities currently operating schemes, selective licensing is an effective policy tool.
- 3.12 The breakdown of responses by issue is shown below in Figure 4:

Figure 4: Authority view of effectiveness of selective licensing



- 3.13 Authorities rated their schemes as “very effective” most notably with regard to dealing with poor property conditions, and to a lesser extent ASB and low demand. With regard to the other reasons for introduction, selective licensing was rated as having a less positive impact, but a positive impact nonetheless. In terms of interpreting the results for migration (which at first glance looks the least positive), it should be noted that there were only four responses in this group, and two of those were “too early to tell”.

²⁹ It may be noted that the characteristics of the new area are significantly different to the previous, as is the local authority’s approach.

³⁰ These figures exclude the 44% of overall responses given as “too early to tell”. Figures do not sum to 100 due to rounding.

Evidence

- 3.14 Authorities were asked in the survey to provide details on the reasoning informing their answers concerning the effectiveness of the scheme. This question elicited a wide variety of responses, including detailed specific figures as to the change in several areas, to more general observations about changes due to selective licensing.
- 3.15 An example of a detailed and specific response was:

“We have completed 671 Property inspections to date and from 561 HHSRS inspections we found:

- *Number of properties meeting the HHSRS standard: 157 (28%),*
- *Number properties failing to meet the standard: 404 (72%),*
- *Number of Hazards identified: Cat 1 hazards: 137,*
- *Cat 2 hazards: 1181.*

A resident survey in the first year of the scheme showed:

- *93% of residents are satisfied with their home is a place to live.*
- *87% of those that rent their current accommodation are satisfied with the landlord.*
- *18% reduction in the number of empty properties.*
- *19% reduction in the number of properties that have been empty for six months or longer.*
- *38% reduction in housing turnover.*
- *98% of properties are now licensed -this figure will be over 100 it is now at this point because of turnover of ownership.*
- *House prices are up 16% on the year before.*
- *17% reduction in anti- social behaviour - in the borough as a whole it was just 1%.*

All properties inspected are offered early intervention support to help them achieve a stable home, employment and a healthier lifestyle.”

3.16 An example of a more general response was:

“ASB - In the existing schemes we have responded to complaints about antisocial behaviour and worked with tenants and landlords to resolve matters. We deal with all cases of housing antisocial behaviour reported to the Selective Licensing Team in conjunction with the Anti Social Behaviour team. Residents are appealing for the Council to extend one of the schemes because they appreciate the active presence of the Selective Licensing Team. The Team attend monthly residents’ meetings along with the police. Also, monthly case conferences are held jointly with the police and the Antisocial behaviour officer. Furthermore, area walkabouts are undertaken with the Ward Councillor and services and Action Weeks/Days are held in partnership with the Resident’s Association. All of these activities help to keep ASB matters under some control. There has also been a reduction in the number of Antisocial behaviour complaints reported to the Council. Although the number of Antisocial behaviour complaints reported to the police has increased these are non-housing related.

Low Demand - We have witnessed and rectified some appalling housing conditions including a lack of adequate heating, lighting which was not working, lack of guarding to staircases, we have met tenants who were afraid to sleep in their own beds due to the front door which did not lock or the rat infestation in their homes. The physical and mental health implications of these issues should not be underestimated. Such property conditions are not acceptable and should not be tolerated. However, not one of the people living in the properties with these defects complained to the Council. These properties were inspected, and the hazards eradicated because of the Selective Licensing intervention.

We work proactively to target long term empty homes in the current Licensing areas to increase the useful housing stock in the city as well as reduce the opportunities for crime, squatting and anti-social behaviour.

We have demonstrated that house prices have increased in the areas. However, we understand that the wider financial housing market will have a major influence on house prices.”

3.17 The overall impression given by these comments collectively is that authorities in general have a clear idea of the impact of selective licensing, with considerable variation in metrics tracked and associated success criteria. 38 of the 44 reported that they had “specific and measurable targets” that they hoped to achieve by the end of scheme.

3.18 Again, some of these were highly specific and monitored regularly:

“Our targeted outcomes for our scheme are,

- *To reduce repeat ASB incidents in licensed properties by 10%.*
- *Reduce Housing hazards as modelled from predicted baseline by 10%.*
- *Improve licensing compliance rates and property standards by 25% from 2016 baseline.*
- *Reduce overcrowding in licensed properties.*

We monitor specific outputs monthly and every 12 months plan to assess their effect on the targeted outcomes.”

3.19 Others were more general, intending a long-term review:

“Number of licences issued, rewires, fire detection, excess cold and length of tenancy, currently assessing case by case and all data will be reviewed at the end of year 3”

3.20 Yet others were indicative of the challenges associated with large schemes:

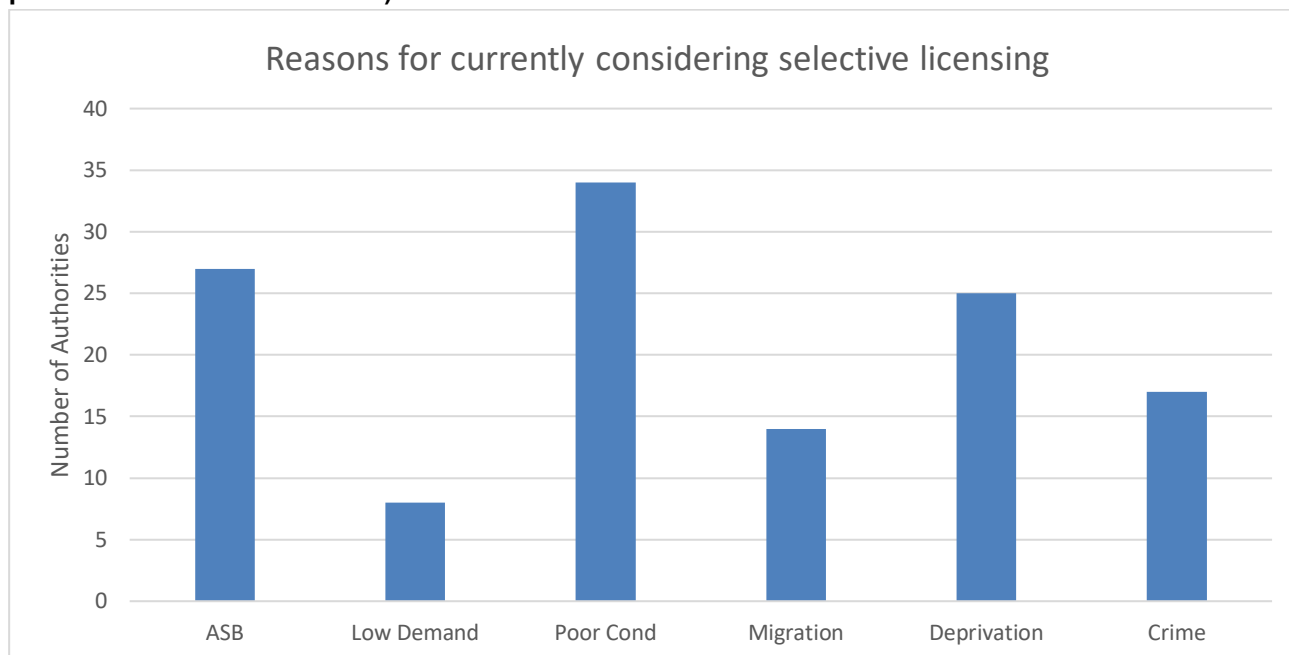
“To physically inspect all 18000 properties that have applied for licence”
(response from a 100% scheme)

3.21 Issues concerning the size and scale of schemes are discussed later in this document.

Authorities considering the introduction of licensing

- 3.22 Of the 41 authorities considering or intending to introduce selective licensing (38 for the first time), the main reasons cited were poor property conditions, ASB and deprivation (Figure 5).

Figure 5: Reasons cited for considering the introduction of Selective Licensing (multiple selections permitted. Source: ORS 2019)

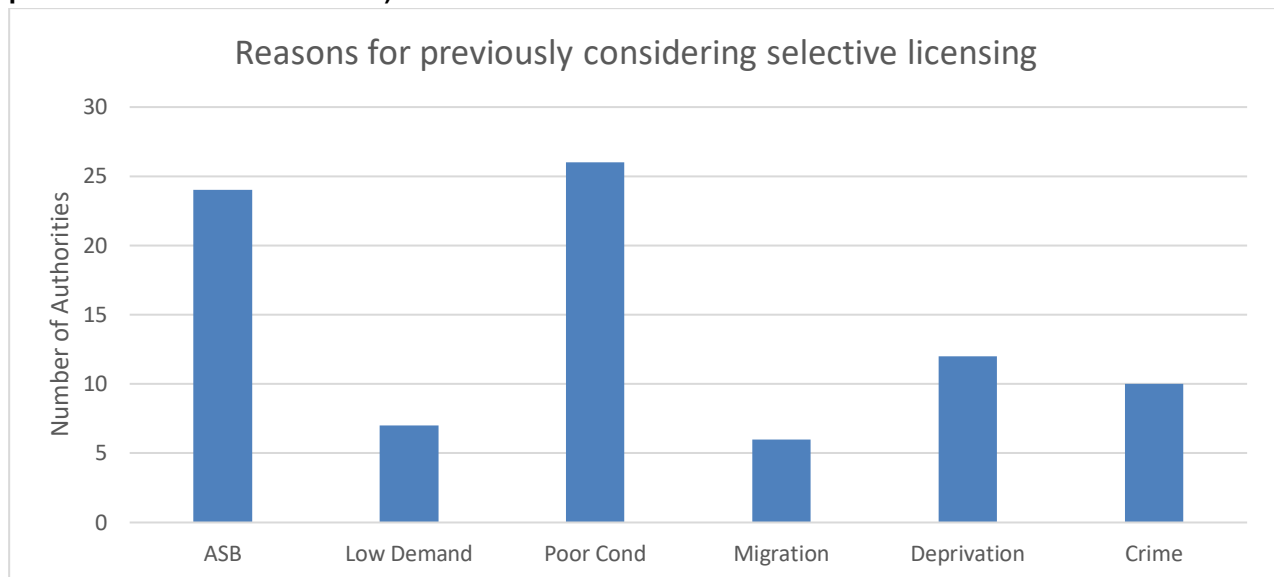


- 3.23 13 of these authorities have already taken their plans as far as a public consultation or intend to do so in the very near future (before June 2019). 16 authorities report that they intend their scheme to start in less than a year (three were expecting designation within six months of completing the survey). Three authorities report they are considering a whole district scheme, and two further authorities are considering a scheme large enough to require Secretary of State approval. 12 authorities report having measurable targets in place (mostly amongst those close to or beyond the consultation stage), however the targets cited are mainly general in nature, with several authorities emphasising that they are still under development.

Authorities that have previously considered the introduction of licensing

- 3.24 The 40 authorities that reported previously having considered the introduction of selective licensing in their area without it coming into effect cite similar reasons for consideration of its introduction as has been seen in other groups (Figure 6). The primary emphasis is on ASB and poor property conditions.

Figure 6: Reasons cited for considering the introduction of Selective Licensing (multiple selections permitted. Source: ORS 2019)



- 3.25 The reasons given for not introducing licensing fall into a small number of discrete categories. 9 authorities cited difficulties providing the necessary evidence to support a scheme, 7 authorities concluded that the issue was with a different sector than the wider privately rented stock (primarily HMOs), and 11 cited a lack of resources or political will as being a key consideration. All the authorities implemented an alternative initiative to tackle the problems that had led to the consideration of licensing, and in 11 cases the reason given for not adopting licensing was this alternative course of action. A single authority cited the prospect of judicial review as the reason for non-adoption, and three came to the conclusion, after some investigation, that licensing was unnecessary.
- 3.26 The two authorities that had previously operated designations reported that selective licensing was effective at dealing with the issues for which it was introduced, but they had not considered its reintroduction since those issues were no longer present.
- 3.27 Of the 146 authorities that reported that they have never considered there to be a need for licensing in their area, 36 felt that the designation of one or more areas of selective licensing could potentially be a useful tool to help address specific housing issues in their district in the future. In contrast, 77 felt it would not potentially be useful, and 33 did not have a view.

Attitudinal questions

- 3.28 As part of the survey, authorities were presented with positive and negative statements concerning selective licensing, drawn from stakeholder material in the public domain. The full results of these attitudinal questions can be found in Appendix 2. In interpreting the results presented below, it is important to be mindful that the most popular responses amongst the whole body of authority respondents are heavily skewed toward those without licensing, since this group is five times larger than the number of authorities with designations in place. To mitigate this effect, the responses of the two groups are also presented separately.

Agreement

- 3.29 Overall, when considering all respondents to the survey, the statements that most commonly met with agreement from those who expressed a preference were:³¹

Statement	Percentage Agreed
“The process to that has to be followed prior to designation of an area is too complex and requires the input of very substantial resources.”	96.4%
“Selective licensing sets clear standards that all landlords should follow”	95.6%
“Selective licensing ensures landlords and their agents will be readily identifiable”	95.5%
Selective licensing helps to improve the knowledge of landlords regarding acceptable standards in private rented housings”	94.2%
Selective licensing helps to ensure minimum standards for rented housing are met”	94.1%

- 3.30 These responses indicate that the prevailing opinion amongst authorities is that the setup of a selective licensing scheme is overly complex and expensive. However, authorities also recognise that it can bring genuine benefits.

- 3.31 When considering only those authorities with a designation, the statements that most commonly met with agreement from those who expressed a preference were:

³¹ Discounting responses of “don’t know” or “neither agree nor disagree”

Statement	Percentage Agreed
“Selective licensing enables targeted enforcement of landlords”	100%
“Selective licensing contributes to protecting the health, safety and welfare of the community”	100%
“Selective licensing helps authorities gain extensive knowledge about their private rented sector”	100%
“Selective licensing ensures private landlords are managing homes”	97.7%
“Selective licensing helps to ensure minimum standards for rented housing are met”	97.7%

3.32 Amongst those with a designation: the facility for targeted enforcement, expanding the knowledge of local housing and improved tenant welfare were universally (100%) agreed to be benefits of selective licensing. Almost all (97.7%) agreed that selective licensing led to better management of properties and that it helped ensure minimum standards were met. Given that one of the core goals of the policy tool is to improve management practices and raise standards, this is strong evidence for the effectiveness of selective licensing from those that understand it in practice.

3.33 When considering only those authorities without a designation, the statements that most commonly met with agreement from those who expressed a preference were:

Statement	Percentage Agreed
“The process to that has to be followed prior to designation of an area is too complex and requires the input of very substantial resources”	97.2%
“Selective licensing sets clear standards that all landlords should follow”	97.2%
“Selective licensing helps to improve the knowledge of landlords regarding acceptable standards in private rented housing”	96.1%
“Selective licensing ensures landlords and their agents will be readily identifiable”	95.9%
“Selective licensing helps to ensure minimum standards for rented housing are met”	94.4%

- 3.34 The perception of licensing amongst those without a designation is that it is a costly and complex process to set up, but once in place offers genuine benefits in terms of raising standards and expanding the knowledge available to the authority about the private rented sector.

Disagreement

- 3.35 Overall, when considering all respondents to the survey, the statements that most commonly met with disagreement from those who expressed a preference were:

Statement	Percentage Disagreed
“Selective licensing is not fit for its intended purpose of reducing specific problems in the private rented sector”	81.3%
“Selective licensing is an unfair burden on responsible landlords”	78.6%
“The funding of selective licensing schemes lacks transparency”	73.6%
“Selective licensing helps to reduce the number of empty properties”	71.3%
“Selective licensing does not provide sufficient additional powers to the authority”	71.1%

- 3.36 The perceptions amongst local housing authorities as a whole are that selective licensing is fit for purpose, transparent in its funding arrangements and that it does not unduly burden good landlords. These three criticisms are often levelled by groups/individuals against the introduction of licensing, so it is interesting to note that they do not resonate with local authorities as a whole. The group also felt that the licensing regime gives sufficient powers to the authority in question.

- 3.37 When considering only those authorities with a designation, the statements that most commonly met with disagreement from those who expressed a preference were:

Statement	Percentage Disagreed
“Selective licensing is not fit for its intended purpose of reducing specific problems in the private rented sector”	96.9%
“Selective licensing schemes are not properly monitored”	92%
“Selective licensing is an unfair burden on responsible landlords”	91.9%
“Selective licensing schemes fail to set specific, achievable goals”	91.2%
“The funding of selective licensing schemes lacks transparency”	89.2%

- 3.38 Almost the entirety of respondents with a designation in place (all but one) felt that licensing is fit for purpose. The prevailing opinion was also that funding for schemes is transparent, sensible targets are set and that adequate monitoring policies are in place. The group also disagreed with the notion that licensing is an unfair burden on responsible landlords.

- 3.39 When considering only those authorities without a designation, the statements that most commonly met with disagreement from those who expressed a preference were:

Statement	Percentage Disagreed
“Selective licensing helps to reduce the number of empty properties”	77%
“Selective licensing can reduce the availability of mortgages”	76%
“Selective licensing does not provide sufficient additional powers to the authority”	70.6%
“Selective licensing is not fit for its intended purpose of reducing specific problems in the private rented sector”	65.9%
“Selective licensing schemes are not properly monitored”	65.7%

- 3.40 Amongst those without a designation, there was clear doubt over the effectiveness of licensing in reducing empty homes. However, it is important to consider this result in context, as the majority of respondents to the question amongst this group replied: “don’t know” or “neither agree nor disagree”. This is in contrast to responses amongst authorities with a designation, in which the majority expressed a preference, and, of those that did so, the majority felt that licensing does help to reduce the number of empty properties in the area.
- 3.41 The group disagreed with the criticism occasionally levelled that licensing reduces the availability of mortgages. It should be noted that the research carried out as part of this review has found no basis for this assertion. In fact, examples were found of banks with lending schemes targeted at designated areas, since these areas were perceived as lower risk due to the ongoing drive by authorities to drive up standards in these localities.
- 3.42 The group were also mostly of the opinion that licensing is fit for purpose, that it conveys adequate powers to the authority in question, and that there is no issue concerning monitoring.

4. Depth Interviews

- 4.1 Depth interviews were conducted with representatives from 30 different local authorities, along with 16 stakeholders.
- 4.2 The local authorities were selected from those that had consented to follow up interview as part of the survey. Around two thirds of the authorities interviewed currently have licensing designations in place (split approximately equally between those operating their first designation and those that have operated designations in the past), with the remainder a mixture of those that have operated designations in the past (but do not currently), those that are currently considering licensing, those that have previously considered licensing (but it did not come into effect), and those that have never considered there to be a need for licensing in their district.
- 4.3 The 16 stakeholders included representatives from landlord and rental agent associations, tenant organisations, environmental health, local government organisations and others. Beyond the formal interview subjects, informal telephone conversations were held with other stakeholders that wished to contribute, and a range of written submissions were further submitted to the review.
- 4.4 The depth interviews consisted of lengthy discussions (one to three hours) on all facets of selective licensing, serving to provide a detailed and in-depth perspective of the benefits and shortcomings of both individual schemes and the policy tool as a whole.
- 4.5 The framework of the discussions was established by evaluation of the results of the survey, the literature review, and informal preliminary conversations with as many of the stakeholders as was possible in the timeframe available. In addition to the 16 stakeholders who undertook the formal interview, four further stakeholders contributed through informal interview only. Several stakeholders and authorities contributed written submissions for consideration as part of the review, and several publicly available documents were referenced and discussed (e.g. consultation and evaluation documents, financial statements, examples of licence conditions etc.).
- 4.6 The remainder of this document presents findings from the totality of this evidence.

5. The Effectiveness of Selective Licensing

- 5.1 The research overall indicates that selective licensing can be an effective and positive policy tool. There are a wide range of concrete examples of schemes achieving demonstrable positive outcomes. Furthermore, these schemes operate in a range of different ways dependent on local conditions and requirements, demonstrating that selective licensing provides a flexible framework to reflect local circumstances.
- 5.2 However, it is also clear that there is considerable variation in the effectiveness of individual selective licensing schemes: some do not achieve tangible, positive results to the same degree as others. The extent to which a scheme is integrated into wider local strategies appears to play a key role in its effectiveness.
- 5.3 This study indicates that when implemented in isolation, the effectiveness of selective licensing is often limited. It appears that schemes tend to be more successful as part of a wider, well planned, coherent initiative with associated commitment of resources. This is entirely consistent with the purpose of licensing as set out in the Housing Act under section 80 when discussing low demand and ASB:

“80(3)(b) that making a designation will, when combined with other measures taken in the area by the local housing authority, or by other persons together with the local housing authority, contribute to the improvement of the social or economic conditions in the area.

80(6)(c) that making a designation will, when combined with other measures taken in the area by the local housing authority, or by other persons together with the local housing authority, lead to a reduction in, or the elimination of, the problem.” Housing Act 2004, Part 3

- 5.4 This wording “*when combined with other measures taken in the area...*” is reflected in the secondary legislation “The Selective Licensing of Houses (Additional Conditions) (England) Order 2015” in reference to the additional conditions for which selective licensing can be introduced.
- 5.5 Part 3 of the Act goes on to make other references to the use of licensing in combination with other initiatives:

81(2) The authority must ensure that any exercise of the power is consistent with the authority’s overall housing strategy.

81(3) The authority must also seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour, both—

(a) as regards combining licensing under this Part with other courses of action available to them, and

(b) as regards combining such licensing with measures taken by other persons.

- 5.6 It would therefore seem clear that the intent of the policy set out in Part 3 was that selective licensing be utilised as an integral part of a coherent, wider initiative. This research indicates that this is the case in practice, with the most successful schemes typically utilising selective licensing as a one of several strands aimed at regeneration or improvement of an area. Such initiatives require an appropriate allocation of resources, typically as a result of political will, a key aspect of effectiveness that is explored in a later section.

Key mechanisms by which licensing effects change

Focuses resources on areas of concern

- 5.7 A primary benefit of selective licensing is that it offers a mechanism whereby authorities can concentrate efforts and resources on a specific area with identified problems, whilst simultaneously recovering a contribution to the costs involved. This allows authorities to develop a local response to local problems. However, to gain the maximum benefit from the approach, it is important that a local authority gives careful thought to the area boundary. As set out by the Act, the designated area should include significant proportions of privately rented stock with problems within the relevant condition(s), whilst avoiding areas where the concentrations of such properties do not warrant such intervention. In this way, resources can be targeted effectively, ensuring focused effort is applied where it is needed, and the designation is more likely to achieve general support.
- 5.8 The scarcity of freely available and up-to-date information about the private rented sector presents a particular difficulty to local authorities. As such, obtaining sufficient data to define an area boundary accurately often presents a practical hurdle: they may find funding such research difficult; and changes may occur as more evidence becomes available through consultation. It may also be noted that there is a correlation between the size of a scheme and the difficulties associated with administering it effectively (discussed below in Chapter 9: “Scalability”).
- 5.9 Two authorities (neither had a designation in place) suggested that a lack of knowledge about the privately rented sector in their area was in itself a reason to introduce selective licensing. This is an inappropriate practice since the Act clearly sets out that the function of selective licensing is to address problems in the private rented sector, rather than as a tool for investigating the extent of problems within and nature of the sector itself.

Provides a clearly identifiable licensed/unlicensed offence

- 5.10 In terms of ease of enforcement, the absence or otherwise of a licence is a matter of fact: an unambiguous, clearly identifiable offence that can potentially lead to prosecution. This clarity simplifies the enforcement process.
- 5.11 In seeking out and identifying privately rented properties that are unlicensed, local authorities are likely to identify criminal landlords who are happy to operate without due regard to statutory obligations (i.e. so-called “rogue” or “criminal” landlords). Where a landlord is intentionally operating without a licence, it is considered likely that there are other violations present which can then be investigated and pursued as necessary.

Allows authorities a simple route to access properties of concern

- 5.12 A significant proportion of participants highlighted the fact that a selective licensing regime gives local authorities the power to enter a property (and then proceed to take enforcement action) without providing 24 hours notice under section 239 of the Housing Act 2004 or having to obtain a warrant. This is particularly important in areas where serious overcrowding or other activities in breach of statutory requirements are significant issues. In the case of overcrowding, if the local authority gives notice of their intention to inspect, the criminal landlord can temporarily reduce the number of occupants, remove any evidence of overcrowding prior to inspection, and then resume as before once the inspection has been completed. Alternatively, the landlord may instruct his tenants (a particular issue for vulnerable tenants fearing retaliatory eviction) to simply not answer the door when the authority arrives. This leads to rescheduling of the visit and a further drain on already strained resources.
- 5.13 Notice requirements associated with Part 1 of the Housing Act can inhibit effective assessment of the circumstances in a dwelling; and can also contribute to the problem of retaliatory eviction. Local authorities also emphasised the value of joint working in this respect, as inspections in tandem with another agency, (a commonly cited example was a uniformed officer such as a fire officer offering to check smoke alarms), serve to further mitigate concerns around retaliatory eviction amongst vulnerable residents.
- 5.14 It should be noted that the problems outlined above were not universal across all licensed areas. Where there is a lower incidence of criminality/exploitation, the powers to gain access promptly are less of a factor.

Proactive not reactive approach

- 5.15 In the absence of a licensing regime or other initiative for planned inspections, authorities predominantly respond to complaints from tenants in the absence of any other data on the location of problems such as poor housing conditions. This is a reactive approach which in practice will tend to exclude more vulnerable tenants, who may fear retaliatory eviction, or simply be unaware of their right to complain about poor housing conditions. As such, these hidden, unrecognised, or unarticulated issues will be unlikely to be identified through a purely reactive approach.
- 5.16 Proactive inspection of properties to establish if they are unlicensed or otherwise non-compliant with licence conditions will also tend to bring to light other significant problems of which the local authority was previously unaware, along with the opportunity to take appropriate action. As a result, issues can be dealt with quickly and effectively that would otherwise have remained hidden, potentially indefinitely. This is not limited to the issues for which the licensing regime was introduced; many authorities reported finding and helping tenants with addiction, mental health issues or similar concerns, along with more serious criminality such as modern slavery and human trafficking.
- 5.17 Furthermore, several local authorities noted an effect whereby landlords become more likely to comply with standards simply by virtue of knowing that the authority are undertaking proactive work in the area. This effect is more prevalent where there is good communication between landlords and the local authority, through which landlords as a group become more aware of the extent of the authority's efforts.

Provides a clear mechanism and driver for landlord engagement

- 5.18 The view of many participants to the review is that a large proportion of instances of substandard landlord practice are due to ignorance, not deliberate intent. Many authorities reported identifying a significant number of landlords who were unaware of their responsibilities, or even that they qualified as a landlord. In introducing the requirement to license, authorities engage landlords: ensuring gas safety checks are carried out, ensuring that landlords understand their responsibilities to tenants (and vice versa), often offering training and support, encouraging a more professional sector overall and securing higher standards.

Joint Working

- 5.19 A common characteristic of effective schemes is good joint working relationships with other authority departments and other agencies. Joint working with the fire and rescue service, police (including specific task forces), border control/immigration, HMRC and fraud investigation services, social services and similar agencies can lead to a range of positive outcomes over and above ensuring compliance with licence conditions.
- 5.20 There are several examples of excellent practice in this respect around the country. One authority explained that when inspections in a given street/small area are taking place, they set up a “pop-up” drop in centre, so tenants can talk through any concerns they may have, acting effectively as a mobile citizens advice centre. Other examples of excellent joint working practices included training inspectors to look for signs of loneliness, depression, or other issues relating to mental health amongst tenants, with referrals then being made to the appropriate department. Equally, if a tenant is identified by an inspector as needing assistance into employment, dealing with addiction, being a potential victim of slavery or other exploitation etc., other authority agencies and schemes are engaged to offer help. Such tenant welfare focused approaches can lead to significant community benefits and make a valuable contribution to the overall effectiveness of licensing schemes, despite their impact being difficult to measure.

Working with landlords

- 5.21 Utilising local authority resources for landlord and tenant forums is a common practice, however, such events are used in different ways by authorities. A common characteristic of effective schemes is open lines of communication with landlords and tenants. A landlord forum, for example, can be used simply to allow landlords a place to obtain support, but when it is also used for the authority to report on its activities over the last period it can act to reassure landlords that worthwhile work is being done with the licence fee. Landlord organisations frequently argue that there is a lack of transparency on the part of local authorities in respect of the use of financial resources and the levels of action being taken, with a feeling of not getting anything in exchange for the licence fee. Proactively working with landlords and regular reporting of licensing activity helps to mitigate this concern, not least as improvements in the designated area become apparent.

Landlord training

- 5.22 A common trait of effective schemes is effective landlord training. As previously mentioned, the research suggests that many landlords that fail to comply with standards do so out of a lack of knowledge, rather than deliberate intent. As such, offering landlords the opportunity to receive education and training in their responsibilities is key to supporting them in raising standards.
- 5.23 In particular there is often a need to support and educate landlords regarding tackling ASB appropriately since it covers a wide range of activity (dumping refuse, noise, vandalism, street drinking, firework misuse etc.). This can be a delicate issue: one particular concern highlighted more than once was how authorities would respond (support or penalise) a landlord needing to evict a vulnerable tenant for recurring ASB where the tenant in question was placed by the authority as part of a homelessness reduction strategy.

Proactive landlord communication

- 5.24 The research clearly shows that consistent and open dialogue with both tenants and landlords can have a very positive impact on the effectiveness of a licensing scheme. Helping such stakeholders to see the benefits and positive outcomes of schemes lowers resistance, increases compliance, and can be a valuable source of intelligence in identifying non-compliance.
- 5.25 Several examples of excellent landlord interaction came to the attention of this review. For example: one authority ensured genuine, two-way engagement with landlords during consultation, offered discounts to accredited landlords, and also offered a one-day course to landlords without accreditation so they could also benefit from the discount. To maximise this aspect of the scheme, the authority appointed a dedicated accreditation inspection officer. They also have a landlord licensing platform online, offering advice, support, training, premade paperwork (inventories, tenant's booklets, six monthly check "crib sheets", end of tenancy forms etc.) and a tenant referencing service provided through the secondment of four police officers. These officers look for records of criminal activity on the part of the prospective tenant, and flag (without being specific as to the nature of the offence) concerns to the landlord in question. There is regular free training for landlords on topics such as dealing with ASB, drug related problems, modern slavery etc. To those landlords that subscribe to the service, a regular email update of all activities conducted by the licence team is made available. Other authorities report the successful use of social media to regularly highlight positive outcomes.
- 5.26 Some authorities have engaged in joint working with banks and insurance companies, offering discounts to licensed landlords as they are perceived as representing a lower risk to the institutions. Several participants highlighted the importance of providing tangible benefits to landlords as part of their scheme.

Impact on agents

- 5.27 The Act requires that an “appropriate person” is the licence holder, and this can equally be a management agent instead of a landlord. However, this puts additional responsibility on the shoulders of the agent. Local authorities report that the introduction of licensing causes poor managing agents to cease trading in the area rather than hold licences and risk enforcement action being taken against them, and in this way the sector is improved. Furthermore, landlords who are concerned that they do not have the time or ability to meet the required standards are incentivised to engage the services of a responsible, competent professional agent, again leading to improvements in management practices.
- 5.28 Given the variation in matters of joint working across local authorities, and the clear benefits of taking an effective, proactive approach, there is a strong case for issuing of a best practice document on this topic.

6. Evidence

Identifying the private rented sector

6.1 One of the primary difficulties affecting authorities introducing selective licensing is the identification of the private rented sector itself. Almost every authority reported discovering more privately rented properties than they had previously believed to exist (often significantly more). The only exceptions amongst larger schemes were those authorities that spent significant (typically around £30,000) on commissioned research prior to designing their scheme.

6.2 One response to the survey clearly illustrates the difficulty and expense of appropriate evidence gathering, whilst simultaneously requesting guidance from the Ministry on what is acceptable:

Evidence to meet criteria - the evidence base needed for a declaration is significant and there is no guidance on what is acceptable.

For our latest proposal we commissioned the Building Research Establishment (BRE) to produce a stock analysis report on conditions in the private rented sector. This cost £47k. There is also an annual update charge to keep the data relevant for future schemes of £32k.

We also used information on the PRS from Council Tax, Housing Benefit, our own complaints records, Energy performance data, Tenancy Deposit Protection Scheme information and yet we have still been challenged on our evidence base, many of which end up at the LG Ombudsman and take a huge amount of officer time to justify and there is still a possibility of receiving a Judicial Review.

If we could have clear guidance from The Ministry of Housing, Communities and Local Government (MoHCLG) on what would be acceptable evidence for all of the possible areas of declaration, and this would help enormously.

6.3 This lack of intelligence on the true extent of the private rented sector often provides a significant impediment to authorities, since there is a need to demonstrate firstly a connection between the problems an area is suffering (reports of ASB, high crime etc.) and the privately rented sector, and secondly that selective licensing will be an effective tool to tackle the issue. Smaller schemes can gather such intelligence by, for example, engaging in door knocking exercises, although even this approach is not likely to be 100% effective. Even if a complete knowledge of the location of all privately rented stock at a point in time can be established, changes in tenure can be quite common, rendering such information less accurate over time. Many authorities report benefitting from the assistance of licensed landlords and residents (both tenants and neighbours) in continuously updating their knowledge of the sector.

6.4 This issue can be mitigated by applying data analytic techniques to pooled data held authority wide (an approach demonstrated to be extremely effective in one London borough that has since been adopted by other authorities – see paragraph 8.7), but this is again a resource heavy and potentially expensive solution. Some authorities related internal difficulties in obtaining data from other departments due to strict data protection policies; notwithstanding the fact that section 237 of the 2004 Act permits the use of data for such purposes.

6.5 Section 237 of the Act states:

Use of information obtained for certain other statutory purposes

(1) *A local housing authority may use any information to which this section applies—*

(a) *for any purpose connected with the exercise of any of the authority's functions under any of Parts 1 to 4 in relation to any premises, or*

(b) *for the purpose of investigating whether any offence has been committed under any of those Parts in relation to any premises.*

(2) *This section applies to any information which has been obtained by the authority in the exercise of functions under—*

(a) *section 134 of the Social Security Administration Act 1992 (c. 5) (housing benefit), or*

(b) *Part 1 of the Local Government Finance Act 1992 (c. 14) (council tax).*

[(3) The Secretary of State may by regulations amend this section so as to change the list of purposes for which a local housing authority in England may use information to which it applies.]

6.6 It is notable that 2(a) and (b) above cover housing benefit and council tax. One local authority in which Universal Credit was rolled out in 2016 explained that the impact of no longer being able to obtain housing benefit data as a source of intelligence to inform their scheme was negatively affecting its effectiveness. Since universal credit replaces housing benefit, amending legislation to allow authorities access to this information in support of a licensing designation would seem appropriate.

6.7 Beyond council tax and housing benefit/universal credit, there are other data sources of potential utility in identifying landlords and their properties (see paragraph 11.26 to 11.29), although careful consideration of any associated data protection issues would be necessary before these could be shared in this context. Nonetheless, given the inherent difficulties faced by local authorities in identifying the private rented sector, Government could potentially explore options for usefully expanding the range of data that can be shared with local authorities beyond that currently available.

Funding

- 6.8 Some authorities have reported abandoning proposals to make a designation when it became clear that the evidential standard required simply could not be met without substantial investment in advance that could not realistically be secured. Other authorities that did undertake such a process reported terminating their plans to introduce selective licensing as the intelligence gathered demonstrated that the problem under investigation was associated with a different sector (for example HMOs or social housing).
- 6.9 In one instance, where the evidence base reportedly seemed to be suitably robust, the local authority in question had a significant concern that it did not have the funds to defend any potential application for judicial review, so decided not to pursue licensing any further rather than suffer the risk of such costs. There was no live threat of judicial review at the time; merely the hypothetical prospect of such a threat in the future when measured against available funds was sufficient to dissuade the authority from proceeding. On balance, it seems that authorities with more limited resources to deal with identified local problems encounter an evidence-based barrier to introducing a licensing scheme, which would itself help to generate the resources necessary to address these problems. Authorities in such a position have to seek alternative methods of dealing with the identified issue; but miss out on the “*significant assistance*”³² that selective licensing offers.
- 6.10 Where authorities have made a designation, in cases where significantly more privately rented properties than were previously assumed are found, difficulties commonly arise in administering the scheme due to the increased number of applications. Authorities report that this leads to unanticipated pressure on both IT systems and administrative staff; and can lead to significant delays in the issuing of licences. One approach to dealing with this issue is to divert staff resources from enforcement to administrative work, but this has the effect of reducing the number of inspections that can be conducted, thus further compromising the effectiveness of the scheme. This is a particular problem for the minority of schemes that intend to inspect properties prior to the issuing of a licence.

Unidentified Properties

- 6.11 A lack of intelligence as to the location of private rented stock can also lead to unlicensed properties not being identified or inspected. This poses a clear risk to vulnerable tenants occupying mismanaged properties with potentially serious consequences for their health and welfare. A common theme identified by this research is that effective schemes tend to have clear strategies for the ongoing identification of unlicensed properties. Methods of identification vary widely between authorities (see paragraphs 8.6 to 8.8). If these properties are not identified and

³² Paraphrased from the Housing Act 2004 81(4), quoted earlier.

inspected, the scheme runs the serious risk of not dealing effectively with criminal landlords, whilst focusing disproportionate attention on those that have applied for and hold a licence. This process of identification is greatly enhanced with a thorough understanding of the extent and nature of the privately rented sector prior to the initial planning phase. This intelligence facilitates realistic estimates of the resources required to process applications in a timely manner, to inspect licensed properties and to engage in the ongoing identification of unlicensed properties.

- 6.12 As an illustration of this problem, in the implementation of one London borough wide scheme in 2013, the authority initially received 27,500 applications, against an expected total of 35,800. Strategies based on extensive data analysis were implemented to identify unlicensed properties, and after the full five years of the scheme the total had increased to over 49,000 licence applications. Had such strategies not been implemented, failure to deal proactively with this issue could therefore potentially have led to over 20,000 unlicensed dwellings and a significantly less effective scheme.
- 6.13 However, in the interest of balance, such examples must be contrasted with smaller schemes. A quarter of authorities with schemes in place have designations covering fewer than 2,000 properties across all tenures. In such cases, obtaining and maintaining intelligence about the private rented sector is considerably less challenging. Nonetheless, irrespective of the number of properties in the designation, it is clear that an effective policy for the identification of unlicensed properties is crucial.

Targets and metrics

- 6.14 As discussed previously, the majority of authorities have clear and measurable targets that they hope to achieve through their scheme, although it is important to note that these targets in some cases have to change in light of new intelligence gathered or changes in circumstance as the scheme progresses. For example, more than one authority with an initial target to reduce the number of reports of ASB described having to modify this target, as the number of reports of ASB (e.g. reports of fly tipping or noise complaints) increased dramatically with the introduction of licensing. The reason for the increase was that members of the local community became far more likely to report instances of ASB as it became clear that the authority was taking action to deal with the problem. To criticise such an authority for failing to meet its target under such circumstances would be manifestly unfair, and it is difficult to see how such a phenomenon could be planned for in advance in terms of resource allocation.
- 6.15 The example of the London borough given in paragraph 6.12 above clearly illustrates the need for flexible planning and target setting. Such an increase in applications (in that particular case over a third beyond that expected and planned for) will of necessity lead to significant ramifications to the operation of the scheme in terms of staffing requirements, application volume, numbers of enforcement actions etc.
- 6.16 There is considerable variation in the type and number of metrics tracked by authorities, reflecting local circumstances and the range of reasons that licensing can

be introduced. The survey showed that the level of evidence supporting effective outcomes of schemes recorded and monitored by authorities is typically more than appropriate, and usually reflects the baseline metrics presented in consultation. Examination of several consultation documents revealed these metrics to be drawn from a range of evidence. Where the information was available to the authority, these metrics were often wide ranging and detailed, with the intention being to provide the most thorough support possible for the authority's position. The survey also showed that metrics are often enhanced by extra information gathered that was unavailable at consultation stage as the scheme progresses.

- 6.17 The frequency of interim reporting varies from authority to authority, but all authorities had a commitment to providing a detailed report at the end of the scheme. Annual interim reporting as a minimum is recommended as a best practice to ensure appropriate accountability and an overview of scheme progress. This should include progress against targets, along with the reporting of basic metrics (number of licences issued, average time between application and granting of a licence, number of unlicensed properties identified, total income and outgoings etc.)
- 6.18 Some landlords have questioned the effectiveness of selective licensing schemes on the grounds that they perceive little or no tangible action to be taking place or little or no progress being made. Accordingly, such landlords question the value for money of the scheme. This sentiment is less common where local authorities have planned for and implemented genuine and effective landlord engagement as part of their scheme. Such authorities report improved working relationships with landlords, and increased levels of compliance and professionalism as a result. A key component of such engagement is keeping landlords up to date on the schemes progress and tangible outcomes. Authorities that do not regularly update landlords in this way gave two main reasons: a lack of resources to regularly collate and report such information, and concern about opening themselves up to criticism as to how resources were being used.
- 6.19 More than one landlord organisation in the review made reference to low prosecution figures resulting from various schemes as evidence of licensing's lack of effectiveness. However, it can clearly be argued that prosecution figures in themselves are not an appropriate measure of success given that the primary goal of selective licensing is not to secure prosecutions of landlords, but rather to raise standards through compliance. In the vast majority of cases where a licensing inspection has identified an issue, this is highlighted to the landlord, who then complies with the requirement, and the use of prosecution powers is not required. Each such instance is a contribution to raised standards across the area, but no figure is added to prosecution statistics.
- 6.20 Overt criminal activity aside, prosecution figures therefore represent cases in which such compliance has not been achieved through other means at the authority's disposal such as guidance and support. Whilst being a clearly appropriate and necessary metric in many cases, the number of prosecutions in itself is not a valid parameter against which to measure effectiveness of the licensing regime. No authority that participated in this review had a target based around a quota of

prosecutions. The targets set by authorities were almost entirely based on running the scheme well (maximum time to issue a licence, rates of property inspection), improvements made to the community (reduction in ASB, reduction in empty properties) and around the welfare and well-being of tenants (reductions in category 1 hazards³³, tackling overcrowding etc.).

6.21 A related phenomenon was commented upon by many authorities. In licensed areas with effective and visible enforcement activity, landlords appear more inclined to remedy hazards and defects, and manage properties in a more professional manner with minimal (or without) local authority intervention. This appears to be a key driver of positive change in an area designated for selective licensing. As such, whilst it is indeed appropriate to record prosecution statistics, it is crucial that a suitable range of metrics is selected that that reflects in the round the overall improvements in the area and thus the effectiveness (or otherwise) of the scheme.

³³ Category 1 and 2 hazards relate to the Housing Health and Safety Rating system (HHSRS). A category 1 hazard is any hazard that scores more than 1,000 on this rating system. These risks are sufficiently serious that the local authority has a duty to intervene.

7. Finances

Fee Setting

- 7.1 Genuinely self-supporting (no subsidy) schemes are in the minority and in practice have higher licence fees.³⁴ The largest single cost of operating a scheme is staffing, therefore setting a fee too low to cover this cost adequately will invariably lead to negative consequences. In cases where the fee is low and there is no subsidy, it is usually the case that somewhat less than 100% property inspections are conducted, or that other problems (e.g. delays in issuing licences) arise that can impede the effectiveness of the scheme (see “Lack of Resources”, paragraph 7.8 onwards).
- 7.2 As an example, one large metropolitan scheme has amongst the lowest licensing fees of all authorities despite being authority wide, and reports that the scheme supports itself. However, it became clear early in the life of the scheme that the original goal of inspecting every property was not feasible (due in part to the considerable amount of privately rented stock unknown to the authority prior to the introduction of licensing), so the target was amended to inspection of at least one property per landlord. When asked about the fee setting process, it was explained that there was a perceived need to keep the cost of the licence under a particular level as a result of stakeholder pressure, despite it being clear that this would be likely to lead to problems in the future.
- 7.3 Fee setting is therefore of critical importance to assuring the effectiveness of a scheme. Many authorities reported difficulties in this process, with the most common strategy being to ask other authorities with designations in place what their approach had been and then adapting it as necessary. Several authorities suggested that some guidance or best practices in this respect would be particularly valuable, as not only would this give confidence in the best way to proceed, it would also add weight to their methodology when defending it against any objections to the scheme. Some authorities reported differences between their fee structure and those of a neighbouring authority as being cause for complaint amongst licence holders; and expressed that a guidance document would be of significant help in dealing with this issue, not least as it would encourage consistency between neighbouring authorities.
- 7.4 In setting fees, many authorities reported that discounts for early adoption, and other forms of discount (for example discounts for accredited landlords, reduced rates for multiple properties, reduction on a pro rata basis³⁵, phased payment plans etc.) were extremely effective in encouraging timely licence applications. However, the financial implications of such discounts must be carefully assessed to ensure that the scheme remains adequately resourced.

³⁴ Average cost of a licence where authority reports need for subsidy = approximately £570, where authority reports no subsidy required = approximately £610).

³⁵ The prorating of licence costs only applies to the enforcement component of the fee, as the cost of processing the application does not change.

Issues and difficulties

7.5 Common issues around fee setting include:

- A lack of certainty as to what expenses could legitimately be set against the monies raised by licensing. The Act stipulates that monies raised can only be used to support administration and enforcement of the scheme, but there is no explicit definition of either.³⁶ This has been further complicated by two recent court decisions (R (on the application of Hemming (t/a Simply Pleasure Ltd) and others) (Respondents) v Westminster City Council³⁷ and R (Gaskin) v Richmond-upon-Thames LBC³⁸), in which it was clarified that the licence fee needed to be clearly separated into the cost of processing the application (Part 1) and then the costs of administration and enforcement including inspections (Part 2).
- The survey showed there is still some confusion from authorities despite clarification being issued by MHCLG, for example as to whether setup costs (such as advertising and recruitment) could be claimed back from the licence fees at a later date. The opinion was expressed that this is a significant deterrent to authorities considering designation:

Fee structures - the whole issue about what can be included into the fee structure is questionable. There are significant costs just to work up proposed schemes and there are question marks about whether these can be recovered. The recent Richmond v Gaskin case has raised questions about whether the preparation costs for a licensing scheme can be incorporated into the licensing fee along with all of the officer time to analyse the results, undertake the consultation and prepare the licensing reports. This is an enormous deterrent to LA's to consider implementing licensing schemes unless they are able to underwrite all of these initial upfront costs. Clarification from MoHCLG on whether these costs can be incorporated in the licensing fees would be extremely helpful.

- It is clear from court decisions that licensing is explicitly prohibited as a means of generating revenue over and above that necessary for the operation of the scheme. This has further led to some authorities being extremely cautious as to what can be charged against licence fees as opposed to being met from the local authority general fund. This can lead to over-caution: examples were given of costs being met by the general fund that could legitimately be taken from licence income. However, in reality such expenses were generally very limited; the majority of the funds generated through licence fees are spent on the staffing costs associated with the scheme.

³⁶ Housing Act 2004 87(7)

³⁷ Hemming v Westminster [2015] UKSC 25 (On appeal from: [2013] EWCA Civ 591)

³⁸ R (Gaskin) v Richmond-upon-Thames LBC [2018] EWHC 1996 (Admin)

- A lack of knowledge as to what costs actually are associated with the setup and running of a scheme. Authorities that are setting up a scheme for the first time do not have experience of the costs of such an undertaking and may underestimate as a result. Costs associated with IT systems, transportation of inspection officers around the area, recovering monies etc, are often underestimated. Budget should be made to not only inspect licensed properties but also to locate unlicensed properties, and this can be hard to estimate in the first instance.
- Questionable assumptions are sometimes made in fee setting. For example, one authority interviewed discussed at length the contribution to the fund that they anticipated from civil penalties. The advantage to authorities of seeking civil penalties rather than prosecution with an associated fine is that the resultant monies return to the authority to be used for further housing enforcement. Civil penalties were introduced relatively recently, and authorities are very much in favour of the option to levy such penalties. However, authorities have reported difficulties in recovering the financial penalties levied, and costs incurred in doing so. By assuming a revenue stream from civil penalties that would support the licensing designation (and relying on this to set a lower licence fee), this particular scheme could find itself in some difficulty if penalties levied cannot be recovered or if there were to be a higher level of compliance amongst landlords than anticipated.
- Failure to plan for significant numbers of unlicensed properties. One large licensing scheme reported large scale indifference from landlords toward the introduction of licensing. A large proportion of landlords decided to simply ignore the licensing designation until such time that they received a “letter with their name on it” demanding that a licence must be obtained. As a result, the authority received far less income than it originally planned for; and lacked the resources to vigorously pursue these unlicensed landlords. As a result, the scheme has been significantly less effective than it would might otherwise have been. In any scheme it is highly likely that there will be a group of landlords who remain unlicensed. The costs of robustly tackling this common issue must be taken into account.
- Failure to plan for extra costs that cannot be set against licence fees. For example: a successful licensing scheme will often lead to an increase in work for the authority legal department, especially if a robust enforcement policy is in place. If the legal department does not have sufficient staff to cope with this consequent increase in workload, then enforcement action becomes protracted and less effective. This can lead to a situation where authorities make threats of legal action which in practice do not materialise. Similarly, in working with landlords to tackle ASB, the authority may need to hire an additional ASB officer(s) to support the effort. Again, if the resources are not available then the scheme will be less effective. As was discussed previously (paragraph 5.16), a well-run scheme will often find increased incidences of addiction, alcoholism and other problems. Resources should be available to tackle these issues, and the law requires they be from a source other than the licence fee itself.

In the most effective schemes, there is close joint working with and associated resourcing for the relevant departments to deal with such issues as they arise. Therefore, the most effective schemes are those in which the political will is present to ensure resource allocation toward a wider program of improvement to the area, of which selective licensing is but a single component part (e.g. the initiatives outlined in paragraph 5.20).

- Failure to account for variable administrative costs. Authorities report that the processing of an application can take anywhere from 15 minutes to a full hour depending such factors as the specific information requested by the authority, the IT systems being used, the ease with which fit and proper persons checks can be carried out etc. This range means that the potential staff hours that will be required in administration may vary by as much as a factor of four. Some authorities have an intentionally “streamlined” approach to applications, requiring the bare minimum of documentation and information from an applicant (preferring to obtain extra information later in the licence period where necessary), whereas other authorities prefer to obtain as much information as possible in the first instance. If assumptions around administrative resource requirements are made before the nature of the administrative process is fully defined, it may be the case that there is insufficient staff to process the influx of applications in a timely manner.

Income from enforcement

- 7.6 As previously stated, authorities generally were very much in favour of the use of civil penalties as part of the enforcement regime, as these penalties are returned to the local authority’s general housing fund (rather than the Treasury, as is the case with civil prosecution). In addition, there are examples of other forms of supplementary income connected with licensing (but separate to licence fees), notably through the recovery of unpaid council tax in connection with privately rented properties.
- 7.7 In a standard privately rented property, council tax is paid by the tenant, whereas in a house of multiple occupation (HMO), the responsibility lies with the landlord. The licensing scheme in one London borough revealed a large number of HMO landlords that were attempting to avoid the payment of council tax by putting it in the name of a former (or entirely fictitious) tenant. Licensing inspections revealed these properties to be HMOs, and the landlords in question were thereby demonstrated to be liable for large amounts of unpaid council tax, which the local authority set about recovering. The average landlord participating in this deception owed some £2,000 in unpaid council tax. To date, the scheme has recovered approximately £5.8 million in unpaid council tax through the identification of HMOs as part the selective licensing inspection regime.

Lack of resources

- 7.8 Where there are insufficient resources supporting a selective licensing scheme (typically as a result of deficiencies in fee setting and/or unexpected levels of previously unknown rented properties), as described previously there are two key problems that commonly arise: either delays in issuing licences or insufficient enforcement. However, supportive action around the licence scheme is necessary to maximise effectiveness, which requires separate resourcing. Furthermore, there are costs associated with the setup of a scheme such as consultation, publicity and recruitment that also need funding. In addition to purely financial considerations, recruitment of staff can pose a separate difficulty.

Supportive action

- 7.9 It is important to note that there should be sufficient resources made available by local authorities to facilitate supportive action over and above administration and enforcement. Many landlords who are non-compliant are not necessarily trying to exploit their position, rather they may just be unaware of their responsibilities. Several authorities reported this phenomenon, and this points to the importance of effective arrangements for landlord education and support being in place. Several successful schemes offered regular landlord forums, accreditation schemes, dedicated relationship officers, helplines and other support mechanisms to help landlords. In addition to the obvious benefit of supporting landlords in raising standards, these schemes also helped to promote good relationships and cooperative working with landlords, with an associated benefit of encouraging a culture whereby good landlords would assist the authority in identifying the bad. Such benefits are difficult to accurately measure; but certainly appear to make a valuable contribution to the effectiveness of a given scheme.
- 7.10 As a corollary to landlord support and education, some schemes also offer similar tenant support. These initiatives are far less common, and authorities typically report that tenants are often unaware of the designation. However, where there are such workshops, forums and similar, it can provide a valuable source of engagement through which residents can learn about their rights and responsibilities as a tenant, along with increasing their understanding of how best to deal with issues associated with their tenancy (e.g. disrepair, non-returned deposits etc.).³⁹ These engagements can also assist in identifying illegal activity, unlicensed landlords, and other intelligence of interest to the authority. Again, the benefits of such community engagement are hard to quantify; but appear positive.

³⁹ For a wider discussion of the prevalence and consequences of a lack of tenant knowledge and sources of advice in the privately rented context see “A qualitative research investigation of the factors influencing the progress, timescales and outcomes of housing cases in county courts” – MHCLG Nov 2018, in particular section 3.12

- 7.11 Further to landlord support, it is often the case where there is high crime, deprivation or ASB, licensing brings to light social problems such as addiction, depression, alcoholism, mental health issues, unemployment, overcrowding, modern slavery etc. Where there is an increase in the number of these cases being brought to the authority's attention, this puts added pressure on the departments responsible for supporting these individuals. If the departments are not sufficiently resourced, there is a risk that this support becomes less available, and the underlying social factors that contribute to the decline of an area are consequently not dealt with appropriately. Securing the funding for such a focus on tenant welfare is typically part of a wider scheme of regeneration, supported by political will.
- 7.12 As a result of these factors, effective wider regeneration schemes will also require some resourcing from the general fund to support activities beyond the licensing component, even when the licence fee covers the costs of administration and enforcement in full.

Initial funding

- 7.13 Where there are insufficient upfront resources, the scheme runs the risk of falling at the first hurdle by virtue of being unable to gather the required evidence (the research indicates that a typical commissioned research project to gather evidence about the private rented sector to support a designation costs around £30,000) or to support a sufficiently wide and thorough consultation. Failure to do either effectively would mean the local authority would run the risk of an expensive challenge through an application for judicial review.
- 7.14 After the consultation period is completed, there are further costs associated with setting up the scheme such as IT systems and software, publicising the scheme, printing costs, recruitment etc. Given the limitations on what can and cannot be reclaimed from the licence fee itself, the authority must make an effective assessment of such costs and make budgetary provision for them otherwise the scheme would risk being less effective in the critical early period. Several authorities reported that that they felt selective licensing would be beneficial in their area, but simply did not have the resources to meet the upfront costs involved in making a designation and implementing a scheme.
- 7.15 The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) Regulations (2006) states:
- (2) Within 7 days after the date on which the designation was confirmed or made the local housing authority must —*
- (c) arrange for its publication in at least two local newspapers circulating in or around the designated area—*
- (i) in the next edition of those newspapers; and*

(ii) five times in the editions of those newspapers following the edition in which it is first published, with the interval between each publication being no less than two weeks and no more than three weeks.

7.16 One particularly clear response to the survey on this issue was as follows:⁴⁰

Bureaucracy: On declaration we have a duty to publish a notice of designation in a specified manner. The notice must be published in two local papers over a period of 12 weeks. The initial advert must be in print within 7 days of the confirmation of the designation and repeated a further 5 times in the same publications with an interval of no less than 2 weeks and no more than 3 weeks apart. The whole advertising process is very expensive, problematic to get right and hard to do as there are no longer 2 local papers that cover the [local authority] area. The whole thing is very prescriptive of what needs to be put in the notice and its publication.

The cost of publishing the designation notices in our first area based scheme in [sub-area] was £18K and £11K for the second area based scheme in [sub-area] and there is a question mark on whether you can recover these costs in the licence fee.

7.17 The majority of authorities interviewed complained about this requirement, reporting that it cost several thousand pounds (in one case a figure of £20,000 was quoted); and that it was an ineffective use of funds given the substantial decline in the number of local newspapers and in their circulation since the regulations were drafted. It was argued that these funds could be much better used to publicise the scheme using other, much more effective modern-day methods of communication such as social media and other electronic means of information dissemination.

Administration

7.18 Where there are insufficient resources to process applications (whether it be due to a lack of manpower, problems with IT systems, or problems with the application process itself), the common result is significant delays in issuing licences due to a large backlog. Delays in issuing licences can lead to problems for the applicant, such as difficulty obtaining financing or securing a managing agent. There can also be serious consequences for tenants, since until the licence is issued, they do not benefit from the protections the licence conditions offer. Authorities often issue provisional licences as an interim step, but this only goes so far toward solving the problem. The Act requires that applications for licences are “*determined within a reasonable time*”⁴¹, so where there is a potential for unreasonable delay, resources must be diverted from elsewhere, often from the enforcement element.

⁴⁰ Replacements with “[local authority]” and “[sub-area]” have been made for reasons of confidentiality.

⁴¹ Housing Act 2004 79(5)(b)

Enforcement

- 7.19 Where there are insufficient resources to support an effective enforcement regime, schemes become significantly less effective. In fact, in the course of this research, a lack of enforcement was identified as the single factor that compromises effectiveness more than any other. As a result of insufficient enforcement, unlicensed landlords are identified at a slower rate (if at all), and properties are not inspected (or there is considerable delay in inspection). As a result, criminal landlords are more likely to remain in operation, and property standards are improved at a slower rate. A visible and robust enforcement regime is vital to any scheme since it is the key mechanism by which change is brought about. In the absence of such a regime, unscrupulous landlords and those ignorant of their errors will continue their poor practices, undermining the entire point of the licensing enterprise. Effectively, without meaningful enforcement, licensing can be reduced to an expensive paper exercise.

Staffing

- 7.20 Several authorities reported an inability to recruit the number of qualified and experienced environmental health/housing enforcement professionals necessary to meet the needs of the scheme's inspection regime.⁴² This problem is exacerbated in designations where the number of privately rented properties found significantly exceeds that anticipated, as there is then a need to recruit such professionals quickly. Authorities reported a variety of attempts to circumvent the shortage, such as graduate training schemes and similar, but a lack of available experienced officers is common. Seeking staff from further afield poses its own difficulty, as personnel are unlikely to relocate if in a secure position elsewhere given a lack of employment certainty after the five-year period of designation.

⁴² For a wider discussion on the lack of environmental health officers available to local authorities see: "Private Rented Sector Inspections and Local Housing Authority Staffing Supplementary Report for Karen Buck MP" prepared by Stephen Battersby - March 2018

8. Enforcement

- 8.1 Given the importance of robust enforcement as outlined above (paragraph 7.19), it is essential that authorities thoroughly plan their enforcement policy prior to the scheme coming into effect. Such policies vary considerably across authorities. Central to the use of funds from the enforcement portion of the licence fee are the inspection regime and use of enforcement powers. A policy on these aspects must be developed to ensure consistency of treatment and appropriate action at the appropriate time, but considerable variation exists between schemes.

Inspection regime

- 8.2 There is some debate over whether it is necessary to inspect every property over the life of the designation. Whilst inspecting all licensable properties is clearly the ideal, not least to ensure that every potential vulnerable tenant is assisted (for this reason, at least one proposed scheme is intending to inspect prior to issuing a licence), a strong case can be made for targeted inspections of high-risk properties based on robust intelligence gathering and analysis. Competent landlords (i.e. not considered high risk) on the whole object to this approach since they often feel that they should receive an inspection in exchange for the licence fee. It can be noted that the Act does not require all properties to be inspected, rather specifying that the designation should “contribute to the improvement” of the area, whilst simultaneously conferring powers to the authority that include access.
- 8.3 Decisions of this type are highly specific to the local area. Problems in the private rented sector in one authority may be too diffuse to draw a tight boundary around the issue, thus a wider area of designation may be deemed necessary. This does not in itself preclude the ambition to inspect all properties, although such an undertaking would take an extremely large team in borough wide or otherwise expansive designations. Assembling such a team would require considerable resources and would likely be stymied by the recruitment difficulties discussed earlier. In such a case, or in a case where there is significantly more privately rented housing than originally planned for (and particularly if a significant portion of it remains unlicensed, thus not contributing extra resources to the scheme), then the targeted approach is clearly a reasonable strategy. Where this is a possibility, appropriate thought should have been given at the planning stage as to how best to proceed.
- 8.4 If it is clear that local issues are specific to a small area, planning for and executing inspections of all properties should pose less of a difficulty than in larger designations, not least due to the fewer inspectors being required, and their being able to carry out more inspections per day due to less travel being involved. Some authorities report circumventing the travel issue by allocating individual officers a specific portion of the designation in which they operate exclusively. Such a strategy has benefits other than efficiency; the officer can become a known quantity in the community and can accrue useful local knowledge that would be otherwise difficult to obtain.

- 8.5 The approach to prioritising inspections also varies widely. Authorities need to give careful thought as to how to allocate their resources most effectively. Options implemented by different authorities include focusing in the first instance on landlords with incomplete paperwork, known previous offenders, knowledge obtained by other means (for example addresses associated with repeated fly-tipping), being led by public complaints or simply going postcode by postcode (i.e. no priority at all). Again, this decision should be made based on local knowledge, but there is some evidence that a risk-based approach is usually most effective, in parallel with continuing efforts to identify unlicensed properties.

Unlicensed properties

- 8.6 Methods used to identify unlicensed properties also need to be considered. Some authorities use a door knocking approach, but the research suggests this is sub-optimal. A data-based approach through examination of authority tax records, local rental websites, ASB reports, housing benefit data etc. is typically far more effective, especially in larger schemes. The fundamental concept underlying such data driven approaches is to put together an index of all properties, remove the owner occupied and social properties, and whatever remains should (in theory) represent the privately rented sector. These can be divided into licensed and unlicensed, and investigation of the unlicensed can then proceed.
- 8.7 The process of establishing a property to be privately rented can be further refined in a variety of ways, (e.g. by cross referencing the name of the person paying council tax with ownership recorded in HM registry data to see if they differ⁴³). The authority can then ensure they visit any properties that remain unidentified. Such data driven approaches have been taken to extremely high levels in certain London boroughs, where artificial intelligence (AI) based analysis of their “data warehouse” (a curated repository of all available data attached to each property in the borough) is used not only to identify unlicensed properties, but to establish the level of risk they represent.
- 8.8 Other strategies to identify unlicensed properties such as intelligence gathered from tenant deposit schemes, complaints from tenants, tip offs from the public, and information from other landlords are also being used to identify unlicensed properties. Regardless of the method used, it is vital to any scheme to maintain a focus on their identification, as the research indicates there is a high correlation between failure to license and a failure to manage and maintain a property to a safe standard. At the extreme, such failure can put tenants at significant risk.

⁴³ Care must be taken with such strategies: this check could be circumvented by an owner requesting that council tax is paid by tenants to themselves, and then paying the bill in their own name.

Approaches to Enforcement

- 8.9 Once an inspection is conducted, there is considerable variation in the approach to ensuring deficiencies are rectified. Depending on the severity of the offence and circumstances of the case, either informal or formal action may be taken. There are differing approaches as to the timeframe allowed for compliance to occur in the case of informal action, along with the number of further communications before escalation to formal enforcement action. Authorities reported the need to walk a “fine line”, between allowing too much leeway to landlords and not giving landlords sufficient opportunity to rectify non-compliance.
- 8.10 As stated earlier, whatever strategy the authority adopts, it is vital that robust enforcement action comes at the end of the process for the non-compliant. In the absence of such enforcement, a “wait long enough and it will go away” attitude among landlords can become pervasive, and the effectiveness of a scheme is compromised. It therefore appears inappropriate to offer repeated opportunities to comply in the hope of saving resources, despite the resource implications of full enforcement action. In addition, any effective strategy must take account of the support a landlord may need in complying, for example in the appropriate manner to address ASB on the part of a tenant.
- 8.11 With regard to enforcement, the appropriate penalty to be sought for infractions should also be planned for. Whether criminal proceedings are taken, or civil penalties sought, authorities should be clear and consistent as to the penalty that they will seek. A range of powers (prosecution, civil penalties, rent repayment orders, revocation of a licence etc.) are available to the authority, and planning prior to designation should have determined a policy for applying these powers.
- 8.12 It was suggested during the depth interviews that a fixed penalty on unlicensed landlords (after an appropriate time to obtain a licence has been exhausted) would be a simple way in which to improve effectiveness in the first instance. This would have the benefit of avoiding the need for potentially costly enforcement proceedings pertaining to the most common and clear of statutory requirements. However, other respondents argued that a fixed fine would not reflect the wide range of income levels landlords receive through rent, thus deterring some whilst being a trivial amount to others. A larger proportion of interviewees expressed a preference for the flexibility of civil penalties (up to £30,000 depending on the seriousness of the offence⁴⁴) as a more effective deterrent.
- 8.13 More than 20% of authorities with at least one designation (9 of the 44 total – from survey) do not engage in the practice of recovering some or all formal Part 1 (housing condition) enforcement costs through charging the landlord in question (as set out in section 49 of the Act). Some authorities seem unaware that this is a valid practice; and are potentially overlooking a valuable revenue stream. 11 of the 35 authorities

⁴⁴ Civil penalties under the Housing and Planning Act 2016 - Guidance for Local Housing Authorities para 3.5

that do recover costs in this way report that it covers the full cost of this type of formal enforcement action.

- 8.14 The research showed that the specific content of enforcement policies varied significantly across the country as would be expected with local authorities developing an approach appropriate to local circumstances. However, it did seem essential that a clear policy is made and followed consistently. As part of this review, several authorities suggested a best practice guide in this respect would be of great value in establishing such a policy.

Outsourcing inspections

- 8.15 There are examples of schemes that take an alternative approach to the inspection regime through outsourcing to a delivery partner. Such an arrangement typically offers the licensee the choice of dealing with the delivery partner or the authority, and if they select the delivery partner option it offers certain benefits, such as the ability to pay monthly or (in certain circumstances) not having to pay the full licence fee. The delivery partner requests the relevant paperwork and details; and submits the application to the authority as an intermediary. In this way, the burden on the authority administrative team is reduced since they no longer have to deal with incomplete or incorrect applications.
- 8.16 The partner agency then carries out inspections, typically conducting 3 separate inspections of each property over the five-year period. Where problems are noted, revisits occur, and the authority becomes involved only when there is a failure to correct the issue. After each inspection an electronic report is generated with a summary page of recommendations, and photographic evidence of corrections made by the landlord can be submitted electronically where appropriate. The benefits of such a scheme is that it keeps costs down (authorities are charged per inspection, as opposed to paying a salary), reduces administrative burdens, and ensures that inspections are continually progressing. An arrangement of this type is not suited to every type of scheme, but authorities using a delivery partner report consistently report positive outcomes, so it may be worth consideration by an authority at the planning stage.

Co-regulation

- 8.17 It should be noted that the delivery partner arrangement described above is separate and distinct from true co-regulation with one or more professional landlord bodies, which has received predominantly negative feedback from authorities in the course of this research. Co-regulation schemes are based on a commitment by each professional body to act against members who do not comply with the scheme. Members of the professional body receive a (sometimes substantial) discount on their licence fee as a result. However, in some cases these discounts are reported to have contributed to schemes being under resourced, and the professional bodies in

question do not engage in the proactive inspection regime that an authority implements. Instead, where the council find an issue with a member landlord (typically through inspection of a sample of member properties or through a complaint received), this is referred to the professional body in question, who then deal with the issue through their own complaints or redress schemes. If the problem is a category 1 hazard, this is dealt with by environmental health officers who inform the co-regulator of action taken.

- 8.18 Essentially, in a co-regulation scheme a given landlord is incentivised to join a professional body since it will lead to a reduction in the licence fee. Detractors point out that since it is perfectly possible that a landlord may be a member of a professional body and still engage in poor management practices, which (as with non-members), can most effectively identified through proactive inspection (hence the need for the introduction of licensing), doubts were expressed as to the effectiveness of such an arrangement. The discounts provided to landlords reduce the resources available to the council to conduct inspections on the basis that members of the co-regulating body are presumed less likely to need inspection, yet there is no guarantee that an unscrupulous landlord would not join the co-regulating body simply to reduce the chances of their activities being discovered by the authority, by virtue of fewer inspections being made of member properties. The benefit offered to the authority by the co-regulator (other than the support of an influential lobby group) is the ability to make referrals to their complaints and redress scheme where certain classes of problems are identified. Since the most significant cost to the authority is the very identification of such problems (i.e. through inspections), and the discounts associated reduce their ability to carry out such inspections, authorities considering such an arrangement should make a careful cost benefit analysis before proceeding.

Powers under Part 1 and Part 3 of the Housing Act 2004

Licence conditions pertaining to property condition

8.19 In a recent case, *Brown v Hyndburn Borough Council*, the Court of Appeal provided clarification on the nature of discretionary conditions that authorities can include on a selective licence.⁴⁵ Hyndburn Borough Council had included conditions on their licence requiring carbon monoxide detectors to be in place (and maintained in good working order) where gas is supplied to the property and that a valid electrical installation condition report (EICR) be obtained and maintained throughout the licence period. Paul Brown, a local landlord opposed this on principle, even though his properties were entirely compliant with the conditions.⁴⁶

8.20 The issue (in Mr Brown's view) was that such conditions could result in authorities requiring landlords to upgrade or improve their properties and/or provide completely new equipment and facilities. Regarding discretionary licence conditions, the Act states:

"90 Licence conditions

(1)A licence may include such conditions as the local housing authority consider appropriate for regulating the management, use or occupation of the house concerned." – Housing Act 2004 Part 3 section 90.1

8.21 Since in his view the conditions that Hyndburn were attempting to impose were not related to "the management, use or occupation" of the property, Mr Brown made an application to the First-tier Tribunal (Property Chamber) challenging the conditions. The local authority argued that such conditions were valid, and pointed out the equivalent provision in Part 2 of the Act dealing with discretionary conditions in the HMO licensing:

"67 Licence conditions

(1)A licence may include such conditions as the local housing authority consider appropriate for regulating all or any of the following—

(a)the management, use and occupation of the house concerned, and

(b)its condition and contents." – Housing Act 2004 Part 2 section 67.1

8.22 The First-tier Tribunal agreed with Mr. Brown, directing Hyndburn to modify the first condition (maintenance required only if a carbon monoxide detector was present already) and to delete the second condition. A subsequent hearing in the Upper Tribunal led to the conditions being reinserted. In a further appeal, the Court of Appeal

⁴⁵ *Brown v Hyndburn Borough Council*, Court of Appeal - Civil Division, February 21, 2018, [2018] EWCA Civ 242

⁴⁶ <https://www.londonpropertylicensing.co.uk/selective-licensing-and-licence-conditions-court-appeal-gives-narrow-interpretation-local-authority>

decided that Parliament had distinguished between licence conditions relating to the management, occupation and use of a property and those relating to its condition and contents. The absence of reference to condition and contents in section 90 was intentional; the discretionary power given by the Act did not extend to making conditions requiring the provision of new facilities or to property condition. The First-tier Tribunal (Property Chamber) order was restored.

- 8.23 It may be noted that section 90(3) does provide for a local authority to make a condition requiring facilities and equipment to be made available *“for the purpose of meeting standards prescribed ... by regulations made by the appropriate national authority”*. No such regulations have yet been made:
- 8.24 In effect, the question that the Hyndburn case asked and answered was whether or not the Act permits authorities to impose licence conditions that require properties to be of a higher standard in terms of conditions and contents than is required by statutory provision. Several respondents felt strongly that authorities should be able to impose such conditions. These arguments were based around local authorities feeling they were hampered in their ability to respond appropriately to unsatisfactory local housing conditions.
- 8.25 However, other stakeholders made the counter argument that it is difficult to rationalise a requirement for properties in areas of poor conditions to be of a higher standard than that required outside of a licensing designation, or to be of a higher standard than the minimum required by government. If licensing is introduced to tackle poor property conditions, then an appropriate definition of poor might be “failure to meet minimum legal standards”. If it is the case that properties meeting such criteria are still objectively considered unacceptably “poor”, then (it was argued) this would be a failure of the standards themselves, and not of the powers granted through selective licensing. As such, merely changing part 90(1) to include the local authority power to impose its own conditions relating to “condition and contents” (as found in section 67(1) concerning HMOs) is not wholly satisfactory in the context of selective licensing. Instead, a change to mandatory requirements is preferable.
- 8.26 Mandatory requirements are outlined in Schedule 4 to the Act and cover, for example, the need for an up-to-date gas safety certificate, installed and working smoke alarms and a requirement for landlords to provide tenants with written terms of occupation. It may be noted that the schedule does not cover any element of hazard to the occupant (as defined by the Housing Health and Safety Rating System [HHSRS]), as these matters are dealt with separately in Part 1 of the Act.

Hazards

- 8.27 The Hyndburn decision effectively precludes councils from including any licence conditions that relate specifically to the condition of the licensed property.⁴⁷ Part 3 of the Act as drafted in 2004 was intended to deal specifically with pervasive ASB and low demand. As such the condition of the property was not a concern of the Part 3 selective licensing framework and the Act makes it clear that hazards are to be dealt using Part 1 powers as discussed below (and this was echoed in the Court of Appeal decision).
- 8.28 In 2015, the set of reasons for which authorities could introduce licensing was expanded to include poor property conditions. However, no change was made to the discretionary licensing provisions to reflect this. This has led to a clear disconnect in the legislation, where authorities can introduce selective licensing to tackle poor property conditions (i.e. the presence of category 1 or 2 hazards⁴⁸) without being able to include a directly enforceable requirement relating to property condition (in particular the absence of HHSRS hazards) as a condition of the licence itself.
- 8.29 The Act discusses the need for authorities to use Part 1 (property conditions) powers in regard to category 1 and 2 hazards, explicitly precluding the use of Part 3 (selective licensing) powers:
- “5(a)the authority must proceed on the basis that, in general, they should seek to identify, remove or reduce category 1 or category 2 hazards in the house by the exercise of Part 1 functions and not by means of licence conditions;*
- (b)this does not, however, prevent the authority from imposing (in accordance with subsection (3)) licence conditions relating to the installation or maintenance of facilities or equipment within subsection (3)(a) above, even if the same result could be achieved by the exercise of Part 1 functions;” - Housing Act 2004 part 3 section 90(5)*
- 8.30 This means that section 90(3) does allow a local authority to impose conditions relating to the installation of facilities or equipment and also their maintenance – in effect covering the matters that were the subject of the Hyndburn case. However, section 90(3) only comes into effect once the Secretary of State has used the power in section 90(3)(a) to make regulations prescribing standards (see para 8.23 above). This power has not yet been exercised.

⁴⁷ It may be noted that several authorities do include such conditions, but they are effectively unenforceable. Such authorities run the risk of a legal challenge being raised that results in their being compelled to reissue all their licences without such conditions.

⁴⁸ The Selective Licensing of Houses (Additional Conditions) (England) Order 2015 4(a)

- 8.31 In effect, local authorities potentially do have the power to impose discretionary conditions in respect of property condition but only once the Secretary of State has made regulations under section 90(3)(a); and the scope of the conditions would be limited by to the standards prescribed in any such regulations.
- 8.32 The disconnect between Part 1 and Part 3 has important implications in terms of enforcement concerning property conditions. Local authorities have a duty to deal with category 1 hazards and a power to deal with category 2 hazards under Part 1 of the Act, which also gives them a range of enforcement options. Part 1 powers apply to all properties whether in a designated area or not. To exercise these powers, section 239 of the Act requires local authorities to give a minimum of 24 hours notice to both owners and occupiers prior to an inspection. Part 3 (licensing) powers do not require notice, merely permission of the occupant to enter (in certain circumstances this is a significant advantage of licensing as discussed previously). However, if an authority enters under the entry provisions in Part 3 and finds a category 1 hazard, they cannot then take enforcement action based on that inspection as notice in accordance with section 239 has not been given. An exception to this is if they are satisfied both that there is a category 1 hazard and also that there is an imminent risk to the health and safety of any occupiers of the property (or other properties).⁴⁹
- 8.33 As a result, when licensing inspections are being carried out (under Part 3), and significant hazards are noted during the inspection, the local authority cannot immediately resort to action under Part 1 because of the absence of 24 hours notice. In practice the local authority officers will then have to contact the landlord to give the required 24 hours notice (in most cases the tenant will be deemed to have had notice), carry out a further inspection of the issue they are already aware of, and only then proceed to take enforcement action where necessary. This is clearly an inefficient use of resources.
- 8.34 It was further reported that landlords sometimes instruct tenants not to open the door or to ensure they are not at home at the appointed inspection time. This is a particular issue for vulnerable tenants who may fear retaliatory eviction, and serves to undermine one of the key benefits of licensing (see paragraphs 5.12 - 5.14). It is also important to note that category 1 hazards can be extremely prevalent in selective licensing areas, especially those introduced due to pervasive poor property conditions. One authority reported that 91% of all properties inspected contained a category 1 or high category 2 hazard.⁵⁰ Of those authorities that gave information on this issue, the lowest reported incidence was that 65% of licensed properties were found to contain a category 1 hazard where a local authority has a statutory duty to intervene.⁵¹

⁴⁹ A local authority can take emergency remedial action without 24 hours notice in respect of a Category 1 HHSRS hazard if there is an imminent risk of serious harm; but may not make an emergency prohibition order.

⁵⁰ For context, a wider discussion of the incidence of hazards in the private rented sector can be found in "Local housing authority action on conditions in rented housing" by Stephen Battersby, prepared for Karen Buck MP

⁵¹ Through one of the following in the first instance: serve an Improvement Notice in accordance with section 11 of the 2004 Housing Act; make a Prohibition Order in accordance with section 20; serve a Hazard Awareness Notice in accordance with section 28; take emergency remedial action under section 40 or make

8.35 If the local authority is satisfied that, in addition to there being a category 1 hazard there is an “imminent risk of serious harm” to occupiers or others, then the local authority does have the power to use emergency enforcement powers. By virtue of section 40(6) of the Housing Act 2004, it does appear that 24 hours notice is not required for emergency remedial action, but this section does not apply to emergency prohibition orders. In *Stewart v Trafford Borough Council*⁵² the First-tier Tribunal (Property Chamber) decided that an emergency prohibition order was invalid because of the lack of 24 hours notice.

8.36 In summary therefore:

- The additional conditions added in 2015 allow selective licensing to be introduced to tackle poor property conditions (defined as the presence of category 1 and 2 HHSRS hazards)
- Despite this, authorities are not allowed to include licence conditions requiring landlords to correct poor property conditions, for example the licence conditions cannot require that HHSRS hazards are not present in the property.
- Authorities cannot generally take enforcement action in respect of hazards that are discovered in the course of a selective licensing inspection, even if the purpose of the designation was to deal with poor property conditions. In the vast majority of cases authorities must then give 24 hours notice of their intention to inspect again, and then can proceed to formal enforcement action only after the second inspection (unless the criteria for emergency remedial action are met).

8.37 This legislative disconnect plainly hampers the effectiveness of the selective licensing regime. Clearly, the enforcement tools associated with Part 1 are much broader in scope and more flexible than those in the licensing regime, allowing a local authority to adopt an approach tailored to the specific circumstances of the property in question. However, during the survey many local authorities indicated strongly that they would like to see a closer linking of licensing and HHSRS powers, especially where the designation was on the basis of poor property conditions. If property condition were to be included within a licence condition, this would at least increase the awareness of property owners (increasing the likelihood of problems being rectified prior to inspection, thereby improving tenant welfare), and would also allow local authorities to take direct punitive action without the need to give notice where substantial hazards are discovered during licensing inspections.

an Emergency Prohibition Order under section 43; make a Demolition Order under section 265 of the Housing Act 1985 (as amended); or declare a Clearance Area by virtue of section 289 of the 1985 Act (as amended).— summarised in: “The Housing Health and Safety Rating System (HHSRS) House of Commons Briefing Paper Number 01917, 21 February 2019” section 1.2

⁵² MAN/00BU/HEP/2013/0001

- 8.38 Some local authorities adopt ‘workarounds’, if HHSRS hazards are discovered during a licensing inspection. If a hazard is discovered on the initial (Part 3) visit, notification is given to the landlord on an informal basis, but with a second (Part 1) visit scheduled to check the work has been carried out (which does provide the necessary notice) and with formal action following that if the landlord does not take heed of the informal notification. However, this remains highly inefficient. A revision of the statutory framework could improve matters significantly, especially given that currently 32 of 44 local authorities have made designations on the basis of property condition.
- 8.39 This dichotomy between introducing licensing for purposes of improving property conditions and the Act’s failure to explicitly grant extra powers to deal with the issue was highlighted by almost every authority who contributed to the depth interviews, a range of other stakeholders, and was one of the three most commonly highlighted issues amongst respondents to the survey. If a single change to legislation could be made to enhance the effectiveness of selective licensing, then all the evidence points to dealing with this issue as being the key change to make.

Options and Solutions

- 8.40 One approach to solving the issue would be for the Secretary of State to make regulations under section 90(3)(a) to prescribe standards in respect of condition and contents. Such regulations, however, would be limited in scope and realistically could not be drafted to cover HHSRS hazards in a comprehensive manner.
- 8.41 A second approach could be to disapply the notice requirement for all HHSRS action within designated licensing areas. The notice requirement is set out in Part 7 of the Housing Act 2004 and so primary legislation would be required; but this would deal with part of the concerns arising from the present arrangement. In practice, it is likely that many local authorities would welcome a review of the provisions of section 239; in particular to remove the requirement for notice where a local authority intends to make an emergency prohibition order and also to remove any ambiguity in respect of emergency remedial action.
- 8.42 A third approach (which could be combined with the removal of the notice requirement) would be to amend Schedule 4 to the Housing Act 2004 to include a provision specifically requiring a property to be free of category 1 hazards. Such an approach, however, could potentially lead to prosecution of landlords in circumstances that are arguably inequitable; significant hazards can suddenly arise (for example, unexpected failure of services or damage after severe weather), or can arise because of damage by a third party, or (not uncommonly) a tenant themselves. It may even be the case that a tenant has refused the landlord access to inspect or carry out remedial work.
- 8.43 As an alternative to a condition simply referring to the absence of significant hazards a further option could be to utilise the provisions of sections 8 – 10 as amended by the Homes (Fitness for Human Habitation Act) 2018. This amends sections 8 – 10 of the Landlord and Tenant Act 1985. The newly added section 9(A) implies into virtually all

residential tenancy agreements a covenant by the landlord that a property is fit for human habitation at the start of the tenancy and will remain so throughout its duration.

- 8.44 The legislation is drafted such that it offers protection for the landlord in the instances referred to in the previous paragraphs, for example not requiring the landlord to carry out repairs caused by the tenant's failure to behave in a tenant like manner, or other tenant breach of covenant, or to any tenant owned fixtures and fittings. The landlord is also not liable for works which would lead to the landlord being in breach of an enactment (for example listed building obligations).
- 8.45 The definition of "fit for human habitation" given in section 10 includes the nine previous matters (repair, stability, freedom from damp, internal arrangement, etc) but is extended to include the further matter of "any prescribed hazard". The latter is defined, in effect, as any category 1 or category 2 hazard (but without reference to "occupier" in section 2(1) of the Housing Act 2004). It should be noted that a dwelling is only to be regarded as unfit for human habitation "if, and only if, it is so far defective in one or more of those matters that it is not reasonably suitable for occupation in that condition".
- 8.46 In reality, this means that there is a statutory obligation on a landlord to ensure a property is fit for human habitation; and in determining the meaning of "fit for human habitation", category 1 and category 2 hazards are relevant matters. The meaning of "not reasonably suitable for occupation in that condition" will only become clear as decisions are made by the courts. The prime purpose of the legislative change is to give tenants the power to bring a civil action against their landlord. However, a clear potential option in respect of licensing could be that Schedule 4 to the Housing Act 2004 (mandatory licensing conditions) is amended to include a requirement that a landlord complies with the statutory obligation under section 9A(1) of the Landlord and Tenant Act 1985: to let and maintain a property in such a condition that it is fit for human habitation.
- 8.47 This could not be said to be objectionable on the basis that it would be imposing a greater burden on landlords; it would simply be requiring them to comply with a duty they already have, whilst allowing the local authority to act where this duty is not met. It would very probably encourage landlords to adopt a more proactive approach in terms of ensuring properties are free of significant hazards, whilst significantly improving the efficiency of the enforcement component of any licensing scheme.
- 8.48 One point to be noted is that the amended provisions in the 1985 Act are silent on the question of notice. With civil claims it is considered likely that the courts will imply a requirement for notice; but if this provision was built into licence conditions a requirement for notice would render it ineffective. This point would need to be dealt with expressly in drafting any amendment to Schedule 4 of the 2004 Act if the provision is to be maximally effective.

9. Scalability

Large schemes

- 9.1 One of the key benefits of licensing is that it focuses resources on a specific geographic area. Without careful planning and risk assessment, in larger designations this benefit risks dilution, as larger schemes are correspondingly more difficult to manage.
- 9.2 As schemes get larger, the risk of effectiveness being reduced by any given problem is magnified. For example, if a small scheme has 10% more privately rented homes than anticipated, this may correspond to an extra hundred licences needing to be issued, and associated inspections conducted. The resultant effect of the extra licensable properties is perhaps a manageable delay in issuing the licences, and a moderate extension to the timetable of inspections. If a large scheme has 10% more private rent, then this could correspond to several thousand properties, which can easily lead to serious administration, staffing and enforcement issues. This can result in significant delay in the issuing of a licence, and lead to large numbers of properties not being inspected that obviously should be.
- 9.3 Where fees are not set at a self-financing level, there is a known burden on the local authority general fund to support the licensing fund. If this burden were to increase considerably due to thousands of previously unknown private rented properties; resourcing can be compromised. As discussed previously, even if a scheme requires no such subsidy, maximising the effectiveness of a given scheme includes resourcing services that cannot be directly set against the licence fee (e.g. landlord forums/training, extra ASB officers, capacity for increased legal and social services work etc.). Costs associated with such services are likely to increase in a similar manner where large numbers of previously unknown properties become licensed.
- 9.4 Large schemes also suffer particular difficulties with recruitment and retention of staff, as the impact of a lack of available, experienced officers (discussed under “staffing” previously at paragraph 7.20) is also increased. Several authorities either running or intending to run particularly large schemes explained that recruiting the desired staff was simply not possible (despite financial resources being available), and alternative (i.e. less effective) approaches had to be taken.
- 9.5 Nonetheless, it is not the case that all large schemes are ineffective, indeed some of the most effective schemes in the country are large scale. It is rather the case that larger schemes need correspondingly more careful planning, consideration of resources and robust evidence to be as effective as possible. Where this is not in place there is considerable potential for costly error to occur. To this end, pilot schemes are sometimes used by authorities to better anticipate potential problems with more extensive licensing efforts. Seeking advice from other authorities who have schemes comparable to the proposed is commonplace. Every local authority running a large scheme interviewed as part of this research emphasised the importance of rigorous and methodical planning.

- 9.6 Given the potential pitfalls of large schemes referred to earlier, careful consideration of the boundaries of the designation area is necessary, and significant areas where evidence indicates that intervention through licensing is not likely to lead to improvements (i.e. areas of a local authority where the problems licensing is intended to tackle are not present) should be excluded. This is in accordance with the Act which states as part of the general conditions of designation:

80 (3)(a) "that the area is, or is likely to become, an area of low housing demand"

80 (6)(a) "that the area is experiencing a significant and persistent problem caused by anti-social behaviour"

- 9.7 This ensures that the designation is as focused as tightly as possible on the specific area of the local authority where licensing can be expected to "contribute to the improvement of the social or economic conditions in the area"⁵³ (low demand) or "lead to a reduction in, or the elimination of, the problem"⁵⁴ (anti-social behaviour). Similar stipulations are made in "The Selective Licensing of Houses (Additional Conditions) (England) Order 2015" at paragraph 3, where the other reasons for introducing licensing are introduced (poor conditions, high crime, high migration, high deprivation).
- 9.8 However, there remain certain localities where large scale licensing remains an appropriate measure. Where problems associated with the private rented sector in an authority are sufficiently diffuse that they cannot be associated with a specific locality or sub area, or the nature of the private rented sector changes particularly rapidly (as is the case in some London boroughs), it may be appropriate to engage in very large scale or district wide licensing to ensure that problems are dealt with effectively. Such a decision must be taken only after very careful consideration of potential difficulties, and with thorough assessment of and planning for the associated risks.
- 9.9 By the same token, even in authorities with the type of diffuse problems and rapidly changing private rented sector outlined above, there may be islands of stability. An example would be found in the increasing trend toward large scale development of rental properties, often referred to as "build-to-rent" schemes. Such developments can cover very large areas and may be substantially different in character to neighbouring localities. These developments often include extensive CCTV coverage, uniformly robust security arrangements, 24-hour staffing and effective mechanisms for dealing with tenant complaint. As such they are considerably less likely to suffer from ASB, low demand, high levels of crime or deprivation, and (where newly constructed) poor property conditions.⁵⁵ This is only one example of an area of stability; a given authority may contain other types of area where there is a lack of evidence indicating that the

⁵³ Housing Act 2004 80(3)(b)

⁵⁴ Ibid. 80(6)(c)

⁵⁵ A large example of a "build to rent" area was excluded from the re-designation of a large London borough in 2017 due to a lack of evidence in that area of the issues for which licensing was intended to tackle.

problems for which licensing is intended to tackle are present or are likely to be in the near future.

- 9.10 Where authorities are satisfied that there is little or no evidence that such an area would benefit from licensing, and the practicalities of defining the boundary of a designation allow for it, authorities should consider exclusion with the aim of keeping the designation as small as possible, whilst still including the areas in which licensing can be reasonably expected to have a positive impact. Including a significant area within a designation where the problems for which licensing is being introduced are absent would not be in accordance with the stipulations of the Act referred to in paragraph 9.6 above. However, it should be noted that the character of any excluded area may change over time, and therefore the decision to exclude such an area should be reviewed if the authority seeks re-designation in the future.

The 20% Criteria

- 9.11 When a designation of an area (or the aggregate of several designations) will cover more than 20% of the total geographical area or 20% of the total private rented sector (as enumerated by the 2011 census), the scheme has to be submitted to the Secretary of State for validation in advance of coming into effect. This requirement is very unpopular with local authorities; and was one of the of the three most commonly highlighted issues amongst respondents to the survey. However, the higher risks associated with large schemes (see paragraphs 9.2 to 9.10) do mean there is a clear argument for oversight, especially where the authority in question does not have direct experience of running such a scheme.
- 9.12 Any threshold that defines a proposed designation as “sufficiently large to require validation” must be set somewhere, and this level must be in some sense arbitrary. Different contributors to the review advocated for both higher and lower thresholds than the current, however no definitive argument was made for either. In this sense, the current threshold for “large scheme” appears broadly appropriate. Nonetheless, there do appear to be shortcomings in the present arrangement.
- 9.13 Firstly, the definition “20% of the private rented sector as enumerated by the 2011 census” poses a difficulty. At the time of the 2011 census, there were approximately 2.9 million households in the private rented sector. The 2017-18 EHS estimated that 4.5 million households were renting. This illustrates the degree to which the sector has grown, and this growth is often concentrated in areas of potential designation (the presence of high levels of privately rented accommodation is a condition of designation under the Act). As such, in a given authority, 20% of the 2011 private rented sector may correspond to less than 10% of the sector now in absolute terms. However, some sort of criterion must be selected, and in the absence of more recent reliable data on local levels of private rent, it is difficult to recommend a universally applicable alternative related to the private rented sector itself.
- 9.14 The other issue raised by participants concerning these criteria is that it is unfair to smaller authorities. For example, 20% of the census enumerated private rent in

Rotherham is less than 700, whereas in Manchester it is in excess of 8,600. As such, Manchester could make a designation covering 8,500 properties without Secretary of State approval, whereas Rotherham would need approval for a mere 700. Given that there is no reason to believe that authority A will be better at managing a scheme covering thousands of properties than authority B (assuming sufficient staffing), this is a genuine concern with any “percentage of the total” based definition.

9.15 Therefore, it is desirable that any alternative definition of large scheme should be a threshold of a similar overall level to the current, but defined in such a way that:

- It relates to up-to-date data sources in the absence of a recent census (but not necessarily private rented sector specific data – see iii);
- That smaller authorities are not disadvantaged by the criteria (i.e. it should not be defined in percentage terms); and
- That it is not based on the current size of the private rented sector in a local authority, given the difficulties inherent in enumerating this accurately.

An example solution

9.16 One potential alternative to the current 20% criteria would be the use of absolute numbers of properties of all tenures. This avoids the issue described above of disadvantaging smaller local authorities; whilst also sidestepping concerns about the lack of intelligence concerning the private rented sector. Such a threshold could also relate to an up-to-date data source (as opposed to census data), since data on the total number of residential properties in an area is regularly published.⁵⁶

9.17 The problem then becomes one of establishing an equivalent threshold. Census 2011 indicated that the average number of households living in privately rented accommodation per authority was 12,300. Thus 20% of the mean average local authority’s private rented sector in 2011 was (20% of 12,300) 2,461. On average therefore, any designation or combination of designations totalling more than 2,461 properties would be likely to require validation. Performing the same operation using the median average yields 1,644.⁵⁷ Therefore, it is reasonable to conclude that the appropriate absolute number of privately rented dwellings that is functionally equivalent to the 20% threshold would be some value in this range. For simplicity, we could select 2,000. On this basis, the “20% of the private rented sector as enumerated by the 2011 census” criterion could be approximated in absolute terms as “in excess of 2,000 privately rented properties”. However, as has been discussed at length previously in this review, there are distinct problems with the accurate enumeration of privately rented properties in a given area.

⁵⁶ For example: MHCLG Live table 100 - <https://www.gov.uk/government/statistical-data-sets/live-tables-on-dwelling-stock-including-vacants>

⁵⁷ The median number of privately rented households per authority in 2011 was 8,218. 20% of this is 1,644.

9.18 The 2015 guidance published by the then Department for Communities and Local Government states:⁵⁸

“The actual number of privately rented properties in a given area may be more or less than this, and if it is more than 19%, the area can be considered as having a high proportion of privately rented properties.”

9.19 It goes on to state that this is a 2014 based figure; and may change. The most recent English Housing Survey indicates that it is still the case that 19% of households privately rent, and also points out that:⁵⁹

While the sector has doubled in size since 2002, the rate has hovered around 19/20% since 2013-14.

9.20 If it is considered that a) in excess of 2,000 privately rented properties is an appropriate threshold, and b) that in excess of 19-20% of total dwellings (using 20% for simplicity, this is 0.2 x total) that are privately rented constitutes a “high proportion” of total dwellings (i.e. above the national average since 2013-14), then these figures can be combined to establish a corresponding total number of properties, i.e. $2,000 \div 0.2 = 10,000$ total residential properties.

9.21 Effectively, if a proposed designation area is considered to have a high proportion of PRS relative to the national average, it would necessarily cross the threshold for consideration by the Secretary of State if the designation encompasses at least 10,000 dwellings of any tenure. This is because more than 20% privately rented stock in the area (i.e. in excess of the national average) would correspond to in excess of 2,000 privately rented dwellings, which is a close approximation of the current census-based threshold (as outlined at para 9.17).

9.22 In summary: A practical, up-to-date approximation of the “current 20% of private rented sector” threshold based on the total number of properties across all tenures in a given area (necessary given the difficulty obtaining up-to-date local information on the private rented sector alone) can be derived as follows:

- a) The “20% of the private rented sector as enumerated by the 2011 census” threshold corresponded to approximately 2,000 dwellings in a given local authority (on average) in 2011. Consequently, any proposed designation containing more than 2,000 privately rented properties would be likely to require validation;
- b) Based on the most recent EHS and MHCLG guidance: if in excess of 19-20% of the total dwellings (across all tenures) in a given area are privately rented (calculation above uses 20% for simplicity⁶⁰), this constitutes a “high proportion” of the total dwellings.

⁵⁸ Selective licensing in the private rented sector - A Guide for local authorities 2015, para 5

⁵⁹ English Housing Survey Headline Report 2017-18, para 1.7

⁶⁰ If instead 19% were used, the calculation in (c) would result in: $2,000 \div 0.19 = 10,526$ total dwellings

- c) Therefore, a designation with a) more than 2,000 privately rented properties and b) a “high proportion” of private rent (20%+), would (on average) correspond to a threshold of approximately 10,000 properties across all tenures, since 20%+ of 10,000 (total) would be sufficient to exceed the 2,000 (rented) threshold.

- 9.23 On this basis the criterion of “a proposed designation containing more than 20% of the private rented sector as enumerated by the 2011 census” could be approximated in absolute terms as “a proposed designation encompassing in excess of 10,000 total properties across all tenures”, a definition that avoids all three of the issues with the current validation threshold as outlined in paragraph 9.16.
- 9.24 The data collected through the survey portion of this review indicates that 15 of the 44 authorities with a licensing scheme in place have designations covering in excess of 10,000 properties (of all tenures), and that 13 of the 44 exceeded the “20% of the private rented sector” threshold. As such, the alternative absolute number of properties criterion described above seems to approximate the current threshold closely in practice.
- 9.25 The reasoning above is provided only as one example of a methodology for determining an absolute number of properties that approximates the current “20% of private rented sector as enumerated by census” criterion. There are many potential approaches to selecting a reasonable threshold (e.g. the calculation could be further refined to exclude social/affordable rented stock, and/or could reference the most current EHS-based tenure proportion available at the time), but it seems likely that any reasonable attempt to establish a criterion equivalent to the current using absolute numbers of properties will be relatively close to that given above.
- 9.26 It is of course possible that a designation of somewhat less than 10,000 total properties could be proposed that is nonetheless highly likely to contain in excess of 2,000 privately rented properties (e.g. an area of 5,000 total dwellings of which 2,500 were privately rented at the time of the previous census). If such designations were deemed to require validation by the Office of the Secretary of State, the proposed criterion could be simply expanded to incorporate these cases whilst retaining the wide applicability that a threshold based on total properties across all tenures offers. An example of such a two-part criterion would be: “more than 10,000 properties across all tenures or in excess of 2,000 privately rented properties (as enumerated by the most recent census)”. Note that omission of the “10,000 properties” portion of the criterion would be unsatisfactory, as the census-based remainder alone would be subject to the same limitations outlined in paragraph 9.13 (i.e. the rapidity with which the private rented sector changes soon renders a purely census based threshold out of date).
- 9.27 It can be noted that the opposite case to the above paragraph can be dismissed irrespective of MHCLG validation criteria. A proposed designation of more than 10,000 total dwellings that is considered highly likely to contain somewhat fewer than 2,000 privately rented properties would necessarily fail the test of “a high proportion of private

rent” as required by legislation, since the proportion would be lower than the 19-20% national average.⁶¹

- 9.28 Basing the threshold on an absolute number of properties (of all tenures) avoids the associated difficulties of accurately enumerating the privately rented sector, and further avoids the criticism of unfairness to smaller authorities discussed above in paragraph 9.14. The derivation has reference to more up-to-date information than the 2011 census (i.e. the EHS 2017-18), and the key input to the calculation is based on current data considered accurate (i.e. council tax-based data on total dwellings). As such, it circumvents all three of the main objections made against the current threshold.
- 9.29 As a final point concerning the current thresholds for validation, the survey found that amongst currently operating schemes, no authority exceeded the current “20% of the geographic area” criterion without also exceeding the “20% of the private rented sector” criterion. However, there were several reported examples of schemes exceeding the private rent threshold without exceeding the geographic threshold. This may indicate that the geographic threshold is of limited utility, since it is difficult to see how a proposed designation that covered more than 20% of the geographic area of a local authority that did not encompass at least 20% of the private rental sector could be said to have “high proportion of properties in the private rented sector, in relation to the total number of properties in the area”, as is required by legislation.⁶²

Local Knowledge

- 9.30 As for the need for criteria at all, there was strong feeling amongst several authorities and some stakeholders that the decision to designate should be a local one, based on an understanding of local conditions, and that consequently oversight was not required. Even those in support of local decision making that recognised the benefit of oversight felt that the Secretary of State was not best placed to make a decision approving a scheme. Where they exist, directly elected mayors were suggested as alternative for giving approval, as (it was argued) their local knowledge could potentially better inform the decision. However, if it is accepted that there is a need for oversight of larger schemes, then it can also be argued that this oversight needs to be applied consistently, which would not be the case unless a central body has that responsibility.
- 9.31 The selective licensing guidance document issued by the Department for Communities and Local Government (now MHCLG) directly addresses concerns around local knowledge:⁶³

⁶¹ Section 80(2)(b) of the 2004 Housing Act as amended by The Selective Licensing of Houses (Additional Conditions) (England) Order 2015 s3(1)(a)

⁶² Ibid.

⁶³ Selective licensing in the private rented sector - A Guide for local authorities – DCLG 2015, para 57

“57. The role of the Secretary of State is not about second-guessing the local housing authority’s reasons for making the decision. As this guidance makes clear local housing authorities will know their local housing market conditions better than the Department. The approval system is concerned with ensuring that the local housing authority has carried out the requirements imposed on it through the legislation before making the designation and can sufficiently demonstrate, where a scheme will impact on a large geographical area or number of privately rented properties, that there is robust evidence to support the reasons for making the designation.”

The 20% Validation Process

- 9.32 Irrespective of the acceptance or otherwise of the need for approval, the process involved in gaining approval from the Secretary of State is perceived by some to be less than transparent. Several authorities reported submitting without a full understanding of what would and would not meet the requirements of the Secretary of State; they also felt that if a proposed designation were to fail such scrutiny, it would be unclear what modifications would be required to pass. The process was further criticised by several contributors for being overly bureaucratic and taking too long. However, other local authorities did acknowledge helpful support and clarity from the Ministry during the process.
- 9.33 Several consequences can flow from the time interval between submission and approval, with schemes essentially in limbo during this period. Uncertain as to the outcome of the approval process, authorities cannot employ staff or spend any money on publicising the scheme. The ramifications arising from the wait for approval become even more significant in respect of re-designations. Any significant delay in obtaining the approval can cause great uncertainty for the staff in question during the limbo period as their future employment is often dependent on income from the scheme.
- 9.34 The Ministry of Housing, Communities and Local Government is currently undertaking work to provide tools to support local authorities in the application process.

Common arguments concerning large schemes

- 9.35 A common argument in support of borough wide schemes is the view that any given boundary is inherently unfair. Wherever the boundary is drawn, it will often be the case that there will be a given street (or property) subject to licensing whilst the next street along is not, despite being very similar in nature. However, the boundary must be drawn somewhere, and if the evidence does not support licensing being introduced in a given area (whether defined by ward, postcode, LSOA or otherwise), then it is inappropriate to include the area within the boundary. The interpretation of such data will involve a certain degree of judgement on the part of the authority defining the area in question, but it remains a fact that wherever the boundary is drawn there will always be a “next street along”.

- 9.36 Another argument often advanced in favour of district wide licensing is the “displacement effect”. Where tenants are evicted as a result of their sustained ASB, it is claimed that they simply move to a neighbouring unlicensed area and cause problems there, thus problems are simply moved rather than tackled. By licensing the entire district (including areas for which the evidence does not support its introduction), such problem tenants are presumably forced to comply or leave the area entirely. However, this argument seems to have at its core the notion that anti-social behaviour is primarily dealt with through eviction. Contributors to the review indicated that tenants tend to ultimately comply with requests to moderate their behaviour rather than risk eviction. Several authorities reported that their landlord training and support schemes had a focus on reducing the need for evictions through helping landlords to work more effectively in dealing with anti-social behaviour. Furthermore, joint working to tackle issues uncovered through licensing such as alcoholism, drug addiction, unemployment etc. serve to tackle the root causes of anti-social behaviour (see paragraphs 5.19 to 5.20), rather than simply move the problem on. Insofar as these strategies are effective, the overall rate of eviction would be expected to go down, thus such a scheme reduces rather than contributes to displacement. No direct evidence of any meaningful displacement effect was reported to this review.
- 9.37 A further associated claim has been made regarding landlords. The claim is that where there is a less than borough wide designation, criminal landlords simply sell their properties and operate in a different area of the authority where licensing is not in effect, thus lowering standards in a different area. However, there is no clear evidence to support this claim either. It is difficult to see why a landlord would go to such lengths to avoid paying the licence fee given that the costs associated with selling a property far outweigh the licence costs and there is also the disturbance involved.
- 9.38 The practice of introducing large scale licensing (including parts of the authority where there the evidence does not support its introduction) specifically in response to fears of a potential displacement effect reducing standards in neighbouring areas is not supported by evidence. On balance, given the lack of evidence to support displacement as a meaningful driver of change in neighbouring unlicensed areas along with the potential problems associated with larger schemes (see discussion in paragraphs 9.1 - 9.10), this practice is not justified.
- 9.39 An associated claim regularly made is that licensing increases rents, as landlords are inclined to pass on the costs of licensing to their tenants. It is claimed that one consequence of this is that tenants are forced to move out of the area to one that is unlicensed as their income does not meet the cost of renting in the licensing area. Again, no real substantive evidence of this effect emerged during the review. The privately rented sector is a competitive market and market forces mean that rents are set at a level the market will bear. In reality, in low quality properties, the rent is typically set by rates of housing benefit.

- 9.40 Analysis of Valuation Office Agency data on private rent levels in licensed areas does not support the claim that licensing has had a demonstrable effect on rent levels.⁶⁴ On average, lower quartile rents in the areas interrogated increased by 274% over a representative five-year period (during which licensing was introduced in each case), whilst the licence fee alone (spread over 60 months) would account for an average increase of less than 3%. Even in the minimum case, the rent increase over the five-year period was over 22 times the increase that can be ascribed to the licence fee alone. This is compelling evidence that the impact of market forces on rent levels dwarfs that of the cost of a licence.

Small schemes

- 9.41 Given the above outlined issues with large schemes, it is important to note that a scheme can be so small that its effectiveness can be fundamentally compromised. If the number of licensed properties is such that the income derived from licence fees is insufficient to employ extra staff for administration and inspection purposes, this has the effect of imposing significant extra work on existing staff. Authorities must be mindful of this issue when setting fees and/or deciding on the designation boundary.
- 9.42 For example, if a proposed designation covers only 100 licensable properties with a £500 licence fee, the total financial resources available to the local authority from licensing fees would be (500 x 100) £50,000, or £10,000 per year (assuming no unlicensed properties). This will likely be insufficient to hire extra staff without meaningful supplementation from another fund; therefore, these responsibilities may fall to existing staff, in addition to their current duties. However, multiple small designations within the same local authority can aggregate to provide sufficient resources for the hiring of additional staff, so it is not the case that making small designations is inherently flawed, rather that authorities must be mindful of the total resources that will be available to them to support administration and enforcement.
- 9.43 One contributor to the review made reference to what they described as a “Goldilocks zone” for effective schemes, neither so large as to be unmanageable, nor so small as to be inadequately staffed.

⁶⁴<https://www.gov.uk/government/statistics/private-rental-market-summary-statistics-october-2017-to-september-2018--2> - Valuation Office Agency data is available only at local authority level, so the analysis restricted itself to whole borough schemes.

10. Setup and Administration

Authorities making a designation

10.1 The process of making a designation is perceived to be highly complex and bureaucratic, requiring the investment of significant resources before a licence is granted (preparation of the evidence base for consultation often takes over a year). Several participants pointed out the difficulty of assembling a robust evidence base in the absence of available data on the private rented sector. Whilst the importance of a thorough consultation has been highlighted, streamlining of the application process itself would be welcomed, especially in those cases where approval of the Secretary of State is required because of passing the 20% threshold. More generally, while acknowledging the value of selective licensing, the government should seek to simplify regulations and processes where possible.

10.2 One authority submitted the following as a survey response, outlining the steps involved in making a designation⁶⁵:

The length of time from initial idea to a scheme coming into force can be up to 18 months in [local authority]'s experience. The steps we have to go through to declare a new area are:

i. Initial political decision to consult....you need to collect evidence and prepare the case to take to Cabinet lead to approve consultation as well as legal and financial sign off;

ii. Developing the consultation paperwork and marketing strategy;

iii. Consultation needs to be carried out for a minimum 10 week period - all other consultations in [local authority] are held for 6 weeks;

iv. Analyse the consultation report. The time taken can depends on the level of responses and number of free text responses. We received 2,700 separate responses from our last licensing consultation;

v. Then we have to take a report to Cabinet - the reporting process for in [local authority] can take 12 weeks;

vi. Then there is a 12 week statutory period between declaration and the start of scheme.

10.3 Whilst it is not clear that any step can be entirely eliminated, this quote clarifies the timescales and steps that are involved in making a designation, and casts light on why there is a perception of it being a complex process.

⁶⁵ Replacements with “[local authority]” have been made for reasons of confidentiality.

- 10.4 In addition, there was a lack of clarity on the part of some authorities concerning the scope of discretionary licensing conditions that could be introduced based on local conditions. For example, one authority with an ongoing issue with temporary “pop-up” illegal establishments within a proposed designation was unclear whether they could impose a condition precluding licensed properties from being “sub-let on an ‘Airbnb’ basis”. As such, the application and scope of discretionary conditions are topics for which shared best practice would be of value.

Process of re-designation

- 10.5 In cases where schemes have demonstrably led to positive outcomes, but there remains a need for further work in the area, a local authority may choose to re-designate. Re-designation is becoming increasingly common, since it can understandably take longer than five years to reverse an issue (e.g. low demand) which may have developed over decades.
- 10.6 Re-designation involves going through exactly the same process as was required for designation in the first instance, which many authorities argued is unnecessary, wastes resources and has a negative impact on effectiveness. Especially in cases where Secretary of State approval is required, the process of producing an application for re-designation can take over a year, often occupying key personnel during that time. Given that the first 18 months of a scheme may be primarily focused on processing applications, and the final year to 18 months may be spent preparing a case for re-designation (often requiring the attention of key staff), this reduces the portion of the scheme’s overall life in which inspection and enforcement are the main focus, and consequently overall effectiveness.
- 10.7 Government guidance recognises that re-designation may be necessary, and that evidence may not necessarily demonstrate large changes from the initial phase of designation:⁶⁶

66...The Government recognises that licensing may have to be a long term strategy and that it will not provide instant solutions. It also appreciates that, if in the initial phase there has been little improvement in an area, this does not necessarily mean that a designation is a failure.

- 10.8 Given the acknowledgment of the potential need for successive phases of licensing in tandem with the explicit acceptance that evidence from the initial phase may not directly show large improvements, the requirement for assembling an equivalent evidence base and remaking the case for the need for licensing appears questionable. Whilst authorities recognise the need for thorough consultation as part of the re-designation process, the argument was made by several participants that a “light touch” re-designation process would be more appropriate, especially where Secretary of State approval is required. Examples of proposed “light touch” measures included:

⁶⁶ Selective licensing in the private rented sector - A Guide for local authorities 2015, para 66

- Consultation for a re-designation could be 6 weeks rather than the 10 weeks required for an initial designation,
- Prescriptive requirements to publicise the scheme after designation could be made less onerous (as those parties affected are presumably already aware of it),
- The statutory 12-week period between declaration and the start of the scheme could be reduced or eliminated to endure a smooth transition,
- Where Secretary of State validation is required, there should be a presumption of re-designation where appropriate positive outcomes from the previous scheme can be demonstrated.

10.9 Some participants argued for schemes to last longer than five years by default, with up to 10 years being the most common alternative posed. The most common justification for this view is that in an area with low demand (for example), if it can be considered unrealistic to anticipate that the problem will be eliminated with five years (market responses to such efforts happens slowly), it is therefore unreasonable to insist that the designation be only five years.

10.10 However, the point was made by others that after five years, even if a given problem is still present (albeit at a lower level), it may be that the overall situation has changed. If, for example, evidence no longer supported a certain portion of the original area of designation being re-designated, then the designation boundary should be redrawn, requiring consultation. Similarly, it may be that in the intervening five-year period a different area(s) of the authority may have become more appropriate for designation, or that local circumstances had changed such that licensing was no longer the most appropriate strategy in the original designation. These and similar scenarios were offered as a justification for review and consultation after five years.

Dispute resolution

10.11 Currently the only recourse for objectors to a designation is judicial review. This is a complex and expensive process (costs up to and exceeding £100,000 were cited by contributors to the review). Due to this cost, parties that object to a designation are reticent to initiate judicial review even if justified because of the concern of having to cover these high costs if the application is unsuccessful. Equally, some authorities have chosen not to begin the procedure of making a designation even in cases where it is likely to be effective for fear of an application for judicial review being made. These concerns could be reduced by an alternative and less costly means of dispute resolution, for example the involvement of a specialist tribunal. However, any exploration of an alternative approach would need to ensure that a high trigger threshold was set to avoid the possibility of objections on very limited or trivial grounds. The high cost of judicial review does at least mean that applications are made where there appear to be serious grounds for doing so.

Fit and proper person test

- 10.12 Any applicant for a licence must satisfy the “fit and proper person” test as part of their application. This is set out in section 89 of the Act, and requires that the person in question has not committed any of a number of offences, practiced discrimination and has not “*contravened any provision of the law relating to housing or of landlord and tenant law*”.⁶⁷ The nature of such a test varies between authorities. Many elect to allow the applicant to self-certify that they are indeed “fit and proper” (it is an offence to provide false information in this respect), whilst other authorities check the names of applicants with the police to confirm that there is no record of their having a relevant unspent conviction. Other authorities require the presentation of a Disclosure Scotland criminal record check.
- 10.13 There is considerable variation between authorities concerning refusal of a licence on fit and proper person grounds. Some issue short term licences in cases where the applicant has a record of previously mismanaging a property (e.g. waste, disrepair, noise), some refuse licences where the applicant has an outstanding debt to the authority, and others offer assistance to the applicant in finding a suitable agent if they are not deemed acceptable landlords. This variation indicates an area where shared best practice/guidance would be of value.
- 10.14 Some authorities were unsure as to what level of check is appropriate and sought clarification on this issue (i.e. whether a policy of self-certification without verification was acceptable). There was also some confusion regarding persons associated with the applicant. One authority cited the example of the wife of a known criminal landlord applying for a licence to circumvent the check. However, the Act already precludes this in section 89, as it is expanded to include “*any person associated or formerly associated with P (whether on a personal, work or other basis) has done any of the things set out in subsection (2)(a) to (c)*”⁶⁸. That said, it remains unclear to some local authorities as to what lengths they are expected to go in establishing the veracity of a self-certified claim of fit and proper.
- 10.15 One important point made by contributors to the review related to the specific offences that a local authority must consider when determining whether an applicant is a fit and proper person. Set out in the Act at section 89(2)(c), relevant evidence includes contraventions of the law relating to housing or of landlord and tenant law. There is no reference within the legislation to planning law, and it has generally been assumed that the question of whether a property has the necessary planning consent (e.g. a property that has been converted into flats without consent) is not relevant to the granting of a licence.
- 10.16 However, in a recent case, *Waltham Forest v Khan*⁶⁹, which concerned the refusal of the local authority to grant a full five-year licence where the property did not have

⁶⁷ Housing Act 2004 - Section 89(2)(a-c)

⁶⁸ *Ibid.* 89(3)(a)

⁶⁹ [2017] UKUT 153 (LC)

planning consent, the Upper Tribunal (Lands Chamber) upheld the local authority action and stated:

“in light of... objective behind Waltham Forest’s selective licensing scheme, to reduce the area’s significant and persistent problem with ASB which landlords were failing to combat, it was not possible to state that a breach of planning control was irrelevant to the local authority’s licensing decisions.”

10.17 Authorities have expressed discomfort at being obliged to grant licences where appropriate planning consent has not been obtained as this is seen as, in effect, validating the status of such a property and undermining the importance of planning law (there is the associated issue of the power of enforcement under planning law only being available for a limited period, which may have expired at the time the designation is made⁷⁰). One authority argued strongly that breaches of planning law should be added to the relevant legislation in section 89(2)(c) and there would appear to be merit in this.

10.18 It may also be noted that the information that must be provided on an application includes contraventions of “...any enactment relating to housing, public health, environmental health or landlord and tenant law...”⁷¹. However, the reasons for refusal set out in section 89(2) only relate to “housing or of landlord and tenant law”. This was highlighted by some as an inconsistency in that questions were being asked of applicants that pertain to offences for which the Act does not permit refusal of a licence. However, the Act states at 89(1) that:

“the local housing authority must have regard (among other things) to any evidence within subsection (2)”

10.19 The intended level of discretion afforded to authorities by the phrase “among other things” may well cover (but not be limited to) matters of public and environmental health, but the scope of local authority discretionary powers regarding refusal of a licence was unclear to respondents. This further indicates a need for clarification and/or best practice regarding the fit and proper test.

Complex landlord application process

10.20 The information required from landlords applying for a licence is extensive, with a typical application form comprising of 15-25 pages, varying depending on what (if any) additional information beyond the mandatory questions authorities may choose to gather. Applications can appear somewhat complex, so many authorities have issued guidance documents to assist with the completion of the form. Several landlord organisations made the point that in cases where a given residential block was separated into a large number of essentially identical flats with the same licence holder,

⁷⁰ Town and Country Planning Act 1990 Section 171B(2)

⁷¹ The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 Schedule 2(3)

the need to complete a separate lengthy application form for each dwelling space takes considerable and objectionable repetitious effort; in particular where there is no provision for online application.

- 10.21 Local authorities expressed misgivings about the amount of information that is required to be gathered from landlords in the application process. The survey responses included the following on this topic:

Application information - if the prescribed information required to make a licence application could be streamlined to issue a licence this could reduce the whole process and make it easier for landlords to apply for a licence. We have done a lot of work on this with our on-line processes but this has been time consuming and costly but the old paper application form was 56 pages long with 20+ advisory notes on completing the form.

The information needed to collect to produce a licence is significant However it would be beneficial if the prescribed information on a licensing application could be reduced to the following:

- *The owner/landlord name and address details;*
- *Details of those with a legal interest;*
- *The property address with the number of occupiers and household composition;*
- *Equalities information and the signed declaration.*

- 10.22 The list of mandatory questions that are required by law are contained in schedule 2 of “The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006”; and are indeed lengthy. This document covers the questions required both for a Part 2 (house of multiple occupation [HMO]) licence application as well as Part 3 (selective licensing) without making any distinction between the two. For example, establishing the number of kitchens in a property is more directly relevant to clarifying the facilities available in a HMO than it is to an area of selective licensing covering small terraced housing, where there may be no reason to believe that HMOs are prevalent. The questions contained in schedule 2 could potentially be split into section 63 (HMO licensing) questions and section 87 (selective licensing) questions, albeit there will be some questions relevant to both.

- 10.23 Given that selective licensing can be introduced for a number of different reasons with advance knowledge of the kinds of properties that the designation will cover, it would seem reasonable to allow a certain degree of discretion on the part of the local authority to select the questions most appropriate to their particular scheme. For example, if selective licensing is introduced to tackle low demand, then questions not directly relevant to low demand could be omitted, such as the question concerning the number of habitable rooms. However, if overcrowding has been highlighted as an issue in the area, this question would be pertinent to ask. Equally, questions about the age of a property are of questionable relevance if licensing has been introduced to

tackle anti-social behaviour; but would be relevant if property condition was the reason for the introduction of licensing.

- 10.24 Whilst many of the questions initially appear to require simple answers, the point was made by contributors that many of these questions refer to strictly defined or legal terms (e.g. “safety requirements contained in any enactment”, “separate letting units”, “unspent convictions” or “house in multiple occupation”), and therefore associated text intended to remove ambiguity was necessary as part of the application form, lengthening these sections, or necessitating a separate guidance document.
- 10.25 Several authorities expressed misgivings about the sheer number of statutory questions, in particular highlighting that additional questions that they would consider useful or relevant to ask (beyond the mandatory questions) rendered the application form far longer than would be desirable or practical. Given the large number of mandatory questions, their only recourse was to remove the additional questions that were intended to enhance to the effectiveness of the scheme. The point was also made that a discretionary power permitting the local authority to streamline the mandatory portions of the application would encourage landlords to obtain a licence early, as the process of completing a shorter form would be perceived as less onerous. It was argued that this would also reduce difficulties with landlords lacking in knowledge/experience and reduce administration time, as there would presumably be fewer incomplete or incorrectly completed applications to be dealt with by the administrative team.

Time remaining on licences

- 10.26 The nature of most licence fee structures is such that the fee is set with no consideration as to the time remaining of designation. A landlord obtaining a licence for a property one year before the licensing scheme is due to expire often has to pay the same fee as a for a licence issued at the start of the designation for the full five years. One year later, at the end of the original designation, the landlord would then have to pay another licence fee as part of the new designation, thus being required to pay two full licence fees in the span of one year.
- 10.27 Stakeholders representing landlords argued at some length in opposition to the requirement to re-licence. Some authorities have attempted to circumvent this problem by adopting a pro-rata approach to the enforcement portion of the licence (the cost of processing and application does not change), but the situation previously described remains the norm. Obviously, this prorating of the licence fee is only appropriate in cases where there has been no deliberate attempt to avoid or delay application, such as in the case of a property purchased midway through a designation for purposes of rental.
- 10.28 If an area is seamlessly re-designated (i.e. there is no time in between designations where licensing does not apply), and there is no meaningful change between one designation and the next, the case was made that it is reasonable to expect the licence to continue into the next period of designation. The benefit of this to authorities is that

it avoids the initial spike of applications that can be a burden to the administrative component; which may divert resources from inspection and enforcement in an effort to ensure the timely issuing of licences. The downside for the authority is that there is an associated reduction in income as a result of not compelling the re-licensing of all.

^{10.29} There is a First-tier Tribunal decision that implies that licences should last the full five years, regardless of whether the designation remains in place or not. In *Iyawa v London Borough of Newham*, the respondent local authority had limited the life of a licence to coincide with the ending of the selective licensing designation.⁷² The applicant argued that the local authority had no power to do so simply on the basis that the licensing period was due to end. The local authority did in fact intend to re-designate the area for selective licensing. The First-tier Tribunal (Property Chamber) agreed with the applicant and varied the licence to run for the full five years notwithstanding the fact that this would run past the end of the existing designation; and also that in the event of re-designation, the licence would remain in force during the period of overhang. It may be noted that First-tier Tribunal decisions do not have binding authority but nonetheless this does suggest that licences granted late in a first licence period should remain in force until the end of a five-year period should a re-designation be made.

^{10.30} However, it should be noted that allowing for licences from one period to extend into a period of re-designation could lead to administrative difficulties, as time remaining on a licence would need to be carefully tracked, and there would be a need to undergo a continuous process of informing landlords of the need to re-licence as licenses issued at different times expire. This added complexity supports the idea of pro-rating the enforcement portion of licence fees to ensure that all licences expire at the same time as the designation.

Lack of best practice

^{10.31} Authorities have highlighted the need for best practice in a range of areas. Currently, authorities without experience are restricted to communication with other authorities for advice. This process does not guarantee that the information they receive is representative of best practices. Requests for best practice and/or guidance made during the course of this review included:

- Techniques/data analysis to identify privately rented properties,
- Enforcement policy and practice (including inspection regime and claiming enforcement cost back from landlords where permitted by s49 of the Act),
- Fit and proper persons checks and appropriate response to any concerns such checks raise,

⁷² LON/00BB/HMV/2016/0004

- Methods for ongoing effective landlord/tenant engagement,
- Appropriate progress reporting including frequency and metrics,
- Identification of appropriate designation boundaries,
- Planning for a designation and effective consultation including appropriate evidence requirements,
- Fee setting (to improve consistency across authorities and also to assist in matching revenue generated to demands on resources),
- Application and scope of discretionary licence conditions,
- Data sharing across departments (as permitted in section 237 of the 2004 Act) to ensure that unwarranted concerns over data protection do not unnecessarily interfere with the legitimate exercise of statutory housing functions,
- Increasing local authority understanding and awareness of the process for obtaining the approval from the office of the Secretary of State required for larger schemes passing the 20% criterion. This should seek to allay concerns expressed by many local authorities regarding the perceived level of bureaucracy involved in this process. It should be noted that representatives of the Ministry of Housing, Communities and Local Government have made it clear that they are taking steps to address this concern.

^{10.32} Formal guidance is also sought concerning fee setting, enforcement policy, licence conditions and evidence requirements to ensure consistency between local authorities in these key areas.

^{10.33} There is also a need for clarity as to precisely what can and cannot be set against monies raised through licensing. In particular; there is a lack of clarity concerning what upfront setup costs (if any) can be legitimately claimed back from licence fees (e.g. publicising the scheme).

11. Other Considerations

Exemptions

- 11.1 The Act contains a clear section on types of property that are exempt from licensing.⁷³ However, there is scope for refinement. Authorities expressed some concern at the potential for abuse of the existing exemption for properties rented to family members, as a false claim of family connection is difficult to disprove.⁷⁴

Purpose-built student accommodation

- 11.2 Other groups are not exempt from licensing despite there being a robustly reasoned case that they should be, such as purpose-built student accommodation (PBSA). This accommodation, as a normal condition of operation mandated by the attached University, is required to implement a strict, Government recognised code of management practice (Unipol or AnUK). Such a code holds the accommodation to much higher standards of management and condition than any licence conditions could reasonably achieve. Properties are rigorously inspected on a regular basis (typically three times per year), and again whenever any property changes ownership. Any problems identified by these inspections must be corrected in a timely fashion, and serious infractions in one property can lead to an operator's entire portfolio being removed from the scheme, resulting in their being unable to remain in the sector.
- 11.3 Given that these properties are already highly regulated, and equivalent properties managed by Universities (to an almost identical code of practice) are exempt from licensing, licensing of such properties is manifestly redundant and extremely expensive for the operators. At the time of writing there has been no recorded instance of licensing-based enforcement action against any of these properties country wide. No reasonable argument in favour of licensing such properties could be advanced by any contributor to this review.

Almshouses and other charities

- 11.4 Section 79(3) of the Housing Act 2004 explicitly exempts the following:
- “A tenancy or licence is an exempt tenancy or licence if—*
- (a) it is granted by a non-profit registered provider of social housing,”*
- 11.5 This exempts non-profit charities that are registered providers from licensing. However, non-profit charities that are not registered remain subject to licensing.

⁷³ Housing Act 2004 section 79(3) and The Selective Licensing of Houses (Specified Exemptions) (England) Order 2006

⁷⁴ Ibid. section 2f

11.6 Almshouses, for example, fall under the banner of the private rented sector, despite clear differences in operation. The majority of almshouse residents today will be of retirement age, of limited financial means and living within the vicinity of an almshouse charity. Almshouse charities are regulated by the Charity Commission and are usually governed by locally recruited trustees. Residents pay a weekly maintenance contribution which is similar to rent but different in law, and less than a commercial rate. Some almshouses are registered providers, whereas others are not, primarily due to the cost involved in becoming registered.

11.7 Unlike unregulated private sector landlords, all almshouse charities are regulated by the Charity Commission. The Charity Commission guidance document stipulates:⁷⁵

7.6 Managing property (land and buildings)

If the charity owns or rents land or buildings, you and your co-trustees should:

...

- *ensure it's properly maintained and being correctly used*

11.8 Trustees are therefore obliged to provide well maintained and managed low-cost community housing for people in need.

11.9 As an example of a non-profit charity offering vital services (e.g. supported housing for the elderly) to the community, non-registered almshouses (approximately 75% of all almshouses), work on the slimmest of margins and the cost of licensing adversely affects their financial viability. For example; in one of several cases reported to the review, total licence fees came to £20,000, which represented approximately one quarter of all expenditure.

11.10 Valuing their role in the local community, some local authorities have conceded to waiving the licence fee for almshouses and other charitable institutions (e.g. veterans housing charities, and charitable co-operative and community benefits societies). The preference was to exempt them from the scheme, however they could not since the Act does not include them in the list of exemptions. As a result, these properties are still licensed, but at the cost of the local authority rather than the charity itself. Given the valuable work they do, it has been strongly argued that almshouses and similar non-profit organisations should be exempt from selective licensing. However, as a counter point, some almshouses are located in areas with pervasive poor housing conditions, and as such it may be appropriate in such cases for authorities to satisfy themselves that the properties in question are suitable.

11.11 It should be noted that local authorities cannot simply draw a designation boundary around these institutions. The process of drawing such a boundary is highly informed by the geographic level at which evidence is available. If a given data set supporting the introduction of licensing is at lower super output area level (LSOA), then the

⁷⁵ Guidance: "The essential trustee: what you need to know, what you need to do" – Charity Commission of England and Wales, 2018

designation will be typically be defined as a group of contiguous LSOAs that share the negative characteristic that licensing is being introduced to address. Discretionary introduction of single property sized “holes” within that area, on the presumption that the properties within are not contributing to the problem in question, is clearly open to challenge in the absence of the necessary granularity of supportive evidence. However, even if it were practical and defensible to draw such a boundary, local authorities report simply not knowing the locations of all such charitable institutions at the planning stage, as a result of the pervasive lack of knowledge concerning the private rented sector previously discussed.

- 11.12 Taking all arguments in the round, a presumption of exemption for non-profit charities providing support to local communities is strongly supported by a range of stakeholders, especially given that the numbers of properties are relatively small, thus minimising any financial loss to the selective licensing fund. If authorities have concerns over the condition of such properties, access for inspection can be gained without difficulty through the use of Part 1 powers.
- 11.13 The Act provides a mechanism for the Secretary of State to make regulations introducing exemptions in section 79(4):

(4)In addition, the appropriate national authority may by order provide for a tenancy or licence to be an exempt tenancy or licence—

*(a)if it falls within any description of tenancy or licence specified in the order;
or*

(b)in any other circumstances so specified.

- 11.14 This review supports such the introduction of exemptions for purpose-built student accommodation that follows a Government approved code⁷⁶ and non-profit charitable residential institutions that are not registered social housing providers.

⁷⁶ See Housing Act 2004 s233.

National registration scheme

- 11.15 Inherent within the term “selective licensing” is selectivity, i.e. that it should apply only to selected areas. However, a key theme that emerged over the course of the review was the potential impact of applying licensing nationally, effectively eliminating the “selective” component.
- 11.16 The suggestion of national registration has been circulating in one form or another for several years. Perhaps most publicly, it was recommendation of Rugg and Rhodes detailed 2008 review of the private rented sector (The Rugg Review”⁷⁷). Ultimately, the proposal received a mixed reception, and the Government decided against it⁷⁸.
- 11.17 A more recent review by Rugg and Rhodes recommends a fundamental change to how the private rented sector is regulated; including proposals for the establishment of a national landlord and letting agent register and for all property to be independently confirmed as being fit for letting.⁷⁹ Under these proposals, every landlord would have to sign up to this register before being able to let out a property. They would be issued with a register number which would then need to be presented in all transactions relating to each letting. Properties themselves would be subject to a “property MoT” indicating that the property has passed independent inspection. As a result of this recent credible recommendation, and its clear relationship to selective licensing, a wide range of contributors to this review expressed opinions about the topic. Almost every interviewee expressed a reasoned view (in some cases it was the main focus of the interview), and it was one of the three most commonly highlighted issues amongst respondents to the survey.
- 11.18 In general, any business where there is a threat to public health if not properly regulated requires participants to be registered in some fashion with the local authority, whether it be food sales, taxicabs, or the sale of alcohol. Arguably, no other single industry has as large a potential impact on the welfare of its customers than the privately rented sector. As one stakeholder put it: *“it seems absurd to me that you need to obtain more paperwork and jump through more hoops to sell a hot dog on the streets than you do to rent out a property”*. In this respect, the current lack of any form of landlord registration is notably anomalous when considered against other sectors.
- 11.19 There was significant support from local authorities, tenant organisations, landlord organisations and other stakeholder groups for the introduction of some variant of national registration of landlords. Authorities were in favour as a pre-existing list of landlords and their privately rented properties would dramatically enhance the intelligence available to them in collating a robust, evidence based selective licensing

⁷⁷ The private rented sector: its contribution and potential Rugg J & Rhodes D. Centre for Housing Policy. University of York. 2008

⁷⁸ “House of Commons Communities and Local Government Committee: The Private Rented Sector - First Report of Session 2013–14”, pages 19+20

⁷⁹ The evolving private rented sector: its contribution and potential Rugg J & Rhodes D. Centre for Housing Policy. Univ of York. 2018

proposition, whilst simultaneously minimising the risk of underestimating the amount of privately rented properties. In addition, it would significantly simplify the ongoing search for unlicensed properties.

- 11.20 Landlord groups were in favour of registration since it would require landlords to treat renting properties in a more business-like fashion, improving the professionalism and reputation of the sector, and encouraging accreditation. Other stakeholder groups were in favour for a variety of reasons, such as gaining a greater understanding of local housing markets.
- 11.21 Detractors felt that a registration scheme would be too complex and expensive to administer, and that it would do little toward identifying criminal landlords. However, others pointed out that due to there being fewer unidentified landlords/rental properties, more resources could be utilised in the effort to tackle criminal landlords, thus increasing a given scheme's effectiveness. Since the data informing the planning phase would be more accurate, it would also be more likely that sufficient personnel and resources would be available to effectively identify and enforce against these landlords.
- 11.22 There were a variety of opinions as to how such a registration scheme should operate. Broadly speaking, opinions on the matter were variations on one of three themes:
- 1) Voluntary registration with minimal fee.
 - 2) Compulsory registration of all landlords, with an associated fee, and a fine for failing to register. This would require an enforcement policy and regime, which would be supported by the fees. Such enforcement would focus mainly on the identification unregistered landlords. Local housing authorities would continue to use existing powers to regulate the private rented sector in their area (including selective licensing where appropriate), supported in their efforts by the data gathered through registration.
 - 3) Compulsory registration of landlords, where they had to provide regular (e.g. five yearly) evidence of independent (i.e. from private companies) inspection; and the continual updating of paperwork such as gas safety certificates etc. through an online portal. This would be associated with a database that was accessible by prospective tenants, who would then have the information required to make an informed decision as to whether to rent the property. This type of scheme is often referred to as the "Property MOT", drawing a parallel with the requirements of running a car.
- 11.23 The first option suffers the problem of only attracting competent landlords by virtue of its voluntary nature. There is little incentive to join the scheme, and a "minimal fee" would cover little beyond administration. The Rugg and Rhodes solution to this issue (discussed in paragraph 11.17) was that registration would convey a unique code to the landlord, which would be necessary to engage in business connected to private rent, e.g. obtaining a buy-to-let mortgage, obtaining insurance, declaring rental income for tax purposes etc. This avoids most of the difficulties associated with enforcement by virtue of a landlord being functionally unable to operate without presentation of this

code. In theory, the difficulties associated with remaining unlicensed would compel compliance, however a minority may remain operating illegitimately (e.g. by presenting themselves as owner occupiers whilst continuing to rent on a cash basis), so some enforcement provision would be required.

- 11.24 The second option is essentially the model that operates in Scotland, Wales and Northern Ireland. Similar to selective licensing itself, this option will only be as effective as the associated enforcement regime. There are anecdotal examples of ineffectual enforcement in some of the places currently operating registration. However, it should be emphasised that these reports were only anecdotal (no verifiable evidence was provided in support of the claims made), and it should also be made clear that the licensing and registration practices of Wales, Scotland and Northern Ireland are outside the scope of this review.
- 11.25 The third option has the advantage of essentially rendering selective licensing unnecessary, as landlords would be compelled to operate as if closely regulated. However, this variant raises the question of how the private companies performing inspections would themselves be regulated, along with other potentially expensive complications.

Data

- 11.26 Two suggestions of existing data sources that could be of potential utility in establishing a starting point for a national register of landlords were submitted to the review. The first suggestion was with reference to HMRC data. Where there is a declaration of taxable income from the collection of rent, the individual could simply be added to an appropriate database of landlords, which could be then be accessed by local authorities. Such a strategy could theoretically identify the vast majority of legitimately operating landlords resident in the country in a single operation.
- 11.27 The second suggestion was the use of data held by the Information Commissioner's Office (ICO), as landlords electronically recording personal data (i.e. tenant information) are required to be registered with ICO under General Data Protection Regulation (GDPR). However, this would exclude landlords who maintain paper records.
- 11.28 If such a landlord database were to exist, by comparing this database against land registry data, these landlords could (in theory) be matched to the properties they own. Where the individual paying council tax on one of these properties is not the owner, this would be strong evidence that the property is privately rented.
- 11.29 The degree of data sharing, security concerns and associated data protection considerations would almost certainly preclude the above strategies in practice, and there would be clear problems with certain groups of landlords and properties (e.g. landlords resident overseas, properties owned by companies rather than individuals etc.). Nonetheless, these ideas illustrate the potential of wider data sharing in identifying the private rented sector.

- 11.30 Overall, one of the key problems associated with setting up and running a selective licensing scheme is a lack of data concerning the private rented sector. As set out earlier, this lack of data serves as a significant barrier that can result in authorities falling at the first hurdle. Where designations do come to fruition, it is common to discover significantly more private rent than was previously known, a circumstance that can seriously impede the effectiveness of a scheme. Furthermore, the continuing identification of unlicensed properties poses significant difficulty.
- 11.31 A national registration scheme would go a long way toward solving these data related problems. Such a scheme would allow for far more accurate enumeration of the private rented sector at the planning stage and would facilitate the ongoing identification of unlicensed properties in an active designation. These factors would increase the effectiveness of any selective licensing scheme significantly. As such, national registration would at the very least complement and support selective licensing. The practicalities and nuances of the introduction of a registration scheme are outside the scope of this review, however this research indicates that there is significant appetite for such an initiative, and it should be given further consideration.

12. Conclusions

- 12.1 The research overall indicates that selective licensing can be an effective and positive policy tool. There are a wide range of concrete examples of schemes achieving demonstrable positive outcomes. Furthermore, these schemes operate in a range of different ways dependent on local conditions and requirements, demonstrating that selective licensing offers the facility to provide a flexible framework to reflect local circumstances.
- 12.2 However, it is also clear that there is considerable variation in the effectiveness of individual selective licensing schemes: some do not achieve tangible, positive results to the same degree as others. The extent to which a scheme is integrated into wider local strategies appears to play a key role in its effectiveness.

Key mechanisms by which licensing effects change

- 12.3 **Selective licensing focuses resources on areas of concern** - authorities can concentrate efforts and resources on a specific area with identified problems, whilst simultaneously generating revenue to contribute to the costs involved;
- 12.4 **Licensing provides a clear licensed/unlicensed offence** - this clarity simplifies the enforcement process. Where a landlord is intentionally operating without a licence, it is considered likely that there are other violations present which can then be investigated and pursued as necessary;
- 12.5 **Licensing allows authorities a simple route to access properties of concern** – with other Housing Act powers, authorities need to give at least 24 hours notice to inspect a property. Inspections conducted under licensing regimes do not require such notice. This is particularly important in areas where there are landlords more likely to disregard statutory obligations ('rogue' or criminal landlords);
- 12.6 **Proactive not reactive approach** – Proactive inspection of properties to establish if they are unlicensed or otherwise not compliant with licence conditions will also tend to bring to light other significant problems of which the authority was previously unaware, and appropriate action can then follow;
- 12.7 **Licensing provides a clear mechanism and driver for landlord engagement** – the requirement for landlords to license properties leads to engagement with the local authority. The authority can then provide training and support as necessary to encourage a more professional sector and drive up standards.

Common characteristics of effective schemes

- 12.8 **Planning** – To maximise effectiveness, significant effort must be made to plan in as much detail as possible, this should include consultation, finances, IT, timescales, staffing, travel, publicity, landlord engagement, evidence etc. Where necessary authorities should seek advice from external sources. Inadequate planning can lead to a variety of negative consequences as the scheme progresses, some of which are discussed below.
- 12.9 **Thorough consultation** – The consultation serves not only to gather opinions and views that should inform planning, but also to initiate the ongoing process of landlord engagement that will continue through the scheme (if designated). Insufficient consultation can lead to judicial review.
- 12.10 **Well evidenced** – The proposed scheme should be supported by the best evidence available, and further evidence/intelligence should be gathered on an ongoing basis throughout the life of the scheme. A key theme emerging from the review is the lack of evidence available to authorities concerning the private rented sector. Severely underestimating the number of properties that will be subject to licensing in an area can lead to a variety of serious issues (discussed below), so efforts should be made to obtain the most robust evidence possible to inform planning and operation.
- 12.11 **Focused** – The designation should be as small as possible whilst still covering the area that evidence indicates would benefit from the scheme. This is because the problems that can arise in selective licensing schemes are almost always rendered more serious the larger the designation in question is. As a consequence, district wide licensing should be considered only in particular circumstances, i.e. where there is evidence that the problems that selective licensing is being introduced to address are sufficiently severe and diffuse to warrant such action across the entire authority. Local authorities (especially those without previous experience of licensing) considering larger schemes should consider smaller pilot schemes in the first instance to identify potential issues and inform planning for the larger scheme.
- 12.12 **Targeted** – The scheme should have a clear idea of what it is intended to achieve and how it proposes to realise these goals. However, target setting needs to be flexible, as it likely that the reality of the private rented sector does not match the best intelligence available prior to designation, and that the sector is likely to change over the five-year designation period.
- 12.13 **Part of a wider suite of community-based measures to affect change consistent with the aims and objectives of selective licensing, with political will to support** – including appropriate extra resourcing around the scheme, e.g. legal, ASB officers, social services etc. This typically incorporates holistic cross departmental/cross agency working - e.g. police, fire, immigration, alcoholism, homelessness etc. Selective licensing implemented without such a wider framework will typically discover a variety of issues within the designation, however without the wider framework in place to deal with these issues, effectiveness is compromised.

- 12.14 **Due consideration to the importance of communication/ training/ support for landlords and tenants** - building community links lends support to the scheme, encouraging a shift in attitudes/behaviours. In particular, proactive communication of positive outcomes with landlords, along with making available appropriate support, training and incentives, can foster a sense of working with, rather than against, the authority. Where such support is in place in conjunction with a robust enforcement policy, there is often a notable increase in standards without direct council intervention, due to this attitudinal shift.
- 12.15 **Ongoing evidence of outcomes is made available** - Where this is the case, there is commonly a higher degree of landlord “buy-in” and confidence in the scheme. (See above).
- 12.16 **Targeted Inspections** – An effective inspection regime should actively seek out unlicensed properties whilst simultaneously targeting high risk licensed properties in the first instance. Given the noted correlation with failure to license and failure to meet other statutory obligations (i.e. so-called “rogue” or “criminal” landlords), identifying unlicensed properties should be an ongoing priority in any scheme as a matter of protecting tenant welfare. Inspections of licensed properties should prioritise those considered high risk for similar reasons. Failure to actively pursue criminal landlords (and be seen to be doing so) can negatively impact on working relationships between landlords and local authorities.
- 12.17 **Robust Enforcement Policy** – The implementation of a clear and consistently applied enforcement policy is vital to ensuring the effectiveness of a scheme. Where inspections and enforcement are lacking, selective licensing can be reduced to an expensive paper exercise. In extreme cases, a systemic failure in enforcement can lead to a pervasive refusal to license by the landlord community, once it becomes clear that there are no meaningful consequences associated with remaining unlicensed. Since this represents the antithesis of an effective scheme, implementation of a robust enforcement policy (encompassing the ongoing identification of unlicensed properties) is critical to success.

Best practice

- 12.18 Given the wide variety of approaches taken by local authorities to many of the above factors, there is a clear need for the wider sharing of best practice. Currently, many authorities considering designation seek advice from nearby local authorities with designations in place. This does not guarantee that the advice shared is necessarily optimal. The issuing of one or more best practice/guidance documents covering a range of topics highlighted by this review was requested by several authorities.
- 12.19 One such best practice is the prorating of the licence fee. Most licence fees do not take any account of the remaining time of the licensing designation. This can lead to landlords being required to pay the full cost five-year of licensing even if there is only a short time remaining before the designation expires (with no option to “carry over” where re-designation is intended). This negatively impacts on relationships with

landlords, who perceive this as manifestly unfair. This issue can be partially mitigated by making the enforcement portion of the licence fee payable on a pro-rata basis.

- 12.20 Landlords applying for a licence are subject to a “fit and proper person” check, as set out by the Housing Act 2004. There is considerable variation in the nature of this check between authorities, ranging from accepting self-certification to police background checks. There is also variation in the criteria against which the landlord is checked, and variation in the consequences to a landlord of failing the check. This is another area in which shared best practice would be of value. The Act requires that the person in question has not “contravened any provision of the law relating to housing or of landlord and tenant law“. Contributors to the review made the case that this should be expanded to include property law.

Challenges

Financial

- 12.21 As referenced above, one of the primary difficulties affecting authorities introducing selective licensing is the identification of the private rented sector itself. Almost every authority reported discovering more privately rented properties than they had previously believed to exist.
- 12.22 Where authorities have made a designation, in cases where significantly more privately rented properties than were previously assumed are found, there may be appreciable difficulties in administering the scheme because of the increased number of applications. Authorities report that this leads to unanticipated pressure on IT systems and administrative staff; and can lead to significant delays in the issuing of licences. This issue also impacts enforcement, as there may be insufficient staff available to inspect the extra properties or engage in appropriate enforcement action.
- 12.23 Genuinely self-supporting (no subsidy) schemes are in the minority and typically have higher licence fees. The largest single cost of operating a scheme is staffing, therefore setting a fee too low to cover this cost adequately has significant consequences. In cases where the fee is low and local authority subsidy is limited or absent, it is usually the case that somewhat less than 100% property inspections are conducted, or that other problems arise that can impede the effectiveness of the scheme. The setting of fees at a realistic level is therefore of critical importance to assuring the effectiveness of a scheme. Care must be taken to ensure provision for the ongoing identification of unlicensed properties.
- 12.24 There are various costs connected with licensing that cannot be reclaimed against the licence fee. These include the costs of consultation and setup, which can be significant. In particular, several authorities felt that the legislated requirement for advertising in local newspapers was not a productive use of the limited resources available.

- 12.25 Even when adequate financial resources are available, staffing of selective licencing schemes can pose difficulties. Some authorities reported an inability to secure sufficient staff to implement the planned for inspection/enforcement regime, compromising effectiveness.
- 12.26 Where a lack of staff or resources leads to licensed properties not being inspected, this negatively impacts relationships with landlords, and can potentially lead to serious problems not being discovered, with an associated risk to tenants. Where there is strong reason to believe at the planning stage that fewer than 100% of properties can be inspected over the five-year time period, local authorities should consider a making a more manageable designation targeted on the area(s) that would most benefit from licensing, or the adoption of an alternative approach. Where issues in the area are very diffuse (see paragraph 12.11 above), an intelligence-based, targeted approach to intelligence/enforcement has been an effective strategy. This requires fewer inspection/enforcement staff than inspecting all properties, but also demands associated resources for intelligence gathering and data analysis. Careful planning is therefore necessary to ensure that a scheme is successful when there are insufficient staff to implement a 100% inspection policy. Again, the sharing of best practice in this area would be of value.

Powers under Part 1 and Part 3 of the Housing Act 2004

- 12.27 The implementation of an efficient inspection/enforcement regime is particularly hampered by a key factor impacting many schemes. Authorities are not permitted to include conditions on the licence that relate to property conditions, despite poor property conditions being one of the six conditions on which a decision to introduce licensing can be based. Where hazards to the health of tenants are encountered during a licensing inspection, action cannot be taken by the authority until a separate inspection (with notice given in accordance with section 239 of the Housing Act 2004) is carried out. The presence of an HHSRS hazard does not of itself necessarily constitute a breach of a licence condition.
- 12.28 Tribunal decisions have interpreted the purpose of the notice requirement in Part 1 of the Act as giving relevant parties the opportunity to be represented at an inspection. However, the 2004 Act does not require that notice is given for licensing inspections, presumably on the basis that giving notice could defeat the purpose of the inspection. The requirement for a second inspection where a significant hazard is found seems a waste of resources and there could potentially be serious consequences for occupants of the property.
- 12.29 One option for legislative change could be the removal of the requirement for notice for Part 1 action in licensing areas where a hazard was found during a licensing inspection. An alternative/additional approach could be the revision of the mandatory conditions to include a requirement that the landlord should ensure that the property is free of significant hazards. The fact that the Homes (Fitness for Human Habitation Act) 2018 has now come into law presents an opportunity for this to be accomplished through requiring a landlord to comply with an existing statutory requirement.

Designation

- 12.30 When a designation (or the aggregate of several designations) will cover more than 20% of the total geographical area or 20% of the total private rented sector (as enumerated by the 2011 census), the scheme has to be submitted to Office of the Secretary of State for validation. The higher risks associated with larger schemes supports the need for oversight, especially where the authority in question does not have direct experience of running such a scheme. However, the review highlighted the need for there to be a greater understanding of the process of validation on the part of local authorities. Furthermore, there is a need for improvements to the criteria engaging validation and the process of validation itself. The Ministry of Housing, Communities and Local Government are currently undertaking work to provide tools to support local authorities in the application process.
- 12.31 In cases where there is a clear and demonstrable need for re-designation after the initial 5-year period, the authority needs to undertake the same process as was required for designation in the first instance before the first scheme expires. This diverts resources from the initial scheme and adversely impacts effectiveness. In cases where Secretary of State approval is required, delays to this process can also cause significant concerns about job security, in particular to staff working on fixed contracts. As a result, this review recommends a “light touch” re-designation process where the new scheme is not meaningfully different to the old (assuming the previous scheme can demonstrate positive outcomes), and a presumption of re-designation where Secretary of State validation is required.

Other

- 12.32 The information required from landlords applying for a licence is extensive, with a typical application form comprising 15-25 pages dependent upon the extent of additional information required by local authorities beyond the mandatory questions. Several contributors indicated that many of the mandatory questions may not be directly relevant to a given scheme; and suggested that streamlining the application would make the process of application less onerous for landlords, increasing uptake and reducing the administrative costs associated with reviewing incorrect/incomplete application forms. Permitting councils some freedom to use their own discretion in selecting the questions most pertinent to the local characteristics of their scheme could mitigate this issue. Alternatively, a critical review of the current mandatory questions could be undertaken.
- 12.33 Currently the only legal recourse for people opposed to a designation is to make an application for judicial review. This is a complex and expensive process. Both landlords and local authorities sought an alternative to judicial review: landlords due to the cost of formally challenging a designation, and local authorities due to the potential financial cost of a successful challenge. Some authorities reported choosing not to initiate plans for licensing purely because of the potential financial implications of such

plans being successfully challenged. As such, more inexpensive alternatives to judicial review as the primary method for challenge should be explored.

- 12.34 There is a strong case to be made that purpose-built student accommodation (where operating under a Government approved code), and non-profit charities (operating under the guidelines of the charity commission) that are not registered providers of social housing, should be added to the list presumed exempt from the licence fee. In the case of purpose-built student accommodation, the code of practice adhered to holds them to a much higher standard than a licensing scheme. Non-profit charities (e.g. almshouses, veterans housing charities) provide a valuable service to the local community whilst often working on the slimmest of margins. The cost of licensing adversely affects their financial viability, and Charity Commission guidelines already prescribe good management and maintenance practices.
- 12.35 A national registration scheme requiring landlords to identify themselves and the properties they operate would complement and support selective licensing. As previously discussed, key problems for authorities considering or operating a licensing regime include a lack of data concerning the private rented sector, and associated difficulties in identifying rented properties. A national registration scheme for landlords would go a long way to solving these problems in addition to other, wider advantages such a scheme could offer.

Annex 1 - Literature review

Legislation

1. Selective Licensing was originally introduced as Part 3 of the Housing Act 2004.⁸⁰ In its initial form, licensing could be introduced for reasons of low demand or anti-social behaviour, and all potential designations required validation from the Office of the Secretary of State. Further to this, regulations making provisions to the Act were introduced in 2006.⁸¹ In respect of selective licensing, these regulations covered matters of information required from landlords and publication requirements on designation/revocation of designation. Further to these regulations, an order describing qualified exemptions from selective licensing was also published in 2006.⁸²
2. In 2010, a general approval was enacted allowing local authorities the power to designate areas of licensing without Secretary of State approval, subject to a thorough consultation of no less than 10 weeks.⁸³
3. In 2015, the general approval was replaced with new criteria requiring approval from Government for designations covering more than 20% of the geographic area of a local authority or more than 20% of the private rented sector (as enumerated by census).⁸⁴ The requirement for consultation was unchanged.
4. Along with the new general approval, additional conditions were introduced that allowed selective licensing designations to be made for reasons of poor property conditions, high levels of crime, high levels of migration and high levels of deprivation.⁸⁵

⁸⁰ Housing Act 2004 Part 3

⁸¹ The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006

⁸² The Selective Licensing of Houses (Specified Exemptions) (England) Order 2006

⁸³ The Housing Act 2004: Licensing of Houses in Multiple occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2010

⁸⁴ The Housing Act 2004: Licensing of Houses in Multiple occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2015

⁸⁵ The Selective Licensing of Houses (Additional Conditions) (England) Order 2015

Guidance

5. In tandem with each of the legislative changes outlined above, guidance documents were produced for local authorities. In 2006, the Department of Communities and Local Government (DCLG, now the Ministry of Housing, Communities and Local Government, MHCLG) published “Approval steps for discretionary licensing schemes in England”, which provided clarity on identifying evidence in support of a scheme, consultation and provided useful templates for local authority use.⁸⁶ This document was revised in 2010 to reflect the general approval.
6. Also in 2006, Shelter published a best practice guide that explained the potential benefits of licensing to local authorities, offered advice on planning and implementing a scheme, along with presenting examples of best practice from the limited number of local authorities that had adopted licensing by that point.⁸⁷ This best practice guide was intended to be used in conjunction with the DCLG document.
7. In 2015, DCLG published a new guidance document, reflecting the changes to the legislation establishing wider reasons for which licensing can be introduced, and the new criteria engaging the need for Government validation of a proposed designation.⁸⁸ At the time of writing, this is the most recent formal guidance document, and covers matters of evidence, consultation, application to the Office of the Secretary of State for validation, duration and notification, and review and renewal of schemes.

Review

8. In August 2007 DCLG published a report investigating the expectations of local authorities in advance of the licensing measures coming into effect.⁸⁹ This report found that a significant portion of local authorities were considering applying for a selective licensing scheme, and that it was seen as a useful tool for improving standards. However, it was also felt likely that selective licensing would be resource intensive, and authorities were concerned about the level and quality of support services that they could offer to landlords.
9. The other significant publication discussing licensing from the pre-2010 period was the Rugg and Rhodes review of the privately rented sector in 2008.⁹⁰ This review argued for registration (licensing) for all private rented sector landlords, and their review concluded that a ‘light-touch’ system of regulation should be introduced for the whole sector. With regard to selective licensing itself, it argued that selective licensing should

⁸⁶ Approval steps for additional and selective licensing designations in England – DCLG 2006, revised 2010

⁸⁷ Selective licensing for local authorities A good practice guide – Shelter 2006

⁸⁸ Selective licensing in the private rented sector, A Guide for local authorities – DCLG 2015

⁸⁹ Evaluating the Impact of Houses in Multiple Occupation and Selective Licensing: The baseline before licensing in April 2006 – DCLG (August 2007) Housing Research Summary 239

⁹⁰ The private rented sector: its contribution and potential – Rugg and Rhodes 2008

be “un-coupled” from the presumption that it applied wholly to areas of low demand (which occurred with the introduction of the 2015 legislation), and that more could be done to share experiences of selective licensing between authorities.

10. In 2010, the DCLG carried out its own review into HMO and selective licensing, at a time when only six local authorities had a designation in operation.⁹¹ The review highlighted examples of both good practice and failed initiatives, the diversity of approach across local authorities, issues around overall level and security of resources supporting schemes, communication with stakeholders and difficulties in compiling evidence.
11. The Communities and Local Government Committee’s inquiry into the private rented sector (2012-13) briefly considered the operation of selective licensing, recommending that Government should reform selective licensing as it was then to increase the flexibility offered to local authorities, and that local authorities should ensure that licence fees are not set at a level that could dissuade from investment in the sector.⁹²
12. DCLG published a consultation on property conditions in the private rented sector in 2014, which gathered information on local authorities’ experiences of licensing.⁹³ Amongst its findings were concerns that licensing places additional burdens on fully compliant landlords. The consultation and associated Government response explain that the Government does not support disproportionate approaches to licensing, such as licensing an entire local authority area, as this unfairly penalises good landlords. It also notes that it goes against the policy intention of the original legislation. The Government response stated that the general approval would be amended to “ensure that local authorities focus their activity on areas with the worst problems while helping to ensure that they do not adversely impact on good landlords” and “expand the criteria for selective licensing.” This directly led to the legislative changes of 2015.
13. The Housing, Communities and Local Government Committee carried out a further inquiry into the private rented sector over 2017-18.⁹⁴ This inquiry received mixed evidence concerning the effectiveness of selective licensing, centred around discussion of rates of prosecution. There was general agreement that the current application process for validation of a large scheme was “not fit for purpose”, and witnesses were against the need to obtain validation for larger schemes as this was seen as “contrary to the spirit of localism”. The committee recommended removal of the 20% cap, replacing it with a power for the Secretary of State to require local authorities to reconsider a decision to implement a scheme, and to require monitoring of scheme’s effectiveness once implemented. The Government response rejected the recommendation, reiterating its position that blanket licensing is unfair to responsible

⁹¹ Evaluation of the Impact of HMO Licensing and Selective Licensing – BRE/DCLG 2010

⁹² HC 50, First Report of Session 2013-14, 18 July 2013 para 49

⁹³ Review of Property Conditions in the Private Rented Sector – DCLG 2014

⁹⁴ HCLG Select Committee, Private rented sector, HC 440, 19 April 2018

landlords. The response also pointed out that local authorities are under a duty to review existing schemes to ensure their effectiveness.

14. In 2018 Rugg and Rhodes published further research into the private rented sector.⁹⁵ This report found that evaluating the effectiveness of selective licensing was “problematic”, as poor management standards are hard to quantify. It raised concerns that many licensed properties have never been inspected; and that the private rented sector lacks overall scrutiny. The report discussed the barriers to local authorities in implementing schemes due to prohibitive cost and potential legal challenges; and described the process of obtaining validation as “onerous”. It also highlighted the advantages of open channels of communication with landlords:

“... SL regimes open a dialogue between the local authority and local landlords, which local authorities can use to implement ‘soft’ enforcement through advice and support on property condition. A negotiated and less combative relationship is regarded as being more productive of material improvement in property conditions.” Page 101

15. The review concludes that national and local government should engage in more proactive management of the PRS, arguing a need for simpler regulation and recommending a national registration scheme for landlords in tandem with a “MoT” model national registration scheme for properties.
16. The Chartered Institute of Environmental Health and the Chartered Institute of Housing jointly published a review of selective licensing in January 2019.⁹⁶ This review found that many licensing schemes are delivering significant benefits in terms of tackling property conditions and anti-social behaviour. It also highlights the need to evaluate schemes based on more than rates of prosecution, and the benefits of joint working between agencies and improved landlord engagement. It recommends that the current approval process be reviewed, local authorities should be granted greater flexibility to set licence conditions and that a good practice guide should be published to aid authorities. Furthermore, it supports the introduction of a national registration scheme and calls for more support from Government to enable councils to effectively utilise their enforcement powers. For local authorities, it recommends setting clear targets and monitoring practices, engagement with landlords through publication of scheme outcomes, and effective use of financial penalties.

⁹⁵ The Evolving Private Rented Sector: Its contribution and potential - Julie Rugg and David Rhodes 2018

⁹⁶ A licence to rent - CIH & CIEH 2019

Annex 2 - Desktop based analysis

1. In this section the outcomes of various selective licensing schemes against a set of comparator areas are explored. The aim was to assess how licensed areas have changed over time and what may have happened if they had not been licensed, based purely on publicly available data.
2. The process followed by the analysis was to initially seek to identify data from the start and end of licensing schemes which could be meaningfully used to identify how effective they were in improving housing conditions.
3. The key datasets utilised were the Index of Multiple Deprivation (IMD) 2010 and 2015. The Index of Multiple Deprivation 2015 is the current official measure of relative deprivation for small areas in England, with the Index of Multiple Deprivation 2010 being its predecessor. The Index of Multiple Deprivation ranks 32,844 small areas in England from most to least deprived; and by a series of categories covering the Living Environment, Income, Crime, Employment, Education, Skill and Training, Health Deprivation and Training and Barriers to Housing and Services.
4. The key benefit of the IMD is that the 32,844 small areas are the same in the 2010 and 2015 IMD figures and can therefore be compared. Secondly, these areas are sufficiently small that they can be aggregated to geographically approximate a given selective licensing designation. The figures cannot be used to directly say whether an area was more or less deprived in 2015 than it was in 2010, but they can be used to assess if the area has improved or deteriorated against other similar areas by looking at where it ranks for each IMD indicator. An indication that selective licensing has been effective would theoretically see the area rank more highly on IMD scores, particularly in comparison to neighbouring areas.
5. Comparator areas were chosen through examination of potential contiguous areas within the authority. Criteria for selection included similarities in IMD scores 2010, similar total numbers of households and similar proportions of private rent (from Census 2011). The area identified as being most similar to the licensing designation was selected for analysis. Therefore, for any local authority with a licensing scheme, the IMD scores in 2010 and 2015 were identified for the licensed area, and these were then compared this to the contiguous comparator area without licensing in place. This allowed for a direct comparison of how the IMD scores change in licensed areas against non-licensed areas in the immediate vicinity.
6. A restriction facing this type of testing is that the IMD scores are only available for 2010 and 2015. Therefore, schemes could only be tested that were introduced around 2010 and were completed by 2015.

8. Despite this restriction, the outcomes for 6 separate schemes were able to be compared, which are labelled as Case Study A through to Case Study F in the tables below. The schemes were introduced for a variety of reasons and these are set out in the title for each Case Study. Areas which have seen improvements in their IMD ranks are shown as plus figures while those which have seen a decline in their ranks are shown as minus figures. Therefore, for evidence of selective licensing schemes being successful we should find that the scheme area has a higher score than the comparator area.
9. Review of the IMD case studies shows that the overall outcome of this approach was inconclusive. While some areas did show signs of relative improvement, others fared much worse than their comparator areas. In practice, there are a huge number of factors affecting each area beyond the impact of selective licensing and it is necessary to test more than just IMD scores to assess if the scheme has been a success or not. However, the limitations on the range of publicly available data at a sufficiently small geographical level means that this is very difficult to do.
10. Further to the IMD information, changes in house price data were also examined. Presented in the graphs below are historic average house price data for the scheme area, the comparator area, the local authority as a whole, and for England. In each case, during the licensing period, the selective licensing area underwent similar changes in average house price to that of the comparator area. Although in some cases some “narrowing of the gap” can be observed, this is not a prevalent enough effect to draw a meaningful correlation with the introduction of licensing, given the number of varied factors that can affect house prices.
11. Where available, comparative crime statistics are also presented for both licensed areas and comparator areas, as are total reports of anti-social behaviour. The dates presented are as close as possible to the start and end date of the designation for which the IMD data was presented. In several cases, licensed areas appear to have undergone a larger decline (or smaller increase) than their associated comparator area, however it is again unclear whether this can be ascribed to licensing specifically or other factors (e.g. improved policing).
12. The difficulties this review encountered in assessing whether schemes have improved an area mirror those of an authority seeking to bring together an evidence base for a scheme. The lack of comparator data and the unique circumstances of each scheme imply that it is difficult to assess whether a scheme is either necessary in the first place, or successful in its operation, without drawing on a wider range of data and qualitative evidence than is publicly available.

Case Study A: Low Demand for Housing

Table 1: Case Study A – Changes in IMD score 2010-2015 (Source: Index of Multiple Deprivation 2010 and 2015)

Domain	Scheme Area	Comparator Area
Living Environment	+1.7	-3.3
Income	-5.0	+8.3
Crime	-3.3	-5.0
Employment	-5.0	0
Education Skills and Training	0	-1.7
Health Deprivation and Disability	0	-1.7
Barriers to Housing and Services	-20.0	-31.7
Index of Multiple Deprivation	-5.0	0

Chart 1: Case Study A – Total Reported Crimes 2013-2018 (Source: ASB Incidents, Crime and Outcomes – Home Office through data.police.uk)

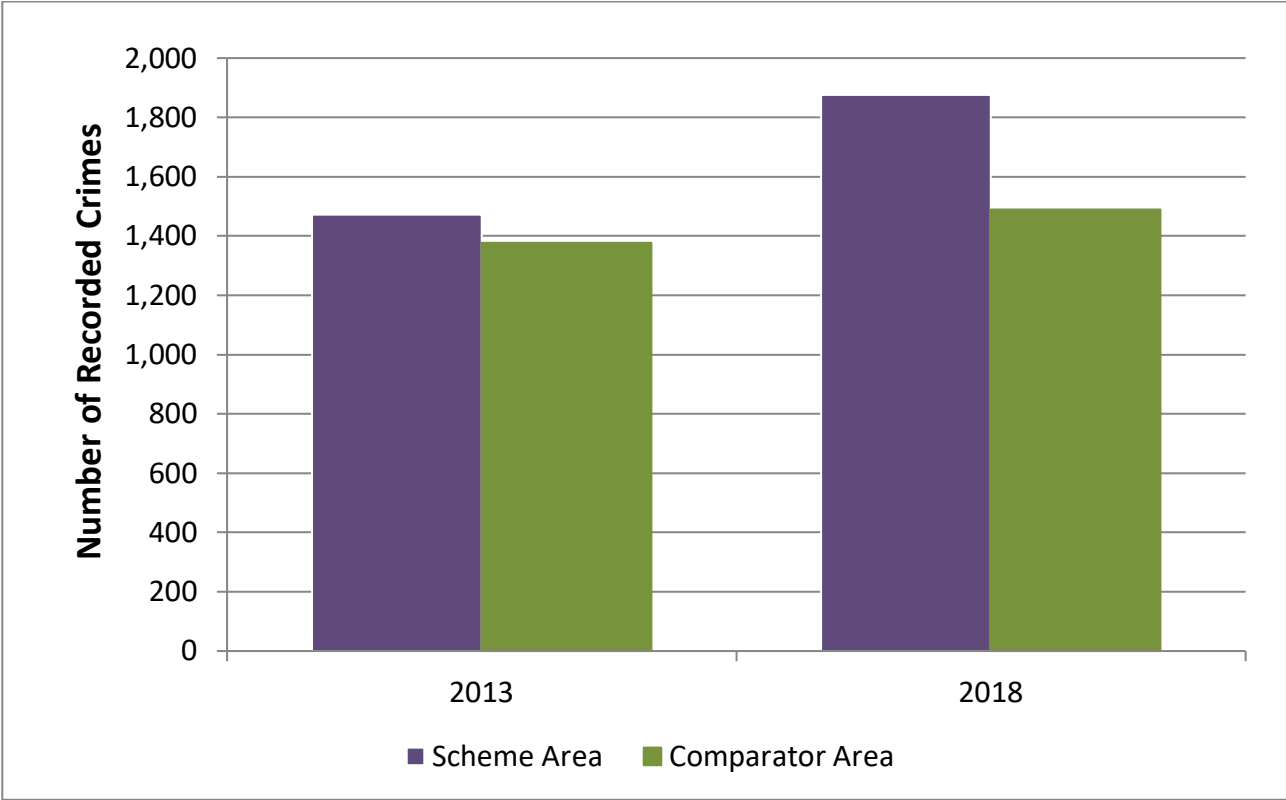


Chart 2: Case Study A – Recorded ASB incidents 2013, 2018 (Source: ASB Incidents, Crime and Outcomes – Home Office through data.police.uk)

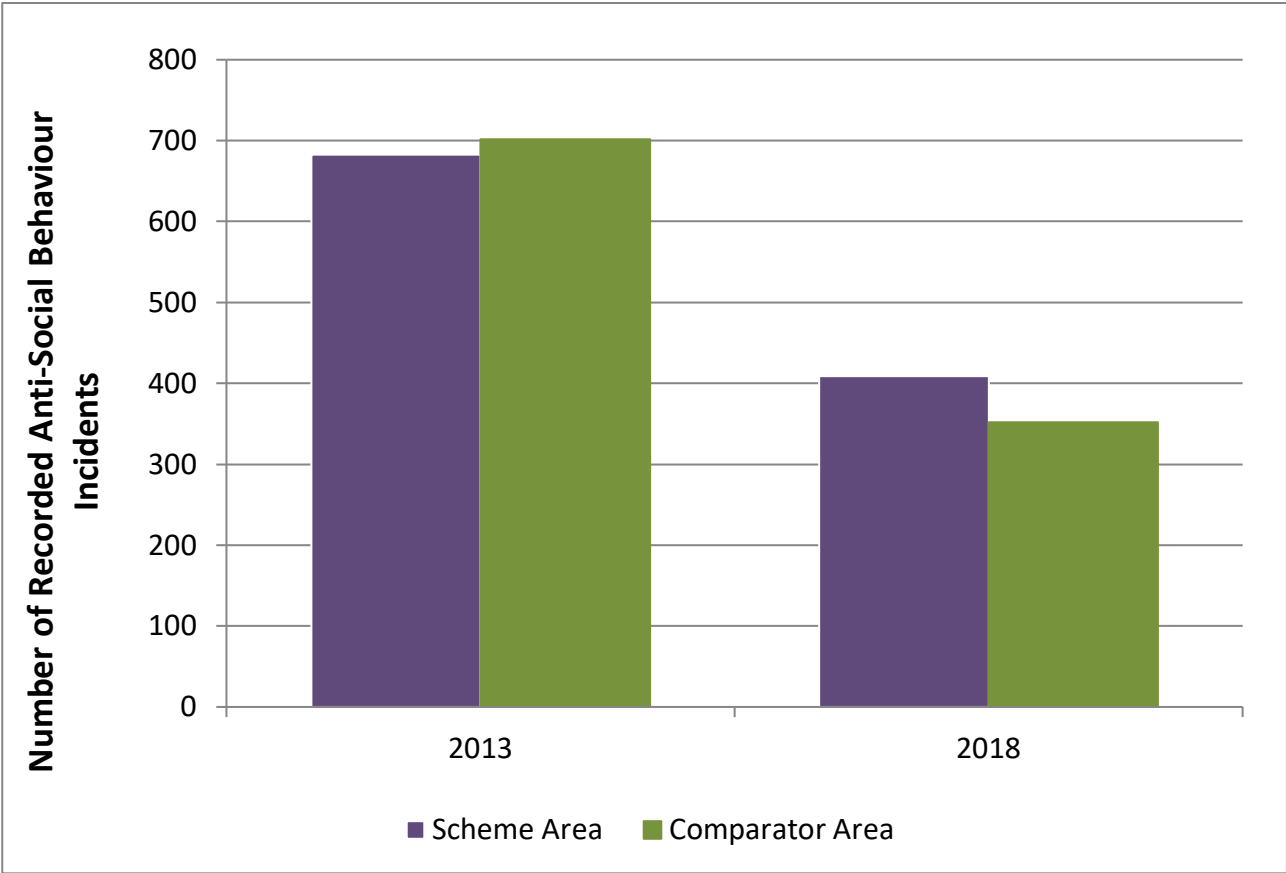
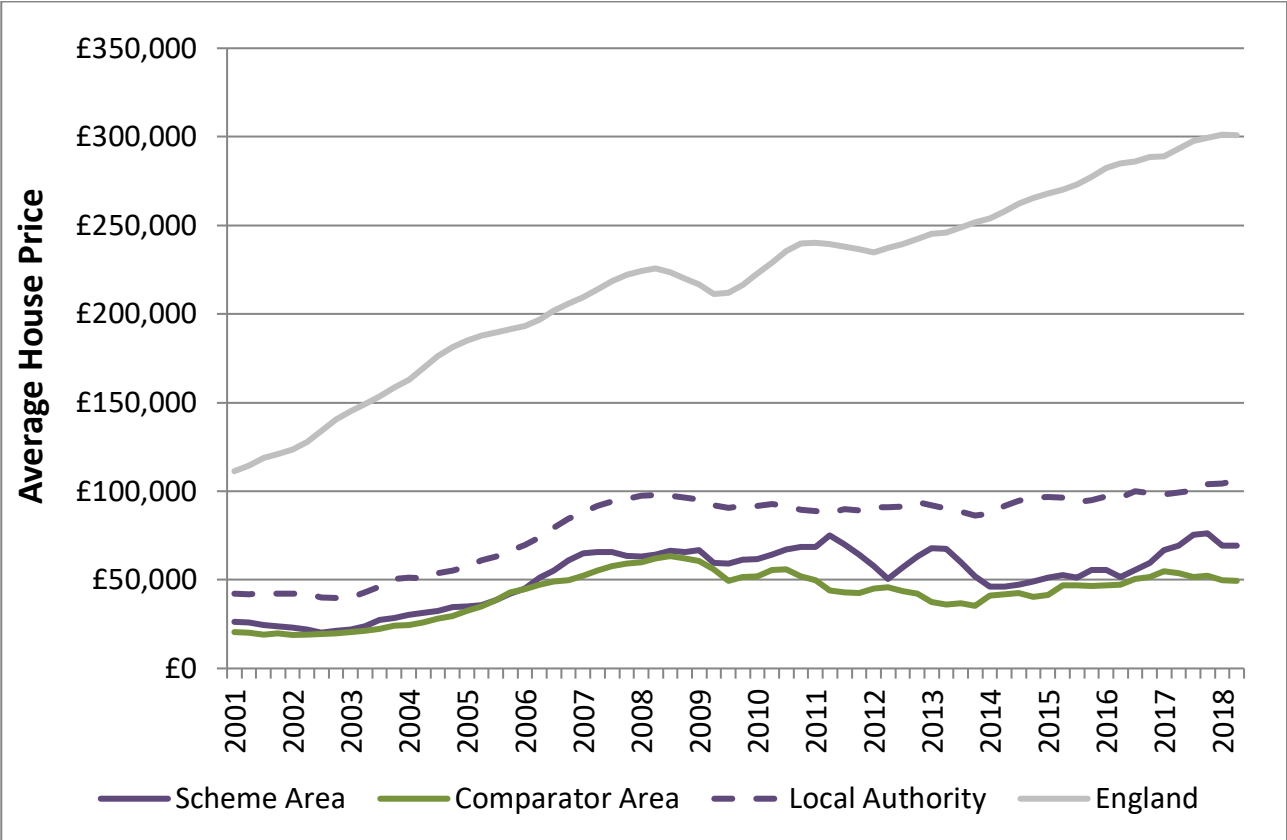


Chart 3: Case Study A - Mean Price paid for residential properties (Source – amalgamated mean house prices by lower layer super output area - HPSSA dataset 47 – ONS, Dec 2018)

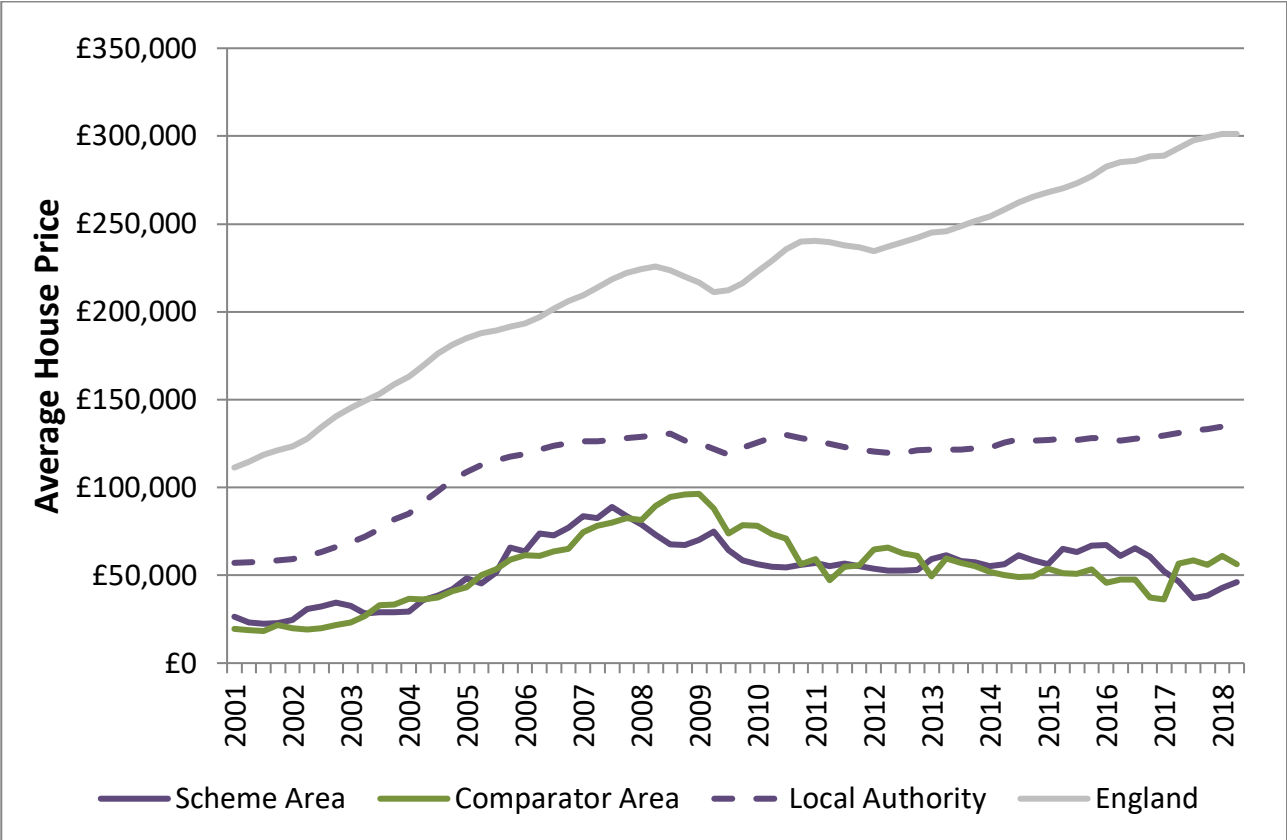


Case Study B: Anti-Social Behaviour and Low Demand for Housing

Table 2: Case Study A – Changes in IMD score 2010-2015 (Source: Index of Multiple Deprivation 2010 and 2015)

Domain	Scheme Area	Comparator Area
Living Environment	+10.1	+9.1
Income	-11.6	+5.9
Crime	+12.1	-27.4
Employment	+0.4	+1.0
Education Skills and Training	-7.7	-3.6
Health Deprivation and Disability	+18.0	+7.8
Barriers to Housing and Services	+4.4	-8.5
Index of Multiple Deprivation	+3.1	+3.2

Chart 4: Case Study B - Mean Price paid for residential properties (Source – amalgamated mean house prices by lower layer super output area - HPSSA dataset 47 - ONS, Dec 2018)



Case Study C: Anti-Social Behaviour, Low Demand for Housing, Poor Property Conditions, High level of Migration, High Level of Deprivation and High Level of Crime

Table 3: Case Study C – Changes in IMD score 2010-2015 (Source: Index of Multiple Deprivation 2010 and 2015)

Domain	Scheme Area	Comparator Area
Living Environment	+19.2	-4.1
Income	-0.5	-0.4
Crime	+1.3	-8.2
Employment	+0.6	-1.5
Education Skills and Training	+0.1	+3.1
Health Deprivation and Disability	-5.6	-0.6
Barriers to Housing and Services	-10.2	+30.0
Index of Multiple Deprivation	+0.8	+0.2

Chart 5: Case Study C – Total Reported Crimes 2012, 2018 (Source: ASB Incidents, Crime and Outcomes – Home Office through data.police.uk)

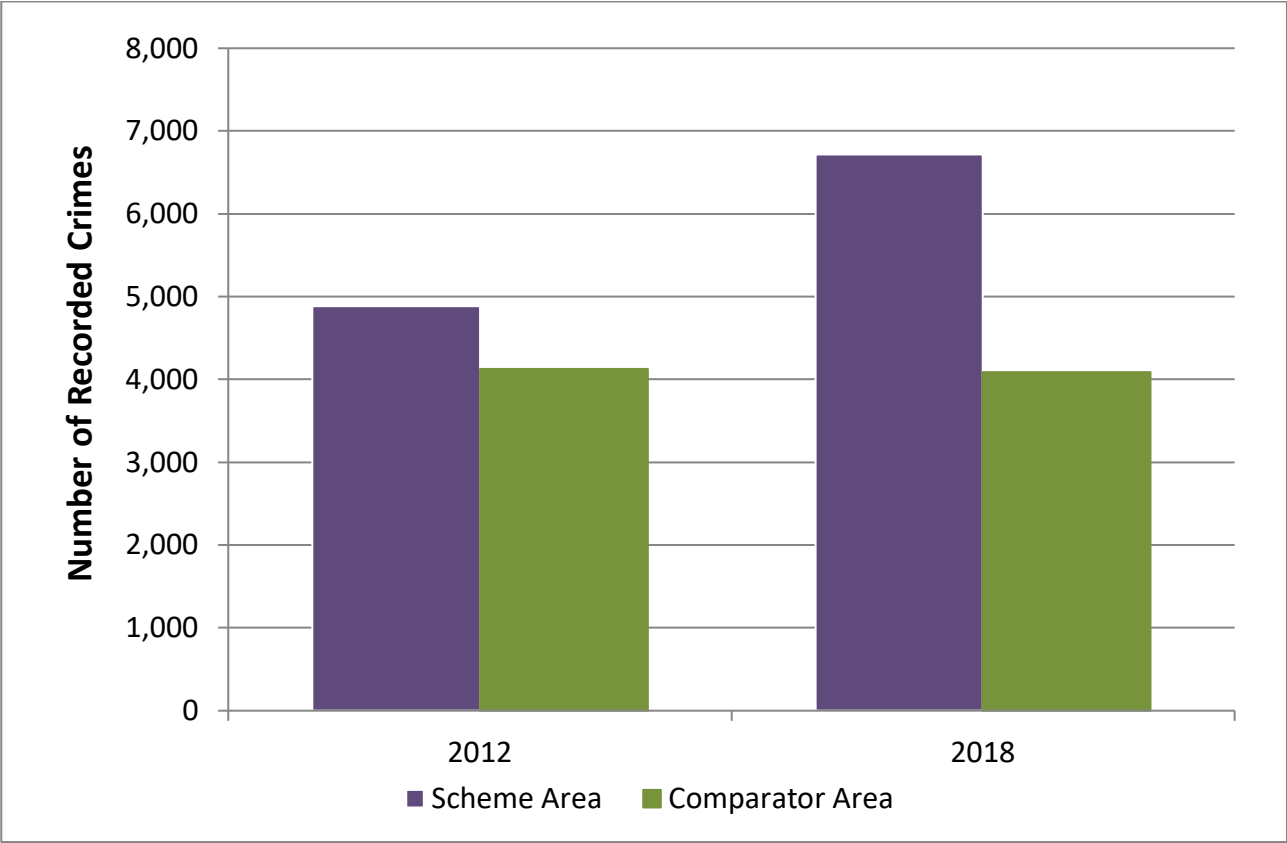


Chart 6: Case Study C – Recorded ASB incidents 2012, 2018 (Source: ASB Incidents, Crime and Outcomes – Home Office through data.police.uk)

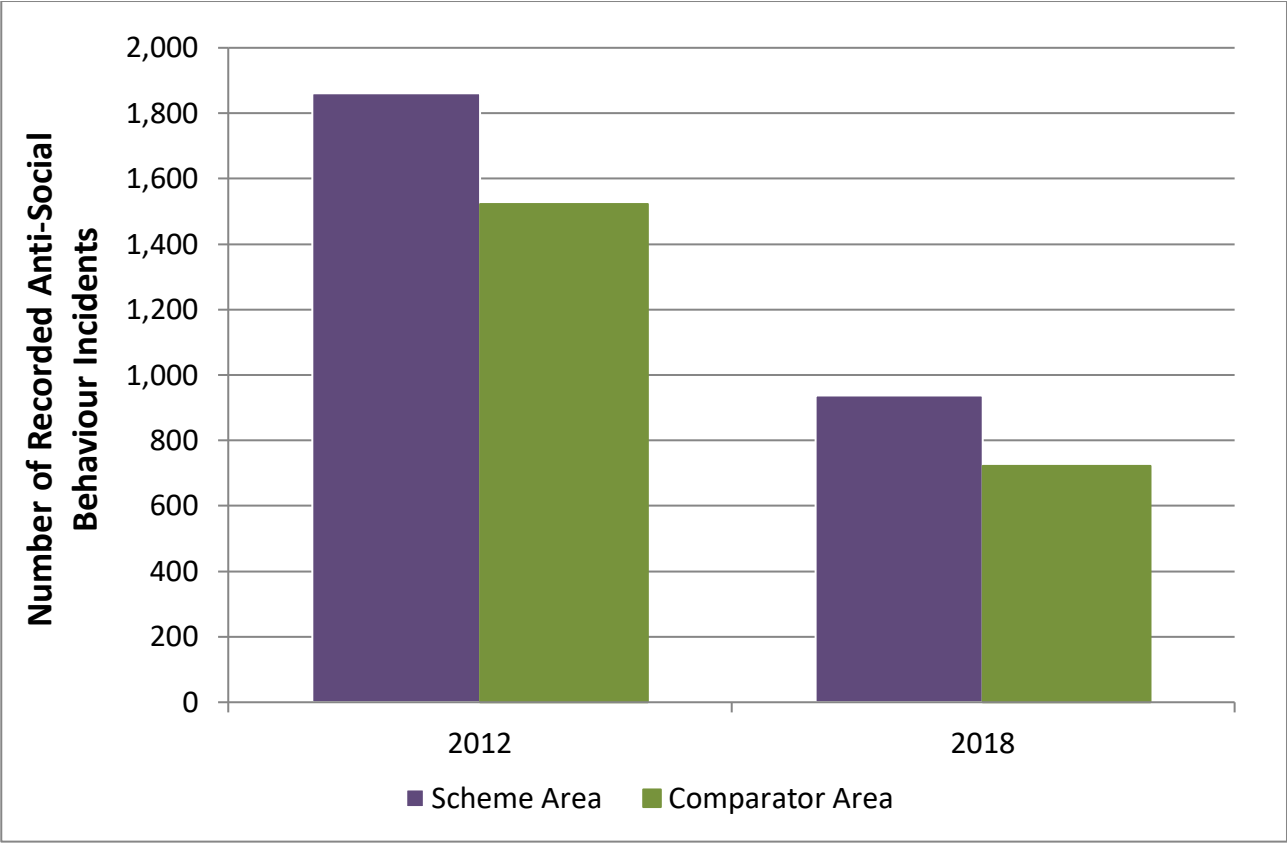
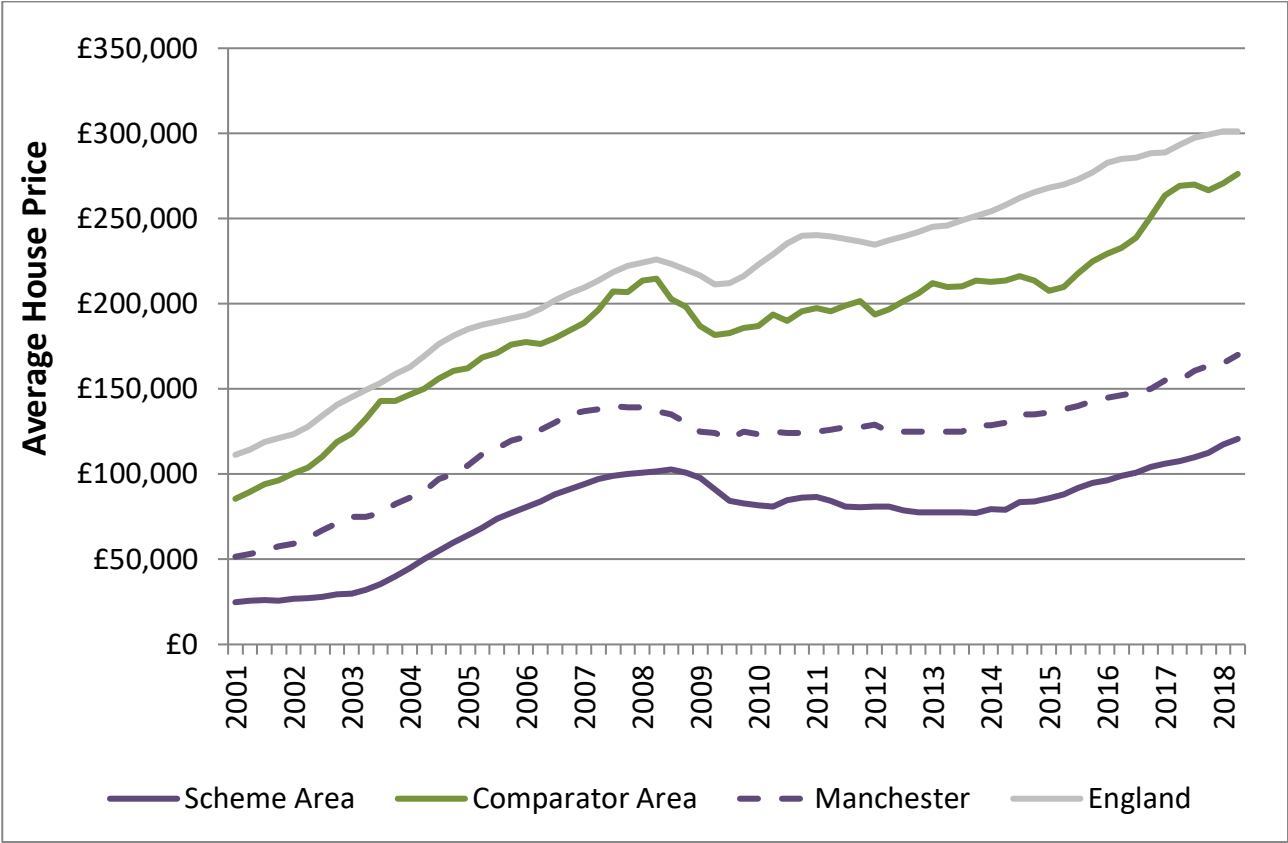


Chart 7: Case Study C - Mean Price paid for residential properties (Source – amalgamated mean house prices by lower layer super output area - HPSSA dataset 47 - ONS, Dec 2018)

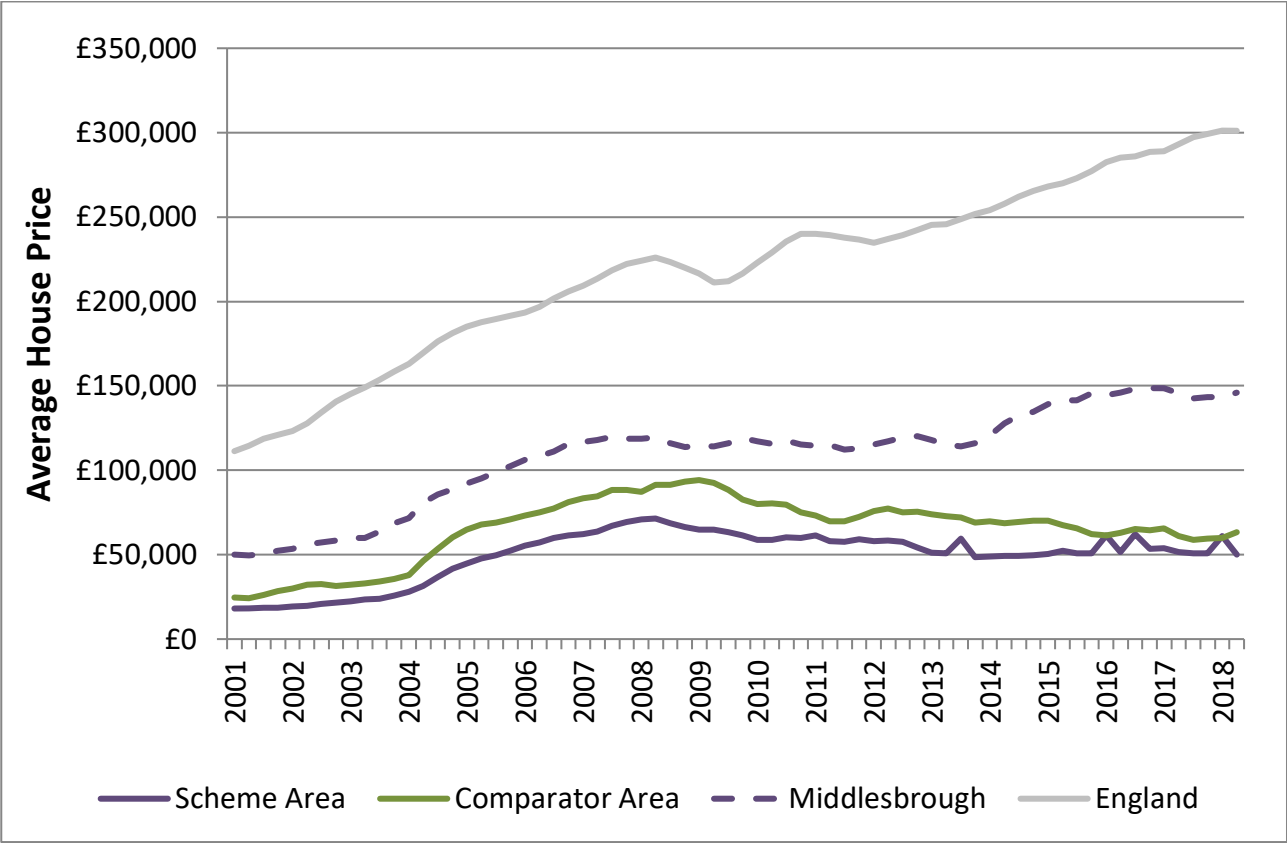


Case Study D: Anti-Social Behaviour and Low Demand for Housing

Table 4: Case Study D – Changes in IMD score 2010-2015 (Source: Index of Multiple Deprivation 2010 and 2015)

Domain	Scheme Area	Comparator Area
Living Environment	+1.3	+0.3
Income	-17.7	+0.6
Crime	-7.7	-7.6
Employment	-13.0	+3.0
Education Skills and Training	-7.4	-14.2
Health Deprivation and Disability	-5.0	+2.9
Barriers to Housing and Services	-22.8	-19.5
Index of Multiple Deprivation	-10.8	+5.2

Chart 8: Case Study D - Mean Price paid for residential properties (Source – amalgamated mean house prices by lower layer super output area - HPSSA dataset 47 - ONS, Dec 2018)



Case Study E: Anti-Social Behaviour and Low Demand for Housing

Table 5: Case Study E – Changes in IMD score 2010-2015 (Source: Index of Multiple Deprivation 2010 and 2015)

Domain	Scheme Area	Comparator Area
Living Environment	+3.8	-0.6
Income	-3.6	-0.3
Crime	-8.1	-12.2
Employment	-17.3	+10.3
Education Skills and Training	-6.7	-15.3
Health Deprivation and Disability	-7.9	+0.2
Barriers to Housing and Services	-11.5	+55.5
Index of Multiple Deprivation	-8.0	-1.0

Chart 9: Case Study E – Total Reported Crimes 2011, 2016, 2018 (Source: ASB Incidents, Crime and Outcomes – Home Office through data.police.uk)



Chart 10: Case Study E – Recorded ASB incidents 2011, 2016, 2018 (Source: ASB Incidents, Crime and Outcomes – Home Office through data.police.uk)

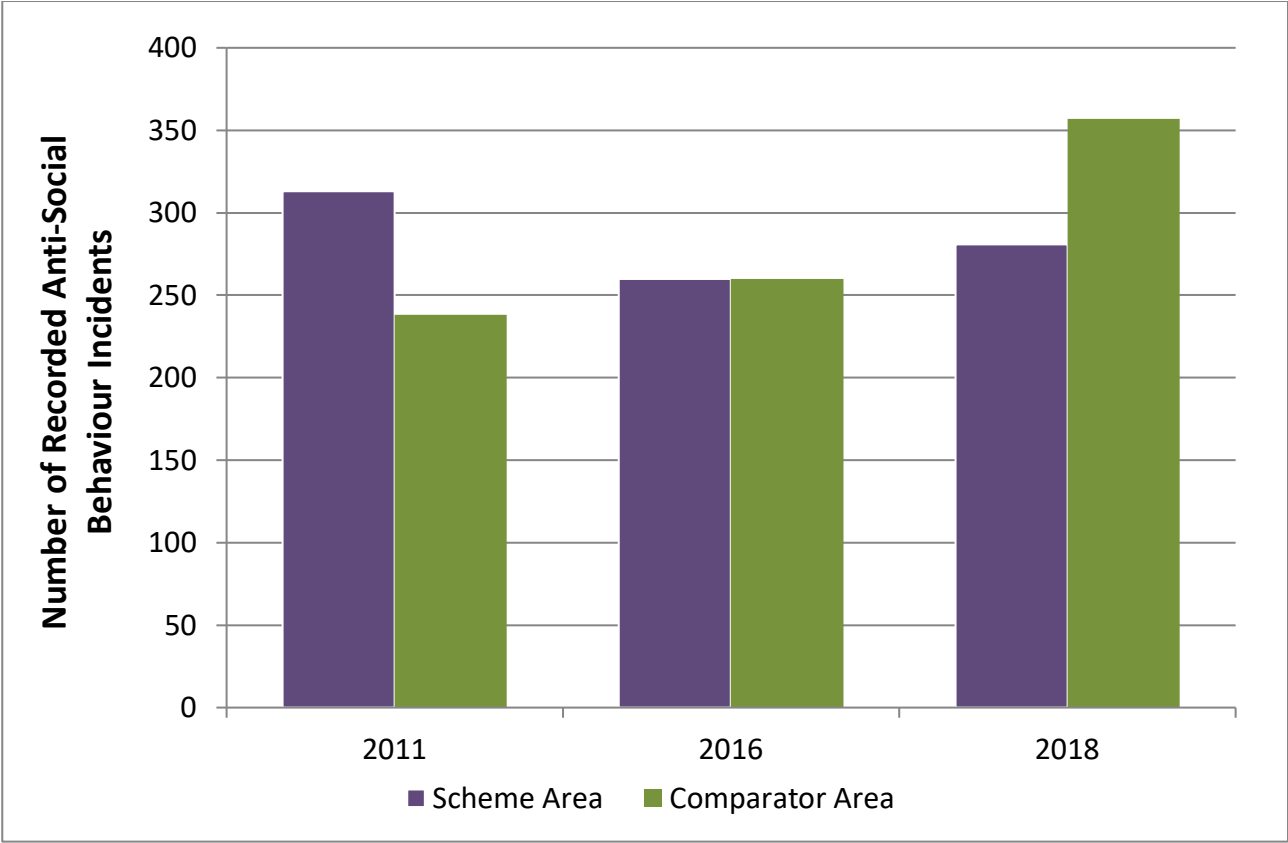
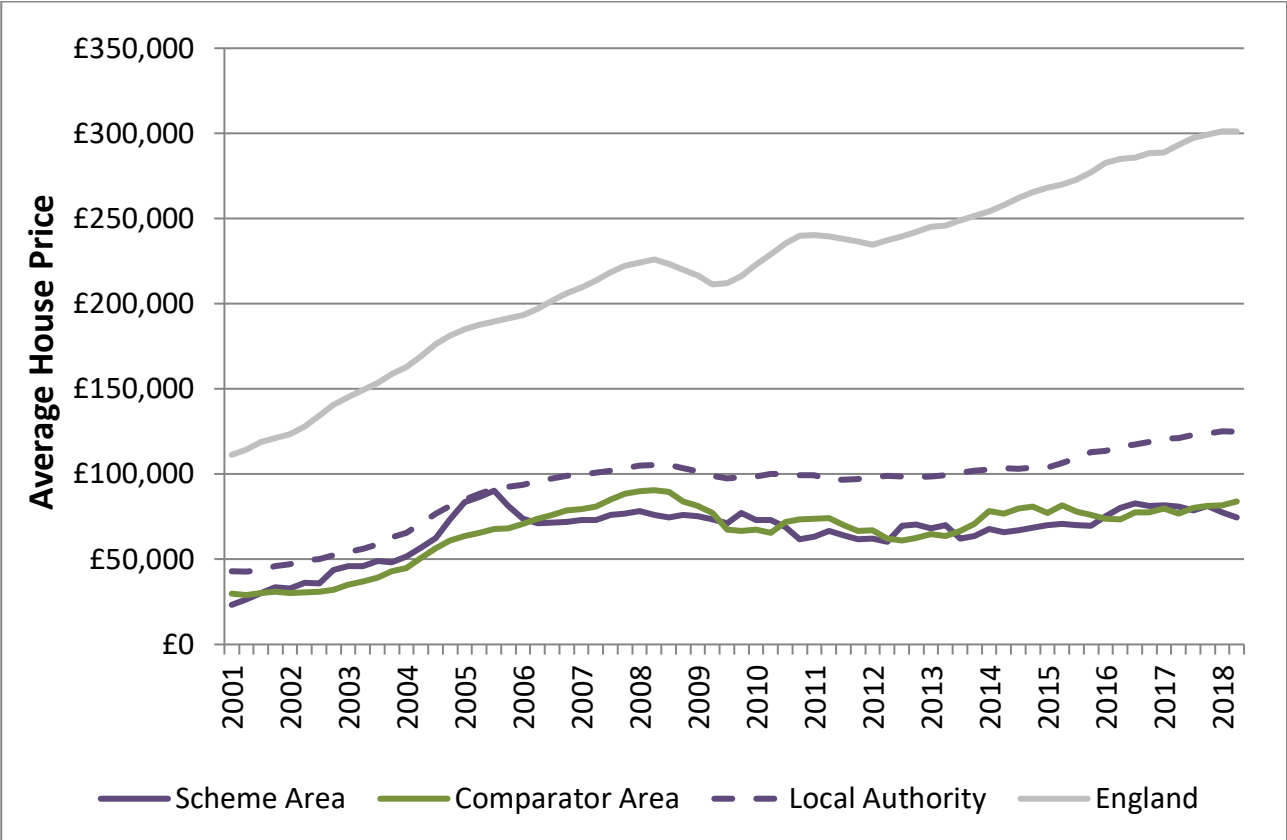


Chart 11: Case Study E - Mean Price paid for residential properties (Source – amalgamated mean house prices by lower layer super output area - HPSSA dataset 47 - ONS, Dec 2018)



Case Study F: Anti-Social Behaviour, Low Demand for Housing and Poor Property Conditions

Table 6: Case Study F – Changes in IMD score 2010-2015 (Source: Index of Multiple Deprivation 2010 and 2015)

Domain	Scheme Area	Comparator Area
Living Environment	0	-9.5
Income	-3.6	-2.4
Crime	-2.4	+7.1
Employment	+1.2	+4.8
Education Skills and Training	-13.1	0
Health Deprivation and Disability	-1.2	+2.4
Barriers to Housing and Services	-19.0	+10.7
Index of Multiple Deprivation	-1.2	0

Chart 12 Case Study F – Total Reported Crimes 2013, 2016 (Source: ASB Incidents, Crime and Outcomes – Home Office through data.police.uk)

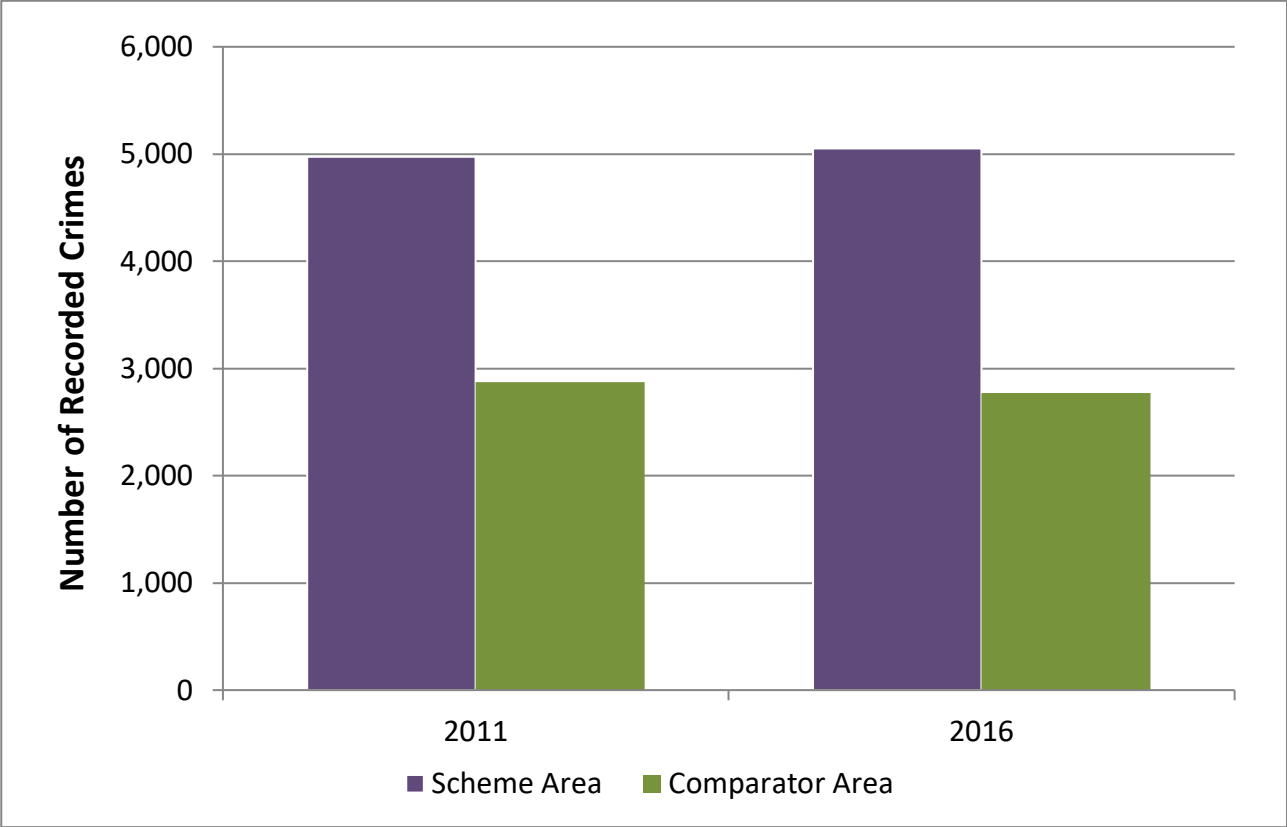
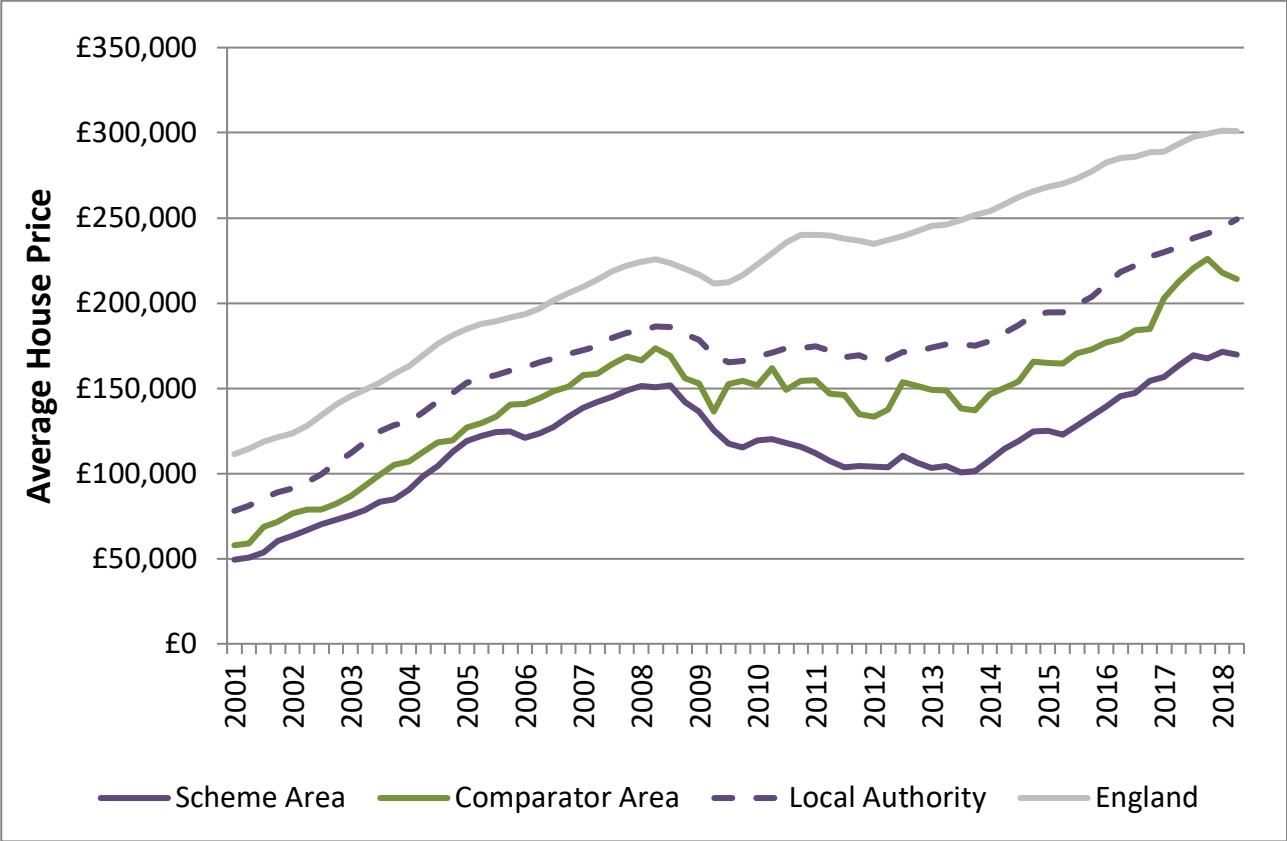


Chart 13: Case Study F – Recorded ASB incidents 2011, 2016 (Source: ASB Incidents, Crime and Outcomes – Home Office through data.police.uk)



Chart 14: Case Study F - Mean Price paid for residential properties (Source – amalgamated mean house prices by lower layer super output area - HPSSA dataset 47 - ONS, Dec 2018)



Annex 3 - Survey results

Methodology









1. All local authorities in England were invited to complete an online survey to gather evidence on how selective licensing is or has been used, along with views on its effectiveness.
2. An initial email was sent to at least one contact at each of the 326 local authorities on 2nd November 2018. In the first instance email addresses were provided by MHCLG. A reminder email was sent 3 weeks later, on 23rd November 2018, and then in cases where there was no reply from a given address, internet searches of local authority websites were conducted to find potential alternatives, with a final third round of emails being sent on 17th December 2018.
3. To maximise the response rate the email invitations were followed up by some direct individual emails to specific authorities of particular interest (i.e. all London Boroughs and those who currently have or previously have had selective licensing schemes). Further telephone engagement was undertaken in an attempt to identify the appropriate person to complete the survey and make them aware of it.
4. Each local authority was assigned a unique token, provided as part of the link to the survey in the email they received. The unique token allowed one use, which ensured that only one completed response could be submitted per authority and that responses could be matched to the specific local authority in question (in certain cases, a single respondent replied on behalf of multiple authorities).
5. In total 274 local authorities (including all London Boroughs) responded to the survey, an overall response rate of 84%.

Summary of Results









Overall Results

6. The following tables and charts are based on the responses from all respondents, regardless of whether they currently have a selective licensing scheme in place or not.
7. For each question, both full and grouped (agree/disagree) results are shown. Please note that figures may not sum to 100% due to rounding.

Q101A - Landlord references become available for tenants under selective licensing, improving confidence and raising standards

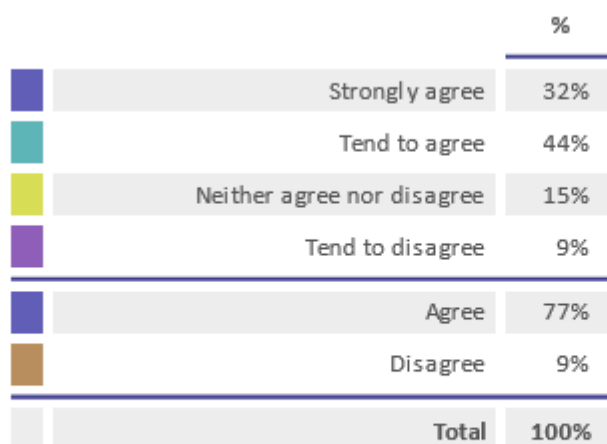
		%
	Strongly agree	16%
	Tend to agree	41%
	Neither agree nor disagree	31%
	Tend to disagree	10%
	Strongly disagree	2%
	Agree	57%
	Disagree	12%
	Total	100%

Q101B - Selective licensing helps to improve the knowledge of tenants regarding acceptable standards in private rented housing

		%
	Strongly agree	18%
	Tend to agree	50%
	Neither agree nor disagree	19%
	Tend to disagree	12%
	Strongly disagree	2%
	Agree	68%
	Disagree	14%
	Total	100%

Base 243, Don't know 31 (Valid response 89%)
 Confidence Interval ±6% at 95% confidence

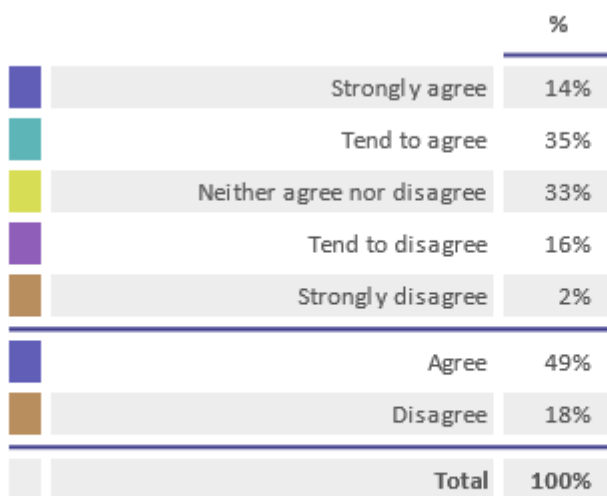
Q101C - Selective licensing helps to protect vulnerable groups in the private rented sector



Base 254, Don't know 20 (Valid response 93%)

Confidence Interval $\pm 6\%$ at 95% confidence

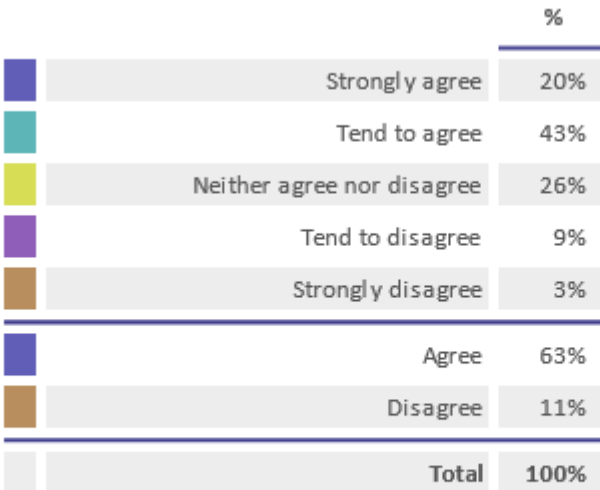
Q101D - Under selective licensing, tenants will see economic benefits, for example in reduced heating costs and improved likelihood of regaining any deposit paid



Base 245, Don't know 29 (Valid response 89%)

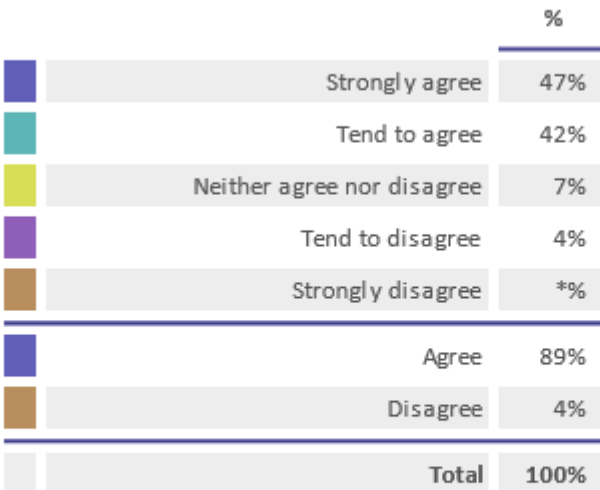
Confidence Interval $\pm 6\%$ at 95% confidence

Q101E - Better management practices as a result of selective licensing help to increase the length of tenures and reduces the incidence of unplanned moves or homelessness



Base 235, Don't know 39 (Valid response 86%)
 Confidence Interval ±6% at 95% confidence

Q102A - The process to that has to be followed prior to designation of an area is too complex and requires the input of very substantial resources.



Base 243, Don't know 31 (Valid response 89%)
 Confidence Interval ±6% at 95% confidence

*% - indicates percentage greater than 0 and less than 0.5

Q102B - The nature of the designation process makes it very open to challenge

	%
Strongly agree	27%
Tend to agree	47%
Neither agree nor disagree	23%
Tend to disagree	3%
Strongly disagree	*%
<hr/>	
Agree	74%
Disagree	3%
<hr/>	
Total	100%

Base 229, Don't know 45 (Valid response 84%)

Confidence Interval $\pm 6\%$ at 95% confidence

*% - indicates percentage greater than 0 and less than 0.5

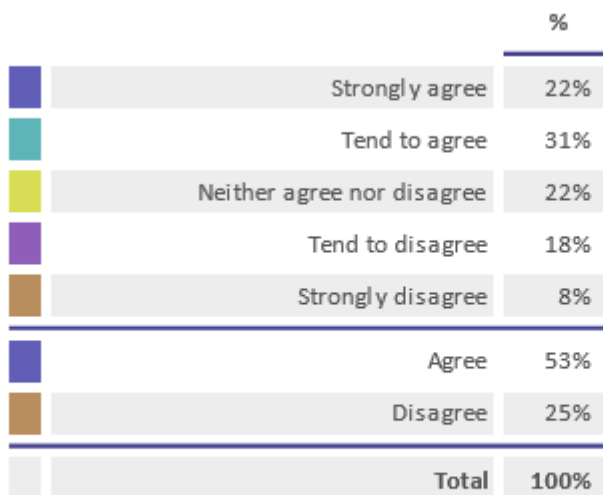
Q102C - There is too much bureaucracy involved in administering selective licensing schemes

	%
Strongly agree	25%
Tend to agree	46%
Neither agree nor disagree	22%
Tend to disagree	7%
Strongly disagree	1%
<hr/>	
Agree	70%
Disagree	8%
<hr/>	
Total	100%

Base 240, Don't know 34 (Valid response 88%)

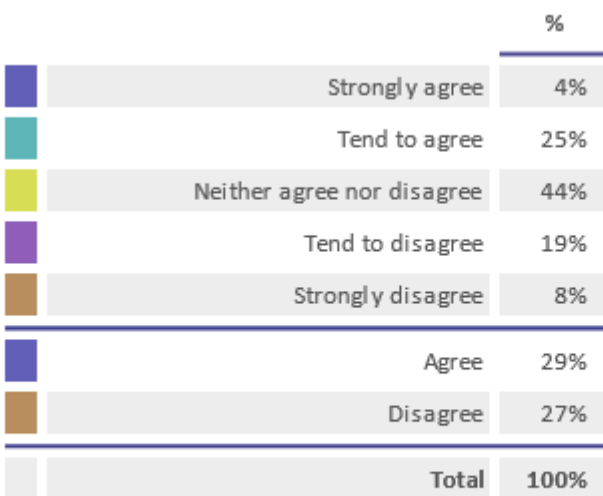
Confidence Interval $\pm 6\%$ at 95% confidence

Q102D - The financial and time costs of setting up and running a selective licensing scheme could be more productively spent elsewhere



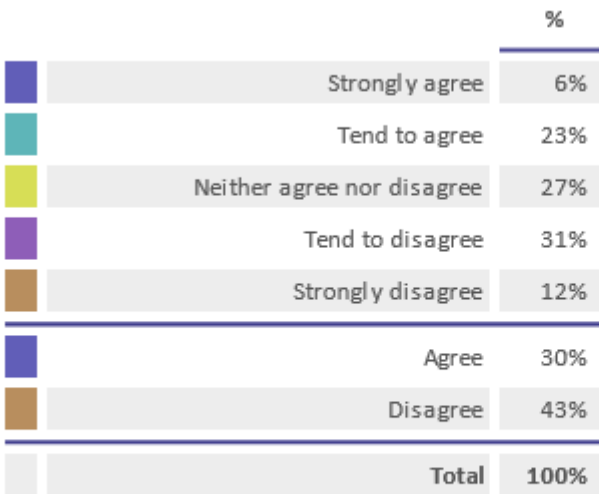
Base 248, Don't know 26 (Valid response 91%)
Confidence Interval ±6% at 95% confidence

Q102E - Selective licensing tends to lead to increased rents for tenants



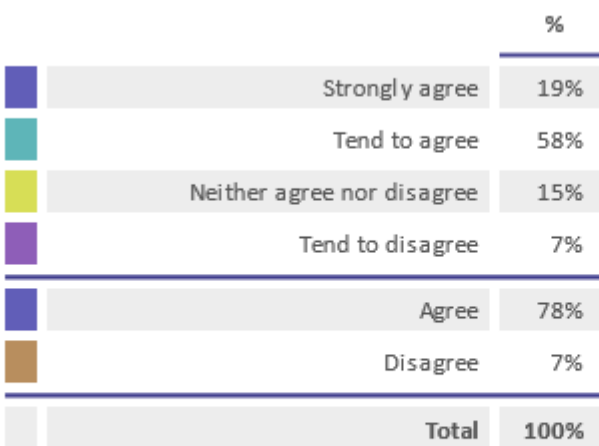
Base 209, Don't know 65 (Valid response 76%)
Confidence Interval ±6% at 95% confidence

Q102F - Selective licensing does not provide sufficient additional powers to the authority



Base 237, Don't know 37 (Valid response 86%)
 Confidence Interval $\pm 6\%$ at 95% confidence

Q103A - Selective licensing ensures private landlords are managing homes



Base 254, Don't know 20 (Valid response 93%)
 Confidence Interval $\pm 6\%$ at 95% confidence

Q103B - Selective licensing ensures private landlords are maintaining homes

	%
Strongly agree	18%
Tend to agree	55%
Neither agree nor disagree	18%
Tend to disagree	9%
Agree	73%
Disagree	9%
Total	100%

Base 255, Don't know 19 (Valid response 93%)

Confidence Interval $\pm 6\%$ at 95% confidence

Q103C - Selective licensing sets clear standards that all landlords should follow

	%
Strongly agree	30%
Tend to agree	58%
Neither agree nor disagree	7%
Tend to disagree	5%
Strongly disagree	*%
Agree	88%
Disagree	5%
Total	100%

Base 260, Don't know 14 (Valid response 95%)

Confidence Interval $\pm 6\%$ at 95% confidence

*% - indicates percentage greater than 0 and less than 0.5

Q103D - Selective licensing helps to improve the knowledge of landlords regarding acceptable standards in private rented housings

	%
Strongly agree	26%
Tend to agree	58%
Neither agree nor disagree	12%
Tend to disagree	3%
Strongly disagree	*%
<hr/>	
Agree	85%
Disagree	3%
<hr/>	
Total	100%

Base 255, Don't know 19 (Valid response 93%)

Confidence Interval ±6% at 95% confidence

*% - indicates percentage greater than 0 and less than 0.5

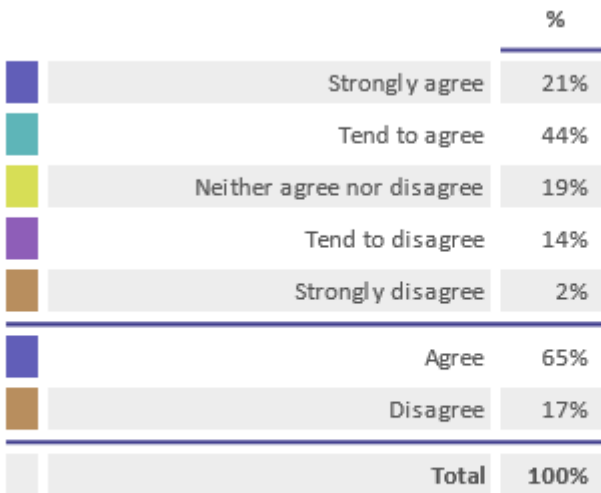
Q103E - Selective licensing improves landlord cooperation in doing the requested works on their property

	%
Strongly agree	13%
Tend to agree	43%
Neither agree nor disagree	32%
Tend to disagree	10%
Strongly disagree	1%
<hr/>	
Agree	57%
Disagree	11%
<hr/>	
Total	100%

Base 237, Don't know 37 (Valid response 86%)

Confidence Interval ±6% at 95% confidence

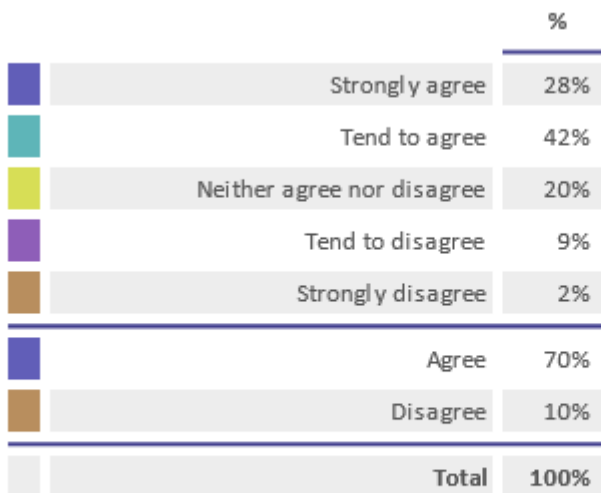
Q103F - Selective licensing helps to promote a fairer system for landlords, by ensuring they aren't undercut by an unscrupulous minority (so called Rogue Landlords)



Base 246, Don't know 28 (Valid response 90%)

Confidence Interval ±6% at 95% confidence

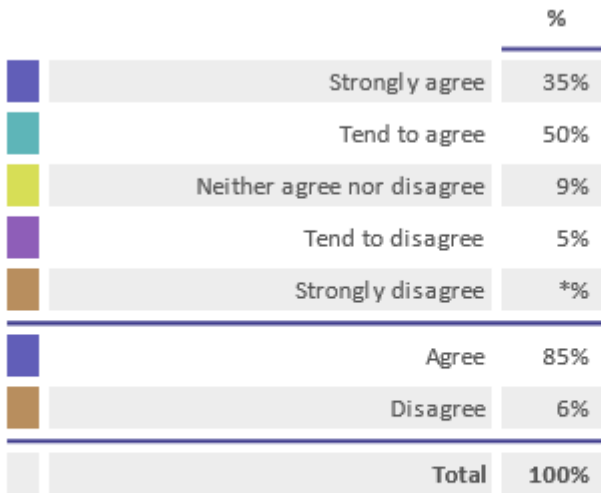
Q103G - Selective licensing enables targeted enforcement of landlords



Base 258, Don't know 16 (Valid response 94%)

Confidence Interval ±6% at 95% confidence

Q103H - Selective licensing ensures landlords and their agents will be readily identifiable

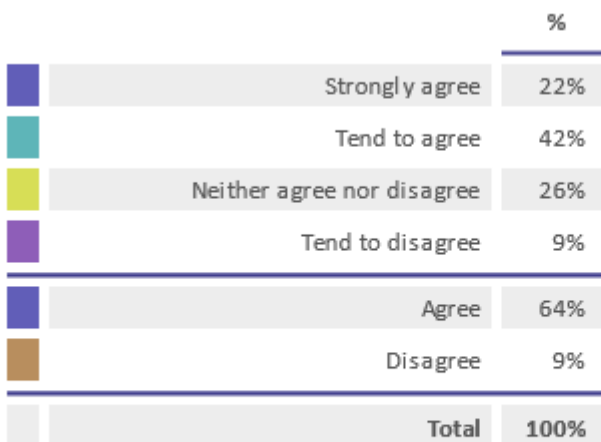


Base 259, Don't know 15 (Valid response 95%)

Confidence Interval $\pm 6\%$ at 95% confidence

*% - indicates percentage greater than 0 and less than 0.5

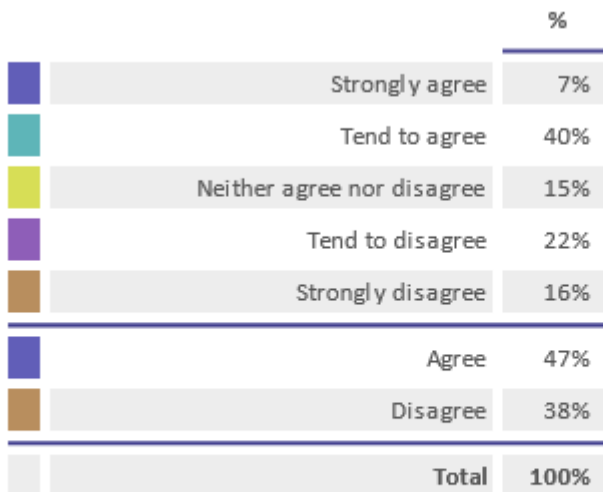
Q103I - Selective licensing helps provide support to landlords



Base 244, Don't know 30 (Valid response 89%)

Confidence Interval $\pm 6\%$ at 95% confidence

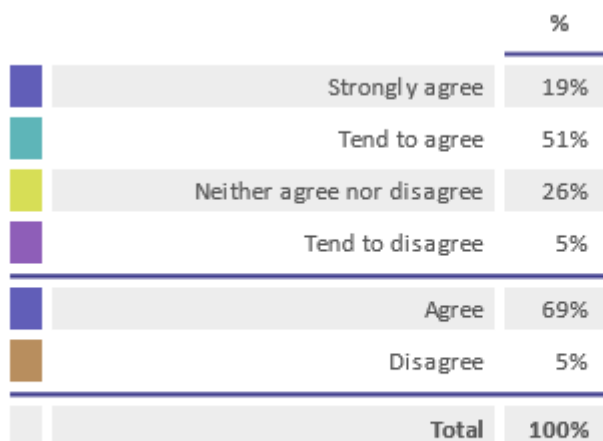
Q104A - Selective licensing does not necessarily increase enforcement action against rogue landlords



Base 237, Don't know 37 (Valid response 86%)

Confidence Interval $\pm 6\%$ at 95% confidence

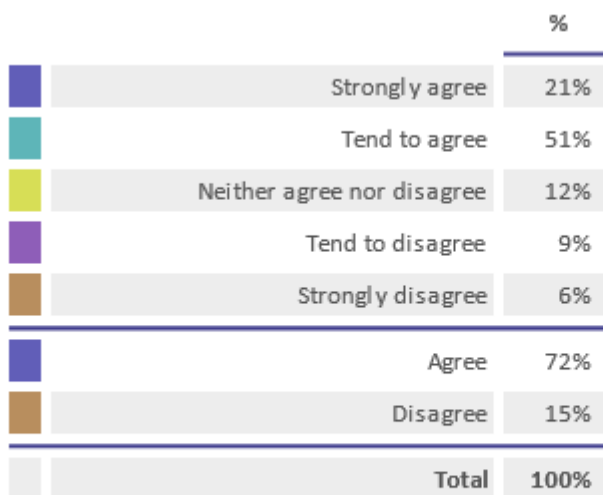
Q104B - The benefits of selective licensing are not considered sufficient by landlords to justify the upfront cost



Base 215, Don't know 59 (Valid response 78%)

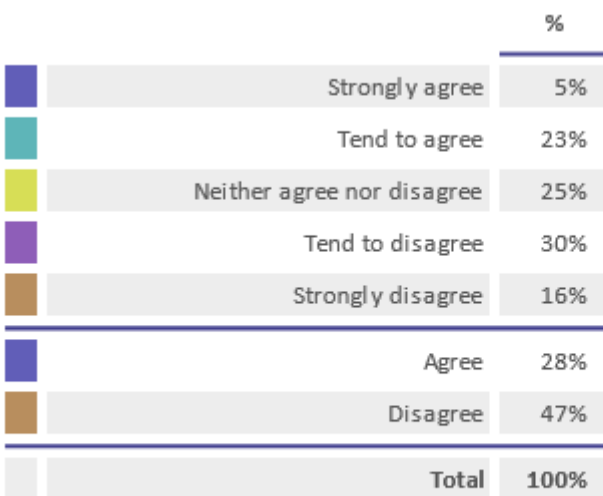
Confidence Interval $\pm 7\%$ at 95% confidence

Q104C - An unscrupulous minority of landlords will not pay the licence anyway, and so remain difficult to identify











Base 254, Don't know 20 (Valid response 93%)
Confidence Interval $\pm 6\%$ at 95% confidence

Q104D - Selective licensing is an unfair burden on responsible landlords











Base 256, Don't know 18 (Valid response 93%)
Confidence Interval $\pm 6\%$ at 95% confidence

Q104E - Selective licensing applies pressure on non-regulated areas

		%
	Strongly agree	9%
	Tend to agree	40%
	Neither agree nor disagree	34%
	Tend to disagree	13%
	Strongly disagree	4%
<hr/>		
	Agree	49%
	Disagree	17%
<hr/>		
	Total	100%









Base 218, Don't know 56 (Valid response 80%)
 Confidence Interval $\pm 6\%$ at 95% confidence

Q104F - Selective licensing schemes fail to set specific, achievable goals

		%
	Strongly agree	4%
	Tend to agree	12%
	Neither agree nor disagree	43%
	Tend to disagree	30%
	Strongly disagree	10%
<hr/>		
	Agree	16%
	Disagree	41%
<hr/>		
	Total	100%

Base 207, Don't know 67 (Valid response 76%)
 Confidence Interval $\pm 6\%$ at 95% confidence









Q104G - Selective licensing schemes are not properly monitored

		%
	Strongly agree	2%
	Tend to agree	14%
	Neither agree nor disagree	42%
	Tend to disagree	29%
	Strongly disagree	14%
<hr/>		
	Agree	15%
	Disagree	43%
<hr/>		
	Total	100%

Base 190, Don't know 84 (Valid response 69%)

Confidence Interval $\pm 6\%$ at 95% confidence

Q105A - Selective licensing helps to encourage greater joint working between different council departments and different agencies









		%
	Strongly agree	21%
	Tend to agree	40%
	Neither agree nor disagree	29%
	Tend to disagree	9%
	Strongly disagree	*%
<hr/>		
	Agree	61%
	Disagree	10%
<hr/>		
	Total	100%

Base 229, Don't know 45 (Valid response 84%)

Confidence Interval $\pm 6\%$ at 95% confidence

*% - indicates percentage greater than 0 and less than 0.5









Q105B - Selective licensing helps to reduce the turnover of occupiers in domestic properties

		%
	Strongly agree	9%
	Tend to agree	26%
	Neither agree nor disagree	47%
	Tend to disagree	16%
	Strongly disagree	2%
<hr/>		
	Agree	35%
	Disagree	18%
<hr/>		
	Total	100%

Base 190, Don't know 84 (Valid response 69%)

Confidence Interval $\pm 7\%$ at 95% confidence

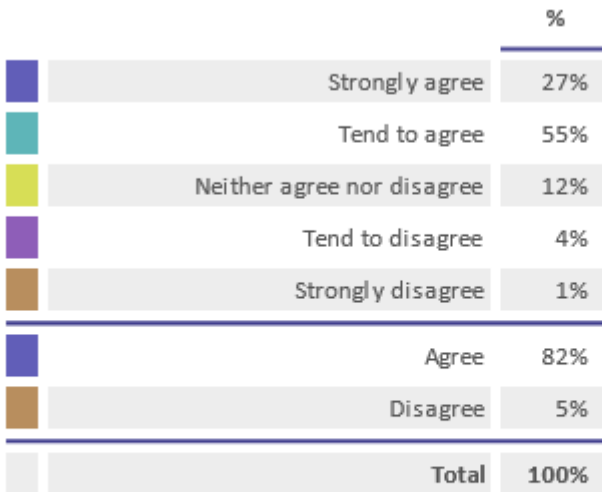
Q105C - Selective licensing helps to reduce the number of empty properties

		%
	Strongly agree	7%
	Tend to agree	11%
	Neither agree nor disagree	38%
	Tend to disagree	37%
	Strongly disagree	7%
<hr/>		
	Agree	18%
	Disagree	44%
<hr/>		
	Total	100%

Base 197, Don't know 77 (Valid response 72%)

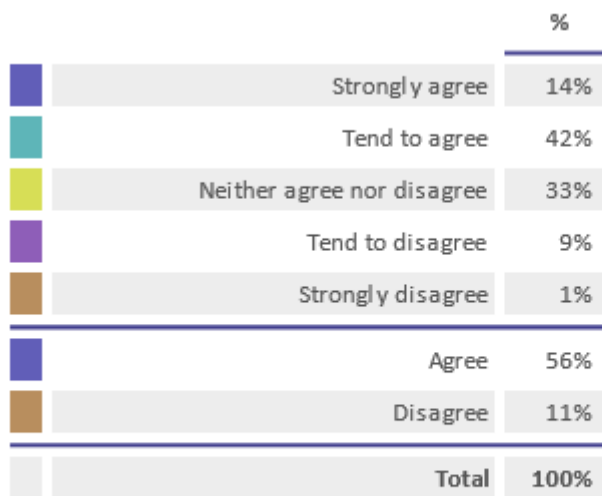
Confidence Interval $\pm 6\%$ at 95% confidence

Q105D - Selective licensing helps to ensure minimum standards for rented housing are met











Base 251, Don't know 23 (Valid response 92%)
 Confidence Interval $\pm 6\%$ at 95% confidence

Q105E - Selective licensing helps to reduce crime and anti-social behaviour



Base 222, Don't know 52 (Valid response 81%)
 Confidence Interval $\pm 6\%$ at 95% confidence









Q105F - Selective licensing contributes to protecting the health, safety and welfare of the community

		%
	Strongly agree	19%
	Tend to agree	50%
	Neither agree nor disagree	24%
	Tend to disagree	6%
	Strongly disagree	1%
<hr/>		
	Agree	69%
	Disagree	7%
<hr/>		
	Total	100%

Base 247, Don't know 27 (Valid response 90%)

Confidence Interval $\pm 6\%$ at 95% confidence

Q105G - Selective licensing helps councils gain extensive knowledge about their private rented sector

		%
	Strongly agree	32%
	Tend to agree	50%
	Neither agree nor disagree	12%
	Tend to disagree	5%
	Strongly disagree	*%
<hr/>		
	Agree	82%
	Disagree	6%
<hr/>		
	Total	100%

Base 252, Don't know 22 (Valid response 92%)

Confidence Interval $\pm 6\%$ at 95% confidence

*% - indicates percentage greater than 0 and less than 0.5

Q105H - Selective licensing helps to improve the reputation of the private rented sector

	%
Strongly agree	20%
Tend to agree	43%
Neither agree nor disagree	31%
Tend to disagree	5%
Strongly disagree	*%
Agree	63%
Disagree	6%
Total	100%

Base 246, Don't know 28 (Valid response 90%)

Confidence Interval $\pm 6\%$ at 95% confidence

*% - indicates percentage greater than 0 and less than 0.5

Q105I - Selective licensing helps to reduce environmental costs and costs of crime, such as street cleaning and tackling fly tipping

	%
Strongly agree	11%
Tend to agree	33%
Neither agree nor disagree	37%
Tend to disagree	16%
Strongly disagree	2%
Agree	45%
Disagree	18%
Total	100%

Base 212, Don't know 62 (Valid response 77%)

Confidence Interval $\pm 6\%$ at 95% confidence

Q106A - Selective licensing has an adverse effect on property prices

	%
Strongly agree	1%
Tend to agree	10%
Neither agree nor disagree	46%
Tend to disagree	27%
Strongly disagree	15%
<hr/>	
Agree	12%
Disagree	43%
<hr/>	
Total	100%

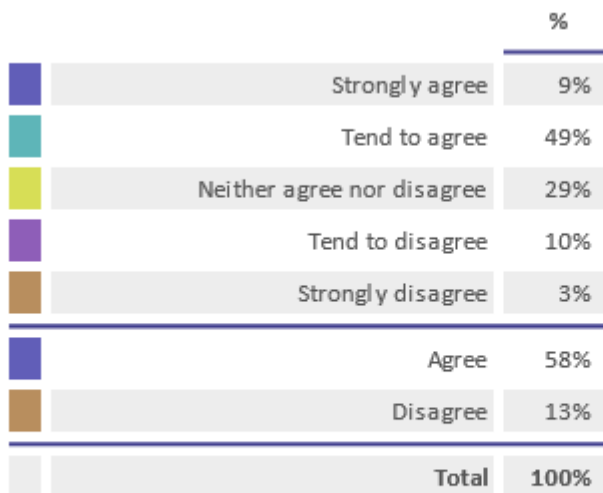
Base 181, Don't know 93 (Valid response 66%)
 Confidence Interval $\pm 7\%$ at 95% confidence

Q106B - Selective licensing can reduce the availability of mortgages

	%
Strongly agree	1%
Tend to agree	9%
Neither agree nor disagree	49%
Tend to disagree	27%
Strongly disagree	14%
<hr/>	
Agree	9%
Disagree	41%
<hr/>	
Total	100%

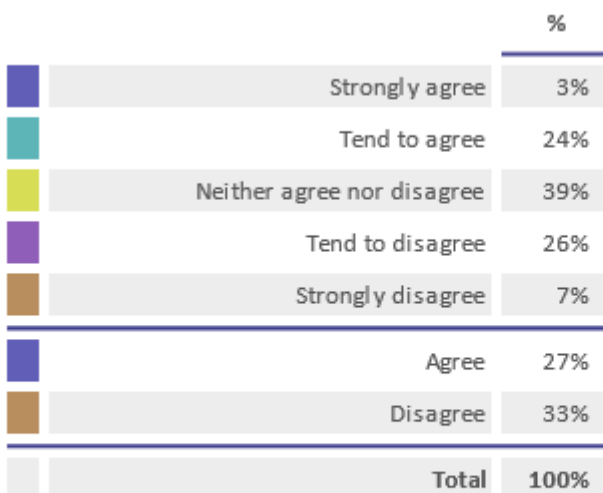
Base 148, Don't know 126 (Valid response 54%)
 Confidence Interval $\pm 7\%$ at 95% confidence

Q106C - Selective licensing is seen by landlords as a back door to regulate the private rented sector



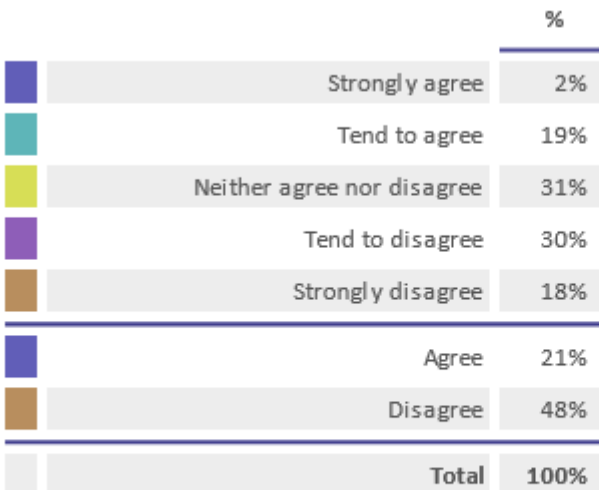
Base 208, Don't know 66 (Valid response 76%)
 Confidence Interval $\pm 7\%$ at 95% confidence

Q106D - Selective licensing is ineffectual if not introduced in tandem with other regeneration schemes



Base 195, Don't know 79 (Valid response 71%)
 Confidence Interval $\pm 6\%$ at 95% confidence

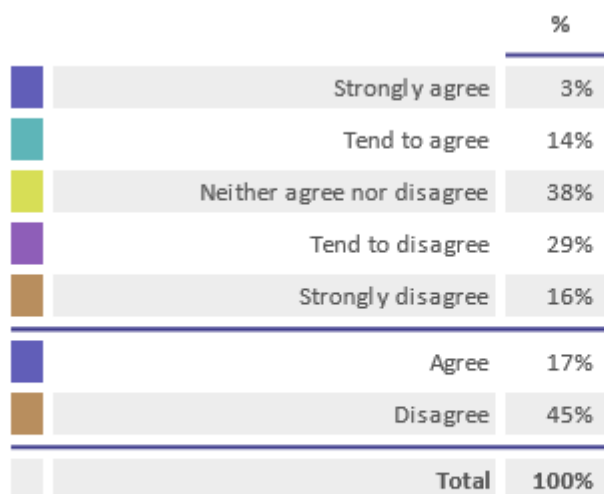
Q106E - Selective licensing is not fit for its intended purpose of reducing specific problems in the private rented sector



Base 216, Don't know 58 (Valid response 79%)

Confidence Interval $\pm 6\%$ at 95% confidence

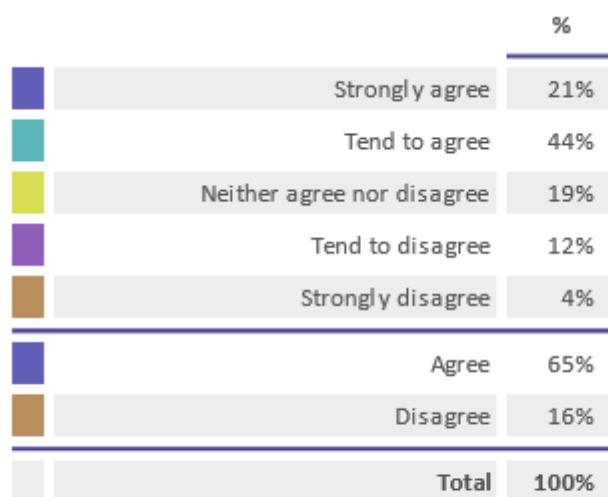
Q106F - The funding of selective licensing schemes lacks transparency



Base 193, Don't know 81 (Valid response 70%)

Confidence Interval $\pm 6\%$ at 95% confidence

Q106G - There are problems in covering the real costs of running selective licensing schemes



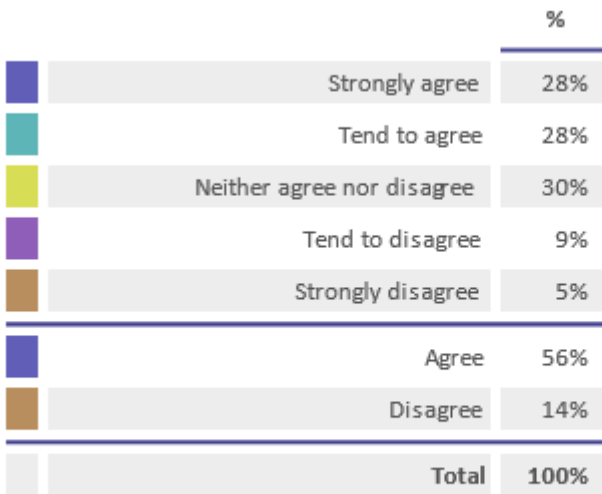
Base 205, Don't know 69 (Valid response 75%)

Confidence Interval ±6% at 95% confidence

Results from local authorities with selective licensing

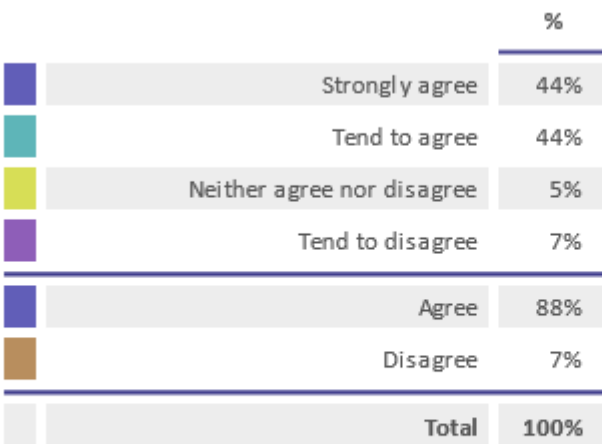
8. The following tables and charts are based only on the responses from local authorities who currently have a selective licensing scheme operating in their borough.
9. For each question both full and grouped (agree/disagree) results are shown. Please note that figures may not sum to 100% due to rounding.

Q101A - Landlord references become available for tenants under selective licensing, improving confidence and raising standards



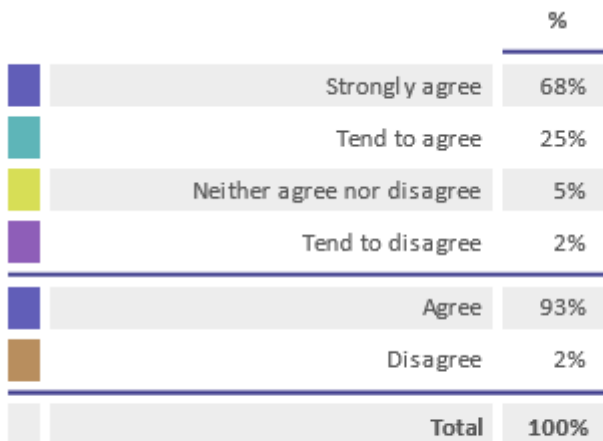
Base 43, Don't know 1 (Valid response 98%)
 Confidence Interval $\pm 14\%$ at 95% confidence

Q101B - Selective licensing helps to improve the knowledge of tenants regarding acceptable standards in private rented housing



Base 43, Don't know 1 (Valid response 98%)
 Confidence Interval $\pm 15\%$ at 95% confidence

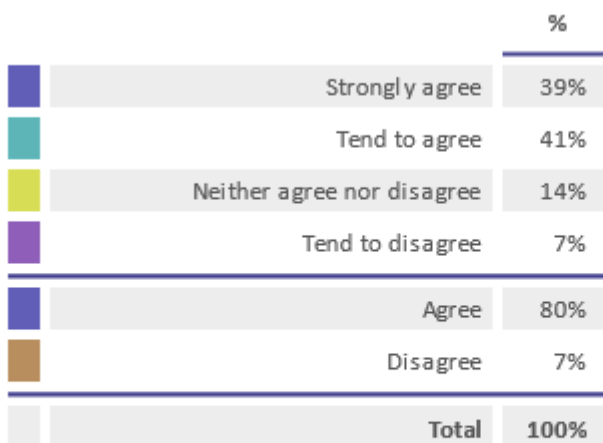
Q101C - Selective licensing helps to protect vulnerable groups in the private rented sector



Base 44 (Valid response 100%)

Confidence Interval $\pm 14\%$ at 95% confidence

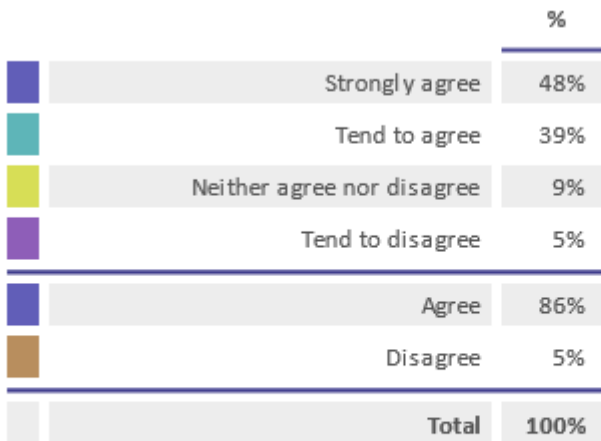
Q101D - Under selective licensing, tenants will see economic benefits, for example in reduced heating costs and improved likelihood of regaining any deposit paid



Base 44 (Valid response 100%)

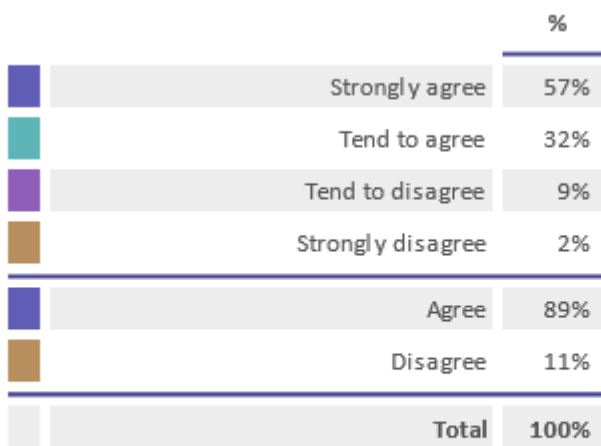
Confidence Interval $\pm 15\%$ at 95% confidence

Q101E - Better management practices as a result of selective licensing help to increase the length of tenures and reduces the incidence of unplanned moves or homelessness



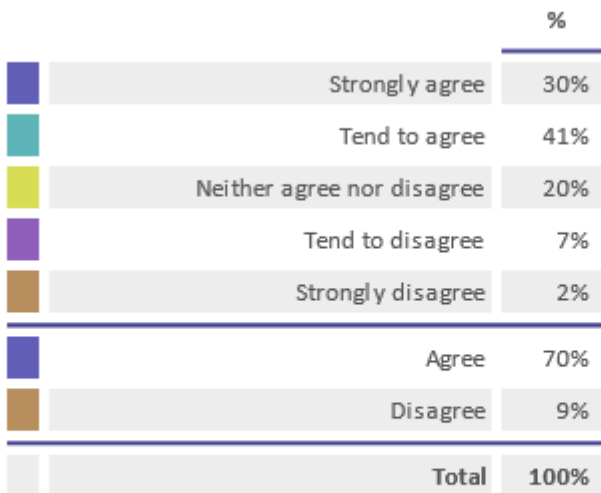
Base 44 (Valid response 100%)
 Confidence Interval $\pm 15\%$ at 95% confidence

Q102A - The process to that has to be followed prior to designation of an area is too complex and requires the input of very substantial resources.



Base 44 (Valid response 100%)
 Confidence Interval $\pm 15\%$ at 95% confidence

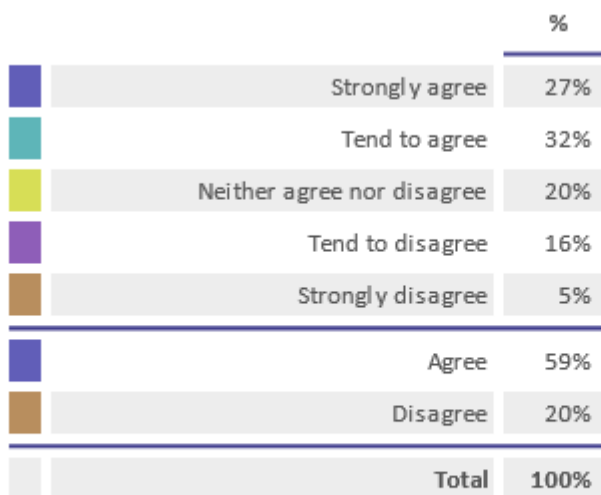
Q102B - The nature of the designation process makes it very open to challenge



Base 44 (Valid response 100%)

Confidence Interval $\pm 15\%$ at 95% confidence

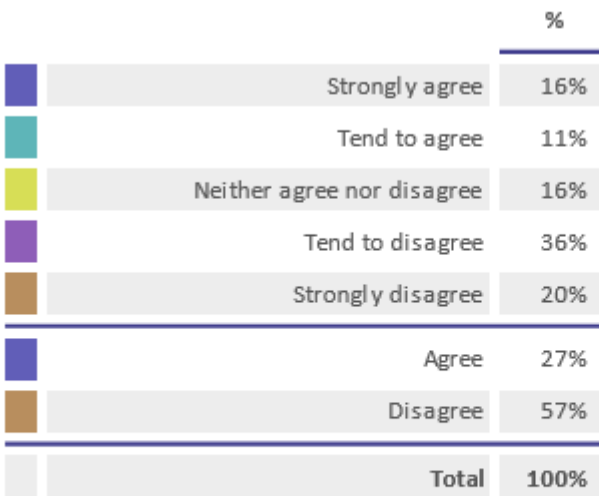
Q102C - There is too much bureaucracy involved in administering selective licensing schemes



Base 44 (Valid response 100%)

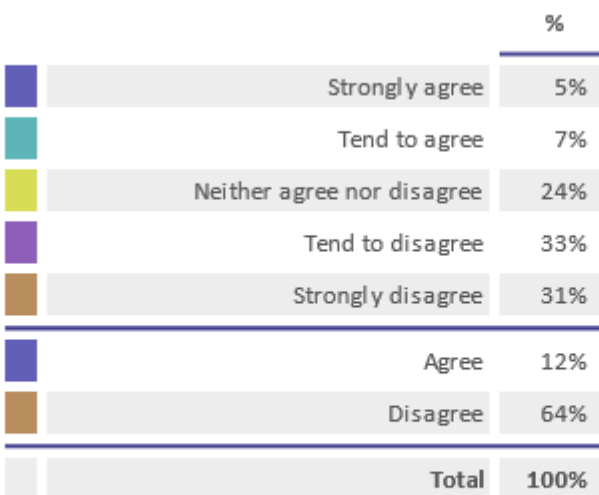
Confidence Interval $\pm 14\%$ at 95% confidence

Q102D - The financial and time costs of setting up and running a selective licensing scheme could be more productively spent elsewhere



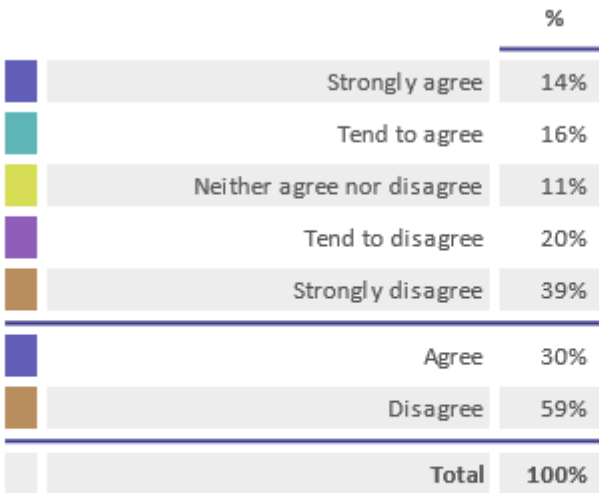
Base 44 (Valid response 100%)
 Confidence Interval $\pm 14\%$ at 95% confidence

Q102E - Selective licensing tends to lead to increased rents for tenants



Base 42, Don't know 2 (Valid response 95%)
 Confidence Interval $\pm 14\%$ at 95% confidence

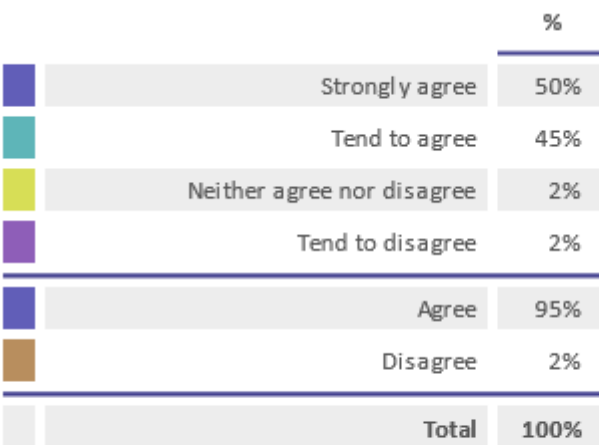
Q102F - Selective licensing does not provide sufficient additional powers to the authority



Base 44 (Valid response 100%)

Confidence Interval $\pm 14\%$ at 95% confidence

Q103A - Selective licensing ensures private landlords are managing homes



Base 44 (Valid response 100%)

Confidence Interval $\pm 15\%$ at 95% confidence

Q103B - Selective licensing ensures private landlords are maintaining homes

	%
Strongly agree	45%
Tend to agree	45%
Neither agree nor disagree	7%
Tend to disagree	2%
Agree	91%
Disagree	2%
Total	100%

Base 44 (Valid response 100%)

Confidence Interval $\pm 15\%$ at 95% confidence

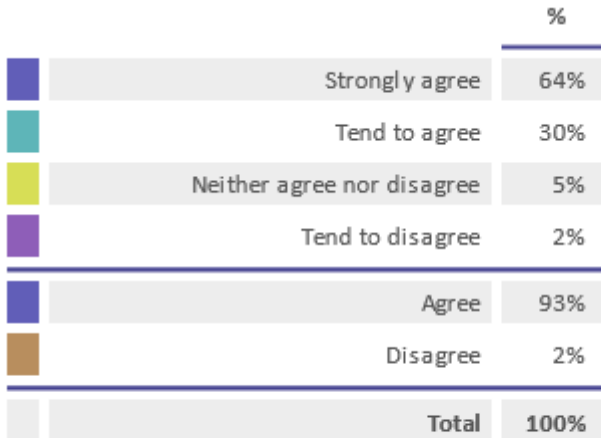
Q103C - Selective licensing sets clear standards that all landlords should follow

	%
Strongly agree	66%
Tend to agree	27%
Tend to disagree	5%
Strongly disagree	2%
Agree	93%
Disagree	7%
Total	100%

Base 44 (Valid response 100%)

Confidence Interval $\pm 14\%$ at 95% confidence

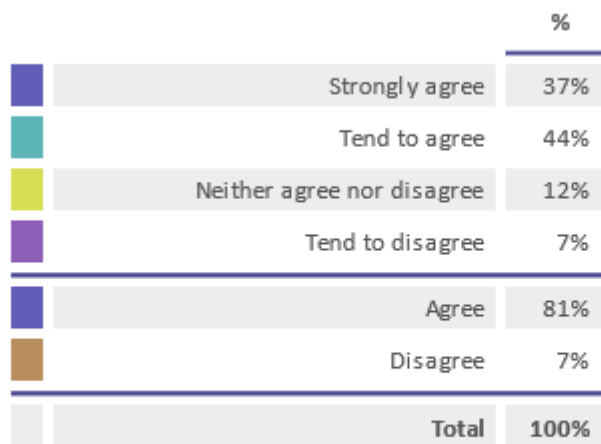
Q103D - Selective licensing helps to improve the knowledge of landlords regarding acceptable standards in private rented housings



Base 44 (Valid response 100%)

Confidence Interval $\pm 14\%$ at 95% confidence

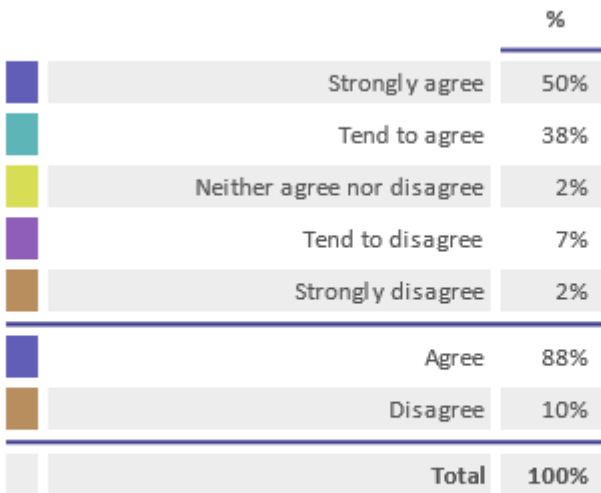
Q103E - Selective licensing improves landlord cooperation in doing the requested works on their property



Base 43, Don't know 1 (Valid response 98%)

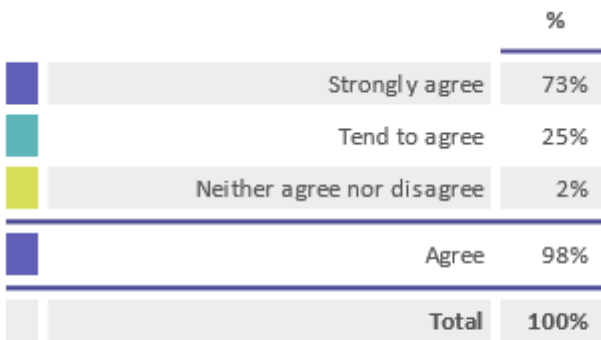
Confidence Interval $\pm 15\%$ at 95% confidence

Q103F - Selective licensing helps to promote a fairer system for landlords, by ensuring they aren't undercut by an unscrupulous minority (so called Rogue Landlords)



Base 42, Don't know 2 (Valid response 95%)
 Confidence Interval $\pm 15\%$ at 95% confidence

Q103G - Selective licensing enables targeted enforcement of landlords



Base 44 (Valid response 100%)
 Confidence Interval $\pm 13\%$ at 95% confidence

Q103H - Selective licensing ensures landlords and their agents will be readily identifiable

	%
Strongly agree	77%
Tend to agree	18%
Neither agree nor disagree	5%
Agree	95%
Total	100%

Base 44 (Valid response 100%)

Confidence Interval $\pm 12\%$ at 95% confidence

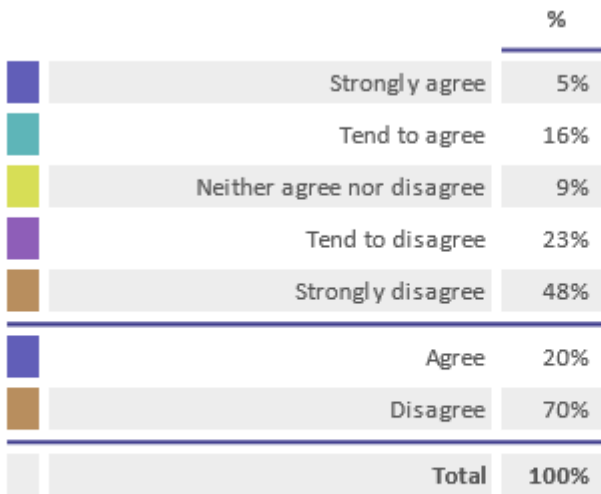
Q103I - Selective licensing helps provide support to landlords

	%
Strongly agree	52%
Tend to agree	30%
Neither agree nor disagree	9%
Tend to disagree	9%
Agree	82%
Disagree	9%
Total	100%

Base 44 (Valid response 100%)

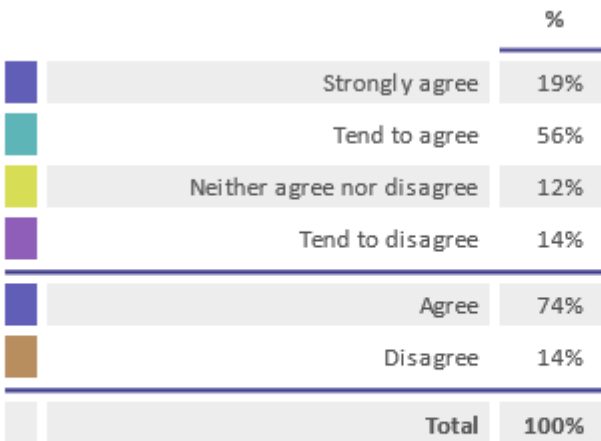
Confidence Interval $\pm 15\%$ at 95% confidence

Q104A - Selective licensing does not necessarily increase enforcement action against rogue landlords



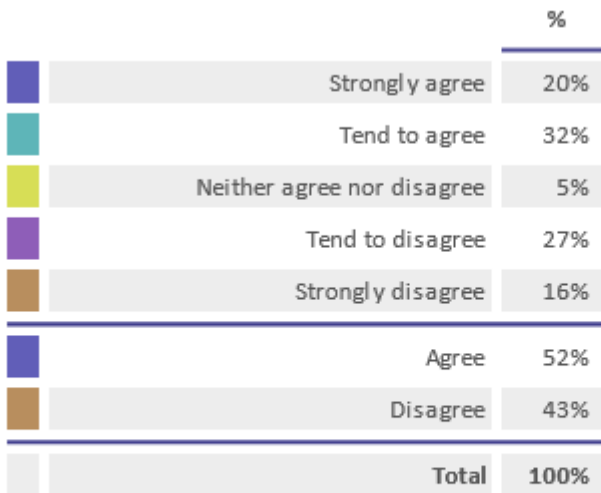
Base 44 (Valid response 100%)
 Confidence Interval $\pm 15\%$ at 95% confidence

Q104B - The benefits of selective licensing are not considered sufficient by landlords to justify the upfront cost



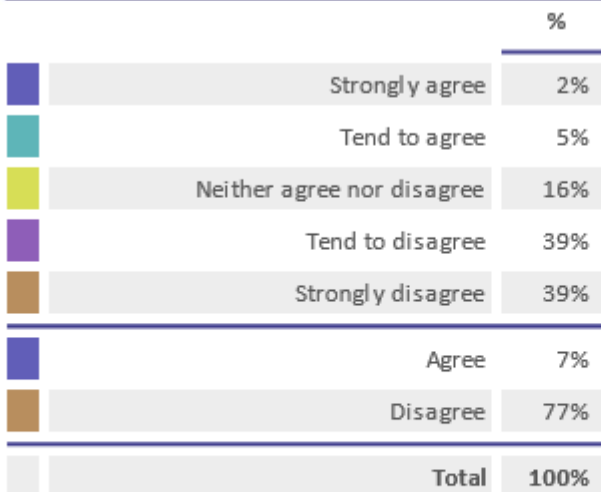
Base 43, Don't know 1 (Valid response 98%)
 Confidence Interval $\pm 15\%$ at 95% confidence

Q104C - An unscrupulous minority of landlords will not pay the licence anyway, and so remain difficult to identify



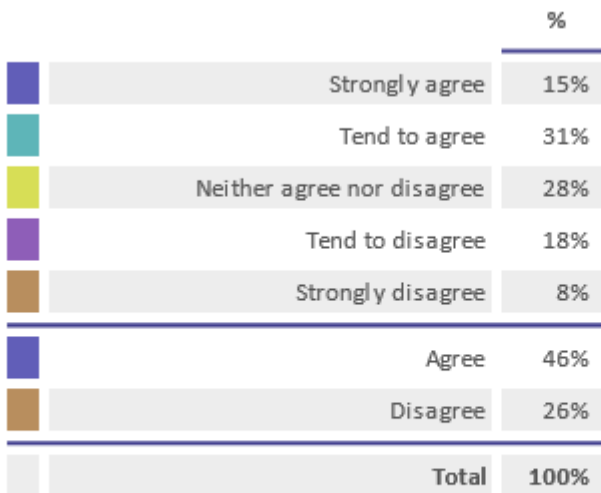
Base 44 (Valid response 100%)
 Confidence Interval $\pm 14\%$ at 95% confidence

Q104D - Selective licensing is an unfair burden on responsible landlords



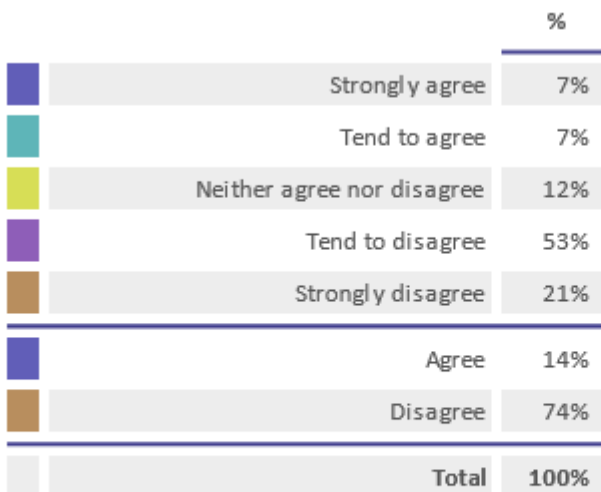
Base 44 (Valid response 100%)
 Confidence Interval $\pm 14\%$ at 95% confidence

Q104E - Selective licensing applies pressure on non-regulated areas



Base 39, Don't know 5 (Valid response 89%)
 Confidence Interval $\pm 14\%$ at 95% confidence

Q104F - Selective licensing schemes fail to set specific, achievable goals



Base 43, Don't know 1 (Valid response 98%)
 Confidence Interval $\pm 15\%$ at 95% confidence

Q104G - Selective licensing schemes are not properly monitored

		%
	Strongly agree	2%
	Tend to agree	7%
	Neither agree nor disagree	12%
	Tend to disagree	43%
	Strongly disagree	36%
<hr/>		
	Agree	10%
	Disagree	79%
<hr/>		
	Total	100%

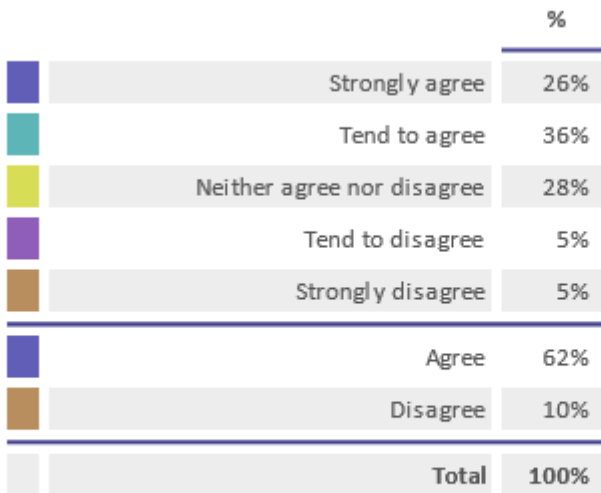
Base 42, Don't know 2 (Valid response 95%)
 Confidence Interval $\pm 15\%$ at 95% confidence

Q105A - Selective licensing helps to encourage greater joint working between different council departments and different agencies

		%
	Strongly agree	57%
	Tend to agree	36%
	Neither agree nor disagree	5%
	Tend to disagree	2%
<hr/>		
	Agree	93%
	Disagree	2%
<hr/>		
	Total	100%

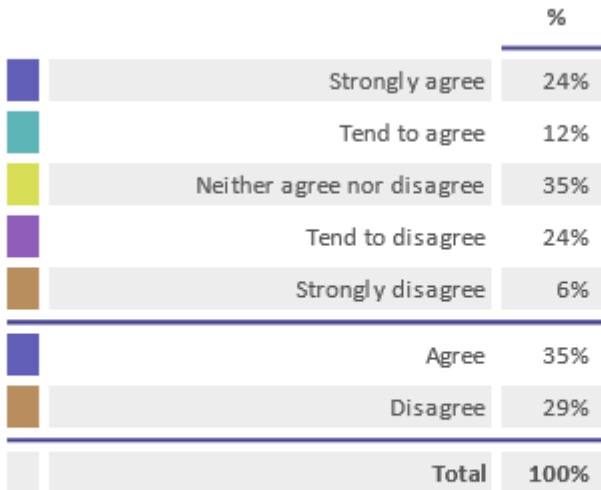
Base 44 (Valid response 100%)
 Confidence Interval $\pm 15\%$ at 95% confidence

Q105B - Selective licensing helps to reduce the turnover of occupiers in domestic properties



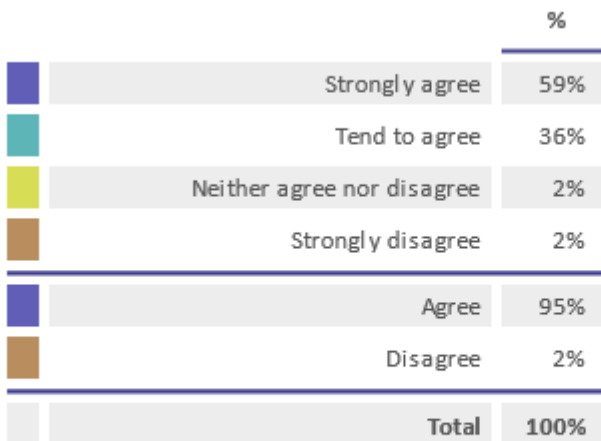
Base 39, Don't know 5 (Valid response 89%)
 Confidence Interval $\pm 15\%$ at 95% confidence

Q105C - Selective licensing helps to reduce the number of empty properties



Base 34, Don't know 10 (Valid response 77%)
 Confidence Interval $\pm 15\%$ at 95% confidence

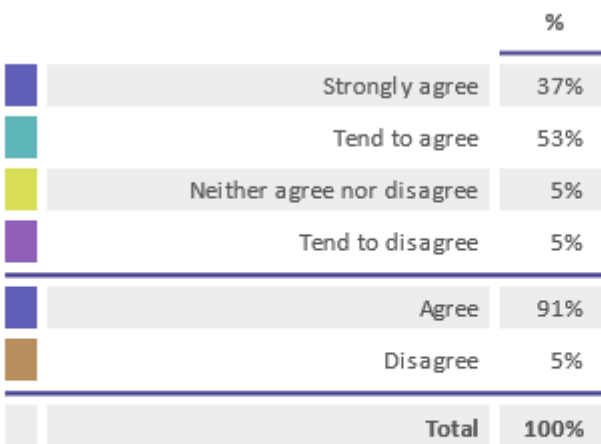
Q105D - Selective licensing helps to ensure minimum standards for rented housing are met



Base 44 (Valid response 100%)

Confidence Interval $\pm 15\%$ at 95% confidence

Q105E - Selective licensing helps to reduce crime and anti-social behaviour



Base 43, Don't know 1 (Valid response 98%)

Confidence Interval $\pm 15\%$ at 95% confidence

Q105F - Selective licensing contributes to protecting the health, safety and welfare of the community

	%
Strongly agree	50%
Tend to agree	48%
Tend to disagree	2%
Agree	98%
Disagree	2%
Total	100%

Base 44 (Valid response 100%)

Confidence Interval $\pm 15\%$ at 95% confidence

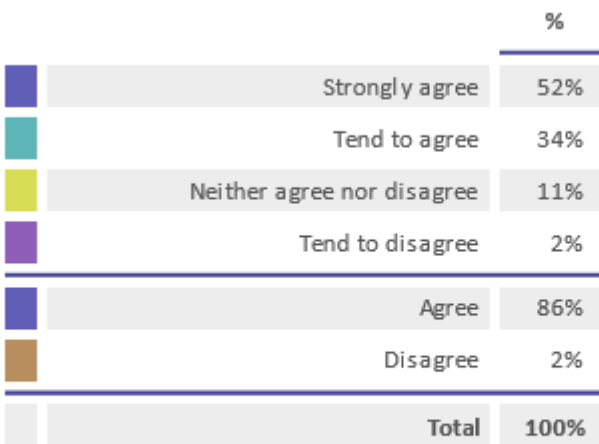
Q105G - Selective licensing helps councils gain extensive knowledge about their private rented sector

	%
Strongly agree	66%
Tend to agree	32%
Neither agree nor disagree	2%
Agree	98%
Total	100%

Base 44 (Valid response 100%)

Confidence Interval $\pm 14\%$ at 95% confidence

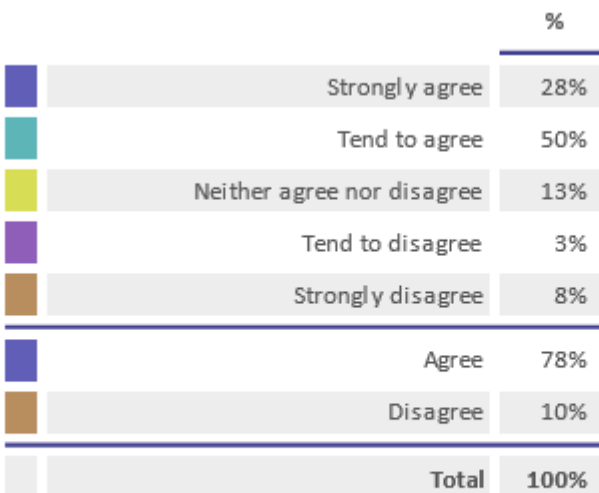
Q105H - Selective licensing helps to improve the reputation of the private rented sector



Base 44 (Valid response 100%)

Confidence Interval $\pm 15\%$ at 95% confidence

Q105I - Selective licensing helps to reduce environmental costs and costs of crime, such as street cleaning and tackling fly tipping



Base 40, Don't know 4 (Valid response 91%)

Confidence Interval $\pm 15\%$ at 95% confidence

Q106A - Selective licensing has an adverse effect on property prices

	%
Tend to agree	2%
Neither agree nor disagree	27%
Tend to disagree	34%
Strongly disagree	37%
Agree	2%
Disagree	71%
Total	100%

Base 41, Don't know 3 (Valid response 93%)

Confidence Interval $\pm 15\%$ at 95% confidence









Q106B - Selective licensing can reduce the availability of mortgages

	%
Strongly agree	3%
Tend to agree	3%
Neither agree nor disagree	24%
Tend to disagree	33%
Strongly disagree	36%
Agree	6%
Disagree	70%
Total	100%

Base 33, Don't know 11 (Valid response 75%)









Confidence Interval $\pm 15\%$ at 95% confidence

Q106C - Selective licensing is seen by landlords as a back door to regulate the private rented sector

		%
	Strongly agree	6%
	Tend to agree	44%
	Neither agree nor disagree	28%
	Tend to disagree	19%
	Strongly disagree	3%
<hr/>		
	Agree	50%
	Disagree	22%
<hr/>		
	Total	100%

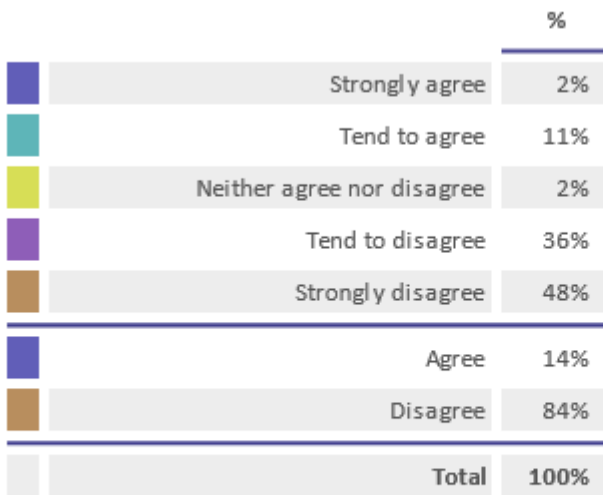
Base 36, Don't know 8 (Valid response 82%)
 Confidence Interval $\pm 16\%$ at 95% confidence

Q106D - Selective licensing is ineffectual if not introduced in tandem with other regeneration schemes

		%
	Strongly agree	5%
	Tend to agree	26%
	Neither agree nor disagree	21%
	Tend to disagree	37%
	Strongly disagree	12%
<hr/>		
	Agree	30%
	Disagree	49%
<hr/>		
	Total	100%

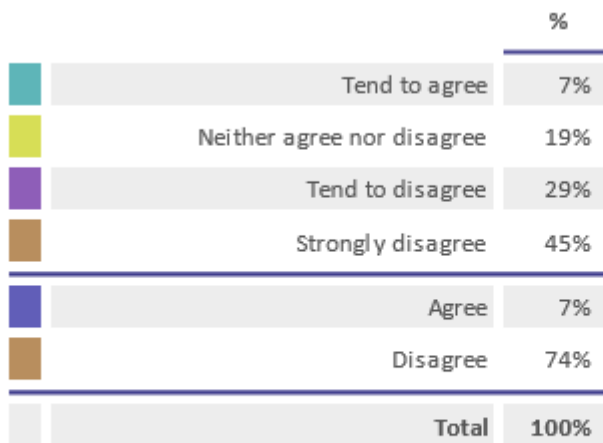
Base 43, Don't know 1 (Valid response 98%)
 Confidence Interval $\pm 14\%$ at 95% confidence

Q106E - Selective licensing is not fit for its intended purpose of reducing specific problems in the private rented sector



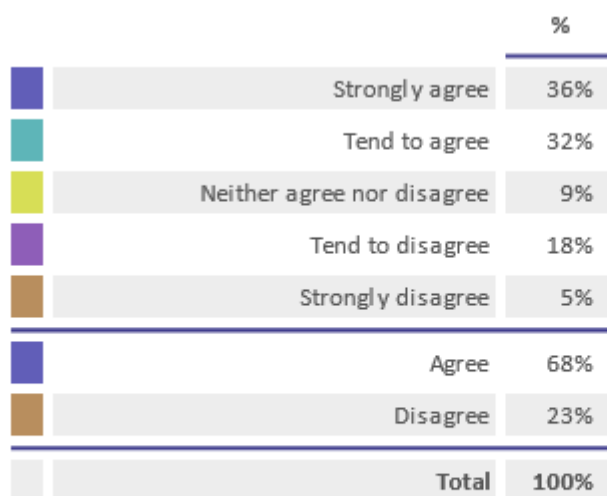
Base 44 (Valid response 100%)
Confidence Interval $\pm 15\%$ at 95% confidence

Q106F - The funding of selective licensing schemes lacks transparency



Base 42, Don't know 2 (Valid response 95%)
Confidence Interval $\pm 15\%$ at 95% confidence

Q106G - There are problems in covering the real costs of running selective licensing schemes



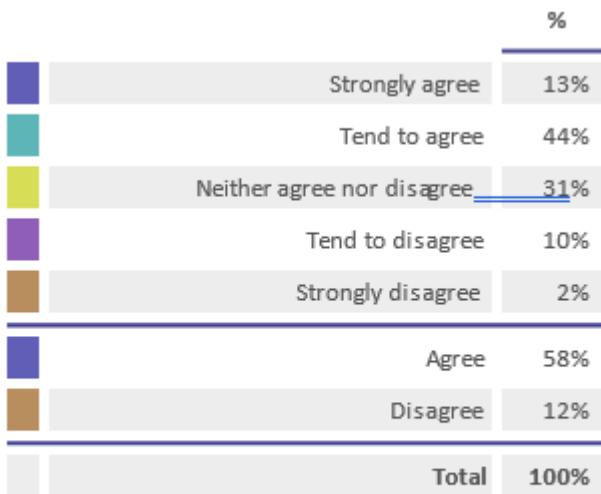
Base 44 (Valid response 100%)

Confidence Interval $\pm 14\%$ at 95% confidence

Results from local authorities without selective licensing schemes

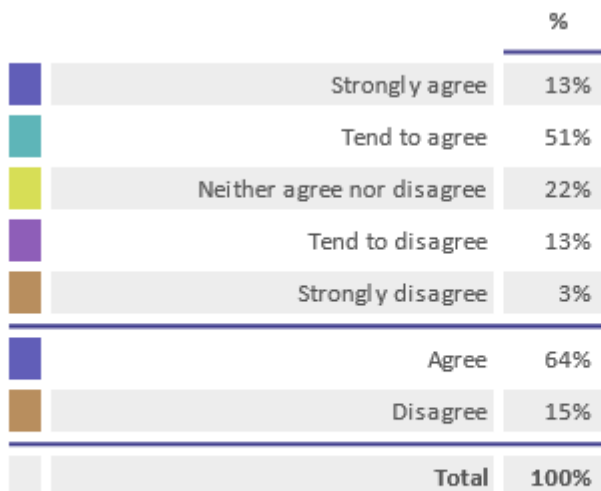
10. The following tables and charts are based only on the responses from Local Authorities who **do not** currently have a selective licensing scheme operating in their borough.
11. For each question both full and grouped (agree/disagree) results are shown. Please note that figures may not sum to 100% due to rounding.

Q101A - Landlord references become available for tenants under selective licensing, improving confidence and raising standards



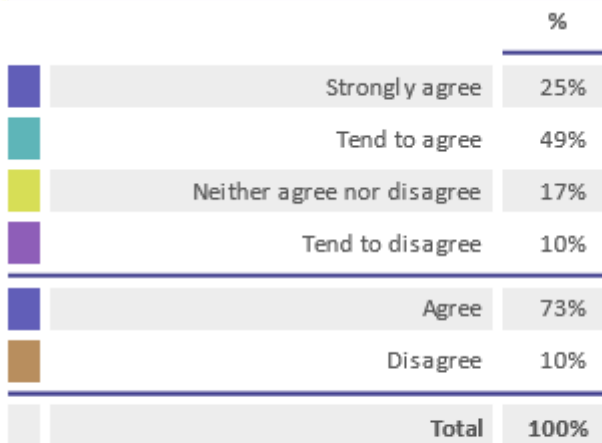
Base 186, Don't know 44 (Valid response 81%)
 Confidence Interval ±7% at 95% confidence

Q101B - Selective licensing helps to improve the knowledge of tenants regarding acceptable standards in private rented housing



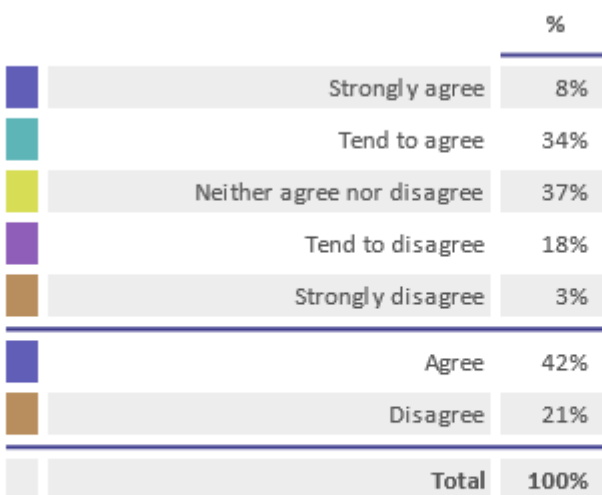
Base 200, Don't know 30 (Valid response 87%)
 Confidence Interval ±7% at 95% confidence

Q101C - Selective licensing helps to protect vulnerable groups in the private rented sector



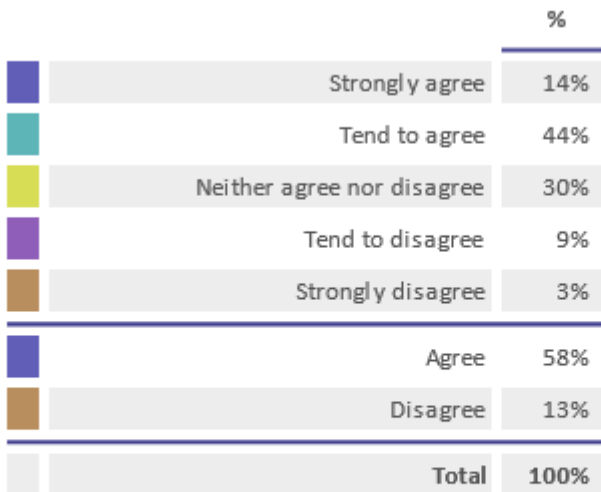
Base 210, Don't know 20 (Valid response 91%)
 Confidence Interval $\pm 7\%$ at 95% confidence

Q101D - Under selective licensing, tenants will see economic benefits, for example in reduced heating costs and improved likelihood of regaining any deposit paid



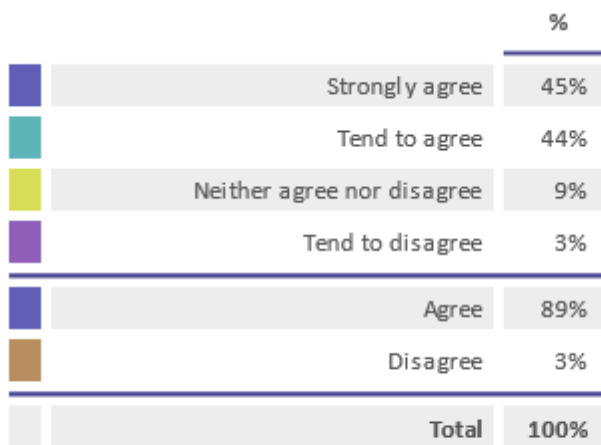
Base 201, Don't know 29 (Valid response 87%)
 Confidence Interval $\pm 6\%$ at 95% confidence

Q101E - Better management practices as a result of selective licensing help to increase the length of tenures and reduces the incidence of unplanned moves or homelessness



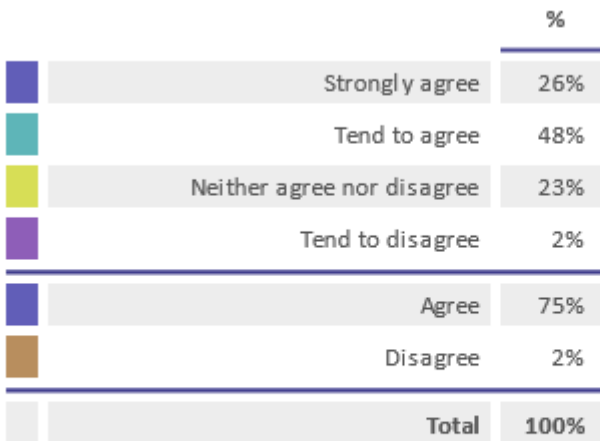
Base 191, Don't know 39 (Valid response 83%)
 Confidence Interval $\pm 7\%$ at 95% confidence

Q102A - The process to that has to be followed prior to designation of an area is too complex and requires the input of very substantial resources.



Base 199, Don't know 31 (Valid response 87%)
 Confidence Interval $\pm 7\%$ at 95% confidence

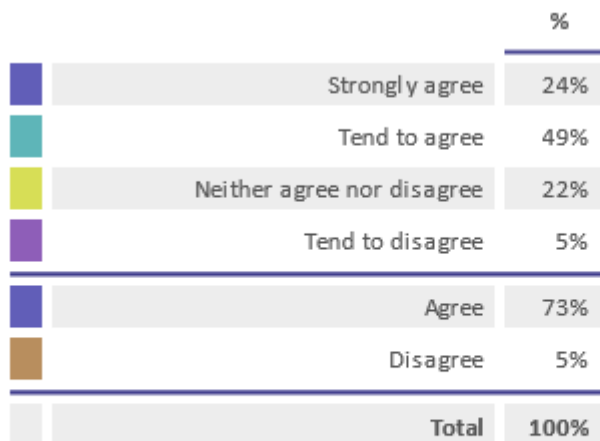
Q102B - The nature of the designation process makes it very open to challenge



Base 185, Don't know 45 (Valid response 80%)

Confidence Interval ±7% at 95% confidence

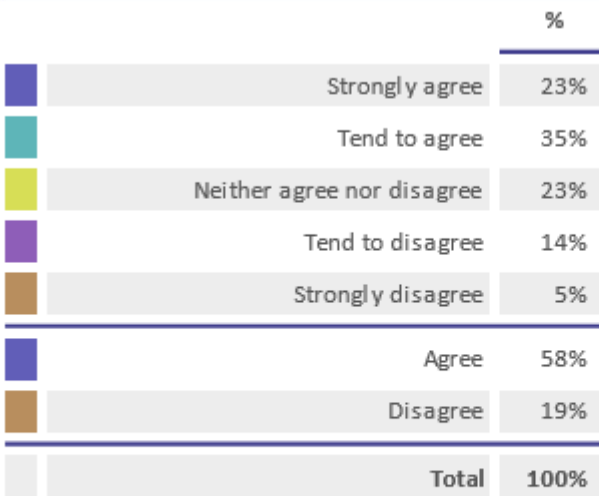
Q102C - There is too much bureaucracy involved in administering selective licensing schemes



Base 196, Don't know 34 (Valid response 85%)

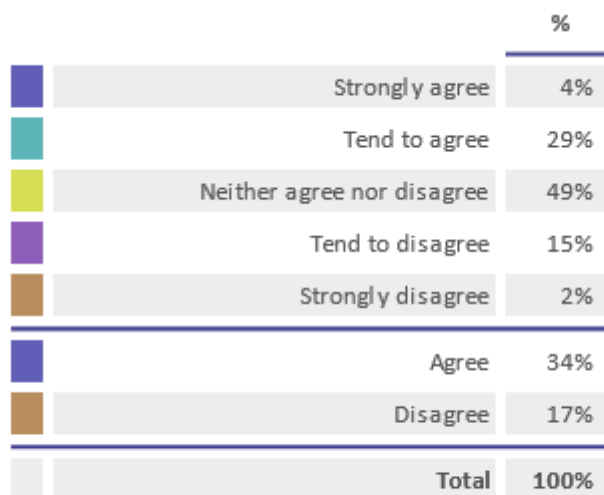
Confidence Interval ±7% at 95% confidence

Q102D - The financial and time costs of setting up and running a selective licensing scheme could be more productively spent elsewhere



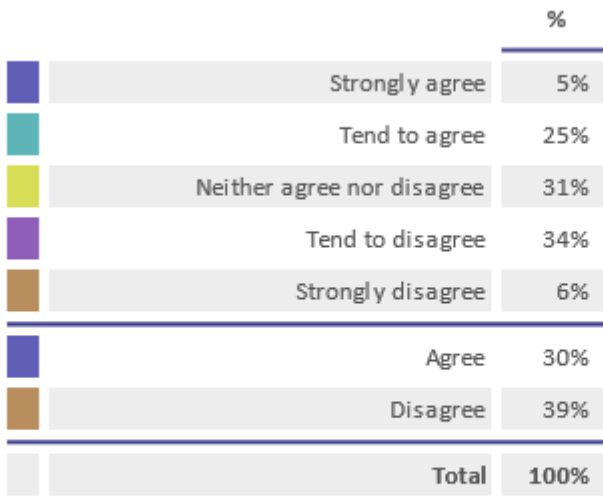
Base 204, Don't know 26 (Valid response 89%)
 Confidence Interval $\pm 6\%$ at 95% confidence

Q102E - Selective licensing tends to lead to increased rents for tenants



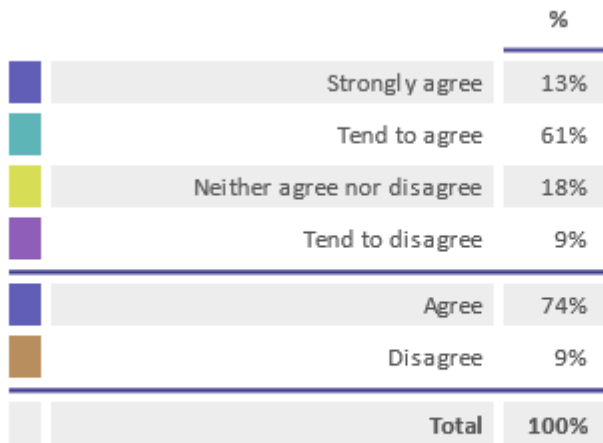
Base 167, Don't know 63 (Valid response 73%)
 Confidence Interval $\pm 7\%$ at 95% confidence

Q102F - Selective licensing does not provide sufficient additional powers to the authority










Base 193, Don't know 37 (Valid response 84%)
 Confidence Interval $\pm 6\%$ at 95% confidence

Q103A - Selective licensing ensures private landlords are managing homes



Base 210, Don't know 20 (Valid response 91%)
 Confidence Interval $\pm 7\%$ at 95% confidence








Q103B - Selective licensing ensures private landlords are maintaining homes

		%
	Strongly agree	12%
	Tend to agree	56%
	Neither agree nor disagree	21%
	Tend to disagree	10%
<hr/>		
	Agree	69%
	Disagree	10%
<hr/>		
	Total	100%

Base 211, Don't know 19 (Valid response 92%)

Confidence Interval $\pm 7\%$ at 95% confidence

Q103C - Selective licensing sets clear standards that all landlords should follow

		%
	Strongly agree	22%
	Tend to agree	64%
	Neither agree nor disagree	8%
	Tend to disagree	5%
<hr/>		
	Agree	87%
	Disagree	5%
<hr/>		
	Total	100%

Base 216, Don't know 14 (Valid response 94%)

Confidence Interval $\pm 7\%$ at 95% confidence

Q103D - Selective licensing helps to improve the knowledge of landlords regarding acceptable standards in private rented housings

	%
Strongly agree	18%
Tend to agree	64%
Neither agree nor disagree	14%
Tend to disagree	3%
Strongly disagree	*%
<hr/>	
Agree	83%
Disagree	3%
<hr/>	
Total	100%

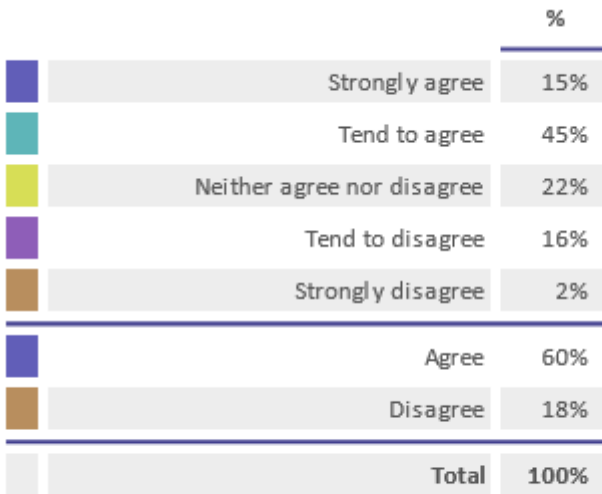
Base 211, Don't know 19 (Valid response 92%)
 Confidence Interval ±7% at 95% confidence
 *% - indicates percentage greater than 0 and less than 0.5

Q103E - Selective licensing improves landlord cooperation in doing the requested works on their property

	%
Strongly agree	8%
Tend to agree	43%
Neither agree nor disagree	37%
Tend to disagree	10%
Strongly disagree	2%
<hr/>	
Agree	51%
Disagree	12%
<hr/>	
Total	100%

Base 194, Don't know 36 (Valid response 84%)
 Confidence Interval ±7% at 95% confidence

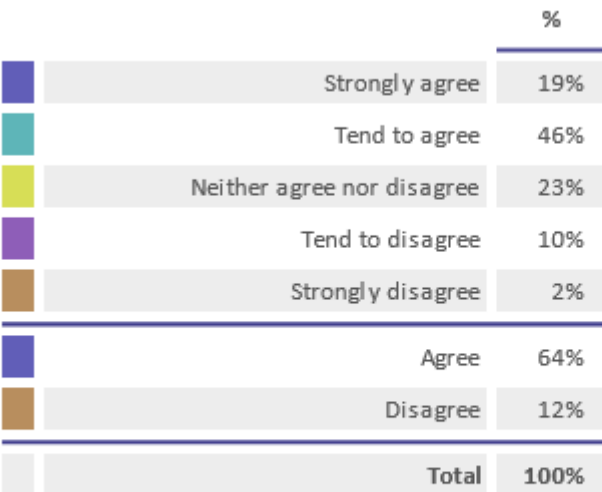
Q103F - Selective licensing helps to promote a fairer system for landlords, by ensuring they aren't undercut by an unscrupulous minority (so called Rogue Landlords)



Base 204, Don't know 26 (Valid response 89%)

Confidence Interval $\pm 7\%$ at 95% confidence









Q103G - Selective licensing enables targeted enforcement of landlords



Base 214, Don't know 16 (Valid response 93%)

Confidence Interval $\pm 7\%$ at 95% confidence

Q103H - Selective licensing ensures landlords and their agents will be readily identifiable








		%
	Strongly agree	26%
	Tend to agree	57%
	Neither agree nor disagree	10%
	Tend to disagree	7%
	Strongly disagree	*%
<hr/>		
	Agree	83%
	Disagree	7%
<hr/>		
	Total	100%

Base 215, Don't know 15 (Valid response 93%)

Confidence Interval $\pm 7\%$ at 95% confidence

*% - indicates percentage greater than 0 and less than 0.5

Q103I - Selective licensing helps provide support to landlords

		%
	Strongly agree	16%
	Tend to agree	45%
	Neither agree nor disagree	30%
	Tend to disagree	10%
<hr/>		
	Agree	61%
	Disagree	10%
<hr/>		
	Total	100%

Base 200, Don't know 30 (Valid response 87%)

Confidence Interval $\pm 7\%$ at 95% confidence

Q104A - Selective licensing does not necessarily increase enforcement action against rogue landlords

	%
Strongly agree	8%
Tend to agree	46%
Neither agree nor disagree	17%
Tend to disagree	22%
Strongly disagree	8%
<hr/>	
Agree	53%
Disagree	30%
<hr/>	
Total	100%

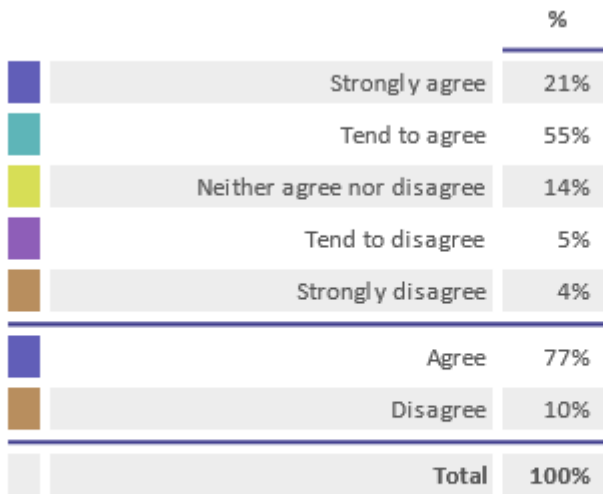
Base 193, Don't know 37 (Valid response 84%)
 Confidence Interval ±7% at 95% confidence

Q104B - The benefits of selective licensing are not considered sufficient by landlords to justify the upfront cost

	%
Strongly agree	19%
Tend to agree	49%
Neither agree nor disagree	29%
Tend to disagree	3%
<hr/>	
Agree	68%
Disagree	3%
<hr/>	
Total	100%

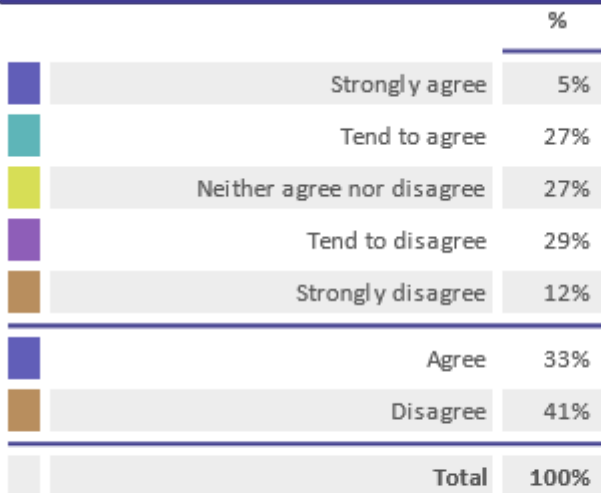
Base 172, Don't know 58 (Valid response 75%)
 Confidence Interval ±7% at 95% confidence

Q104C - An unscrupulous minority of landlords will not pay the licence anyway, and so remain difficult to identify



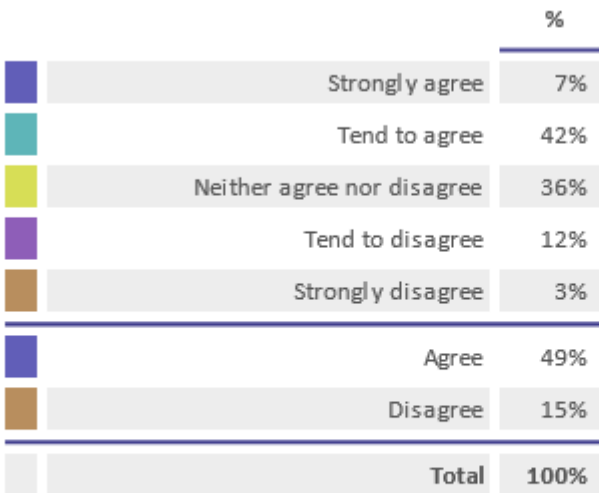
Base 210, Don't know 20 (Valid response 91%)
 Confidence Interval $\pm 7\%$ at 95% confidence

Q104D - Selective licensing is an unfair burden on responsible landlords



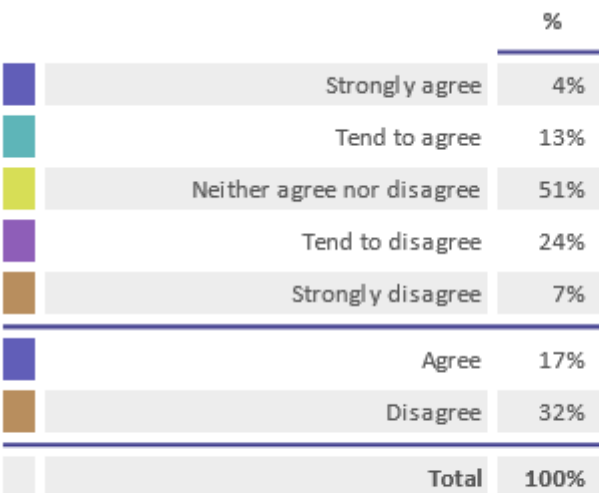
Base 212, Don't know 18 (Valid response 92%)
 Confidence Interval $\pm 6\%$ at 95% confidence

Q104E - Selective licensing applies pressure on non-regulated areas



Base 179, Don't know 51 (Valid response 78%)
 Confidence Interval $\pm 7\%$ at 95% confidence

Q104F - Selective licensing schemes fail to set specific, achievable goals



Base 164, Don't know 66 (Valid response 71%)
 Confidence Interval $\pm 7\%$ at 95% confidence

Q104G - Selective licensing schemes are not properly monitored

	%
Strongly agree	1%
Tend to agree	16%
Neither agree nor disagree	51%
Tend to disagree	25%
Strongly disagree	7%
<hr/>	
Agree	17%
Disagree	32%
<hr/>	
Total	100%









Base 148, Don't know 82 (Valid response 64%)
 Confidence Interval $\pm 8\%$ at 95% confidence

Q105A - Selective licensing helps to encourage greater joint working between different council departments and different agencies

	%
Strongly agree	12%
Tend to agree	41%
Neither agree nor disagree	35%
Tend to disagree	11%
Strongly disagree	1%
<hr/>	
Agree	54%
Disagree	11%
<hr/>	
Total	100%

Base 185, Don't know 45 (Valid response 80%)
 Confidence Interval $\pm 7\%$ at 95% confidence









Q105B - Selective licensing helps to reduce the turnover of occupiers in domestic properties

		%
	Strongly agree	5%
	Tend to agree	24%
	Neither agree nor disagree	52%
	Tend to disagree	19%
	Strongly disagree	1%
<hr/>		
	Agree	28%
	Disagree	20%
<hr/>		
	Total	100%

Base 151, Don't know 79 (Valid response 66%)

Confidence Interval $\pm 8\%$ at 95% confidence









Q105C - Selective licensing helps to reduce the number of empty properties

		%
	Strongly agree	4%
	Tend to agree	10%
	Neither agree nor disagree	39%
	Tend to disagree	40%
	Strongly disagree	7%
<hr/>		
	Agree	14%
	Disagree	47%
<hr/>		
	Total	100%

Base 163, Don't know 67 (Valid response 71%)

Confidence Interval $\pm 7\%$ at 95% confidence

Q105D - Selective licensing helps to ensure minimum standards for rented housing are met









		%
	Strongly agree	21%
	Tend to agree	59%
	Neither agree nor disagree	14%
	Tend to disagree	5%
	Strongly disagree	*%
<hr/>		
	Agree	80%
	Disagree	6%
<hr/>		
	Total	100%

Base 207, Don't know 23 (Valid response 90%)

Confidence Interval $\pm 7\%$ at 95% confidence

*% - indicates percentage greater than 0 and less than 0.5









Q105E - Selective licensing helps to reduce crime and anti-social behaviour

		%
	Strongly agree	8%
	Tend to agree	39%
	Neither agree nor disagree	40%
	Tend to disagree	11%
	Strongly disagree	2%
<hr/>		
	Agree	47%
	Disagree	12%
<hr/>		
	Total	100%

Base 179, Don't know 51 (Valid response 78%)









Confidence Interval $\pm 7\%$ at 95% confidence

Q105F - Selective licensing contributes to protecting the health, safety and welfare of the community

		%
	Strongly agree	12%
	Tend to agree	51%
	Neither agree nor disagree	30%
	Tend to disagree	7%
	Strongly disagree	1%
<hr/>		
	Agree	63%
	Disagree	8%
<hr/>		
	Total	100%

Base 203, Don't know 27 (Valid response 88%)
 Confidence Interval ±7% at 95% confidence

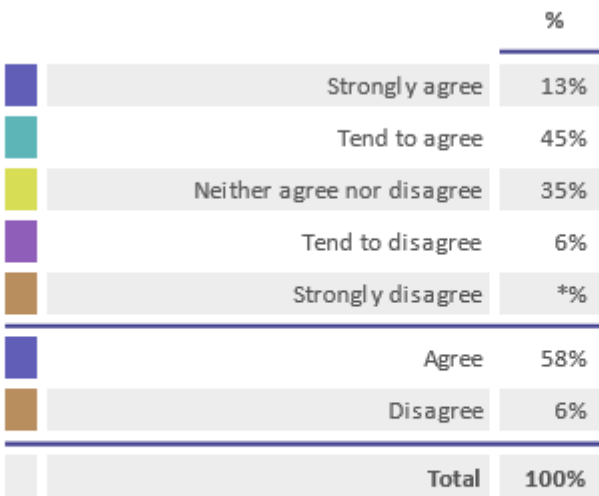
Q105G - Selective licensing helps councils gain extensive knowledge about their private rented sector

		%
	Strongly agree	25%
	Tend to agree	54%
	Neither agree nor disagree	14%
	Tend to disagree	6%
	Strongly disagree	*%
<hr/>		
	Agree	79%
	Disagree	7%
<hr/>		
	Total	100%

Base 208, Don't know 22 (Valid response 90%)
 Confidence Interval ±7% at 95% confidence

*% - indicates percentage greater than 0 and less than 0.5

Q105H - Selective licensing helps to improve the reputation of the private rented sector

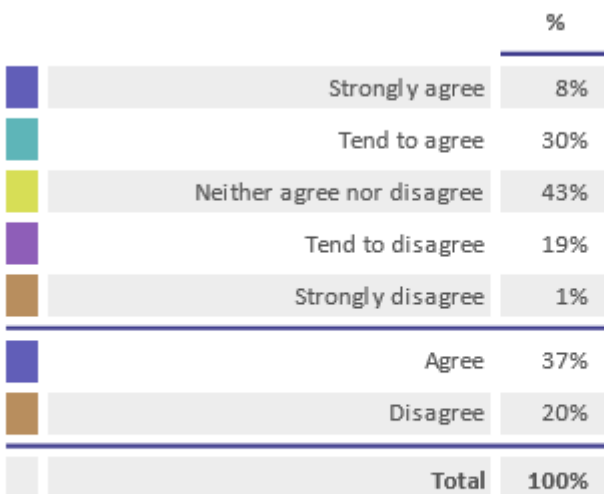


Base 202, Don't know 28 (Valid response 88%)

Confidence Interval $\pm 7\%$ at 95% confidence

*% - indicates percentage greater than 0 and less than 0.5

Q105I - Selective licensing helps to reduce environmental costs and costs of crime, such as street cleaning and tackling fly tipping



Base 172, Don't know 58 (Valid response 75%)

Confidence Interval $\pm 7\%$ at 95% confidence

Q106A - Selective licensing has an adverse effect on property prices

	%
Strongly agree	1%
Tend to agree	13%
Neither agree nor disagree	51%
Tend to disagree	25%
Strongly disagree	9%
Agree	14%
Disagree	34%
Total	100%

Base 140, Don't know 90 (Valid response 61%)

Confidence Interval $\pm 8\%$ at 95% confidence









Q106B - Selective licensing can reduce the availability of mortgages

	%
Tend to agree	10%
Neither agree nor disagree	57%
Tend to disagree	25%
Strongly disagree	8%
Agree	10%
Disagree	33%
Total	100%

Base 115, Don't know 115 (Valid response 50%)

Confidence Interval $\pm 8\%$ at 95% confidence









Q106C - Selective licensing is seen by landlords as a back door to regulate the private rented sector

		%
	Strongly agree	10%
	Tend to agree	50%
	Neither agree nor disagree	29%
	Tend to disagree	8%
	Strongly disagree	3%
<hr/>		
	Agree	60%
	Disagree	11%
<hr/>		
	Total	100%

Base 172, Don't know 58 (Valid response 75%)

Confidence Interval $\pm 7\%$ at 95% confidence









Q106D - Selective licensing is ineffectual if not introduced in tandem with other regeneration schemes

		%
	Strongly agree	3%
	Tend to agree	24%
	Neither agree nor disagree	45%
	Tend to disagree	23%
	Strongly disagree	6%
<hr/>		
	Agree	26%
	Disagree	29%
<hr/>		
	Total	100%

Base 152, Don't know 78 (Valid response 66%)

Confidence Interval $\pm 7\%$ at 95% confidence









Q106E - Selective licensing is not fit for its intended purpose of reducing specific problems in the private rented sector

		%
	Strongly agree	2%
	Tend to agree	21%
	Neither agree nor disagree	38%
	Tend to disagree	28%
	Strongly disagree	10%
<hr/>		
	Agree	23%
	Disagree	38%
<hr/>		
	Total	100%

Base 172, Don't know 58 (Valid response 75%)

Confidence Interval $\pm 7\%$ at 95% confidence

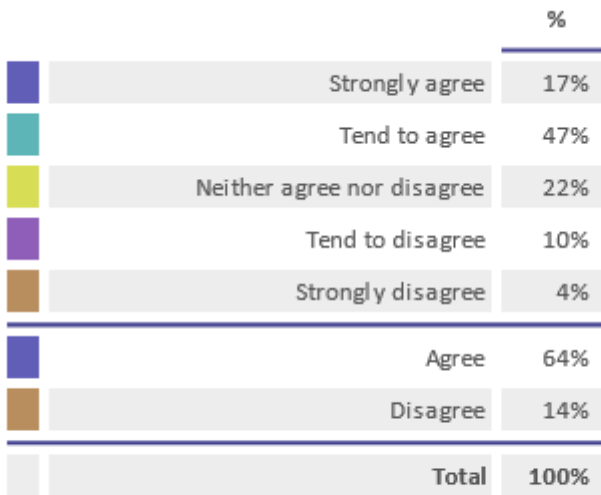
Q106F - The funding of selective licensing schemes lacks transparency

		%
	Strongly agree	3%
	Tend to agree	16%
	Neither agree nor disagree	44%
	Tend to disagree	29%
	Strongly disagree	8%
<hr/>		
	Agree	19%
	Disagree	37%
<hr/>		
	Total	100%

Base 151, Don't know 79 (Valid response 66%)

Confidence Interval $\pm 7\%$ at 95% confidence

Q106G - There are problems in covering the real costs of running selective licensing schemes



Base 161, Don't know 69 (Valid response 70%)
 Confidence Interval ±7% at 95% confidence

Annex 4 – Questionnaire

1. The full text of the questionnaire is presented below. It should be noted that the questionnaire featured extensive routing to ensure that respondents only completed relevant sections. The key routing question was number 16, which divided respondents into one of seven distinct categories, and appropriate questions were then presented dependent on the category to which they belonged.
2. Some questions were available to all respondents. These included the attitudinal questions (as reported in chapter 3 and annex 3) that appear as questions 101A to 106G.
3. Throughout, questions are followed by an acronym relating to the response options available:
 - SR = Single response only;
 - TR = Free text response;
 - MR = Multiple response;
 - GRID = A set of sub-questions for which a single response can be provided for each.

Welcome text

The Ministry of Housing, Communities and Local Government is currently undertaking a review of how powers of Selective Licensing (introduced in the Housing Act 2004) are/have been used and how effectively they are working. In order to carry out the review, research organisation Opinion Research Services (ORS) is gathering a range of evidence from local authorities and bodies representing landlords, tenants and housing professionals. The findings of the review will be reported in Spring 2019.

As part of this review, it is important to gather details from all local authorities regarding their views on, and use of, Selective Licensing in the private rented sector. The following questionnaire serves as a fundamental part of the project; and must be completed by Friday the 16th of November for the review to progress on schedule.

The Ministry seek responses to this questionnaire from each local authority, not only those with Selective Licensing designations in place, as gathering the views of all local authorities is key to the review. As such, a different set of questions is presented depending on the presence or absence of designations in your authority. This questionnaire should take no more than 5 - 15 minutes to complete.

If you require assistance or clarification with any aspect of the questionnaire, please call [*contact details for support*]

Confirming your Authority

Q1

In which region is your authority located?

SR

Response options

List of Regions

Q2

Which authority in the East?

SR

Response options

List of Authorities in the East

Q3

Which authority in the East Midlands?

SR

Response options

List of Authorities in the East Midlands

Q4

Which borough of London?

SR

Response options

List of Boroughs in London

Q5

Which authority in the North East?

SR

Response options

List of Authorities in the North East

Q6

Which authority in the North West?

SR

Response options

List of Authorities in the North West

Q7

Which authority in the South East?

SR

Response options

List of Authorities in the South East

Q8

Which authority in the South West?

SR

Response options

List of Authorities in the South West

Q9

Which authority in the West Midlands?

SR

Response options

List of Authorities in the West Midlands

Q10

Which authority in Yorkshire and the Humber?

SR

Response options

List of Authorities in Yorkshire and the Humber

Your Authority

Q11

Name of Respondent:

TR

Q12

Contact telephone number (including area code):

TR

Q13

As part of this project, a select number of authorities will be contacted for a follow-up interview. If you are happy to be called on the number given above for this purpose please mark "yes" below. Your phone number will not be given to anyone else/shared with any third parties or used for any other purpose without obtaining your prior consent.

SR

Response options

1 Yes

2 No

Anti-social behaviour;

GRID

Sub questions

Q14A Anti-social behaviour;

Q14B Low demand for housing;

Q14C Poor property conditions;

Q14D High levels of migration;

Q14E High levels of deprivation;

Q14F High levels of crime.

Response options

1 Not a problem

2 A problem, but not serious

3 Serious problem

97 Don't know

Q15

Are there any other notable identified problems within the private rented sector in your district? (Please elaborate in the box below, giving an indication of whether you consider each identified issue either a problem, or a serious problem, in line with the options above)

TR

Licensing in your Authority**Q16**

Which of the following best describes your district?

SR

Response options

- 1 1) There are one or more active selective licensing designations in our district at the moment, and we have never had one previously.
- 2 2) There are one or more active selective licensing designations in our district at the moment, and we have previously run one or more other selective licensing schemes.
- 3 3) We have never had an active selective licensing designation, but are considering/intending the designation of an area (encompassed by one single boundary), multiple areas (separate, not sharing a boundary), or whole district.
- 4 4) We previously had one or more areas designated as subject to selective licensing, but the designation(s) has since time expired or been revoked, and we are considering its reintroduction.
- 5 5) We previously had one or more areas designated as subject to selective licensing, but the designation(s) has since time expired or been revoked, and we are not considering its reintroduction.
- 6 6) We have previously considered introducing selective licensing, but it did not come into effect.
- 7 7) We have never considered there to be a need for selective licensing in our district.

With regard to your current scheme(s) - 1/4 : Introduction

Q17

Please ensure that your answers to the following reflect your currently operating scheme(s)
What initially led you to consider introducing selective licensing? (tick only those that apply)

MR

Response options

- 1 Anti-social behaviour
- 2 Low demand for housing
- 3 Poor property conditions
- 4 High levels of migration
- 5 High levels of deprivation
- 6 High levels of crime
- 7 Other - please specify

Q18

When did the scheme start? (MM/YY) TR

Q19

Was the designation process the subject of an application for judicial review before coming into effect? SR

Response options

- 1 Yes
- 2 No
- 3 Threatened but not started
- 97 Don't know

Q20

Is your scheme run by a dedicated Selective Licensing team? SR

Response options

- 1 Yes
- 2 No
- 97 Don't know

Q21

How many staff are on the Selective Licensing team? TR

With regard to your current scheme(s) - 2/4 : Financial

Q22

How many properties have you issued licences to over the lifetime of the scheme to date? If no accurate figure is available, please estimate.

TR

Q23

Does the designated area cover the entire local authority?

SR

Response options

1 Yes

2 No

3 Other - please specify

Q24

Does the currently operating scheme(s) cover more than 20% of the local authority's geographical area?

SR

Response options

1 Yes

2 No

97 Don't know

Q25

Does the currently operating scheme(s) cover more than 20% of privately rented homes in the local authority area? (as enumerated by the 2011 census)

SR

Response options

1 Yes

2 No

97 Don't know

Q26

How many properties in total (including owned, rented and social) are within the designated area(s)? If no accurate figure is available, please estimate.

TR

Q27

Please state specifically where the licensed area(s) of your district are located in the text box below. Where possible use full postcodes or statistical geographies such as Lower or Middle Super Output Areas.

TR

Q28

Is your licence fee a flat rate or does it vary between properties?

SR

Response options

- 1 Flat rate
- 2 Varies between properties
- 97 Don't know

Q29

What is the cost of a licence in your district? (£)

TR

Q30

What is the lowest cost of a licence in your district? (£)

TR

Q31

What would you estimate is the average cost of a licence in your district? (£)

TR

Q32

Do the monies raised through the issuing of licences and associated revenue streams (e.g. revenue from enforcement proceedings) support the operation of the scheme in full?

SR

Response options

- 1 Yes - supports it in full
- 2 No - Some subsidy is required for continued operation
- 97 Don't know

Q33

Are formal enforcement costs (e.g. issuing of notices) separately invoiced to landlords?
SR

Response options

1 Yes

2 No

97 Don't know

Q34

Does this cover the full cost of formal enforcement?
SR

Response options

1 Yes

2 No

97 Don't know

Q35

Approximately what percentage of the total monies collected from the granting of licences goes toward...
TR

Text inputs

Processing applications (%)

Administration costs for in house work (e.g. processing gas certificates) (%)

Administration costs for in field work (e.g. initial property inspections) (%)

Landlord/Tenant Support/Services (%)

Formal enforcement costs (%)

Other (%) and please describe

If the monies collected from selective licensing in your district do not easily fit into the categories defined above, please clarify the financial split

With regard to your current scheme(s) - 3/4 : Levels of Success

Q36

Thinking about the private rented sector in your district, how effective or ineffective do you feel that the scheme has been at addressing anti-social behaviour?

SR

Response options

- 1 Very effective
- 2 Fairly effective
- 3 Fairly ineffective
- 4 Very ineffective
- 5 Too early to tell
- 6 Other - please specify

Q37

Thinking about the private rented sector in your district, how effective or ineffective do you feel that the scheme has been at addressing low demand for housing?

SR

Response options

- 1 Very effective
- 2 Fairly effective
- 3 Fairly ineffective
- 4 Very ineffective
- 5 Too early to tell
- 6 Other - please specify

Q38

Thinking about the private rented sector in your district, how effective or ineffective do you feel that the scheme has been at addressing poor property conditions?

SR

Response options

- 1 Very effective
- 2 Fairly effective
- 3 Fairly ineffective
- 4 Very ineffective
- 5 Too early to tell
- 6 Other - please specify

Q39

Thinking about the private rented sector in your district, how effective or ineffective do you feel that the scheme has been at addressing high levels of migration?

SR

Response options

- 1 Very effective
- 2 Fairly effective
- 3 Fairly ineffective
- 4 Very ineffective
- 5 Too early to tell
- 6 Other - please specify

Q40

Thinking about the private rented sector in your district, how effective or ineffective do you feel that the scheme has been at addressing high levels of deprivation?

SR

Response options

- 1 Very effective
- 2 Fairly effective
- 3 Fairly ineffective
- 4 Very ineffective
- 5 Too early to tell
- 6 Other - please specify

Q41

Thinking about the private rented sector in your district, how effective or ineffective do you feel that the scheme has been at addressing high levels of crime?

SR

Response options

- 1 Very effective
- 2 Fairly effective
- 3 Fairly ineffective
- 4 Very ineffective
- 5 Too early to tell
- 6 Other - please specify

Q42

Thinking about the private rented sector in your district, how effective or ineffective do you feel that the scheme has been at addressing the other issues you noted as the reasons for considering introducing selective licensing?

SR

Response options

- 1 Very effective
- 2 Fairly effective
- 3 Fairly ineffective
- 4 Very ineffective
- 5 Too early to tell
- 6 Other - please specify

Q43

In your own words, can you provide details on the reasoning informing your answer to the previous question(s)? (Thinking about the private rented sector in your district, how effective or ineffective do you feel that the scheme has been at addressing...) TR

With regard to your current scheme(s) - 4/4 : Moving Forward**Q44**

Do you have specific and measurable targets that you hope to achieve by the end of scheme?

SR

Response options

- 1 Yes
- 2 No
- 3 Other - please specify

Q45

What are these targets, and how and when are they to be measured?

TR

Q46

Are you currently intending to redesignate the area(s) of selective licensing at the end of its/their five year period?

SR

Response options

- 1 Yes
- 2 No
- 3 Too soon to tell
- 4 Still considering it
- 5 Other - please specify

Q47

Have you initiated the process to redesignate these areas?

SR

Response options

- 1 Yes
- 2 No
- 3 Other - please specify

Q48

Do you think designation of more areas/a wider area of Selective Licensing could be a useful tool to help address specific housing issues in your district in the future?

SR

Response options

- 1 Yes
- 2 No
- 3 Other - please specify

With regard to your previous scheme(s) - 1/3 : Introduction

Q49

Please ensure that your answers to the following reflect your previously concluded scheme(s). How many separate previous schemes have been initiated in your district?

TR

Q50

With regard to your most recent previous scheme, what initially led you to consider introducing selective licensing? (tick only those that apply)

MR

Response options

- 1 Anti-social behaviour
- 2 Low demand for housing
- 3 Poor property conditions
- 4 High levels of migration
- 5 High levels of deprivation
- 6 High levels of crime
- 7 Other - please specify

Q51

When was this previous scheme in effect? (Between MM/YY and MM/YY)

TR

Q52

Was the designation process the subject of an application for judicial review before coming into effect?

SR

Response options

- 1 Yes
- 2 No
- 3 Threatened but not started
- 97 Don't know

Q53

Was your previous scheme run by a dedicated Selective Licensing team?

SR

Response options

1 Yes

2 No

3 Other - please specify

97 Don't know

Q54

How many staff were on the Selective Licensing team?

TR

Q55

Has any previous scheme (or combination of simultaneously operating previous schemes) covered more than 20% of the local authority's geographical area at one time?

SR

Response options

1 Yes

2 No

97 Don't know

Q56

Has any previous scheme (or combination of simultaneously operating previous schemes) covered more than 20% of the local authority's privately rented homes at any one time?

SR

Response options

1 Yes

2 No

97 Don't know

With regard to your previous scheme(s) - 2/3 : Financial

Q57

With regard to your most recent previous scheme, how many properties were licensed over the lifetime of the scheme? If no accurate figure is available, please estimate.

TR

Q58

Did the designated area of the previous scheme cover the entire local authority?

SR

Response options

1 Yes

2 No

3 Other - please specify

Q59

How many properties in total (including owned, rented and social) were within the previously designated area(s)? If no accurate figure is available, please estimate.

TR

Q60

Please state specifically where the previously licensed area(s) of your district were located in the text box below. Where possible use full postcodes or statistical geographies such as Lower or Middle Super Output Areas.

TR

Q61

Was your previous licence fee a flat rate or did it vary between properties?

SR

Response options

1 Flat rate

2 Varied between properties

97 Don't know

Q62

What was the cost of a licence in your district? (£)

TR

Q63

What was the lowest cost of a licence in your district? (£)

TR

Q64

What would you estimate was the average cost of a licence in your district? (£)

TR

Q65

Still thinking about your most recent previous scheme, did the monies raised through the issuing of licences and associated revenue streams (e.g. revenue from enforcement proceedings) support the operation of the scheme in full?

SR

Response options

- 1 Yes - supported it in full
- 2 No - Some subsidy was required for continued operation
- 97 Don't know

Q66

Were formal enforcement costs (e.g. issuing of notices) separately invoiced to landlords?

SR

Response options

- 1 Yes
- 2 No
- 3 Other - please specify

Q67

Did this cover the full cost of formal enforcement? SR

Response options

- 1 Yes
- 2 No

Q68

Approximately what percentage of the total monies collected from the granting of licences went toward...

TR

Text inputs

Processing applications (%)

Administration costs for in house work (e.g. processing gas certificates) (%)

Administration costs for in field work (e.g. initial property inspections) (%)

Landlord/Tenant Support/Services (%)

Formal enforcement costs (%)

Other (%) and please describe

If the monies that were collected from selective licensing in your district do not easily fit into the categories defined above, please clarify the financial split

With regard to your previous scheme(s) - 3/3 : Levels of Success**Q69**

Still thinking about your most recent previous scheme and about the private rented sector in your district at the time, how effective or ineffective do you feel that the scheme was at addressing anti-social behaviour?

SR

Response options

- 1 Very effective
- 2 Fairly effective
- 3 Fairly ineffective
- 4 Very ineffective
- 5 Too early to tell
- 6 Other - please specify

Q70

Still thinking about your most recent previous scheme and about the private rented sector in your district at the time, how effective or ineffective do you feel that the scheme was at addressing low demand for housing?

SR

Response options

- 1 Very effective
- 2 Fairly effective
- 3 Fairly ineffective
- 4 Very ineffective
- 5 Too early to tell
- 6 Other - please specify

Q71

Still thinking about your most recent previous scheme and about the private rented sector in your district at the time, how effective or ineffective do you feel that the scheme was at addressing poor property conditions?

SR

Response options

- 1 Very effective
- 2 Fairly effective
- 3 Fairly ineffective
- 4 Very ineffective
- 5 Too early to tell
- 6 Other - please specify

Q72

Still thinking about your most recent previous scheme and about the private rented sector in your district at the time, how effective or ineffective do you feel that the scheme was at addressing high levels of migration?

SR

Response options

- 1 Very effective
- 2 Fairly effective
- 3 Fairly ineffective
- 4 Very ineffective
- 5 Too early to tell
- 6 Other - please specify

Q73

Still thinking about your most recent previous scheme and about the private rented sector in your district at the time, how effective or ineffective do you feel that the scheme was at addressing high levels of deprivation?

SR

Response options

- 1 Very effective
- 2 Fairly effective
- 3 Fairly ineffective
- 4 Very ineffective
- 5 Too early to tell
- 6 Other - please specify

Q74

Still thinking about your most recent previous scheme and about the private rented sector in your district at the time, how effective or ineffective do you feel that the scheme was at addressing high levels of crime?

SR

Response options

- 1 Very effective
- 2 Fairly effective
- 3 Fairly ineffective
- 4 Very ineffective
- 5 Too early to tell
- 6 Other - please specify

Q75

Still thinking about your most recent previous scheme and about the private rented sector in your district at the time, how effective or ineffective do you feel that the scheme was at addressing the other issues you noted as the reasons for considering introducing selective licensing?

SR

Response options

- 1 Very effective
- 2 Fairly effective
- 3 Fairly ineffective
- 4 Very ineffective
- 5 Too early to tell
- 6 Other - please specify

Q76

In your own words, can you provide details on the reasoning informing your answer to the previous question(s)? (Still thinking about your most recent previous scheme and about the private rented sector in your district at the time, how effective or ineffective do you feel that the scheme was at addressing...) TR

Q77

What were the main reason(s) that the previous scheme was terminated?

TR

Q78

Did you have specific and measurable targets that you hoped to achieve by the end of previous scheme?
SR

Response options

1 Yes

2 No

3 Other - please specify

Q79

What were these targets, and how and when were they to be measured?

TR

The choice not to reintroduce Selective Licensing

Q80

What are the main reason(s) that reintroduction of the scheme has not been under consideration? MR

Response options

- 1 The issues the scheme was intended to solve are no longer present
- 2 The scheme was not sufficiently effective at dealing with the issues
- 3 The scheme was not financially viable
- 4 Other - please specify
- 97 Don't know

With regard to the scheme currently under consideration

Q81

If you decide/have decided to proceed with the introduction of selective licensing, how soon are you hoping the scheme will start? SR

Response options

- 1 Within 6 months
- 2 6 months or more but less than one year
- 3 1 year or more but less than 2 years
- 4 2 years or longer
- 97 Don't know

Q82

What initially led you to consider introducing selective licensing? (tick only those that apply) MR

Response options

- 1 Anti-social behaviour
- 2 Low demand for housing
- 3 Poor property conditions
- 4 High levels of migration
- 5 High levels of deprivation
- 6 High levels of crime
- 7 Other - please specify
- 97 Don't know

Q83

Have you conducted a public consultation that covers selective licensing? (if currently ongoing, mark yes)

SR

Response options

- 1 Yes
- 2 No
- 3 Other - please specify

Q84

Is/has the designation process been the subject of an application for judicial review (if currently ongoing, mark yes)

SR

Response options

- 1 Yes
- 2 No
- 3 Threatened but not started
- 97 Don't know

Q85

Does the intended designated area cover the entire local authority?

SR

Response options

- 1 Yes
- 2 No
- 3 Other - please specify

Q86

Will the proposed designated area cover more than 20% of the local authority's geographical area?

SR

Response options

- 1 Yes
- 2 No
- 97 Don't know

Q87

Will the proposed designated area cover more than 20% of privately rented homes in the local authority area? (as enumerated by the 2011 census)

SR

Response options

1 Yes

2 No

97 Don't know

Q88

How many properties in total (including owned, rented and social) are within the area(s) intended for designation? If no accurate figure is available, please estimate.

TR

Q89

Please state specifically where the intended licensed area(s) of your district are to be located in the text box below. Where possible use full postcodes or statistical geographies such as Lower or Middle Super Output Areas.

TR

Q90

Do you have specific and measurable targets that you hope to achieve by the end of scheme?

SR

Response options

1 Yes

2 No

3 Other - please specify

Q91

What are these targets, and how and when are they to be measured?

TR

Previously have considered introducing a scheme

Q92

What initially led you to consider introducing selective licensing? (tick only those that apply)

MR

Response options

- 1 Anti-social behaviour
- 2 Low demand for housing
- 3 Poor property conditions
- 4 High levels of migration
- 5 High levels of deprivation
- 6 High levels of crime
- 7 Other - please specify

Q93

Approximately when was the scheme under consideration?

TR

Text inputs

Between (start):

and (end):

Q94

Did the consideration of selective licensing get as far as a public consultation?

SR

Response options

- 1 Yes
- 2 No
- 3 Other - please specify
- 97 Don't know

Q95

Was the designation process the subject of an application for judicial review?

SR

Response options

1 Yes

2 No

3 Threatened but not started

4 Other - please specify

97 Don't know

Q96

What were the main reason(s) that the scheme was not adopted?

TR

Q97

What alternative measures were taken to tackle the problems identified above that led to the consideration of selective licensing?

TR

Never have considered introducing a scheme

Q98

What is the main reason that selective licensing has not been considered?

SR

Response options

- 1 We do not suffer any serious issues with regard to the private rented sector in our district that would warrant consideration of selective licensing.
- 2 Despite issues being present in the private rented sector in our district, we do not consider the introduction of a selective licensing scheme to be appropriate at this time, preferring to address these issues through other means.
- 3 Despite issues being present in the private rented sector in our district, we do not consider the selective licensing scheme to be an effective policy tool.
- 4 Other - please specify

Q99

In your own words, please outline the nature of the issues found in the private rented sector in your district, along with the measures intended to address them, as referred to in your previous answer.

TR

Q100

In your own words, please elaborate on why you do not consider the selective licensing scheme to be an effective policy tool.

TR

Attitudes toward Selective Licensing: (1/6)

Landlord references become available for tenants under selective licensing, improving confidence and raising standards

GRID

Sub questions

Q101A Landlord references become available for tenants under selective licensing, improving confidence and raising standards

Q101B Selective licensing helps to improve the knowledge of tenants regarding acceptable standards in private rented housing

Q101C Selective licensing helps to protect vulnerable groups in the private rented sector

Q101D Under selective licensing, tenants will see economic benefits, for example in reduced heating costs and improved likelihood of regaining any deposit paid

Q101E Better management practices as a result of selective licensing help to increase the length of tenures and reduces the incidence of unplanned moves or homelessness

Response options

1 Strongly agree

2 Tend to agree

3 Neither agree nor disagree

4 Tend to disagree

5 Strongly disagree

97 Don't know

Attitudes toward Selective Licensing: (2/6)

The process to that has to be followed prior to designation of an area is too complex and requires the input of very substantial resources.

GRID

Sub questions

Q102A The process to that has to be followed prior to designation of an area is too complex and requires the input of very substantial resources.

Q102B The nature of the designation process makes it very open to challenge

Q102C There is too much bureaucracy involved in administering selective licensing schemes

Q102D The financial and time costs of setting up and running a selective licensing scheme could be more productively spent elsewhere

Q102E Selective licensing tends to lead to increased rents for tenants

Q102F Selective licensing does not provide sufficient additional powers to the authority

Response options

1 Strongly agree

2 Tend to agree

3 Neither agree nor disagree

4 Tend to disagree

5 Strongly disagree

97 Don't know

Attitudes toward Selective Licensing: (3/6)

Selective licensing ensures private landlords are managing homes

GRID

Sub questions

Q103A Selective licensing ensures private landlords are managing homes

Q103B Selective licensing ensures private landlords are maintaining homes

Q103C Selective licensing sets clear standards that all landlords should follow

Q103D Selective licensing helps to improve the knowledge of landlords regarding acceptable standards in private rented housings

Q103E Selective licensing improves landlord cooperation in doing the requested works on their property

Q103F Selective licensing helps to promote a fairer system for landlords, by ensuring they aren't undercut by an unscrupulous minority (so called "Rogue Landlords")

Q103G Selective licensing enables targeted enforcement of landlords

Q103H Selective licensing ensures landlords and their agents will be readily identifiable

Q103I Selective licensing helps provide support to landlords

Response options

1 Strongly agree

2 Tend to agree

3 Neither agree nor disagree

4 Tend to disagree

5 Strongly disagree

97 Don't know

Attitudes toward Selective Licensing: (4/6)

Selective licensing does not necessarily increase enforcement action against rogue landlords GRID

Sub questions

- Q104A Selective licensing does not necessarily increase enforcement action against rogue landlords
- Q104B The benefits of selective licensing are not considered sufficient by landlords to justify the upfront cost
- Q104C An unscrupulous minority of landlords will not pay the licence anyway, and so remain difficult to identify
- Q104D Selective licensing is an unfair burden on responsible landlords
- Q104E Selective licensing applies pressure on non-regulated areas
- Q104F Selective licensing schemes fail to set specific, achievable goals
- Q104G Selective licensing schemes are not properly monitored

Response options

- 1 Strongly agree
- 2 Tend to agree
- 3 Neither agree nor disagree
- 4 Tend to disagree
- 5 Strongly disagree
- 97 Don't know

Attitudes toward Selective Licensing: (5/6)

Selective licensing helps to encourage greater joint working between different council departments and different agencies

GRID

Sub questions

- Q105A Selective licensing helps to encourage greater joint working between different council departments and different agencies
- Q105B Selective licensing helps to reduce the turnover of occupiers in domestic properties
- Q105C Selective licensing helps to reduce the number of empty properties
- Q105D Selective licensing helps to ensure minimum standards for rented housing are met
- Q105E Selective licensing helps to reduce crime and anti-social behaviour
- Q105F Selective licensing contributes to protecting the health, safety and welfare of the community
- Q105G Selective licensing helps councils gain extensive knowledge about their private rented sector
- Q105H Selective licensing helps to improve the reputation of the private rented sector
- Q105I Selective licensing helps to reduce environmental costs and costs of crime, such as street cleaning and tackling fly tipping

Response options

- 1 Strongly agree
- 2 Tend to agree
- 3 Neither agree nor disagree
- 4 Tend to disagree
- 5 Strongly disagree
- 97 Don't know

Attitudes toward Selective Licensing: (6/6)

Selective licensing has an adverse effect on property prices

GRID

Sub questions

Q106A Selective licensing has an adverse effect on property prices

Q106B Selective licensing can reduce the availability of mortgages

Q106C Selective licensing is seen by landlords as a “back door” to regulate the private rented sector

Q106D Selective licensing is ineffectual if not introduced in tandem with other regeneration schemes

Q106E Selective licensing is not fit for its intended purpose of reducing specific problems in the private rented sector

Q106F The funding of selective licensing schemes lacks transparency

Q106G There are problems in covering the real costs of running selective licensing schemes

Response options

1 Strongly agree

2 Tend to agree

3 Neither agree nor disagree

4 Tend to disagree

5 Strongly disagree

97 Don't know

The Future of Selective Licensing

Q107

Do you think the designation of some areas of Selective Licensing could potentially be a useful tool to help address specific housing issues in your district in the future?

SR

Response options

1 Yes

2 No

97 Don't know

Q108

If selective licensing were to be revised by government, are there any specific changes you would like to see introduced?

SR

Response options

1 Yes

2 No

Q109

Please explain the changes you would like to see introduced to selective licensing in the text box below:

TR

Exit text

Thank you for taking the time to complete this questionnaire.