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Dear Sir/Madam

### **Havering Additional Licensing Proposals – Consultation Response**

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

Though we at The RLA respect that the London housing market is growing fast and is changing rapidly, implementing more complex and time consuming licensing schemes to the vital supply of PRS housing is not the answer.

The RLA believes that the Council is premature on bringing forward proposals. The Housing and Planning Act 2016 which came in on 6<sup>th</sup> April has given 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 total impact of these new powers can be fully 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. The vulnerable tenants that the local authority mention in the consultation documents, e.g. the high number of pensioners in Havering, and the young professionals in London who need affordable houses, will be affected most by these rent increases.

Within the Consultation Proposal particular interest is paid to addressing poor management and property standards, and the effort to increase housing demand and create a 'community' feel. There is little evidence that licensing schemes improve housing standards. The focus of staff becomes the processing and issue of licenses, 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.

Problems that have been mentioned “*criminal behaviour, drug use, waste issues, overcrowding, and unlawful renting.*” It is unfair to just blame this solely on Landlords. The Council, Police and other public services / third sector organisations have a duty to control this sort of illegal activity in the area.

The RLA is confused as to why there is two options in proposed licensing area. 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.

However, it is also unlikely that the whole of the Havering borough suffers the same housing issues, especially in relation to PRS properties. We urge the council to look carefully at which boroughs have social issues that are directly linked to PRS HMOs.

Within the additional conditions the council have proposed there is a few points the RLA has issue with.

Number 22 - We would like to remind the council that it is not the responsibility of the license holder to make adequate alternative arrangements for the collection of additional refuse and recycling or monitor when their tenants move their bins. 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).

Number 24- Although we would expect responsible landlords to leave information about refuse and waste collection and to not fly tip, it is unreasonable to expect landlords to police 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.

The cost of the additional licence is also a matter of concern for the RLA. The proposed charges of £900 - £1,180 for a new licence is excessive, even for London. 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.

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,

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## **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.