

## **FAQs – Additional and Selective Licensing of Private Rented Housing in Enfield**

### **A brief introduction**

The introduction of Additional and Selective licensing schemes will provide clear standards to be met within the private rented sector (PRS). This will raise standards borough-wide, enabling tenants to have a clear benchmark and landlords to clearly know their responsibilities. It will also identify landlords whose management arrangements are inadequate or unsatisfactory and ensure improvements are made. It will remove problem landlords from operating within the borough. The scheme will promote a more co-ordinated approach than has been previously possible to tackling noise and general disturbances and enable action to be taken against landlords who do not take reasonable steps to reduce it.

The scheme will improve the borough through the comprehensive implementation of effective tenancy agreements which will enable tenants committing repeated instances of anti-social behaviour (ASB) to be removed. The licence conditions which deal with property issues and waste management will support reductions in the levels of environmental crime. The restrictions around levels of occupancy will alleviate the associated problems with overcrowding in properties.

Licensing is a necessary step due to the market demonstrating that it is not taking ownership of the problem of ASB and actually isn't working effectively. If PRS linked to ASB is to be dealt with effectively, then a comprehensive system of regulation needs to be brought in. The aim is to keep it to a minimum cost for those responsible landlords but as regulated as necessary for bad landlords. Engaged landlords will be eligible for reduced fees (see fee structure) over a five-year period.

### **The Enfield situation**

#### **1. What is the problem in Enfield?**

The PRS has doubled in size in recent years. At the time of the 2001 census the PRS accounted for just some 13,000 properties but by the time of the 2011 census this figure had jumped to over 26,000 and now reaches over 28000 homes across the borough. There also continues to be a persistent problem in ASB in the borough which corresponds to the location of the PRS. There is evidence that these two issues are linked, and the Council wants to do something about it before the problem gets any worse.

### **Anti – Social Behaviour**

#### **2. What do we mean by ASB?**

In its Good Practice Guide to Landlords, Enfield Council refers to ASB in the following way:

*Landlords should take reasonable steps to prevent ASB of their tenants and/or visitors. A clause should be included in the tenancy agreement requiring tenants and their visitors not to cause a nuisance or annoyance to others. Where a tenant is causing a nuisance or acting in an anti-social manner landlords should enforce the relevant clause of the tenancy agreement as soon as possible to deal with the matter. There should be a clear procedure for dealing with disputes between tenants and neighbours about nuisance.*

In relation to 'Additional Licensing', ASB means the behaviour of occupiers or visitors to houses of multiple occupancy (HMOs) which causes or is likely to cause a nuisance or annoyance to people living in, or visiting the area. It also includes where a HMO is used, or is likely to be used, for illegal purposes.

In terms of introducing a 'Selective Licensing' scheme, ASB is viewed as problem behaviour relating to crimes against property and vehicles, nuisance neighbours and environmental crime.

Section 80 (6) (a) of the 2004 Housing Act gives the Council the power to make a Selective Licensing designation if "the area is experiencing a significant and persistent problem caused by ASB."

An area can be deemed to be suffering from significant and persistent ASB if it suffers from:

- **Crime:** tenants not respecting the property in which they live and engaging in vandalism, criminal damage, burglary, robbery/theft and car crime.
- **Nuisance neighbours:** intimidation and harassment; noise, rowdy and nuisance behaviour; animal related problems; vehicle related nuisance. Tenants engaged in begging; anti-social drinking; street prostitution and kerb-crawling; street drugs market within the curtilage of the property.
- **Environmental crime:** tenants engaged in graffiti and fly-posting; fly-tipping; litter and waste; nuisance vehicles; drugs paraphernalia; fireworks misuse in and around the curtilage for their property.

In addition, for reference, the Crime and Disorder Act (1998) definition of ASB – 'Acting in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as (the defendant).'

### **The Case for Licensing**

#### **3. What is the specific evidence that justifies licensing?**

The issue of ASB being linked to PRS has only emerged recently with the rapid increase of this sector. This issue is a growing problem as Enfield has experienced a 67.6% increase in the number of housing enforcement enquiries the Council has received from private tenants in the five-year period from April 2008 to March 2013. A full report detailing the evidence linking ASB and the PRS is available on the website: [Additional and Selective Licensing of Private Rented Homes in Enfield: A Consultation Report.](#)

#### **4. Could a Landlord Accreditation Scheme be a viable alternative?**

Enfield has been running such a scheme, which is voluntary, for a number of years and has some 70 landlord representatives signed up to it. However the growth of the sector and the associated ASB in the borough has not invoked any co-ordinated and comprehensive response to the problem from that sector. This suggests the need to introduce regulation which mandates corrective action and on a proactive rather than a reactive basis.

#### **5. How can I be held responsible for the behaviour of my tenants, why don't you target those responsible directly?**

There is a strong correlation between badly managed, poor quality rental properties and ASB. Landlords are not directly responsible for the behaviour of their tenants but there should be a duty of care to expect that neighbourly behaviour is required at all times and that properties are kept up and not only don't detract from the neighbourhood but positively benefit it. Proactive management of tenancies ensuring that clear expectations of behaviour are laid out within tenancy agreements, ASB is dealt with using warnings and where necessary termination of tenancies will combat persistent ASB issues.

#### **6. There is no evidence that ASB is especially associated with private rented properties – compared, for example, with social rented properties and areas with high proportions of households in receipt of housing benefit**

Our evidence suggests that there is a clear link. There are also a high number of leasehold properties within social housing resulting in difficulties in distinguishing between the two.

If you have evidence that contradicts this please let us know as this is why we are consulting on these issues.

#### **7. Evidence that schemes in other areas have been problematic – costs, decreased property values**

Evidence from a report undertaken on behalf of the Department of Communities and Local Government in 2010, on the impact of other selective licensing schemes, shows no evidence of 'market collapse' as a result of licensing. The biggest improvements in market conditions were found in the authority whose designation was made on the grounds of ASB. This suggests the key role played by ASB in determining desirability of areas and therefore market conditions.

#### **8. How will Licensing deal with ASB from Council and Social Rental tenants?**

Measures targeted specifically at the PRS are being considered as there are already other powers available to the Council to deal with its own tenants through tenancy breaches and

that of Registered Social Landlords. The Council actively tackles ASB within the socially rented sector.

Enfield Homes works with tenants to alleviate problems of ASB using a range of methods including: warning letters, Acceptable Behaviour Contracts (ABC's), Parenting Contracts, Parenting Orders, ASB Injunctions (ASBI's), ASB Orders (ASBO's) to prevent or deter re-offending by perpetrators viewing eviction as a last resort.

**9. Are sufficient legislation and measures already in place for the Council and Police to deal with ASB and bad landlords?**

- a. Selective Licensing can be used as an additional tool which would go hand in hand with partnerships within the borough and form part of the coordinated response to tackling on-going ASB.
- b. The Licensing scheme will give the Council enhanced powers to effectively combat mis-management within the PRS and the ASB problems experienced as a result. Licensing will be used as a supplementary device which would be used alongside the existing measures to enable a coordinated response to tackling on-going ASB.
- c. The scheme will also allow the Council to visit properties on a proactive basis rather than only visiting them in the event of a problem or service request/complaint.

**10. How do you know/determine the tenure of a property with ASB?**

This will be ascertained at receipt of the enquiry/complaint where known or from the address and then compared to the database.

**11. Most PRS properties do not have ASB problems - is there any real need for the scheme?**

The initiative is not targeted at good landlords, although we will provide guidance and help is offered through the Accredited Landlord Forum on a range of matters, rather it is targeted at bad landlords but also bad tenants. However to have a truly comprehensive scheme then all PRS premises have to be included. The fee structure is heavily weighted to benefit good landlords and where necessary to penalise bad landlords.

**Current Action**

**12. How does the Council currently deal with ASB within the PRS?**

Enfield's Housing Enforcement Team provides a comprehensive service to deal with complaints of disrepair from tenants where it appears that landlords have been reluctant to fulfil their duties. Enforcement officers carry out property inspections to assess disrepair and hazards that are present in the property. They also negotiate and advise landlords on the necessary repair works required. However, this is a reactive service and does not deal

with the root of the problem, i.e. poor management by landlords and tenants not taking responsibility for their own actions. There are insufficient resources to undertake proactive inspections of privately rented properties and limited means for controlling the standard of management with regard to ASB caused by tenants in privately rented properties occupied by single households.

Enfield Council has already looked to further regulate effects of the PRS, as in October 2013, it enacted an Article 4 Direction, rescinding permitted development rights for houses thereby increasing control of further HMOs within the borough. Implementation of an Article 4 Direction, results in all conversions of dwellings into HMOs, including smaller residential buildings requiring Planning Permission and hence to be considered by the Planning Authority. This aims to control the problems being experienced as a result of HMOs across the borough.

The ASB team within the Community Safety Unit takes a joint working approach with landlords to effectively tackle any complaints from or against their tenants. Other routes in which the Council has interacted within the PRS are not as positive, often taking the form of enforcement action. The ASB team offers joint departmental working with the police to enable accurate enforcement of the variety of ASB issues within the PRS.

### **13. How is the Council currently working with landlords in the PRS?**

#### General Advice

Due to the concerns about growing levels of ASB, Enfield Council offers general advice for landlords on their website. As part of its Good Practice Management guide for landlords, the Council details guidance on handling ASB. Recommendations focus upon the inclusion of a clause in any tenancy agreement that prohibits behaviour causing annoyance or nuisance by the tenant and/or their visitor(s), with a clear procedure to deal with issues that arise.

#### Accredited Landlord Forum

The Council also runs an Accredited Landlord Forum which assists local landlords and agents letting properties within Enfield to be accredited by the Council and have better directed access to Council officers', tenancy advice and training opportunities and training courses run by the relevant Council department.

#### **Its aims are:**

- To promote the active engagement between private sector landlords and the Council.
- To encourage and promote good practice within the PRS.
- To give advice and support to landlords in providing high quality well managed accommodation.
- Provide opportunities to inform landlords about legislative proposals, policy and administrative changes and other matters that may affect them.
- Improve access for landlords to a range of Council contacts and services.

- Improve the satisfaction of landlords with the services they receive from the local authority.
- Reduce the number of landlord/tenant disputes needing intervention by Council officers.
- To ensure good quality housing through partnership working.

**The advantages of joining the Forum are:**

- Members will have direct contact with Officers of the Council, including Welfare Benefit and Tenancy Advice Officers.
- It will provide a forum for discussion of relevant matters concerning letting in the private sector.
- Members will work proactively with the Council in addressing and resolving issues and needs of both partners.
- Members will receive updates about changes in relevant legislation and procedures.
- Membership of the scheme should reduce the need for legal action and/or enforcement action by the Council.
- Members will receive specialist advice on housing standards from Environmental Health Officers.
- Membership of the scheme will provide public recognition for landlords and letting agents who maintain good standards in their properties.
- Members will be able to use the Responsible Lettings scheme logo in their business operations including advertising properties available for renting.
- The Council's website will show details of the scheme. This will enhance member's image as good landlords.

The Accredited Landlords Scheme also offers a 'Good Practice Guide' to its landlords, which encompasses all aspects of the tenancies and obligations surrounding the state of the property and health and safety requirements. The guide also provides valuable recommendations around tenancy agreements to help minimise and deal with ASB on landlord's properties.

Before being accepted to the scheme Council officers will carry out an inspection on a number of the applicants rented properties. This is to ensure that members of the Accredited Scheme let properties responsibly and according to current rules and regulations.

Membership of the forum not only acts as a kite mark of quality but also offers landlords the opportunity to undertake training, education from and interaction with a variety of Council departments. Landlords or agents joining the scheme are invited to attend quarterly meetings.

## **Tenants' Perspective**

### **14. How do tenants benefit from licensing?**

Licensing will benefit tenants by providing clear minimum standards. It will enable the Council to identify and take action against bad landlords responsible for deficiencies. This in turn will raise standards, leading to reduced tenant turnover and a more settled community, facilitating an enhanced sense of community cohesion and reduce demands on public services for the benefit of all.

### **15. Will my rent go up as a result of licensing?**

Licensing should not affect your current rent which is contractually agreed between you and your landlord through the terms and conditions of your tenancy agreement. Licensing should ensure that standards are met within the property, that you have a legally binding tenancy agreement and that your rights are upheld.

### **16. My landlord said he will evict me and sell my home if he is required to get a licence, what should I do?**

It is illegal for your landlord to evict you if they have not applied to licence a property that requires one. Additionally, if you have an assured short hold tenancy agreement then your landlord legally must follow the correct procedure before evicting you. Enfield has a dedicated Tenancy Relations Officer within the Housing Options and Advice team to help with these issues

If your landlord is threatening you with eviction please refer to the Council's website for information on this issue or contact the Housing Options and Advice Team for further advice.

### **17. Could a tenant complain about a licensed landlord? Would the Council consider withdrawing the licence in order to get them to look after the property properly or to cease over-crowding?**

Tenants absolutely do have the right to complain. If you are experiencing issues with a licensed landlord please contact the Housing Enforcement Team on 020 8379 3719/1000 for advice and support.

### **18. If I have a problem with my Licensed Landlord what do I do? Who do I go to?**

If you are experiencing problems please contact the Tenancy Relations officer on 020 8379 1000 for advice and support.

## **Landlords' Perspective**

### **19. Will I need a licence for each property I own or manage?**

Yes, each property will need a separate licence.

## **20. How do landlords benefit from licensing?**

Licensing will benefit landlords in a number of ways:

- a. Licensing will lead to identifying rogue landlords who impact negatively on the reputation of private landlords.
- b. Through combating the problem of bad landlords within the borough it will raise standards throughout.
- c. Licensing will also enable increased support for landlords around nuisance tenants.
- d. Licensing will ensure that all HMOs and other PRS residences in the area meet minimum property and management standards. Thus creating a level playing field as rogue landlords' failure to upgrade their properties provides them with a financial advantage causing unfair competition with compliant landlords.
- e. Overall landlords may benefit from an improved market place and more sustainable tenancies.
- f. Make explicit through guidelines what good practice management is expected
- g. Provide a benchmark standard
- h. Collective upkeep and appearance of PRS properties will maintain neighbourhood appearance and investment attractiveness
- i. Co-ordinated contact point with the Council
- j. Support landlords' expectations of responsible care and maintenance by tenants of the property.

Licensing will help identify rogue landlords who impact negatively on the reputation of private landlords as a whole. Licensing will also enable increased support for landlords around nuisance tenants. Also by ensuring that all HMOs in the area meet minimum property and management standards it will create a level playing field. As rogue landlords' failure to upgrade their properties provide them with a financial advantage causing unfair competition with compliant landlords. Overall landlords will benefit from an improved market place and more sustainable tenancies.

## **21. What is the difference between the licence holder and the landlord?**

The licence holder may in some cases be the landlord's managing agent however the effect is the same as the licence holder is responsible for ensuring that the landlord complies with the conditions of the licence.

## **22. What happens to landlords who refuse to apply?**

It will be a criminal offence to rent a property without a licence. Doing so could result in prosecution, with a fine of up to £20,000. Additional methods may be introduced when a landlord fails to obtain a licence, such as a Management Order, to take control of the property from the landlord, a rent repayment order (RRO) for up to 12 months rental income can be made. Appeals from a landlord may be made to the Residential Property Tribunal

**23. Landlords would be reluctant to take on problem tenants and these would become the responsibility of the Council to house**

The Council will enact its statutory obligation to house tenants in priority need. However if their eviction is as a result of a breach of tenancy conditions, such as ASB, then they may not be eligible for further housing assistance from the local authority. There has also been evidence from existing schemes that eviction as a result of the Licensing has led to behavioural change in tenants, as they now know that unacceptable behaviour will not be tolerated.

**24. Licensing will force private landlords out of the rental market resulting on additional pressures on Council and Social Housing**

This is unproven. Licensing will only affect rogue landlords which if any displacement did occur, it will enable responsible landlords to take over these properties, ensuring a continuation of supply within the PRS. Also changes in housing tenure are not necessarily to be seen as an unwanted side effect of licensing, as reducing the percentage of privately rented dwellings in some areas could improve the tenure balance and lead to more stable populations.

**25. Landlords will tend to move elsewhere if licensing is introduced – licensing can be a stigma in itself**

There is no evidence of this happening in London. The need for rental properties within the borough will not diminish with Licensing. The operation of the market suggests that landlords will not leave areas. Any rogue landlords leaving to avoid implementing the stipulations of the licence will enable good landlords to take over these properties.

**26. The property inspections programme will be beyond the scope of the Council.**

The scheme design of the project's business model, undertaken by the Council has been both rigorous and robust. We have costed in the relevant levels of enforcement and officer support, with the fees administered set to cover the costs of the scheme.

**27. Licensing will not deal with problems of rogue landlords**

As the Licensing scheme will be accompanied by a stringent and robust inspection programme by the Council, it will enable the identification and prosecution of rogue landlords and their removal from the borough.

The borough will prioritise action and target known problem properties first.

**28. How long will I be covered by the license?**

Most licences will run for the duration of the scheme, which will be five years. However, in some circumstances, such as where there is history of previous mis-management,

enforcement, etc. by a landlord, a licence may be issued for a shorter period of time or at a higher rate with a system of checks in place.

**29. Will the scheme be effective in practice? For example, the assumption that rogue landlords will not apply for licenses (thus allowing them to be progressively identified) might prove false**

The scheme will result in the Council visiting properties on a prioritised, proactive basis rather than only visiting in the event of a problem or service request/complaint. The scheme will be accompanied with a robust inspection and enforcement regime. Through the publicity and educational arms of the scheme's delivery there will be a greater understanding from tenants to recognise when properties are of a sub-standard condition and what options are available to them. We will also be encouraging and supporting tenants to come forward if they are renting an unlicensed property.

Evidence from licensing schemes elsewhere indicates that the schemes are effective. The London boroughs with Licensing schemes, Newham and Haringey, have shown that coordination between different departments and government agencies has uncovered and targeted rogue landlords who try to evade the licensing scheme

**30. I am a responsible landlord, why should I be penalised?**

Responsible landlords will only have to pay one fee for the five year period (see separate fee structure). They will be eligible for a reduced licence fee alongside support with their tenancies. Licensing will also improve standards within the market as a whole benefiting responsible landlords.

**31. What happens if I don't pay the licence?**

If a licence is not paid by the due date, then a higher fee will be required and ultimately if still not paid, then landlords will be liable for prosecution with a fine of up to £20,000. Additionally a rent repayment order (RRO) for up to 12 months rental income can be made.

**32. What happens if I can't afford the Licence?**

Early application results in a lower one off fee for the five year period (see fee structure). However there are no exemptions.

**Finances of Additional and Selective Licensing**

**33. How will the Council use the income generated by Licensing?**

The Council will calculate what it costs them to implement HMO licensing - staff costs including training, inspection and administration costs, including publicity, may all be taken into account. The licence fee will not cover the costs of the enforcement team, which will be

borne by the Council. The Council will then set its licence fees on this basis. A Council may decide to subsidise licence fees in some cases, but they are not allowed to use licensing fees to raise revenue for other projects or areas of work.

### **Further Information**

[Additional and Selective Licensing of Private Rented Homes in Enfield: A Consultation Report](#)

[Consultation Evidence Summary](#)

[Draft Enfield Council Licence Conditions](#)

[Proposed Additional and Selective Licensing Fees](#)