

# TH Landlord Licensing Scheme Consultation Response

## On Behalf of TH Renters and TH Unite Community Centre

### Intro

TH Renters and TH Unite Community fully support plans to license landlords in Tower Hamlets. We believe a comprehensive scheme that covers ALL private landlords (within the legislation) combined with a pro-active licensing inspectorate that works closely with the environmental health team could benefit thousands of private renters across the borough as well as providing a level playing field for landlords operating within it.

However, there are a number of concerns with the current proposals. Firstly that given the changes to legislation in March 2015, there will be difficulties in extending selective licensing to more than 20% of the borough and may prove impossible under the current government. Secondly, there are concerns that Selective Licensing scheme may not cover all residential landlords – non-mandatory HMOs and single households – due to the wording of the legislation and so could be challenged in court.

Given the uncertainties with both, we feel strongly that Additional licensing should be implemented alongside Selective Licensing as it faces no restrictions in reach, requires no permission and would limit the opportunity for legal challenge.

### The Private Renting Landscape

Private renters are suffering on a number of levels. High and ever-increasing rents are the biggest problem, but with increased demand poor and unsafe conditions are compounded by either amateur, lazy or callous landlords, who fail to maintain their properties and are known to evict tenants if they complain. In fact the fear of eviction - as well as not knowing their rights - encourages tenants not to complain or report matters to the council.

Of course licensing will not cure all of the problems renters face, but, if implemented properly and with enthusiasm, it will – with time – go some way to improving and maintaining minimum standards that are already legislated for, but which local authorities have largely failed to enforce, whether due to a lack of funding or a laissez-faire approach.

### How Licensing can help

**Knowing the landscape:** the council will be able to compile a list of every property that is privately rented out in Tower hamlets and the landlords that own or manage them. This will provide a channel of communication for the council to educate both landlords and tenants of their rights and responsibilities.

**Immediate improvements:** Conscientious landlords will immediately seek to address any issues in their properties and thus improving standards for many renters without a tenant complaining or a council enforcing.

An issue for councils operating a licensing scheme can be establishing which properties are being

managed unprofessionally. Beyond random inspections the best way is to educate tenants of their rights and how to enforce them. Sending information packs to every privately rented household would be an important first step followed by adverts at bus-stops highlighting key rights and responsibilities of tenants and landlords. Advertising through local community centres, groups and libraries would also help.

### Concerns with licensing scheme

**Everyone's rights asserted and protected:** Many people do not engage with local affairs whether they're born and raised in England or have recently arrived from abroad speaking little or no English. A concerted initial and ongoing effort to engage with all private renters to inform them of their rights is essential including accessing hard-to-reach groups through established community, social and cultural groups and centres. This may best be done by training activists, volunteers and staff from such groups.

**UKBA:** There have been serious concerns over the joint raids carried out in Newham between council officers and the UKBA. TH Renters was encouraged to hear this would not happen in Tower Hamlets. UKBA's association with licensing could undermine the scheme for migrants who are often the most likely to be taken advantage of by callous landlords and thus living in sub-standard conditions. Whether they are documented or not migrants would be unlikely to call the council to report poor or unsafe conditions if they fear arrest.

**References:** it should be made clear that references landlords must get from new tenants need not be from a previous landlord. A reference from a doctor, employer or similar is adequate. This prevents landlords from making life difficult for former tenants following any dispute.

**Pro-active Inspections:** we believe a pro-active approach to inspecting properties should be followed focusing on older properties and those that are not licensed. This would encourage landlords to ensure properties meet the legal standards as well as allowing inspections solicited by tenants to be passed off as random to help protect them from any adverse reaction by the landlord.

**Unintended consequences:** local authorities already running licensing schemes have found an increase in harassment and illegal evictions since operating the scheme. It is important the law around this area is made clear to both tenants and landlords and support in place to prosecute landlords where appropriate. A leaflet explaining the law and a tenant's rights should be left at households following inspections.

**Housing team:** Given the money a borough-wide scheme would bring in and the pressures and lack of resources the existing housing environmental health team face, we would hope a team of full-time inspectors were employed that could benefit both departments: licensing and environmental health. We would also hope that prosecutions by the environmental health team could also be funded by licensing income. I was informed that Tower Hamlets Council only prosecuted eight landlords last year due to a lack of money.

**Council letting agency:** once the licensing scheme is up and running we feel the idea of a council letting agency should be explored (Hackney Council has set-up one, although with unsurprisingly limited success due to poor marketing and a lack of interest). However, sub-standard properties

that landlords say they cannot afford to renovate or bring up to standard could be taken over by the council on long leases, pay for the work to be done out of a fund from licensing income and rented out. The council would be repaid from the rental income. Once up-and-running empty properties could also be targeted. Once the agency was established it could then market itself as an ethical letting agent, and as a non-profit could offer better value to both landlords and tenants than high street letting agents in terms of fees, commission and length of tenancies.

**Overcrowding:** as we know overcrowding is a problem in Tower Hamlets, but much of it due to the lack of affordable housing in the borough rather than landlords taking advantage of their tenants as is sometimes the case. We would hope the council would recognise the choice of some families to live in overcrowded conditions rather than be split up from their families and communities.

**24hrs notice:** as has already been stated setting up a licensing scheme provides an opportunity to educate both landlords and their tenants. One issue that repeatedly comes up with private renters we speak to is unannounced visits. While many tenants know this is morally wrong they are unaware it is illegal. We would welcome and encourage the council to highlight this to both tenants and landlords.

**Fit and proper person test:** we hope that every landlord that is brought to the council's attention is checked out to ensure they are a fit-and-proper person. Eventually we would hope every landlord is checked.

**Annual newsletters:** we believe a lot of problems in the PRS are down to both landlords and tenants being unaware of their rights and responsibilities. While electronic contact details for landlords or agents should be established through licensing, tenants are more difficult to contact not least because of their often transient nature. We feel an annual newsletter delivered to every property that is – or the council believes should be – licensed to inform tenants of their rights, how to report any concerns and any changes in the law would help tenants assert their rights and help councils target the properties where there are problems.

**Selective AND Additional:** The problems of not introducing additional licensing alongside selective could be considerable and not worth the risk for little additional effort. With only 20% of properties guaranteed to be licensed – assuming 100% sign-up – some 32,000 households would miss out on the benefits the scheme affords. From a business and landlord perspective the level playing field they usually demand would be absent. And the council would have 80% less income with presumably a similar outlay. This would likely seriously impact on the council's ability to run the scheme effectively; inspecting properties quickly following a complaint and enforcing and prosecuting where appropriate. The success of the scheme, we believe, will ultimately be based on landlords knowing that an effective scheme is in place that is easier to comply with than not.

### Myth-buster

Some of the claims as to why licensing should not be introduced from landlords and their representatives have been astonishing. Equally astonishing has been the failure to take them apart.

1. **Licensing will drive rogue landlords further underground:** what does that mean exactly? A property cannot go 'underground'. The person taking the rent should easily be traceable. And ultimately councils can simply take over the property if necessary.
2. **Tenants most likely to be exploited are the least likely to complain.** This is why tenants

should not be targeted – for example, with UKBA – during inspections or raids so they feel safe to report concerns to the council. However, it is not knowing their rights and the fear of eviction (S21) that are the main reasons tenants don't complain. Licensing would help to address both of these as the right to administer a S21 would be revoked if the property is unlicensed or in breach of the license conditions, and be better informed from leaflets delivered to properties in the PRS.

3. **Questions as to how the council will extract fines from the landlord.** Where a landlord cannot pay a fine or improve the property it can be taken over by the council and if set up, passed onto the council letting agency to manage, bring up to standard and rent out repay any debt/costs in the process.
4. **Claims the additional bureaucracy would put off decent new landlords entering the market.** A good landlord would surely fully support a scheme that ensures minimum standards. For many landlords the letting agent would take care of the paperwork.
5. **Claims the cost of licensing and administration would put up rents driving tenants into hands of unlicensed landlords.** The nominal charge of £100 a year should have no effect on the rent and what administration costs? Use the council letting scheme if your letting agent is ripping you off. The other costs would be if the property fails the current minimum legal standards and thus letting it illegally.
6. **Risk of landlords challenging scheme.** The landlord would need to prove the Council acted beyond its powers or follow the correct procedures as happened in Enfield, so all care must be taken to avoid this. However, there are concerns the duty to license could be challenged if only Selective Licensing is implemented with it's definition being unclear if it covers non-mandatory HMOs.
7. **Decent landlords are being punished and that new ones will be put off entering the market?** Why would a £100 a year fee and ensuring their property meets minimum standards while their property increases by many thousands of pounds a year and the mortgage paid off for them is put them off? If so, the market is better off without them. Alternatively it is not true and is a scare tactic.

Furthermore, if landlords were put off from entering the market, what would this actually mean?

1. There would be less demand for properties for sale reducing inflationary pressures making it more affordable for people to buy homes to live in.
  2. Someone who could cope with the £100 a year and ensure minimum standards would buy the property instead and rent it out.
  3. A landlord would decide to sell the property increasing supply.
  4. It could be argued that those without mortgages or who could afford to - might leave the properties empty instead. This is where at the very least council tax on empty properties should be levied at the highest possible rate.
8. **Rents will increase due to an increase in owner-occupiers as landlords sell up.** This is possible, and adds to the need to build more social housing. However, this is unlikely as the licensing burden is trivial when compared to the benefits to a landlord as mentioned above.

There is a chance rents could increase where landlords are forced to significantly improve their properties, but will of course be limited by market rate presuming they were charging below this before any enforcement.