

The following queries were raised during the consultation. Some comments have been ‘themed’ together appropriately.

<p>1.</p>	<ul style="list-style-type: none"> <li>• “What evidence is there that licensing works?”</li>   <li>• “I did get an e-mail from Wirral Council to say: we’re two years into the scheme, thank you for your involvement, thank you for your support, blah, blah, blah. Here’s a list below what we’ve seen improved in the area so far. Do you know what it was? It was less wheelie bins on the streets.”</li>   <li>• “Has the council reviewed other schemes up and down the country to see how effective they have been? If not, why not?”</li> </ul>	<p>Sefton Council officers have spoken to, met and visited a number of other local authorities who operate both selective and/or additional licensing.</p> <p>An Environmental Health News investigation (2013) revealed that out of 16 local authorities with selective licensing regimes 217 landlords had been prosecuted for failing to obtain a licence and 87 landlords for HMO and hazard offences.</p> <p>There are a number of examples of positive responses to licensing, for example, the consultancy, London Property Licensing, Richard Tacagni, says enforcement action in Newham was dramatically stepped up following the implementation of its borough-wide selective and additional schemes in January 2013, under which every private rented property in Newham had to be licensed before being let out. The number of housing prosecutions in Newham council far exceeds all other London boroughs put together, Newhams key statistics (Dec 2016) :</p> <ul style="list-style-type: none"> <li>• Private rented sector accounts for 42.5% of the housing stock.</li> <li>• 38,941 licenses issued to 25,163 landlords</li> <li>• 384 multi-agency operations have been conducted including the Council, Police, Immigration and HMRC officers.</li> <li>• 930 housing prosecutions</li> <li>• 28 landlords (managing 230 properties) have been banned for failing the “fit and proper test”</li> <li>• An extra £1,926,862 in Council Tax has been collected from landlords of houses of multiple occupation since July 2013.</li> <li>• Anti-social behaviour reduced by 61%</li> </ul> <p>Both Liverpool and Wirral licensing schemes are relatively recent and successes of these are yet to be fully measured. Initial results indicate an increased number of prosecutions in relation to unlicensed properties and in finding category 1 and 2 hazards in properties. There has also been an increase in the number of landlords engaging with the Council accreditation schemes suggesting improvements in standards.</p> <p>Sefton Council views that the removal of any Category 1 and 2 hazards and improvements of property management across the private rented sector as a success.</p>
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2.	<ul style="list-style-type: none"> <li>How many landlords are there in Sefton? How many in the proposed areas?</li> </ul>	<p>The exact number of private landlords is hard to quantify, although is estimated in excess of 1500 with a high number operating within the designated areas. This data has been obtained from Council Tax and Housing Benefits, although includes a number of letting agents who manage on behalf of an unknown number of individual landlords who are not necessarily included in this estimate. Sefton Council also has access to a number of other data sources to identify privately rented properties and their owners and these will be accessed to identify landlords through the licensing schemes.</p>
3.	<ul style="list-style-type: none"> <li>Why can the council not enforce standards under its existing powers? If it simply a lack of resources, why do good landlords have to pay the bill?</li> </ul>	<p>Under existing powers the council normally operates on a reactive basis, responding to complaints received from tenants or associated parties through referrals from other departments. Some tenants feel that they cannot complain themselves due to an impended threat of eviction.</p> <p>The Council has to follow a number of steps under enforcement including but not limited to those shown below which can take a significant period of time and associated resources.</p> <p>Typical example:  Notice of Entry (s235) (minimum 24 hrs. notice) – or Warrant  Inspection  Assessment and scoring  Decide the most appropriate course of action  Find the appropriate person  Prepare Schedule of Works and send to appropriate person giving timescales  If no action undertaken - Serve a Notice or Order (Plus copies to all interested parties)  Wait until deadline expires (potentially some months later)  Re-inspection after deadline  If works not completed= prosecution and/or Works in Default (W.I.D)</p> <p>Licensing is a more proactive and quicker route to ensure that management and standards of accommodation are satisfactory. The Council does not have to receive a complaint to inspect a property and landlords are required under the terms of their licence to adhere to the schemes licence conditions or face enforcement action. Licensing also promotes further engagement with landlords and agents.</p>

4.	<ul style="list-style-type: none"> <li>Where can we find the detailed financial information and assumptions on how the fees have been calculated?</li> </ul>	<p>The detail of how fees have been calculated are within the consultation document which can be found at <a href="https://www.sefton.gov.uk/housing/private-housing/selective-licensing.aspx">https://www.sefton.gov.uk/housing/private-housing/selective-licensing.aspx</a></p>
5.	<ul style="list-style-type: none"> <li>Why is there no staged payment option?</li> <li>Why do landlords have to pay a lump sum for all five years in one go?</li> </ul>	<p>Payment will be requested in 2 stages a proportion of the fee at application with the remaining balance requested prior to awarding the Final licence.</p> <p>Further staged approaches have been considered such as an annual payment, however, the additional burden of resources to process and chase payment deems this option is not viable and if pursued fees would be increased to reflect any additional costs.</p>
6.	<ul style="list-style-type: none"> <li>What happens to the interest earned on the licensing fees?</li> </ul>	<p>Should any interest be earned by the local authority from licensing fee income, this will be held and used within the budget for the licensing schemes and not used as an extra revenue stream for the Council.</p>
7.	<ul style="list-style-type: none"> <li>What happens if the money collected is more than is needed to run the scheme – do landlords get a refund?</li> </ul>	<p>The fees have been calculated on an assumed number of licensable properties, with associated costs for administering this number of licences. If the fee income is higher than expected this indicates a higher number of licences to process, which in turn leads to an increased demand on staffing, the extra fee income will be used to offset this cost. Any minimal increase of fee income not requiring an increase of staffing will be used within the scheme to fund training or other incentives for license holders.</p> <p>“The Licensing &amp; Management of Houses in Multiple Occupation and other Houses (Miscellaneous Provisions) (England) regulations 2006” stipulate when refunds must be given. These are generally when a premises is not required to be licensed.</p>
8.	<ul style="list-style-type: none"> <li>What is the cost for Accreditation via Sefton’s Accreditation Scheme? What other schemes are recognised, e.g. Rent Smart Wales?</li> </ul>	<p>Accreditation with Sefton’s property accreditation scheme is free to join. Only accreditation schemes run through a recognised landlord body will be acceptable such as RLA/NLA. Accreditation status should continue across the five-year term of the schemes.</p> <p>We considered including Rent Smart Wales. Being a landlord/agent registration scheme, following a differing statute, it is deemed not appropriate at this time to include.</p>
9.	<ul style="list-style-type: none"> <li>Has the council considered how Letting Agent redress schemes could assist in regulating the areas, rather than licensing for those landlords that use accredited letting agents?</li> </ul>	<p>We do appreciate that all good letting agents will have joined a Redress Scheme. A Redress Scheme is a scheme which allows consumers to escalate a complaint they have against the member of the scheme. The main purpose of the redress scheme is to resolve or settle unresolved complaints from consumers who have suffered a loss as a result of the actions of the member. It is an alternative to using the Courts and the complainant must have exhausted the Member’s internal complaints process</p>

	<ul style="list-style-type: none"> <li>“As a letting agent we have to be part of a property redress scheme and we have to pay a fee for that every year, so why don't the council tie in with that, with that scheme to letting agents and get registration or get registered landlords from there? There's absolutely no need for the amount of fees or the level of fees, but if they could work well with the property redress scheme, because we get fined if we're not part of that scheme.”</li> </ul>	<p>before contacting the redress scheme.</p> <p>Selective and Additional Licensing covers a wider scope and comes with license conditions that a licence holder has to abide by. The aim of the schemes is to lead to an improvement of management and property conditions across the designated areas.</p> <p>Some of the benefits to Landlords of the scheme include:</p> <ul style="list-style-type: none"> <li>Responsible landlords will receive information and support to help tackle antisocial behaviour</li> <li>Poor performing landlords will receive support and training to help them improve</li> <li>Improved rental income as areas are maintained and improved</li> <li>Increase of property value</li> <li>Improvement in the reputation of private landlords</li> <li>Shorter void periods</li> <li>Greater ability for the landlord and authority to deal with rogue tenants.</li> </ul> <p>To award good landlords we are introducing a reduced licence fee for those landlords that use a letting agent that is accredited by Sefton Council through our <b>Managing Agents Accreditation Scheme</b>. Any Managing Agent wishing to apply to become accredited please find all the information on the following link  <a href="https://www.sefton.gov.uk/housing/private-housing/managing-agent-accreditation-scheme.aspx">https://www.sefton.gov.uk/housing/private-housing/managing-agent-accreditation-scheme.aspx</a></p>
10.	<ul style="list-style-type: none"> <li>Can the scheme fees be used to fund enforcement activity? NLA report suggests that this is not possible?</li> </ul>	<p>The fees can be used to enforce the scheme and its licence conditions. This has been recently endorsed by the Supreme Court who has overturned a ruling from the Court of Appeal made against Westminster Council (July 2017).</p> <p>The NLA is likely to be referring to enforcement of the Housing Act 2004 (Part 1).</p>
11.	<ul style="list-style-type: none"> <li>Where are the details of how the funds raised will be used to enforce the scheme? How many administration staff will be recruited? How many enforcement officers will there be?</li> </ul>	<p>The fee income will be used to resource the scheme, including funding additional staff initially we will employ an additional 4 Licensing Support Officers and 4 Compliance Officers, some existing staff will also spend time on licensing.</p> <p>If the numbers of licensable properties exceed the expected additional staff may be required, the cost of this would be absorbed through the increased income from the fees.</p>
12.	<ul style="list-style-type: none"> <li>How will rogue landlords be identified? Will</li> </ul>	<p><i>“The term 'rogue landlord' is widely understood to describe a landlord who knowingly</i></p>

	<p>it still rely on the community to identify and report rogue activity? What pro-active action will the council take to identify rogue landlords?</p> <ul style="list-style-type: none"> <li>• How many rogue landlords are there? What percent of landlords are rogue? What estimates have the council made in their decision to propose licensing and therefore the need for enforcement?</li> </ul>	<p><i>flouts their obligations by renting out unsafe and substandard accommodation to tenants, many of whom may be vulnerable.”</i></p> <p>The Council recognises that it will be difficult to determine exact numbers of rogue landlords.</p> <p>Occupiers, residents or other landlords/agents will be able to contact the council anonymously reporting properties (or landlords) they feel may be operating poorly managed properties or be unlicensed. All information provided will be actioned.</p> <p>The Council will undertake targeted investigations of areas including door to door surveys to identify unlicensed properties.</p> <p>The Council will work with its partner agencies including the fire service, police, environmental health, housing benefits and other council departments to identify unlicensed properties.</p> <p>If Sefton Council introduced Selective and Additional Licensing, it will be committed to ensuring the success of the scheme. Criminal Prosecutions and Civil penalties will form part of a rigorous enforcement approach.</p> <p>As stated in Q2 Sefton Council has access to a number of data sources to identify privately rented properties and pursue those evading licensing or failing to comply with conditions.</p>
13.	<ul style="list-style-type: none"> <li>• What are the targets for enforcement and how will these be monitored and reported?</li> </ul>	<p>Data obtained to justify the business case for the implementation of the schemes were around Deprivation, ASB/Crime, and Property Conditions. We will use these indicators to monitor progress of the schemes but do not intend to set specific targets. There have been occasions whereby some Local Authority schemes have been criticised for the setting of targets through the perception of having increased enforcement pressures put on landlords in order for staff to ‘meet targets’ we, therefore, perceive that any improvement recorded across the above indicators as a success.</p>
14.	<ul style="list-style-type: none"> <li>• “There is no structure in Liverpool, post-paying your fees and registration. There is no policing, there is no staff. Even then, the staff you get through to admit that they haven’t got any staff, there’s only one or</li> </ul>	<p>This is not our understanding of the situation within Liverpool Council’s Selective Licensing Team.</p>

two phones. There's nobody, it doesn't exist."	
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<p><b>15.</b></p> <ul style="list-style-type: none"> <li>• Has the council considered how those tenants currently being housed by the said 'rogue' landlords will be affected? Rents are likely to increase due to licensing - where will these people go? How will this impact on social housing provision?</li> <li>• "If they go and then try and prosecute or try and licence the single fellows who are not making much money anyway after they pay the mortgage, and then they go and licence them when the new tax laws come out, the first thing that people are going to do is sell the house; kick the tenants out and flog it. What happens there when the council then says, bloody hell, we've got all these tenants that need houses? We can't licence... We can't rent homes because no-one will take on anyone because no-one wants to be a private landlord."</li> <li>• "I think all these landlords with just one property will just think "I've had enough, I'm out" and then the council have got the massive problem of housing these people. They just don't have the homes; they need us more than we need them. I hope that is all reported and that will go into the document which is sent to the council."</li> <li>• Has the council undertaken any modelling on the impact of a loss of housing stock if</li> </ul>	<p>It is recognised that there may be a risk of displacement. However, there has been no evidence to say that this has happened in other authorities.</p> <p>The fee is deemed to be fair and reasonable, when apportioned annually/weekly. Landlords offering good quality and properly managed accommodation will be encouraged to join Sefton's accreditation scheme, which offers a number of free benefits and reduced licence fee.</p> <p>There is no evidence of licensing leading to increased rents, or retaliatory evictions other than those landlords offering poor quality and poorly managed properties or not wanting to be known to or engage with the Council.</p> <p>Selective and Additional Licensing should not lead to increased levels of homelessness. Licensing aims to stabilise tenants in better managed homes, reducing the high turnover that can lead to homelessness. There may be cases where tenants need to be re-housed from accommodation that is found to pose an immediate risk to their health and safety. In these cases, the Housing Standards Team will work closely with the Council's Housing Options service to ensure that alternative accommodation is offered where appropriate.</p> <p>Landlords intending to sell up to avoid the licensing fee should take account of other charges such as Council Tax and conveyancing charges along with any obligation to meet mortgage payments, without any rental income for a period of time.</p>
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	<p>landlords decide to sell up? What contingency plans are there should licensing reduce the available PRS stock? It is a possibility that those landlords with large portfolios will no longer invest in an area while one property landlords may simply sell up.</p>	
<p><b>16.</b></p>	<ul style="list-style-type: none"> <li>• What specifically is the extra support that will be provided by the council to landlords and agents to assist them in dealing with ASB?</li> <li>• How will the council ensure that other departments are also supporting landlords who take action on rogue tenants and deal with ASB. Landlord action takes a lot of time and at a high cost. When a notice is served and the tenant approaches the council for homelessness support, why does the council tell the tenant to stay put until they are evicted by bailiffs?</li> </ul>	<p>The fees from the licensing schemes would fund part of a post within the ASB Team to provide support for private landlords. The Council is aware that many landlords can be intimidated by some tenants and find tackling this issue a real concern. Leaving ASB to escalate can cause excessive strains emotionally and financially on landlords in particular. The ASB Team will offer advice, provide sample documentation and be able to mediate between landlords and their tenants.</p> <p>Sefton Council will inform tenants that landlords would be bound by licence conditions and, therefore, required by ourselves to deal appropriately with any ASB. Over a period of time, it is expected that tenants causing persistent ASB will soon realise that their options for housing in local communities may become limited.</p> <p>Landlords who address ASB and follow the procedure/advice of the ASB Team will then be able to provide ample evidence, presentable to a court if a case progressed to eviction.</p>
<p><b>17.</b></p>	<ul style="list-style-type: none"> <li>• How will the council ensure that Sefton's scheme is properly managed unlike the Liverpool scheme? Has the council reviewed and taken any learning from how badly the Liverpool scheme was introduced?</li> </ul>	<p>Sefton Council Officers have spoken to, visited and reviewed practices of other local authority licensing schemes including Liverpool and any scheme, if introduced in Sefton, would take account of those 'lessons learnt'.</p>
<p><b>18.</b></p>	<ul style="list-style-type: none"> <li>• Why is the default position to blame landlords for poor tenant behaviour? Some of this tenant behaviour is related to wider underlying social problems that licensing will not be able to tackle. What service will the council be providing to assist with this?</li> </ul>	<p>There is evidence of privately rented tenants contributing to anti-social behaviour through cases dealt with by our anti-social behaviour team, crime data and general neighbourhood complaints that the Council has dealt with surrounding ASB. Owners of properties are responsible for their own behaviour and that of their visitors. Likewise, landlords are responsible for the behaviour of their tenants, if deemed unacceptable landlords should address issues or complaints received in an appropriate manner. The Council recognises that tenant behaviour may be difficult for</p>

		some landlords to tackle which is why support will be provided (see Question 16).
19.	<ul style="list-style-type: none"> <li>“Why can’t the council come to the private sector and say we want to work in partnership with the private sector, why can’t they say, right, we’re going to take a fee off you but we’re going to offer you something in return; we’re going to be a joint partnership to improve the housing stock. You’re going to register, the good landlords are all going to register, but you’ve got to be accredited, you’ve got to be to a standard, you’re going to sign on that dotted. But in return, we’re going to offer you, I don’t know, say, a portal, like Liverpool Student Homes has in Liverpool where all of the students, that is the ‘go to’ portal if you’re a student landlord, you’ve got to sign their code of conduct, so when students go to advertise a portal, it’s student homes, in conjunction with the university. So they know it’s a trusted site, so you’d have trusted tenants and trusted landlords, but you’re offering something in return, and you’d make the landlords a lot more appreciative of paying the fee, you’re going to get something in return; that’s proper working in partnership and that would make improvements to, one, we know that they’re decent tenants, and they’d know that we were a trusted partner of the council.”</li> </ul>	<p>Since 2013, Sefton has operated a property accreditation scheme for private landlords. The scheme is voluntary and offers landlords who engage with the scheme access to a number of benefits, including a landlord portal which provides access to advice on tenancy matters and statutory requirements.</p> <p>Accredited properties can also benefit from free tenant finding by advertising on Property Pool Plus for no charge, a full list of benefits can be found on the Council’s website. Unfortunately, with this being a voluntary scheme we find only those ‘better’ landlords engaging with the scheme.</p>
20.	<ul style="list-style-type: none"> <li>“Has the council considered creating a voluntary register (at a modest fee) of landlords and then using powers to fine landlords (whether registered or not) that are found to breach standards? Why not? ”</li> </ul>	See response to Q19



	<ul style="list-style-type: none"> <li>• “What I thought they should have done is say “right, you’ve got six months to register your properties, just say, nominal fee, £20, you’ve got six months to do that” so all the landlords there’s going to be a registration fee, £20 per property, six months to do it. Then if you don’t get that £400 or whatever, that is getting all your good landlords all on the register, and then after that you can target the bad landlords. It’s just the right approach.”</li> </ul>	
21.	<ul style="list-style-type: none"> <li>• Are there any plans for councillors to meet and discuss the proposals with landlords and agents? If no, why not?</li> <li>• Following this consultation and following all the other consultations that you have, will there be an opportunity for all of us as a committee or whatever body we want to form, to be able to put our representations towards the council directly before they make the decision?</li> </ul>	<p>Sefton Council Constitution document found on <a href="http://www.sefton.gov.uk">www.sefton.gov.uk</a> sets out the decision making process and ways to communicate or make representation to elected members.</p> <p>Members of the public are able to request a meeting with councillors/cabinet members direct or can submit documentation to them for consideration. Contact details of elected members are available on <a href="http://www.sefton.gov.uk">www.sefton.gov.uk</a></p> <p>Feedback from the 12-week public consultation will be considered at the Cabinet meeting on 7 September 2017. This meeting is open to members of the public to observe.</p>
22.	<ul style="list-style-type: none"> <li>• How will the fees be calculated where one unit in a HMO property is managed by an Agent and the proportion of owner occupied units is not known?</li> </ul>	<p>The Council has access to a number of data sources in fulfilling its duty under the Housing Act 2004 this includes the ability to ascertain the tenure of properties. If a property is within the selective licensing area the ratio of owner occupied properties is irrelevant as this requires any privately rented property to be licensed. Additional licensing requires only those properties within the designated areas and that meet the HMO test to be licensed.</p>
23.	<ul style="list-style-type: none"> <li>• “Landlords are at breaking point, with the new tax change and everything; how much more can a landlord take? Like I said before, tenants are walking around scot free.”</li> </ul>	<p>The Council cannot comment on wider fiscal tax changes. Licensing can have a positive effect on a landlords commercial and operational activity through benefitting from area improvements that potentially have a positive impact on property values and tenancy turnover.</p>



**The following were individual written responses (verbatim) received, Council responses are shown in italics.**

### **Response 1**

We have about 12 houses and flats in Southport, which we rent out to private residential tenants and manage ourselves. We maintain high standards of presentation of the properties, and do our best to ensure that the tenants' experience is as pleasant as it can be relating to the location and style of property. We object as strongly as possible to any Government/Local Authority Licencing Scheme.

1. A Licencing Scheme introduces a layer of expensive bureaucracy which all Landlords will have to pay for. This cost will inevitably be passed to the tenants as increased rent.
  - *See answer to Q15 above*
2. The Licencing Scheme will inevitably be administered by Local Authority employees, and be subject to the usual inefficiencies and delays which are part of any Local Authority Scheme. This is not a criticism of the individual employees but the conflicts of cost-cutting and management strategies.
  - *The Council intends to prepare fully for any implementation of the schemes.*
3. There is a clear political background to this Scheme implementation, with the inference that Landlords are corrupt and greedy and aim to exploit vulnerable tenants. This is not a fact in the vast majority of cases.
  - *The Council recognises that there are professional landlords in Sefton that offer good and well managed accommodation and will encourage participation with the property accreditation scheme to access a reduced fee and free benefits. Unfortunately, there is also a significant element of badly managed properties which licencing aims to tackle.*
4. Why should reasonable and hard-working Landlords be penalised and charged for the sake of a few bad landlords.
  - *See answer to Q19 above*
5. There are sufficient tools available already for bad landlords to be helped to improve their operation, driven by the tenants or the Local Authority.
  - *See answer to Q3 above*
6. What proof is there that the additional sanction of Licencing will be more effective than present methods of dealing with bad Landlords?
  - *See answer to Q3 above*

We will use the Residential Landlords Association/NorthWest Property Owners Association to make representation on our behalf in this matter.

- *Please see the RLAs response below, we have received no formal response from the NWPOA.*

## **Response 2**

To whom it may concern

I agree in principal with landlord licencing but it should be carried out in a fair way and should not be seen as a money making scheme as it is in Liverpool.

As the scheme is to weed out bad landlords then the licence should apply to the individual landlord or agent with a small cost for every property under his or her control. The licence should be affordable so as not to cause rent increases and relaxed enough so as not to chase perspective or current landlords away from the market place as it has done in Liverpool.

Many thanks for listening in advance.

**Council response:** *Thank you for your comments.*

## **Response 3**

Good Morning,

I have received the information leaflet regarding the Housing Licensing Consultation for Sefton.

I own a Lettings Agent on the Wirral and we are already licence holders for 13 properties in selected licensed areas over this side. Whilst there has been an improvement in the standard of the properties being rented there is a huge fundamental flaw which seems to be over looked.

A landlord is being charged to become a licensed landlord/property and they have to abide by the rules & regulations set out by the council in order to be a responsible landlord. Most agents will welcome this decision and I as an agent fully support the licensing of a property or landlord in a rundown area. I am all for progression and improvement of various residential areas. However, there is an important point which much be addressed and I am working with Angela Eagle MP for Wallasey at the minute to try to make some changes on this.

A licensed landlord has to abide by a set of rules or they will be held to account and fined. But what about a tenant who doesn't abide by the rules? What about the tenant in a licensed property who decides not to pay forward their Housing Benefit or Universal Credit to pay their rent? Where does that leave the landlord? How do they pay the mortgage? How do they pay for the repairs at the property?

I appreciate the need to improve some properties and areas and to flush out the 'bad' landlords but what protection do they have from a tenant who decides that they don't have to pay their rent? It is unfair to impose the cost of a licence onto a landlord and have them conform to a number of set standards for them not to be paid any rent.

So what happens to the tenant who receives Housing Benefit or Universal Credit direct and doesn't pay it forward? Nothing!! They spend the money on anything other than rent and this starts the entire process of eviction. We serve a section notice usually allowing 2 weeks - 2 months notice. If they fail to leave we issue court proceedings giving possibly a further 2 months. Once we have the possession order and if they still

don't leave we have to apply to the High Court Bailiffs to carry out the repossession. All the time this is happening the landlord is not receiving rent. Do you know that on average a landlord is approximately £6,100 out of pocket at the point of possession of their own property?

How does the landlord then get all of the money they are owed? They issue a small claim. What are the chances of the getting the money back if a judgement is made in their favour? Zero!!!! The tenant gets a CCJ (which they probably already have a collection of so this doesn't bother them) and the process has cost the landlord more money to take court action.

If there are going to be consequences for 'bad' landlords then equally there has to be consequences for 'bad' tenants. If a council makes an over payment of any kind of benefit they will claw it back by making a nominal deduction from payments moving forward until the money is paid back. So why can't this happen if a tenant has taken money in the form of Housing Benefit or Universal Credit and not paid it forward? Why can't the council deduct this money from their future benefits and pay it back to the landlord? This needs to be looked into in more depth as this is why the council are having to re-house so many tenant and why there are so many evictions. It is costing millions of pounds to councils, landlords and tax payers. There is a simple solution. Review the way rents are paid from Housing Benefit and Universal Credit. Impose a fine to a tenant who does not pay their rent forward. I had a conversation with one tenant we evicted and their exact words to me were **'I don't have to pay any rent. You have to take me to court to get me out and it'll cost you more to do that. And if I get a CCJ you can chase me for the money. I'll pay you £1 a month until its paid'**. How is this acceptable??

I can guarantee if you told them that any monies not forwarded onto the landlord by them would be deducted from their benefits moving forward until the debt was paid, we would certainly see a change in their attitude. They see it as free money. When they realise it isn't things will change. There will be less evictions and less pressure on the councils to re-house evicted tenants.

If landlords were receiving their rents on time then they wouldn't have need to evict anyone. It is a simple as that. So as far as I support licensing some 'bad' landlords, I still feel the system should be fairer in that the landlord should be paid the rent direct if he is in a selective licence post code and there should be consequences put in place for those tenants who choose not to pay their rent. As I have stated earlier, we have landlords who are licensed in the selected areas so we know there are no problems with the property yet the tenants are still not paying their rents.

I am happy to get involved in any consultation etc...This is something which is becoming a major issue and should be looked into in more depth.

**Council response:** *Thank you for your comments. With regards to issues surrounding the non-payment of rent note that if a tenant claims housing benefit and is 8 weeks in arrears you can request for a direct-payment from Housing Benefits within your respective local authority, if claiming Universal Credit you can request direct payment after 8 weeks see [www.gov.uk/government/publications/universal-credit-landlord-request-for-a-managed-payment-or-rent-arrears-deduction](http://www.gov.uk/government/publications/universal-credit-landlord-request-for-a-managed-payment-or-rent-arrears-deduction) for further details. A local authority does not have any legal powers to deduct money which has been received but not sent to the landlord.*

#### **Response 4**

We have 2 HMO in our area one on the corner of our street (Percy St Bootle L20 4PQ ) although the address of the HMO is given as Knowsley Rd Bootle, one across the road in Elliott St Bootle.

The Elliott St HMO permanently has trouble with the residents, the police are frequently there. Also both these HMO's have nowhere to keep there household rubbish so everyday they place bags, bin bags, household rubbish on the streets regardless of when the bin men are due. I think licencing these HMO's would make the landlord responsible for his tenants.

**Council response:** *Thank you for your comments, if you have regular issues with refuse in your area please report this to the Council's waste enforcement team on 0345 140 0845. As part of a licence holder's requirement to adhere to licence conditions they are required to notify their tenants of their duty around refuse which includes informing tenants of their collection day and providing appropriate refuse storage such as wheelie bins.*

#### **Response 5**

To Who It Concerns

Please could you keep me informed of the progress of this. I do feel very disappointed with Liverpool City Council as they have decided to make every Landlord apply for a License and it is unfair that good Landlords like myself are getting attacked from every angle. I am shocked that Sefton council are doing the same. I am an accredited Landlord with Liverpool City council and I am a member of the Residential Landlords Association. All my properties are to a very high standard and I have never been reported to any council for problems with my houses as they are all in very good condition and any maintenance that needs doing is done ASAP.

Could you tell me if I would be affected by this License. I own 1 house in Litherland (xxx) and I own 4 flats in Seafouth (xxx) Would this even effect me ? As well as the goverment from today 06/04/17 restricting interest on mortgage payments meaning Landlords will now be heavenly taxed I think the council have got a major problem on their hands as many Landlords are looking to sell and leave the market because it just isn't worth it no more with all these extra charges and increase in tax bills. I look forward to your response.

**Council response:** *Thank you for your comment, I would suggest you apply for your properties to be accredited to access a number of free benefits including (if applicable) a reduced licence fee. To ascertain if your properties come within the licensing areas the full map/street names are available at [www.sefton.gov.uk/housing/private-housing/selective-licensing.aspx](http://www.sefton.gov.uk/housing/private-housing/selective-licensing.aspx)*

## Response 6

I would like to be involved in this process I am happy to be part of a scheme but the should be no more than £70.00 per year as a landlord and not tax every property buy a large fee this can only take money I use to improve and maintain my property's the the points in this proposal are already set up in Sefton council i e antisocial behaviour hosing options Landlords should not have to foot the bill we all ready pay for this in our council tax and our tenants council tax a better scheme would be to work with landlords associations we have already paid a fee and are up to date with landlords responsibilities.

**Council response:** *Thank you for your comment, unfortunately any scheme has to be self-financing and this level of fee would not prove viable for the resources required.*

## Response 7

26.05.2017

RE. Consultation on HMO's

I am writing to you with reference to proposals to place more restrictions on HMO schemes.

I feel that these [HMOs] are totally unsuitable for residential areas occupied mainly by families and seem to me to be a route more and more landlords are taking in order to make the maximum amount of income from the minimum amount of space with little regard for the ethos of the neighbourhood.

I am unfortunate enough to live next door to an HMO and if planning permission had been required when this family home was converted, myself and my neighbours would certainly have put in the strongest of objections. I certainly would not consider buying a house next door to an HMO and feel that it adversely affects property prices.

**Council response:** *The Council is currently considering the implementation of Article 4, which restricts the applications for HMOs you can read the recent cabinet report and background information at*

*<http://modgov.sefton.gov.uk/moderngov/documents/s75580/Article%204%20Direction%20-%20Houses%20in%20Multiple%20Occupation.pdf>*

## Response 8

Thanks for sending me the leaflet about above mentioned issue.

Frankly, I am bewildered and surprised you haven't brought similar measures re: licensing landlords sooner. Private landlords were up to now getting away with all sorts. They have a responsibility towards their occupiers, not only collecting for rent. But maintaining their own properties, so people do not live in mouldy or otherwise unsuitable environment....They are ultimately responsible. Human nature is such, if you do not reign

(license) their behavior, they will do for all sorts, leaving occupiers with quandary...Never mind spirit of free enterprise, abuse, more likely...Exploitation is the name of the game..., if allowed to carry on WITHOUT licensing... Sooner you implement it, the better.

**Council response:** *Thank you for your comments. The Council has to undertake a thorough study to identify areas of concern in relation to factors such as deprivation, property conditions, low demand, migration, crime or ASB. There are also a number of factors around the level of privately rented properties across these areas, the full business case explaining the legal requirements for the introduction of a scheme and our reasoning for the proposed designated areas against these factors is available at <https://www.sefton.gov.uk/housing/private-housing/selective-licensing.aspx>*

*We recognise that there is a significant problems with an element of landlords and have also tried to engage with these through other means. Licensing is now deemed the most appropriate way forward due to other voluntary methods not proving successful.*

## Response 9

June 1st 2017

Dear Sir/Madam,  
Licensing of Landlords proposals

Once again, more proposed burgeoning and costly legislation is proposed against landlords, the majority of whom are decent people running ethical businesses and wanting to get on well with their tenants.

Over the years the regulations have been mounting to the point whereby one wonders if the objective is to drive the private landlord out of business- the latest and most onerous being housing rents paid direct to tenants, and the Council reducing the 6 month void period-whereby a property becoming empty would not be eligible to Council Tax over that period- reduced to only one month, thereby giving little time to effect improvements, which are normally costly after a tenancy ends (especially in the event of actions by a rogue tenant).

There similarly appears to be a general suggestion that the word 'landlord' has become a dirty word synonymous mainly with money grabbing racketeers whose properties are all unhealthy death traps, and,of course, there are such characters in the business, who can easily be 'flushed out' and prosecuted under the current Health and Safety legislation.

As there is urgent need for rental accommodation, to further burden the industry with even more legislative licensing is going to drive decent landlords away, with rents rising accordingly in the remaining sector.

In Liverpool it has been brought in using the excuse of the very large numbers on students renting, and with the associated stresses placed on the infrastructure as a result- the reality is though it is clearly and specifically a cynical fund raising exercise introduced via Councillor Anne



O'Byrne. Once again, the legislation has always been in place to use against rogue landlords, but it must also be said there appears to be somewhat less sympathy offered to landlords damaged by rogue/criminal tenants who vastly outnumber the bad landlords, damage property and move on untouched.

In summary, it is suggested perhaps, for once, matters should be left as prevailing, with funds raised via other avenues, and the possibility considered of the return to the 6 month no Council Tax due on empty properties, or the crisis of homeless on the streets will surely spiral.

**Council response:** *Thank you, your comments have been noted.*

### **Response 10 (taken verbally by council)**

- Concerned that once we have these schemes running we will introduce more schemes in other areas of Sefton
  - *there is currently no plan to extend the schemes in Sefton.*
- Absence of co-regulation is a big mistake. If our scheme is not big enough for co-regulation we shouldn't be running the scheme.
  - *the issue of co-regulation may be considered at a later date if deemed appropriate.*
- We should wait and see if this government or a labour government introduce national selective licensing -
  - *the results of the consultation show the need for action and respondents were not in supportive of leaving things as they are. The schemes would be changed, if necessary, in line with any future legislative changes.*
- The reason that the cost of a license is so high is because the scheme is too small
  - *the scheme has been fully costed in line with resources to meet an assumed number of licensable properties (see Q4 above)*
- Private Sector housing is over regulated. We have other enforcement tools that we should be using instead of licensing.
  - *(see response to Q3 above)*
- Due to Council cuts, the Council are introducing licensing to retain staff
  - *this is not true.*
- He was critical of other LAs not being ready at the start of licensing schemes.
  - *see response to Q17 above.*

### **Response 11**

Quote " a number of landlords providing poorly managed and unsafe homes"

What number? It insinuates its a high number and that isnt the case

- *see response to Q12 above.*

Why is your intent to licence in certain geographical areas only?....it doesn't seem a worked through plan. Waterloo is mentioned but not Crosby where is the boundary line in your mind?

- *please also see response 8 above - for a local authority to implement a housing licensing scheme the Council has to undertake a feasibility study against a defined set of criteria, see the full business case at <https://www.sefton.gov.uk/housing/private-housing/selective-licensing.aspx>*

Wondering if this 'consultation' is just a fig leaf to cover what SMBC have already decided?

- *No decision has yet been made.*

The external research company who are **paid** to give you advice will give you the advice you want to hear ie charge Landlords. If after all yours /their input you decide not to charge landlords for Licences it would be the hock of the century. Consultants borrow Sefton's clock, tell you the time and charge you for the borrowing and telling

- *An external agency was employed to undertake a full and impartial consultation, the consultant has not advised us on any aspect of our housing licensing proposal.*

The unintended consequences will be that potentially decent landlord will be put off going through proposed bureaucracy so there could be fewer properties so higher rents that if extra expense is incurred by existing landlords they will probably add this onto rent increases so the tenant will pay

- *please see response to Q15 above.*

Its challenging enough for landlords dealing with

- rent arrears
- damage to property
- ongoing repairs/ maintenance.

I think you are just copying Liverpool CC and where is the evidence that schemes reduce the Criminal element?

- *Liverpool operates a borough-wide licensing area, unlike our proposal. With regards to your comment relating to the criminal element please see response to Q1 above.*

You should crack down on those rather than use a sledgehammer on all.

## Response 12

### **Landlord telephone call to give feedback (key points summarised) – prior to the consultation going live**

I would have to find £1,800 or £1,900 for 3 properties. It's an awful lot of money to pay. It's like one month's rent has gone per property. I've got particularly good tenants, I've got 3 houses and got particularly. I've spent £1500 on one of them in the last 2 years. That's because I'm a responsible guy. Why do I need to pay £600 for this?

I'm left with 3 options - sell the properties and use the money as my pension; I pay the money and have 11 months' worth of rent; or I pass it onto the tenants.

I don't think it's very well thought out. As soon as the council sees that it can make money on the schemes, everyone wants to introduce it – it's just a con. It's just like another local tax. I'll either put my rents up or sell my properties. If everyone decides to sell, then the council have no housing stock and people will be homeless.

I don't have a lot of confidence in the survey, as they will still go ahead with it. It is morally wrong to penalise someone who is providing a good service. Mine are modern houses and they are looked after well.

I think you should introduce it on the basis if someone complains and the complaint is justified that landlords should be made to pay. Otherwise it's just an income tax.

It says 'we propose' to introduce licensing in Bootle. For a council to say that, it's had council blessing. They couldn't state we 'propose to' unless a resolution has been made. They've been specific about where they are introducing it – I know how council's work. A housing department hasn't got the authority to say they propose to without going to be a council meeting. I think this has gone further than you are telling me. A decision has been made and you are just not aware of it. This has been blessed by someone. It's a decision made by a member – they've got approval to do this. I think the jobs done and it's fait accompli and it's very disappointing. I will have to pass this onto the tenants and I'll just have to tell them.

*Thank you for your comments you may also like to consider applying for your properties to be accredited see response to Q19 above.*

## Response 13

### Landlord telephone call to give feedback (key points summarised)

How do you get involved – I haven't seen any letters? Have you sent them to landlords – I've seen them sent through to tenants with an incentive to fill it out, but not to landlords. I've not seen anything and I should be on those lists. I get housing benefit but didn't see anything. I got a leaflet but didn't get a letter.

The leaflet is misleading and saying that landlords can claim it back via tax returns and get it back. That's not true and it's misleading. If I earn £10000 a year, I'd not be able to get tax relief on anything. It makes it out as though landlords are loaded anyway. There's no the equity in property in Sefton like people believe there to be for . There's so much crime and poverty already and this will only make it worse.

- *The consultation has been widely circulated and advertised for a full list of activities see Appendix 2 to the consultation feedback report on this web page.*

No other form of licensing works this way – they don't have to pay for a license 5 years up front. It's not helpful, as its. Any decent landlord is putting money back into properties. If I was a taxi driver, I'd pay a fee every year.

- *See response to question 5 above.*

There is no way of appealing about it and for landlords like me to meet with the council and speak to councillors to . We're all paying private letting agents fees, who supposedly make sure there are guarantors and reference checks on tenants. We're also paying council tax which should deal with Anti-Social Behaviour. You can just listen to me and it makes no difference. It's all very cloak and dagger isn't it. How can I put myself forward to talk to the council and speak to someone.

- *Please see response to question 21 above.*

Can't they look at tax returns and get information other ways rather than licensing

- *This is not yet possible.*

Most people aren't opposed to this, as if you are then you are potentially not a good landlord.

There should be grants or loans to tap into to help landlords to improve their houses – there's money available to housing associations to improve homes, but nothing for private landlords. It's just penalising everyone all the time.

- *Unfortunately any grants that were previously available have been discontinued over the last few years due to the wider economic climate*

Most of us landlords are registered with the council anyway – they should be charging an annual fee per landlord, not per property. This is a way for the council to line its pockets – people are already employed to do this anyway.

- *This is incorrect the Council does not hold a list of registered landlords. There is a list of landlords who have engaged with the property accreditation scheme. Please also see response to Q22 above.*

The most vulnerable people, landlords who run HMOs are basically part time social workers. Often they have no-one – they have drug or alcohol problems and landlords bend over backwards to keep them on. I work with the Council's Housing Options team, and taken tenants on from that. They need a lot of care otherwise they end up on the streets. I've let them off hundreds of pounds. It's not their fault, they are just so poor and it's so sad. Putting all this on landlords, you are going to lose a lot of good people in the industry who just say that they can't do this anymore.

A lot of the ASB is reported but the council don't seem to be doing anything. The police aren't doing anything. They never prosecute anyone and if they do it must be a very small amount as it never hits the new anyway. I've taken photographs myself – there are major issues of people dealing with drugs in this street (Kilburn Street) and the council say they are working in partnership with the police, but nothing seems to be done. I'm happy to meet with the council on these points too.

All the landlords I know do a good job and do well by their tenants, as do the letting agents I've been involved with.

- *We will be liaising with Housing Options and other teams within the Borough to continue to support the vulnerable, licensing will also provide landlords with a contact for when specific needs arise and the respective referrals can be made. Please also see response to Q15 and Q16 above.*

Most landlords with a letting agents, need you to have many of the conditions, won't let you rent a property out without things like a gas safety certificate. I can't speak for everyone, but those who do use letting agents have to comply with these things anyway. Most people use letting agents. If you don't use letting agents, you attract the wrong people. Each property you let out, you're paying a few hundred pounds – they're already doing the job of the council. Most responsible landlords use letting agents.

- *This is not our experience with a significant number of landlords (and Agents).*

Where are they getting that 2,800 from – from housing benefit.

- *please see response to Q22 above.*

I've not seen this advertised in the local press – the Echo have a had a massive decline in readership. I buy the Echo and get the Champion and haven't seen anything. Why haven't they paid to advertise it if they were sending out press releases and they can't guarantee it will feature? It's not really a fair thing because it doesn't reach everyone. Most papers are going online and you have to subscribe.

How does it work with the landlords percentage as its going to be only a very small number compared to all those who take part in the consultation overall..

- *Please see the consultation feedback report on this web page*

## **Residential Landlord Association Response:**

16<sup>th</sup> May 2017

By email: xxx  
Landlord Licensing  
3rd Floor Magdalen House  
30 Trinity Road  
Bootle  
Liverpool  
L20 3NJ

Dear xxx,

### **Sefton Council Additional and Selective Licensing Proposals – Consultation Response**

Thank you for the opportunity to respond to the above consultation.

The council outlines their aims in the consultation documents as: improve the image of the area; improve security; create better housing; and, decrease anti-social behaviour. Selective and Additional licensing schemes are not the answer.

The RLA believes that the Council is premature on bringing forward proposals. The Housing and Planning Act 2016 gives local authorities substantial new powers to tackle breaches of housing legislation and drive the criminal operators from the sector. The council should wait until the impact of these new powers can be assessed before pressing on with more regulation in the form of selective or additional licensing.

The RLA is opposed to the scheme and has a number of general objections to Licensing, which are attached as an appendix to this letter. Licensing schemes rarely meet their objectives. Good landlords will apply for licences and, in all likelihood, pass the cost on to tenants in the form of increased rents, doing nothing to address affordability, while the worst landlords – the criminal operators – will simply ignore the scheme, as they do many other regulations.

A condition we have issue with is 3:3 (d) “The wheeled bins or plastic refuse sacks (if wheeled bins are not provided) must not be presented for collection for a period of more than 12 hours prior to collection”. It is unfair to expect the landlord to control or monitor tenant behaviour. The landlord can only be responsible for ensuring tenants are aware of refuse collection details and to encourage tenants to be responsible when disposing of waste.

With the Council’s focus on refuse and recycling in the consultation documents we would like to remind them that it is the tenant’s responsibility to dispose of their own rubbish and the local authority’s responsibility to provide adequate (e.g. wheelie bins, civic amenity sites) and regular (e.g. weekly bin collection) means to do so. It is the responsibility and duty of the Local Authority to respond positively to tenants requests for more rubbish facilities. The RLA would like to make the Council aware that this condition may breach the findings of Leeds City Council vs. Gordon Hoyland Spencer (1999).

The cost of the additional licence is also a matter of concern for the RLA. The proposed charges of £850 for a new licence is similar to the cost of a typical licence in London. This seems excessive. We would like to remind the council that these costs should be limited to the costs of administering the licensing scheme but not the cost of enforcing the scheme, i.e. investigating and prosecuting those who operate premises without the required licence, and fees must be reasonable and proportionate. We cannot help but notice that this consultation comes at a time of considerable funding challenges to the Council.

In the consultation documents you pay close attention to ‘Poor Property Conditions’ and mention how you found that “24% of privately rented property failed to meet the decent homes standard”, however there is little evidence that licensing schemes improve housing standards. The focus of staff becomes the processing and issue of licences, while prosecutions centre on whether a property is licensed or not, rather than management standards and property conditions. Additionally, the decent homes standard is a measure of the standard of social housing and has no legal applicability to PRS housing. The Housing Health and Safety Rating System (HHSRS) is the relevant standard for the PRS.

The Council already has the necessary tools to tackle poor housing management and conditions in the PRS. Rather than introduce a bureaucratic licensing scheme that will see scarce resources wasted processing applications, it should continue to direct these limited resources at effective enforcement activity.

To identify a particular area for the introduction of licensing highlights a belief that the area has numerous issues, potentially blighting the reputation of the area. There is also a danger that the issues that the scheme seeks to address are simply moved elsewhere, as difficult or vulnerable tenants are moved on. Landlords, especially those with properties outside the licence area will become risk averse in terms of the tenants they let to. Tenant problems such as anti-social behaviour are impossible for the landlord to address alone and landlords will not wish to risk a breach of licensing conditions that may affect their ability to let properties elsewhere. Some may seek to evict already challenging tenants. This could mean additional costs to other council services, as they pick up the pieces created by the disruption to the lives of already vulnerable tenants.

Likewise, if licensing costs are passed on to tenants in the form of rent increases, then some tenants may struggle, particularly those on benefits, affected by welfare reform and frozen housing allowances.

Rather than an ineffective licensing scheme, the council should use cross-departmental and multi-agency working and effective use of existing housing legislation to support tenants and landlords in maintaining tenancies, housing condition and management standards.

There are alternatives to licensing. The RLA supports a system of self-regulation for landlords whereby compliant landlords join a co-regulation scheme which deals with standards and complaints in the first instance, while those outside the scheme remain under the scope of local authority enforcement. More information can be supplied if required.

We also support the use of the council tax registration process to identify private rented properties and landlords. Unlike licensing, this does not require self-identification by landlords, making it harder for so-called rogues to operate under the radar.

Yours Sincerely

India Cocking

**Local Government Officer  
Residential Landlords Association  
India.cocking@rla.org.uk**

## Appendix – RLA General Licensing Concerns

The RLA has several areas of concern in regards to licensing, namely:

- i. Worrying trends are emerging in the case of discretionary licensing. Licensing entails a huge bureaucracy and much time, effort and expense is taken up in setting up and administering these schemes; rather than spending it on the ground and flushing out criminal landlords.
  - see response to Q3.
- ii. Increasingly, discretionary licensing is being misused to fund cash strapped housing enforcement services. The recent Westminster sex shop Court of Appeal (*Hemming (t/a Simply Pleasure) Limited v Westminster City Council*) has brought such funding into question).
  - *The Hemming V Westminster case was fundamentally around the payment method (agreeing to a 2-staged approach) and whether fees can be used to fund the enforcement of the schemes not against the requirement of monitoring a service area in the form of licensing.*
- iii. Discretionary licensing is not being used for its intended purpose of a short period of intensive care; rather it is being used by the back door to regulate the PRS.
  - *It is widely agreed that some form of regulation is needed for the PRS, licensing is a power which Local Authorities were given within the Housing Act 2004.*
- iv. The level of fees which are ultimately passed on to tenants to pay is a major worry so far as it affects landlords.
  - see response to Q15.
- v. Despite high fee levels local authorities still lack the will and resources to properly implement licensing.
  - *Sefton Council prepared a business plan to identify the proposed designated areas which included assumptions on numbers of properties expected to be licensable. Fee calculations have taken account all resources to implement and manage the schemes this includes costs for additional staffing, IT and other resources. The Council has political backing and is confident of its ability to meet operational requirements for its proposed housing licensing schemes.*
- vi. Little has been done to improve property management. Opportunities to require training have been ignored. As always it has become an obsession with regard to physical standards with very detailed conditions being laid down. No action is taken against criminal landlords.
  - *Sefton has operated a property accreditation scheme since 2013, with opportunities offered to landlords for training but only the more conscientious landlords engaged with this. The physical condition of a property is important as poor conditions can contribute to a number of physical and mental health conditions. Licensing will be used to tackle both property conditions along with the management of properties. The Council will operate a robust enforcement regime against both unlicensed landlords and those in breach of condition/s.*
- vii. We believe that a significant number of landlords are still operating under the radar without being licensed.
  - See response to Q12
- viii. As always it is the compliant landlord who is affected by the schemes. They pay the high fees involved but do not need regulation of this kind.
  - See response to Q12
- ix. Licensing is not being used alongside regeneration or improvement of the relevant areas. Insufficient resources are being employed to improve the areas.
  - *This is incorrect, Sefton has included within its Housing Strategy and 2030 vision the improvement of housing conditions for the residents of the Borough, a number of regeneration projects have and are currently undergoing, including within the designated areas and more recently an Article 4 directive has been made in respect of HMOs see response 7 above for further information, this specifically targets the designated areas. Officers across both Housing Standards and Planning have shared information and worked together in identifying specific areas of concern.*



- x. Where areas are designated for selective licensing this highlights that they can be “sink” areas. This could well mean it would be harder to obtain a mortgage to buy a property in these areas.
  - *There has been no evidence to our knowledge to support this claim.*
  
- xi. Schemes are not laying down clear objectives to enable decisions to be made whether or not these have been achieved. Proper monitoring is not being put into place to see if schemes are successful or not.
  - *See response to Q13*
  
- xii. There is little use of “fit and proper person” powers to exclude bad landlords.
  - *A proposed licence holder is required to declare any convictions across a number of defined legal statements. The Local Authority will then make an informed decision on the granting of fit and proper status. Any licence holder found to withhold relevant information will have their fit and proper status revoked and be required to find an alternate person to be the licence holder for any licensable properties, since licenses are not transferrable they will also incur an additional licence fee.*

**Council’s response:**

Thank you for your comments in line with our selective and additional licensing proposals, which have been noted. Your general comments on licensing have previously been addressed through the various comments and responses received – please see our responses above.

With regards to Sefton’s specific proposals we note your concern with licence condition 3:3 (d). “The wheeled bins or plastic refuse sacks (if wheeled bins are not provided) must not be presented for collection for a period of more than 12 hours prior to collection”. In response we understand this may not have been as clear as it could have been and we have, therefore, reworded this condition to ensure the landlords understand that they have a duty to inform tenants of their responsibilities with regards to their disposal of refuse.

Condition 3.3 (d) now reads as follows:

*“The tenants are adequately informed of their duty with regards to refuse collection particularly that the wheeled bins or plastic refuse sacks (if wheeled bins are not provided) must not be presented for collection for a period of more than 12 hours prior to collection.*

With regards to your comments on our additional licensing fee, note this is in line with our current mandatory licence fee which has, earlier this year also been consulted on. The fees have been calculated in line with resources required and is deemed an appropriate charge, the yearly equivalent is also reasonable for these larger more complex properties. We have, though taken on board your (and others) comments around the good landlords potentially being penalised for the bad, and intend to include an additional reduced fee for those properties (across both schemes) that are managed by an agent who is accredited through our managing agent accreditation scheme (where the agent is the licence holder). This should both encourage and recognise agents and their individual landlords who are committed to take their responsibilities with managing properties seriously.

## **National Landlords Association:**

### ***Response to Sefton Council's proposal for Selective and Additional Licensing***

**June 2017**

#### **Introduction**

1. The National Landlords Association (NLA) exists to protect and promote the interests of private residential landlords.
2. The NLA represents more than 62,000 individual landlords from around the United Kingdom. We provide a comprehensive range of benefits and services to our members and strive to raise standards within the private rented sector (PRS).
3. The NLA seeks a fair legislative and regulatory environment for the private rented sector while aiming to ensure that landlords are aware of their statutory rights and responsibilities.
4. The NLA would like to thank Sefton Council for providing the opportunity to comment on the Selective Licensing consultation.

#### **Summary**

5. Having considered the evidence presented and having undertaken its own evaluation of the circumstances faced by the residents of Sefton, the NLA's position can be summarised by the following brief points:
  - Landlords have very limited authority to deal with matters related to anti-social behaviour (ASB).
  - You fail to provide evidence or a link between recorded housing crime and the private rented sector.
  - The scheme will lead to a further displacement of problem tenants in the Sefton area.
  - The documentation provided also fails to indicate that sufficient funding will be available to support the functions necessary to support licensing.
  - How will the Council prevent malicious ASB claims being made that could potentially result in tenants losing their tenancies?
  - The council says it wishes to use licensing to regulate landlords – this is a miss use of power by the council in relation to licensing.

#### **General Feedback on Proposals**

6. The ability to introduce licensing is a powerful tool. If used correctly by Sefton Council, it could resolve specific issues. The NLA believes that this proposal should be delayed until the council provides a map of how it will deliver these.
  - *See response to Q17 above.*
7. The NLA believes that any regulation of the private rented sector needs to be balanced. Additional regulatory burdens should focus on increasing the professionalism of landlords, the quality of the private rented stock and driving out the criminal landlords who blight the sector. These should be the shared objectives of all the parties involved to facilitate the best possible outcomes for landlords and tenants alike and, as such, good practice should be recognised and encouraged in addition to the required focus on enforcement activity. This is not the case here, as lessons from other schemes have not been mentioned in this proposal.
  - *See responses to Q17 and Q19 above.*
8. In addition, the proposal does not take into account rent to rent or those that exploit people (tenants and landlords), as criminals will always play the system. For instance, there is no provision for those landlords who have legally rented out a property that is then illegally sublet. The Council is not allocating resources to tackle the problems that criminals will cause; landlords are often victims just as much as tenants are.
  - *Landlords would be aware of issues arising such as this if robust management practice is in place and then be in the position to take appropriate legal action.*
9. Landlords are usually not experienced and do not have the professional capacity that would allow them to be able to resolve tenants' mental health issues or drug and alcohol dependency. If there are allegations about a tenant causing problems (e.g. ASB), even if the tenant has the above issues, a landlord ending the

tenancy will have dispatched their obligations under the licensing scheme. This moves the problems around Sefton, but does not actually help the tenant, who could become lost within the system. There is no obligation within Licensing for the landlord to solve the ASB allegation; rather, a landlord has a tenancy agreement with the tenant and this is the only thing they can legally enforce.

- *See response to Q16 above.*

**10.** In relation to ASB reduction and the authority a landlord has to tackle such activity within their properties, it should be pointed out that landlords and agents can only enforce a contract. They cannot manage behaviour (ref: House of Commons briefing note SN/SP 264, paragraph 1.1). In most circumstances, the only remedy available to landlords confronted with cases of serious ASB in one of their properties will be to seek vacant possession, and in many instances they will need to serve a Section 21 notice rather than a Section 8 notice identifying the grounds for possession. The former is simpler and cheaper and repossession (at present) is more certain. No reason needs be given for serving a Section 21 notice, and in this case the perpetrator tenant can hypothetically approach the local authority for assistance to be re-housed (ref: Homelessness Guidelines cl 8.2). Crucially, no affected party needs offer evidence against an anti-social householder, thereby reducing the risk of intimidation, harassment and ultimately unsuccessful possession claims. The issue of ASB will thus not appear as a factor in the repossession. However, in providing evidence to support a licensing application, the document should clarify for the respondents the position of all the relevant issues under landlord and tenant law.

- *See responses to Q16 and Q18 above.*

**11.** Sefton Council has many existing powers. Section 57 (4) of the Housing Act 2004 states that a local authority “must not make a particular designation ... unless (a) they have considered whether there are any other courses of action available to them ... that might provide an effective method of Sefton with the problem or problems in question”. The use of these powers listed below by the Council shows that the Council already has powers that can be used to rectify the problems and, hence, the ability to tackle many of the issues that they wish to overcome in all parts of the city:

- a) Use of Criminal Behaviour Orders;
- b) Crime Prevention Injunctions;
- c) Interim Management Orders;
- d) Empty Dwelling Management Orders;
- e) Issuing improvement notices to homes that don't meet the decent homes standard;
- f) Directions regarding the disposal of waste (for example, under Section 46 of the Environmental Protection Act 1990);
- g) Litter abatement notices under Section 92 of the Environmental Protection Act 1990;
- h) Powers under the Noise Act 1996 to serve fixed penalty notices or to confiscate equipment (Sections 8 and 10);
- i) The power to require rubbish to be removed from land under Sections 2–4 of the Prevention of Damage by Pests Act 1949.

- *See response to Q3 above.*

**12.** Landlords outline to tenants at the start of the tenancy their obligations in relation to noise, just as they do with waste and what they have to do to comply with the relevant laws and with a view to respecting their neighbours. The landlord can only manage a tenant based on their contract for living in the rented property. In the case of noise, the Council would need to inform the landlord that the tenant's noise is in excess. The power that a landlord has then is either to warn the tenant or to end the tenancy. If the allegation is false or disingenuous, how is the landlord to know? If the same allegation is made on more than one occasion, the landlord may still be ending the tenancy based on an unproven allegation. This does not solve the problem but rather moves the problem around the Borough. The same applies to waste and ASB issues. The tenant would then be guilty under the reference condition of licensing of noise nuisance. An accusation from which has not been tested in a court, but a guilty judgement has been given.

- *See response to Q16 above. A landlord should conduct their own investigation into complaints from neighbours and be then in a position to make an informed decision.*

**13.** The risk of introducing licensing is likely to increase the costs for those renting, along with not resolving the problems that the Council wishes to resolve, and likely moving the issue around the Borough. The issues are

thus not fully dealt with but instead are displaced to new landlords. This has been demonstrated in Liverpool. If Sefton were to take a more erudite approach with regard to nuisance issues and developed a separate policy to tackle criminal landlords, this would be more applicable and more likely to result in resolving the issues.

- *See response to Q15 above.*

**14.** The NLA would also argue that a problem encompassing a few poorly managed and/or maintained properties would not be appropriately tackled by a licensing scheme, which is not proportional. In many situations, the Council should consider Enforcement Notices and Management Orders. The use of such orders would deliver results immediately – why instead does the Council wish to do this over five years through a licensing scheme? Adopting a targeted approach on a street-by-street approach, targeting the specific issues and working in a joined-up fashion with other relevant agencies, such as the Council, community groups, tenants and landlords, would have a much greater impact.

- *See response to Q3 above.*

**15.** The NLA agrees that some landlords, most often due to ignorance rather than criminal intent, do not use their powers to manage their properties effectively. A more appropriate response therefore would be to identify issues and to assist landlords. This could allow Sefton Council to focus on targeting the criminal landlords – where a joint approach is required.

- *See response to Q19 above.*

# Response from The Home Safe Scheme Ltd to the Proposal by Sefton Council to introduce Selective and Additional Licensing

This submission is a response to Sefton Council's consultation proposal to implement a Selective Licensing scheme within the area of Bootle and an Additional Licensing scheme in parts of Southport, Waterloo, Brighton-le-Sands and Seaforth. It follows a detailed conversation with MEL consulting who are undertaking the consultation on behalf of the Council. We would ask that it is included in the formal consultation response report and circulated amongst the elected members who will be making the decision and those directly affected by the proposals, i.e., Cabinet and Ward Members.

## Introduction

My name is Carl Agar, a landlord, property developer, estate & letting agent and representative of the National Landlords Association (NLA), based in Doncaster, with over ten years' experience of the private rented sector. For clarification purposes this response is in no way associated to the NLA and is purely in the capacity of my position within The Home Safe Scheme Ltd.

Through the summer of 2014, following a consultation by Doncaster Council on a selective licensing proposal for the area of Hexthorpe, we developed an alternative to the pure legislative approach to licensing. I did this in the belief that changing landlord behaviour through legislation alone would only have negligible success and would only result in a reluctantly compliant and, therefore, resentful sector. To see real and lasting change in landlord behaviour would be better achieved through support and development alongside the legislative approach.

This support and development however does not represent self-regulation, as it is provided by the underpinning of regulation, thus, the term "co-regulation" best defined our approach. Working with the Local Authority we have provided support in setting licence conditions specifically tailored to address local issues. Furthermore, our scheme membership requirements extend beyond the licence conditions, by working with the Local Authority to find better solutions, hence in a co-regulated way.

It would be wrong for the approach I developed with Doncaster Council to be confused with what, for example, Liverpool City Council appear to have done with their selective licensing scheme delivered in conjunction with a selection of outsourced providers who in my opinion are just delivering reactive support.

It is my belief that what is happening in Liverpool does not represent co-regulation but is more a relationship between the City Council and their outsourced providers based simply on the belief that the more landlords that are members of such organisations means they will, automatically, be more compliant. A 50% reduction in license fee is the incentive for taking this approach further suggesting this is simply about getting landlords to join the outsourced providers. This raises the question that if the legislation requires a Local Authority to recover the costs of running the scheme through licence fees how such a reduction can be applied simply for being a member of an outsourced organisation when all property compliance checks and monitoring should be the same irrespective of which, if any, organisation a landlord is a member of.

This is why I would contend that the Liverpool scheme is not actually an example of "co-regulation" but of a Local Authority having a 'partner' organisation helping them deliver a licensing/ via an accreditation scheme. To many this subtle difference will be of no consequence but I have worked hard to develop a model that sits between pure regulation and self-regulation and so to me the term "co-regulation" needs to be understood for what it really is.

## Summary

The Home Safe Scheme Ltd ([www.thehomesafescheme.org.uk](http://www.thehomesafescheme.org.uk)) is a private sector organisation that was set up to provide a 'co-regulated licencing support service' as a result of the implementation of a Selective Licensing scheme in the Hexthorpe area of Doncaster. Following the responses to the public consultation on that scheme,

DMBC agreed to modify their original Selective Licensing scheme proposal to enable a 'co-regulation' approach to operate in Hexthorpe as opposed to the usual version of Selective Licensing more familiar in other areas nationally. The Home Safe Scheme Ltd (Home Safe) is the co-regulation partner with which DMBC has been working in the Hexthorpe area since the designation was made in April 2015.

Home Safe is now also the co-regulation partner of West Lindsey District Council in the operation of the Selective Licensing scheme in the South West Ward of Gainsborough which was granted its licensing designation in April 2016. Doncaster Council is currently consulting on a second scheme and is looking to use the Home Safe approach again. Blackpool Council have consulted on their scheme area, have approved using Home Safe and are now awaiting DCLG approval of their proposals as it takes them over 20% of their private rented stock.

Clearly, from the information provided by Sefton Council in the consultation document, there is a problem within the private rented sector in the area. We would like, in the context of the licensing schemes proposed, should a licensing scheme be the outcome, to propose that the innovative solution of co-regulation already deployed in Doncaster, Gainsborough and shortly Blackpool, is also made available to landlords and residents in any Sefton designation.

We understand that all Councils have limited tools to try and deal with the problems evident in the private rented sector and which are evident in these areas. Our belief however, is that Selective Licensing, in its raw form, is not as effective as it should be but that it can be quantifiably so if deployed via the mechanism of co-regulation as seen by The Home Safe Scheme partnerships currently in operation.

We are the founders, along with DMBC, of this alternative and innovative approach and can offer Local Authorities the ability to deliver all the objectives of Selective Licensing but, crucially, with the active co-operation of the sector. In this way, the sector sees itself as a participant rather than a disparate collection of passively regulated individuals. Landlords in these areas can thus have a stake in their own development, in improving the sector and most importantly, in the community at large.

Since the inception of the Home Safe Scheme in Doncaster there has been a phenomenal increase in the levels of engagement from the area's private sector landlords and Managing Agents, which can be evidenced both by Home Safe and DMBC. For example, we can show that every landlord who is a member of Home Safe has a property or properties that have all the relevant up to date valid certifications with many having had works carried out in order to provide these. All Managing Agents nominated by Home Safe landlords to manage properties in the scheme area have provided evidence of their Fit & Proper Person status and are members of an approved Redress Scheme. This has freed DMBC to focus on pursuing those landlords who had shown no interest in engaging or complying with the Scheme and enabled them to commence ultimately successful prosecution cases against those landlords within 9 months of the scheme going live.

With regard to property inspections we create a compliance baseline, from the very beginning, of all stock within a scheme area by deploying our team of HHSRS inspectors to inspect all scheme properties. Following that, members are offered training in order for them to facilitate their own inspection regime (with strict controls by the Council and Home Safe built in). It's worth noting that in the Doncaster designation all accessible properties were inspected within 6 weeks of the inspection phase beginning and we saw landlords actively engaging with the scheme.

Thus, we believe that a similar scheme to those in place in Doncaster and Gainsborough would be of great benefit to the residents (generally) and landlords (both private and public sector) in the Sefton areas as well as to the Council. Home Safe's alternative scheme will enable Sefton Council to use their existing powers and resources more effectively and in a more targeted manner allowing them to focus those resources directly against the willingly bad, un-cooperative and non-complying landlords.

We would, therefore, welcome the opportunity to discuss working with Sefton Council in developing a co-regulation scheme for their chosen areas on the same lines as we did in Doncaster, Gainsborough and Blackpool but incorporating improvements based on experience learned from those areas.

**Councils Response:**

*Thank you for contacting us to outline your proposal. We do not feel that co-regulation is currently necessary due to the size of our proposed schemes, however, we may revisit this decision in the future and if so will contact you then to discuss further.*