

Selective Licensing Q & As regarding the proposed scheme/s.	
The Councils objective of considering a Selective Licensing is to address incidences of ASB, crime and deprivation. These issues are affecting tenants, residents and landlords in the proposed areas.	
If private landlords make up between 45% to 60% of the areas, why have they been identified as a problem?	There is a significant link between the private rented sector and the issues regarding ASB in the area. The selective licensing legislation only applies to landlords.
Isn't the council just shifting responsibility to landlords for dealing with antisocial behaviour?	The landlord is already responsible for managing antisocial behaviour. Selective licensing reinforces this. The landlord is responsible for educating tenant behaviour through information, education and co-operation with statutory authorities.
If the council is keen to work with landlords, would they help evict my tenant because of anti-social behaviour?	Landlords are liable for their business costs of tenancy enforcement and legal eviction. You can also ask for a judgement order from the courts to cover costs plus legal fees. The award is at the discretion of the Judge. Assistance can be sought from our Housing Options Advice Team relating to tenancy issues.
Why charge £530 per house? Isn't this just a money making scheme at the cost of landlords?	The licence fee is set to cover the costs of administrating and issuing a licence.
What does the £530 provide to the landlord? What is the council going to do about tenants who damage properties? Can the landlord increase the rent to cover the fee?	Private landlords can increase or decrease rents freely in line with market forces, subject to statutory notice requirements, which allow tenants to choose accommodation that offers the best value for money for their rent payments. The Council does not pay for tenant damage unless a bond scheme agreement covers this. The landlord should use civil court arrangements to recover their losses or landlord insurance.

¹ CABINET reports/ CR461/ Q & A for landlords

<p>Why can't accredited landlords be passported through the scheme without an internal inspection? Why not charge landlords who require enforcement action more?</p>	<p>Internal inspections form an integral part of the scheme to ensure that properties offered for rent have an absence of category 1 hazards (the most serious). We offer discounts for BMBC accredited landlords as their properties have been inspected using the HHSRS standard. We acknowledge landlord accreditation schemes; however, recent case law does not allow us to charge more for landlords who require enforcement than those who comply.</p>
<p>The clause 'having satisfactory procedures for dealing with antisocial behaviour' is unreasonable. If a tenant breaks the law then they should be punished by the law. To punish the landlord by imposing a fee is wrong. How can we enforce this?</p>	<p>It is requested that landlords take reasonable and effective steps when dealing with ASB relating to their property and tenants, including recovery possession of a property through the court when necessary.</p>
<p>What am I getting for paying £530?</p>	<p>The licence fee is set to cover the cost of administering the licence and undertaking the inspection. It is not proportional to the term of the licence. It allows you to operate as a landlord legitimately.</p>
<p>Why do I need several different licences, one for each property? Surely the licence is about 'fit and proper'. I would not have a licence if I was not 'fit and proper'. Therefore why do I have to pay for multiple licences?</p>	<p>The 'fit and proper check' is a small part of the licence administration. We also have to inspect and consider each property on its merits. The fee covers the administration.</p>
<p>'Why not just licence the poor landlords? Why should 'good' landlords have to pay where properties / tenants have never caused any problems?'</p>	<p>The legislation states that the selective licensing power can only be used to cover all private rented landlords in the designated area. Enforcement is used towards non-compliant landlords on a case by case basis.</p>
<p>Isn't it the Police who should deal with antisocial behaviour and crime?</p>	<p>Not entirely, the licence conditions ask Landlords to take reasonable and effective steps to deal with antisocial behaviour from their tenants and their property.</p>

<p>How are you going to ensure absentee landlords have a licence?</p>	<p>We will use tracing systems such as council tax records, land registry documents, tenancy documents and enforcement information notices, to locate absentee landlords and ensure they apply for a licence or face prosecution. The licence conditions and application process are designed to ensure properties are satisfactorily managed, regardless of owner's location.</p>
<p>Are the Council aware that this may lead to some landlords just boarding up their properties and leaving them; making the area worse and driving down property prices for other landlords and residents? This will allow less scrupulous landlords to come into an area and buy up the properties at low prices and the area will decline further.</p>	<p>This has been identified as a risk to the council. If areas and properties are left, we may be able to work with the owners to assist with sales and purchases. Where new landlords come into the area. They too will be bound by the terms of the scheme and would be subject to a fee. Therefore it is considered that only landlords wanting to work within the conditions of the scheme would consider purchasing properties.</p>
<p>The authority already has the statutory powers to address property issues. Why should good landlords pay for something you should be doing already? Why haven't you used those powers effectively?</p>	<p>The council already has a mandatory duty to deal with category one hazards in housing and we have served a number of notices and CPN notices, which we will continue to do. Selective licensing designation has been proposed to address issues of ASB, crime and deprivation. The legislation allows us to set conditions within designations to complement the scheme and address housing issues. However, ultimately the council do not have the right to seek possession of a property where ASB is being perpetrated. That is the landlord's responsibility, in addition to taking reasonable steps to deal with ASB. Possession of a property would be considered to be a last resort.</p>
<p>How can the local authority prevent properties from being rented out without a licence?</p>	<p>The council will take legal action against those landlords.</p>
<p>How is this scheme to be policed? Will you recruit further officers financed by the licence fee?</p>	<p>We have recently undertaken a restructure to ensure we have the appropriate staff in the appropriate places.</p>

Is this scheme just a way of making additional money for the council?	No, the scheme is covered by legislation and therefore cannot make a profit. The licence fee is set to cover the cost of inspection, administration and issuing the licence.
Could this scheme be rolled out for shorter periods and if successful abolish it part way through, reducing the cost of a licence?	It could be revoked during the five year period if successful. However, the licence fee is determined by the administration of the licence, inspection of the property and issuing a licence. This length of the term would not reduce the cost of a licence.
If after 5 years the issues are not resolved, what will happen then?	An evaluation of the scheme will be undertaken to establish if the scheme has been successful. Where issues still arise. Cabinet may choose to close the scheme or extend for a further five years with additional conditions or review boundary areas.
Couldn't you just increase policing to deal with these issues?	Crime is just one of the criteria for which the scheme was implemented. Policing and enforcement will continue to play a part in supporting the scheme.
What will the council do when tenants are evicted for non-payment of rent as a result of landlords passing on the selective licensing fee to them?	This has been identified as a risk to the Council. The licensing scheme if broken down equates to a £2 increase per week for a tenancy over the 5 year period. Where tenants are found to be in arrears and threatened with eviction, the housing options team can assist with budgeting issues for tenants. Alternatively, tenants may pursue debt relief orders to offer a solution to the debt problem.
Why not include everyone in the scheme not just private landlords?	This piece of legislation only refers to private rented landlords.
What is the point of being an accredited landlord if we still have to pay? We have joined accreditation schemes voluntarily to show our commitment to good standards.	BMBC accredited landlords receive a discount. However, accreditation schemes offer training to landlords and support inexperienced landlords. They only gain support from those who are willing. The Housing Act specifies landlords and private rented properties. It does not offer guidance regarding 'good' and 'bad' , 'willing' and 'non- willing' landlords.

<p>What if I want to appoint a managing agent for my property?</p>	<p>Managing agents will need to be named on the licence applications, and the council will consider if the management in place is sufficient when issuing a licence. Under the legislation, only the person having control of the property, which is usually the owner, will be accountable for the licence conditions. They can use their agent to effect works and vet tenants. Landlords will want to choose a responsible and experienced agent who will safeguard the landlord's legal obligation. Poor performing agents may struggle to operate in a licensed market.</p>
<p>Are the Council aware that setting a selective licensing scheme in areas will increase house insurance and car insurance charges and why hasn't this been advised to residents and tenants?</p>	<p>There is no evidence to suggest that selective licensing schemes increase house and car insurance premiums. It is more likely that areas suffering from ASB, experience increased house and car insurance premiums as a result of claims made against their insurance. It is considered that Selective Licensing would be seen as a positive in areas which have previously suffered from this.</p>
<p>What happens if I am not classed as 'Fit and proper'?</p>	<p>'Fit and proper' is a measurement to ensure that landlords have no serious records of poor management or an outstanding criminal charge that would prevent them from operating as a landlord. It demonstrates that a landlord is capable of following good tenancy practices. Where a landlord is designated as <u>not</u> being fit and proper, they would be given the opportunity to appoint a managing agent or another person to be able to operate their property.</p>
<p>The licence condition relating to tenancy agreements being offered to tenants in different languages is unworkable. Surely, the law is English then the tenancy agreement should be in English?</p>	<p>Translation of a tenancy agreement does not diminish the law. However, tenants should be fully aware of what they are being asked to sign and what is expected of them. Tenants must initial specific clauses in the agreement relating to ASB and presentation of waste.</p>

<p>If you don't offer questionnaires in different languages why should we offer tenancy agreements?</p> <p>By translating documents for our tenants we will also have to translate all licence conditions, gas certs, EPC and electrical certificates. This is going to cost the landlord a fortune.</p>	<p>Demographics of the areas were assessed and questionnaires and letters were produced in those languages in accordance with that information. Where other languages are required those requests will be assessed on the basis of Council policy relating to translation. This will be undertaken in the most cost effective manner to deliver this option. In the interim, we would suggest you try to seek assistance from other members of the community in the first instance as it may not be possible to provide a full translation service.</p> <p>The clause in the licence agreement refers directly to the tenancy document, as this forms the contract. Gas safe checks etc. are undertaken in accordance with guidance information. This would have been communicated to the tenant as part of the tenancy agreement. Therefore not requiring additional documents to be translated.</p>
<p>The licence condition regarding people sharing accommodation (rooms) of different faiths is unworkable.</p>	<p>The condition is to stop <u>forced</u> sharing of accommodation for those of differing faiths which would cause harm or distress.</p>
<p>There will be bad landlords /tenants everywhere. There are also bad homeowners are they to be licenced and monitored?</p>	<p>The Housing 2004 sets discretionary powers subject to meeting several legal tests which can be applied to areas where licensing would address the issues, underpinned by a set of license conditions. The scheme is further underpinned by the percentage number of private rented properties in each area which are considered to be higher than the national average. This piece of legislation is written to address the private rented sector.</p>
<p>The streets in the designations- how do these streets qualify?</p>	<p>The designations have been based on information available in the proposal document. These are initially, ASB, Crime and Deprivation. The areas are not being considered under the low demand criteria.</p>

How can I be at the house at all times of the day and night to ensure my tenants is not carrying out ASB?	We are asking you to take reasonable steps to deal with this when advised there is an issue. Including advising your tenants at the start of each tenancy to act in a tenant like manner and that ASB will not be tolerated.
How am I supposed to get into a property I have no rights of entry? I can give the tenants 24 hours' notice as you have given me. However, I can't force entry.	You have the option of contacting the tenant and giving them 24 hours' notice. Access is being requested by the council in order to support the scheme and address conditions of Health and Safety. Where this is ineffective procedures will be sought via the courts.
Why are Berneslai Homes properties not included in the scheme? If it is discretionary, why not just charge the bad landlords?	The Act is specific; it covers private rented properties only. It does not offer the ability to discharge a fee for only substandard Landlords. Berneslai Homes properties are not included in the Act.
When you undertake the HHSRS inspections. This is going to become a business cost if we have to do repairs. We will have to pass this cost onto the tenants we have. Many of which are vulnerable.	In line with the councils corporate objectives 2016-2032. Properties would be assessed in terms of their fitness for occupation under the 29 hazards under the Housing Act 2004 as highlighted in the HHSRS guidance. This differs from the Berneslai homes decency standard. Where hazards are identified, the landlord will be given the opportunity to rectify this issue.
What if a landlord failed to apply for a licence?	They would face prosecution for non- compliance. They would still be required to hold a licence.
My property is currently empty- I am in the process of renovation. What will happen to me?	You will be given the opportunity to apply for a Temporary Exemption Notice (TEN). These last three months.
My properties are managed by G4S. They are properly managed; will I need to have an inspected?	They will still require an inspection.
What does deprivation mean?	Deprivation is an indicator and measures multiple factors categorised as follows: income, employment, educational skills and training. Health, crime, housing, environment. It relates to an area in which 1500 people reside. It offers a ranking out of 32,842.

<p>We are accredited landlords why do we need to be part of the scheme?</p>	<p>Accreditation offers a level of commitment from landlords. However, the Act is clear. All landlords who have properties in the areas under consideration will be part of the scheme. BMBC accredited landlords will receive a reduction of £100 from the licence fee.</p>
<p>Some of the licence conditions ask for tenant's names and ages and dates of birth. Why should we ask for this information it's unreasonable?</p>	<p>This requires you as landlords to collect this information in terms of the numbers of persons sharing and their ages. This will assist you when completing the 'Right to rent checks' and also regarding sizes of rooms for numbers of occupants and their sex. This is required to assess occupancy. This information will be requested from you should the council pursue legal action.</p>
<p>One of the licence conditions refers to set market rates for utilities. What does that mean?</p>	<p>This refers to where person have card meters which normally carry higher tariff charges or where sharing a house and pay a fee for all included utilities. Tariffs sought and set should be the most economical. Therefore, not to disadvantage the tenant.</p>
<p>Why didn't you just come and consult with landlords before you wasted all this time writing the selective licensing scheme proposal?</p>	<p>In respect of the selective licensing consultation, we can't consult meaningfully and therefore fairly, until we have a proposal to consult upon.</p>
<p>How can I be at the property all the time to ensure that tenants are not using other rooms for sleeping in?</p>	<p>As the landlord it is your responsibility to ensure that tenants use only the appropriate rooms for sleeping in. This will be outlined if the scheme is approved. As a landlord you will be expected to complete a room sizes declaration as part of your application. This coupled with names and dates of birth of your occupant will dictate the correct numbers of persons who can reside at the property. Alterations to the property layout should be advised to The Safer Neighbourhood Service.</p>
<p>My tenants already have a tenancy agreement. I can't change it to include these licence conditions.</p>	<p>It is mandatory for all landlords in the scheme to meet the licence conditions. Therefore, you must take relevant steps to ensure these are met.</p>

<p>How can I prevent tenants from becoming involved in terrorism?</p>	<p>You are not being asked to prevent terrorism. You are being asked to take appropriate steps to advise your tenants of acceptable behaviour. However, where you consider or asked for information relating to an incident, you are asked to liaise or give information to the Police or relevant services.</p>
<p>Why have you not considered the Housing and Planning Act 2016/ 2017, before bringing in this scheme?</p>	<p>There are a number of legal powers available to the council for dealing with tenancy related issues. Some are general, for example: selective licensing schemes and others are intended to deal with specific issues relating to specific properties. The 2016 Act, includes the implementation of 'banning orders' and a duty to maintain a register of 'rogue landlords' who have been served with a banning order. The Act allows the council to introduce the use civil penalties as an alternative to prosecution for certain housing act offences and other regulation breaches. Both pieces of law have a part to play and, as with other legislation available, will be used where appropriate to deal with issues to address and complement areas.</p>
<p>If the council has new powers under the Housing and Planning Act 2016 (APRIL). For example: the ability to issue civil penalties for 'rogue landlords' why do we need a Selective licensing scheme?. You should be taking action to deal with them instead of using a broad brush approach like this.</p>	<p>Selective licensing is not an alternative to civil penalties. The new penalties can only be used as an alternative to prosecution for certain offences under the Housing Act 2004. These are:</p> <ul style="list-style-type: none"> • Failure to comply with a housing improvement notice. • Offences related to Houses in Multiple Occupation (HMO's) • Offences related to licensing of houses under Part 3 of the Act. • Contravention of an overcrowding Notice. • Failure to comply with Management regulations in respect of HMO. <p>This can also be used against property agents and letting gents. It cannot be used retrospectively and has a part to play to complement the selective licensing scheme.</p> <p>Where a landlord is the subject of a civil penalty. This will be</p>

	taken into account when considering 'fit and proper' status.
You know who the 'rogue landlords' are why not just target them instead of good landlords by using selective licensing?	<p>The term 'Rogue landlords' is only specific to the Housing and Planning Act. It is applied to landlords who:</p> <ul style="list-style-type: none"> • Have received a banning order under the above act. • Have been convicted of a banning order offence; or • Received 2 or more civil penalties over a 12 month period. <p>This term is not applicable in law to other landlords unless they have been found to be in breach of the above.</p>
I have a managing agent who manages my property. Who is responsible for applying for the licence?	Unless the Managing agent has financial control over the property. Ultimately, you as the owner have the responsibility of the licence. The licence will be in your name.
I have asked for references from other landlords who have given me good references for poor tenants to 'get rid of them'. I have then been left with poor tenants in my property causing problems for the duration of the AST. How can I deal with that, If I have followed all the instructions given?	Management of ASB. Licence condition 16. The landlord must provide accurate referencing relating to existing or previous tenants. Where this is found to be in default the landlord will be considered in breach of that licence condition. Where those tenants are from outside the designation landlords must undertake further due diligence checks.
If we can show that ASB has reduced in our area and you are aware of the work 'good' landlords with the community have undertaken in this area, then can cabinet decide not to impose Selective licensing in this area.	It is Cabinet's decision to approve or decline the scheme/s. To note: The scheme/ s have been proposed to address issues of ASB, Crime and Deprivation and have taken account of the high concentrations of private rented properties in the areas.
Is there any point in consulting?	We are consulting in accordance with government legislation. We have produced a proposal document which the council feels addresses the issues in these areas. We have continually advised we would welcome and evaluate alternate proposals from those affected provided they address the issues raised. Once the consultation has closed (24th September 2017). All data, issues, questions and concerns raised will be passed to

	cabinet as part of the cabinet report for cabinet members to make a final decision.
Why have only five streets been chosen in one particular area, when I can name other streets in this area where there are worse problems?	The areas have been outlined based on guidance information from government office regarding applying the Housing Act. This includes meeting the legal tests which are required to satisfy application of the Act. Therefore other streets in the locality may not have met all the overall criteria to apply a scheme.
If the scheme was free would there still be an aversion to implementation? This question was asked of the majority of attendees at the consultation events 25th July 2017. This question was also asked at the final landlord event on the 12 th September. The majority of landlord agreed that the charge had an impact upon the scheme.	Overall, the majority of attendees, when asked, agreed their objections were cost related. One landlord was opposing the scheme as he felt it was the 'thin end of the wedge' and that if un- opposed the council would roll out other schemes. Finally, some landlords related their objections to specific licence conditions. Translation of documents, sharing of persons with different faiths and provision of utilities. Most notable was the requirement for landlords to take all reasonable and practicable steps for dealing with ASB.
For further information please consult our Frequently Asked Questions document available on the web pages. 24/9/2017	