

22nd September 2017

By email: selectivelicensing@barnsley.gov.uk

The Selective Licensing Scheme officer
Barnsley MBC Council
Corporate mail room.
PO Box 634
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Dear Sir/Madam

Barnsley Selective Licensing Proposals – Consultation Response

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

I have read through your consultation documents, and though I appreciate the issues that the Council have mentioned and the effect they can have on tenants, landlords and the housing market in areas such as Goldthorpe, Wombwell, Measborough Dyke and Welland Crescent, licensing is not the way to tackle these issues.

The RLA believes that the Council is premature in bringing forward proposals. The Housing and Planning Act 2016, which commenced on 6th April, and with further measures to be introduced in October, 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.

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.

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.

With have issues with several additional conditions the council has proposed;

10) reference to "In the event that rooms are being shared by single persons. Consideration must be given to prohibit the sharing of persons with different faiths and/or Ethnicities".

The unintentional sharing of rooms between two unrelated peoples is very rare. This condition is completely unnecessary and inappropriate for a landlord to police. We oppose this condition on the ground that it potentially mandates discrimination.

10) In reference to "All terms and conditions of occupancy must be made available in a language/form they can understand".

The licence holder must ensure that all information and documents that are provided by the landlord to their tenants are in a language/form that they can understand. This is a big ask of any landlord, even a social housing provider. How can a small private landlord fulfil this condition, would it require them to hire a translator? What version of the document would be legally binding? Would landlords have to check with every tenant that they can read the documents and information? We would like clarification from the Council on the details of this condition.

10) In reference to, "Ensure that the property does not become overcrowded in accordance with selfcertification of room sizes".

In principle a good landlord will not want to see their property overcrowded by using living space as sleeping space to get more tenants and more money. It will be criminal landlords that will be operating in this way and they will not buy the licence. Landlords who operate in this way must face enforcement action and be prosecuted. It shouldn't be a licence condition for the majority of law abiding landlords who will try to ensure that this doesn't happen through using a tenancy agreement.

The landlord has limited control over how tenants choose to live and if the tenants start to sub let the Landlord loses even more control of the property. The only thing a landlord can do if the tenant starts to sublet illegally is evict them. This can be timely and costly to the landlord who has not colluded in any way with the tenants who have effectively taken over the property. Landlords who are victims of this sort of scam should also be supported by the Local Authority.

14) It is unreasonable to expect landlords to take responsibility for the tidiness and appearance of tenants own gardens, unless agreed as part of the tenancy.

15) We would like to remind them 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). 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.

In conclusion. 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:

- 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.
- 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).
- 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.
- The level of fees which are ultimately passed on to tenants to pay is a major worry so far as it affects landlords.
- Despite high fee levels local authorities still lack the will and resources to properly implement licensing.
- 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.
- We believe that a significant number of landlords are still operating under the radar without being licensed.
- 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.
- Licensing is not being used alongside regeneration or improvement of the relevant areas. Insufficient resources are being employed to improve the areas.
- 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.
- 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.
- There is little use of “fit and proper person” powers to exclude bad landlords.