

16th December 2016



By email: prslicesning@brent.gov.uk

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Dear Mr Jemmott

Brent Selective Licensing Extension – Consultation Response

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

The RLA also believes that the Council is premature on bringing forward proposals. The Housing and Planning Act 2016 will give 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 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.

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.

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 staff time wasted processing applications, it should continue to direct its limited resources at effective enforcement activity.

Landlords, 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.

The RLA does not believe Brent has made a robust case for borough-wide licensing. By the consultation paper's own admission, 'much of the private rented sector offers good accommodation for people who want to live in the Borough'. It is invidious that the majority of landlords, who provide good accommodation, should face increased costs through fees, whilst the criminal operators ignore licensing. Poor and unsafe accommodation should be tackled through better and targeted enforcement.

The data maps showing the concentration of PRS housing suggest a number of ward should not be included: Dollis Hill; Kenton; Northwick Park; Queensbury; and Stonebridge. Even excluding these wards the scheme will require the consent of the Secretary of State.

Much of the Brent case relies on tackling anti-social behaviour. There are limits to what landlords can do to tackle ASB caused by tenants. The council already uses local joint action groups and cross-departmental and multi-agency working such as this is more effective in tackling ASB, maintaining tenancies, housing condition and management standards.

In fact, the report concedes that ASB is falling across the Borough. However, the highest incidences of ASB in Brent are to be found in wards where selective licensing has been in operation for almost two years. This suggests that selective licensing is failing to deliver the desired outcome.

Likewise, the report highlights Newham as an example of successful borough-wide licensing. However, in terms of illegal dumping of rubbish – a key concern – Newham has the highest incidence (and cost) of any London borough, again suggesting that selective licensing is failing to meet this objective.

The Council also admits that the current borough-wide additional licensing of HMOs is failing. The report acknowledges that "the large number of HMOs whose owners have neglected to apply for licences". If the council cannot adequately enforce a borough-wide additional licensing scheme, then there must be doubt about its ability to enforce a borough-wide selective scheme encompassing tens of thousands more properties.

The council also committed to review the current selective licensing schemes annually. However, the assessment of these schemes do not form part of the consultation. The only data provided relates to the number of landlords who have applied for licence. The success of selective licensing cannot and should not be measured by how many properties are licensed. Instead, clear objectives and outcomes should be set at the start of the scheme regarding improved management standards, property conditions and, for example, reduction in ASB. Where is the evidence that the current selective licensing scheme is delivering these outcomes? Instead, as noted earlier, the highest incidences of ASB in the Borough are to be found in these wards.

Looking at the specifics of the scheme, should the council decide to proceed, we welcome the consideration of discounted fees. However, we believe the discount for accredited landlords does not provide sufficient incentive for landlords to become accredited. A more substantial discount would attract greater uptake of accreditation.

There is no mention of an alternative to online application. The RLA believes a paper registration option should be available.

With regard to the licensing conditions, the scheme appears to require landlords to force tenants to disclose unspent convictions (6a). This can only be done through a CRB or similar check. Forcing a third party to require such a check – an enforced subject access request - in order to gain a tenancy is a criminal offence, under s56 of the Data Protection Act. This condition should be removed.

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.

Thank you for giving these concerns your attention.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'John Stewart', with a stylized flourish extending to the right.

John Stewart
POLICY MANAGER

Appendix – RLA General Licensing Concerns

The RLA has several areas of concern in regards to selective 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.
- 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).
- 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.
- iv. The level of fees which are ultimately passed on to tenants to pay is a major worry so far as it affects landlords.
- v. Despite high fee levels local authorities still lack the will and resources to properly implement licensing.
- 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.
- vii. We believe that a significant number of landlords are still operating under the radar without being licensed.
- 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.
- ix. Licensing is not being used alongside regeneration or improvement of the relevant areas. Insufficient resources are being employed to improve the areas.

- 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.
- 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.
- xii. There is little use of “fit and proper person” powers to exclude bad landlords.