

Executive Summary of Consultation feedback

Summary of the Consultation Survey Results.

- A total 2797 participants were aware of the consultation
- There were 1595 Informed Participants
- 375 took part or participated in the survey,

Summary of Landlords and Agents responses to some of the key survey questions:

- A total of 287 Landlords or managing agents took part in the consultation– 1287 landlords/agents visited the consultation site.
- 269 participants were from the Selective Licence area, 75 from outside the selective licence area and 15 were outside Tower Hamlets
- 45% of Landlords & Agent said they had a bad or very bad experience dealing with the Council
- 40% of respondents are saying finding tenants is difficult, although 13% say there is low demand
- 70% of respondents say no ASB issues
- 85.2% do not support the renewal of the Scheme
- 92.3% are saying the license fee is to high

Summary of resident's responses to some of the key survey questions:

- A total 84 residents took part whilst 290 people visited site
- 65 of those that responded were tenants, 18 owner occupiers and 1 social tenant
- 49% of those that responded lived in Selective Licensed area 45% outside in the Selective Licence area and 6% outside Tower Hamlets
- 35% did not know if their home was licensed, 33% was not licenced but 28 said it was licensed
- 69% feel safe, 21% did not feel safe
- 71.4% did not witness ASB, 22.6% have witnessed ASB from private rented properties
- 42.9% felt Landlord maintain property, 36.9% said they did not and 20.2% did not know
- 48.9% felt Landlords mostly act responsibly whilst 36.9% said a few do but 8.3% said none of them do, 6% did not know.
- 29.8% said Landlords do not take action re ASB whilst 23.8% said they do and 46.4% did not know
- 71.3% of the participants supporting the renewal and 18.8% not, whilst 10% gave comments that they needed more information. However, based on their comments, a few of them were in support of renewal.
- 31.3% said License fee too high, 34.9% reasonable. 13% too low and 20.8% don't know

Summary of the 7 businesses responses to some of the key survey questions:

- 39 business visit the consultation site and 7 responded to some of the questions
- 2 businesses were Whitechapel, 1 from Spitalfields and Banglatown and 1 in another area
- Although a very small sample 4 out of 6 answered about the main area of concerns; they felt neglect of the area as the biggest issue.
- Out of 4 that answered the question of being victim of or witnessing ASB 2 answered yes and 2 answered no.
- 2 out of 5 answered said they have experienced ASB from private tenants
- 6 out of 7 participants said that landlords do not generally keep their properties in a good standard
- 5 out of 6 participants said some Landlords are good and responsible
- 4 out of 7 support the renewal, 1 did not and 2 wrote comments

Top level summary of participants' comments and questions from the virtual consultation session:

- Many participants expressed agreement with the licensing goals of catching rogue landlords and driving them out of the sector and encouraging better property management, but views differed on whether the Selective Licensing Scheme was an effective way of achieving this.
- The efficacy of the Scheme in identifying rogue landlords was either unclear to participants or, based on the figures presented at the event (see Appendix A), seemed low compared to the budget generated by the fees.
- Several participants urged the Council to take a more targeted approach to licensing, for example by using complaints and algorithms to target problem areas rather than the current geographic ward approach.
- There was also a suggestion to replace the licensing scheme with a scheme to educate and support tenants to identify rogue landlords.
- Some participants supported the scheme, but commented that specific aspects should be reviewed including:
 - ❖ licensing of new builds that have been designed to meet property and safety standards
 - ❖ standard minimum room sizes and occupancy limits seen by some as unhelpful to people struggling to afford London accommodation prices
 - ❖ providing different license lengths e.g. 2-3 years or refunds for short term landlords
 - ❖ continuing/increasing communication of the scheme: don't assume that there is widespread awareness of the scheme, increase efforts to communicate it to those who believe that only multiple household properties need a license
 - ❖ exploring alternative areas to target the scheme, from extending the Scheme to cover all of Tower Hamlets to targeting based on complaints or areas with older/lower standard properties
 - ❖ Others supported the Scheme for its role in introducing a fit and proper test for landlords and mandating tenancy agreements and property standards

Other written submissions

Borough's Police Department

As part of the consultation we have received a written email of support from the local Police force which is provided as **Annex A**

Safeagent :- - Safeagent is the UK's leading accreditation scheme for lettings and management agents operating in the Private Rented Sector. Established in 1999

Safeagent provided a detailed submission (**Annex B**) raising some comments and seeking clarification about a number of issues such as:

- clarification on the size of the sector
- some comments about the data
- made suggestions in respect of the Licence conditions

We have provided Safeagent with a full detailed response

NRLA - National Residential Landlords Association

Like the safeagent, NRLA's written submission (**Annex C**) in principle support the licensing goals and objectives. They also recognise and agree that there must be an appropriate level of regulatory intervention to ensure that the rogue and criminal elements within the sector are driven out whilst helping landlords that may not have the skills set required or the know how to manage their rented properties

We have provided them with a response and assurance.

Annex A

RE: Police comment request on selective licensing of privately rented properties



Andy.Port@met.police.uk
To Morteza Salarkia

Reply Reply All Forward

Fri 11/12/2020 17:32

Hi Morteza,

From a police perspective we support the continuation and expansion of the initiative in order to provide more regulation in this field and specifically to help us tackle ASB which is the number one priority in Tower Hamlets.

I haven't completed the survey because it required me to sign in which I wasn't going to do.

Regards

Andy



Andy Port
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Proposed Selective Licensing Scheme in the London Borough of Tower Hamlets

Safeagent Consultation Response

11 December 2020

An Introduction to safeagent

Safeagent is a not for profit accrediting organisation for lettings and management agents in the private rented sector. Safeagent (formally NALS) was established in 1999, by the Empty Homes Agency, with backing from the Royal Institution of Chartered Surveyors (RICS) the Association of Residential Lettings Agents (ARLA) and the National Association of Estate Agents (NAEA). Safeagent provides an overarching quality mark, easily recognised by consumers, with minimum entry requirements for agents.

Safeagent agents are required to:

- deliver defined standards of customer service
- operate within strict client accounting standards
- maintain a separate client bank account
- be included in a Client Money Protection Scheme

Agents must provide evidence that they continue to meet safeagent criteria on an annual basis to retain their licence. The scheme operates UK wide and has 1,500 firms with over 3,000 offices, including a number of agents within the London Borough of Tower Hamlets.

Safeagent was recognised by the GLA as an approved body for the London Rental Standard. We were also a co-regulation partner with Liverpool City Council and we are a recognised training provider under the Rent Smart Wales scheme.

We very much welcome the opportunity to contribute to this consultation exercise.

Overview

We understand the London Borough of Tower Hamlets is seeking to renew the selective licensing scheme in the west of the borough which is due to end on 30 September 2021.

In considering this proposal, we have studied the evidence base and supporting documents published on the council's website.

Whilst the report indicates approximately 6,500 properties have been licensed, it is unclear how many private rented properties require licensing in the area. The Mayhew Harper Report notes the number could be up to 9,000. This is important as it will determine whether the proposal exceeds the 20% threshold above which Secretary of State approval is required.

We note that page 45 of the Mayhew Harper Report suggests four options, including three proposals to alter the scheme boundary. It lists:

- Renewal of the current scheme.

- Renewal of the current scheme plus former ward Bethnal Green South.
- Renewal of the current scheme plus St Peters ward.
- A new boundary for the entire scheme.

We could not find these options listed anywhere else. They are not listed on the consultation webpage, in the consultation summary document or any of the other consultation documents. We could also find no detailed maps and list of streets for each of the four proposed areas. As such, we are unsure which of these options are being consulted upon and the evidence base and rationale to justify each. We would ask the council to clarify this issue.

It is a requirement for the council to consult on the proposed scheme. If the council later wish to change the scheme boundary, a new public consultation exercise would be required.

Existing licensing scheme

We are pleased to note the existing licensing scheme has achieved notable success in improving the management and condition of private rented properties and the neighbourhood as a whole.

However, we are concerned that out of the 6,504 properties licensed, only 868 have been inspected, this being four years into the scheme. This suggests over 5,500 properties have not been inspected since they were licensed. An inspection rate of around 15% is quite disappointing.

Further, the figures show just 292 enforcement notices have been served and eight prosecutions. These low figures do not suggest it is a licensing scheme that requires renewal.

Of the 709 properties listed as improved, we note that just over half were compliant at the time of inspection and the remainder were improved following some level of intervention by the council. It is unfortunate this data has not been split between single family properties and small HMOs.

We did not understand the table indicating 1,779 visits were undertaken. It is unclear how a licensing compliance visit differs from an inspection or whether they are the same thing.

We do not agree that consolidating the scheme's perceived success provides sufficient evidential grounds for scheme renewal. The council must apply the same legal tests as when the first scheme was implemented. If the area has improved and problems have diminished then there may not be grounds to renew the scheme.

That some landlords and agents have evaded their legal responsibilities during the first scheme is also not grounds for renewal. Instead, the council should focus their efforts on tackling the minority of criminal operators who let unsafe and overcrowded accommodation. Those criminal operators who failed to apply under the current scheme are equally unlikely to apply if the scheme is renewed.

Evidence base

Within the evidence base, we could find no evidence about the split of single family lets and small HMOs in the selective licensing area. This is important, in order to establish if there is a business case for licensing all single family lets in this area.

Having licensed 6,500 properties, the council will hold this information and can map out all interventions by property type. Likewise, concerns about ASB can be mapped in a similar way. At the moment, there is no evidential basis to show why single family lets need to be licensed in this area.

We would also like to see more consideration about the nature of the housing stock. We are aware there are many new high rise residential developments offering exclusive accommodation, some of which is privately rented. Many of these blocks have concierge and onsite management to ensure standards are maintained. It seems unlikely this type of accommodation poses any management concerns to the council that would warrant inclusion in a selective licensing area.

Based on the evidence published, we do not think the case has been made out for renewing the existing licensing scheme. We have, however, still commented on other aspects of the proposed scheme.

Licensing fees

We recognise that the council need to charge a reasonable fee to cover the cost of administering and enforcing the licensing scheme.

It is important that the council implement an efficient and streamlined licence application processing system. This will help to minimise costs and keep fees at a reasonable level, thereby minimising upward pressure on the rent that is charged to tenants.

We understand the council intend to charge £595 for new application (up from £542) and £495 for licence renewals. We note that the council's selective licensing fee is already higher than the additional licensing fee that applies to small HMOs in other parts of the borough.

We do not agree that landlords letting to a single family in this part of the borough should pay more than those letting to multiple households and achieving a higher rental yield in other parts of the borough. We would encourage the council to reconsider this issue.

We would also encourage the council to consider charging a lower licence application fee to accredited landlords and letting agents in recognition of how this supports better property management. We operate a successful accreditation scheme for managing agents and think a discount should apply if either the licence holder or designated manager is an accredited safeagent member.

Licence Conditions

We have studied the proposed list of standard licence conditions in Appendix 5 of the consultation report.

We have made a number of suggestions to help improve and fine tune the wording of the conditions. This in turn should help landlords and agents to understand and comply with the requirements.

Condition 1.6

The proposed wording does not correlate with the mandatory condition imposed by Schedule 4 of the Housing Act 2004 (as amended by the Smoke and Carbon Monoxide Alarm (England) Regulations 2015). It should be amended to reflect the mandatory condition.

Condition 1.9

It is unusual to insert a condition requiring the licence holder to be a fit and proper person. The licence can only be granted if the council is satisfied the proposed licence holder is a fit and proper person. If that changes during the licensing period, the correct approach would be to revoke the licence. As such, we cannot see that this condition serves any purpose.

Condition 1.10

The proposed wording prevents anyone from renting privately if they cannot provide a reference. We are concerned that this could prejudice care leavers, young people seeking their first home in the private rented sector, people released from prison trying to reintegrate into society and those fleeing domestic violence. We would encourage the council to consider how the condition could be refined to avoid excluding these groups from the private rented sector.

Condition 2.1

Whilst we agree tenants should be informed how to report repairs and what to expect when they do, we think it is unrealistic to set down in writing the timescale for completing repairs. The timescale will depend on a variety of factors including the urgency, tenant access arrangements and whether the work should be incorporated into the cyclical maintenance programme for the building.

Condition 4.2

Whilst acknowledging a private landlord and/or their managing agent need to take any complaints about Anti-Social Behaviour (ASB) seriously, we have some reservations about the wording in 4.2(h). It indicates that if any ASB is ongoing after 14 days, prompt legal proceedings must be taken. It is important that the approach adopted is proportionate having regard to the nature of the issue. For example, if a tenant forgot to bring in a wheelie bin from the street on two consecutive weeks, it would clearly be unreasonable to start legal proceedings against them. It is also unclear what legal proceedings are being referred to. The only options are to serve a section 8 or section 21 and whether that can be done depends on the circumstances. We would welcome a further discussion with the council about the precise wording of the condition and what is expected in practice.

Condition 5.1 & 5.2

The proposed wording about electrical certificates appears to contravene the Court of Appeal decision in the case *Brown v Hyndburn Borough Council* (2018). The council should use the specific electrical safety mandatory condition imposed by Schedule 4 of the Housing Act 2004 (as amended by the Electrical Safety in the Private Rented Sector (England) Regulations 2020).

Condition 6.2

When letting properties to a single family or a group of sharers on a single tenancy, the landlord or agent is unlikely to know which tenant sleeps in each bedroom. Agents could say who the property has been let to and how many people live there, but we have no control over which tenant sleeps in each bedroom.

Inspection regime

The consultation does not make clear the council's proposed inspection methodology when receiving licence applications. We would ask the council to clarify their proposals in this regard.

If properties are to be inspected as part of the licence application process, it is vital that the council has sufficient officers available to conduct any inspections in a timely manner so that licence approvals are not unduly delayed.

We would ask the council to publish clear service standards setting out the timescale for processing and approving licence applications and to publish regular updates so that performance in this area can be monitored. In other boroughs, we regularly see licence approvals taking six months or more due to a backlog of work and inadequate resourcing.

Delivering effective enforcement

It is vital that the council establishes and maintains a well-resourced and effective enforcement team to take action against those landlords and agents that seek to evade the licensing scheme.

Without effective enforcement, new regulatory burdens will fall solely on those that apply for a licence whilst the rogue element of the market continue to evade the scheme and operate under the radar. This creates unfair competition for safeagent members who seek to comply with all their legal responsibilities. They are saddled with extra costs associated with the licence application process and compliance, whilst others evade the scheme completely.

Recognising the important role of letting agents

Letting agents have a critical role to play in effective management of the private rented sector. We would encourage the council to explore mechanisms for effective liaison with letting agents and to acknowledge the benefits of encouraging landlords to use regulated letting agents such as safeagent licensed firms.

Regulation of letting agents

To achieve better regulation of the private rented sector and improve consumer protection, it is important the council takes a holistic approach that extends far beyond the proposed licensing scheme.

Since October 2014, it has been a requirement for all letting agents and property managers to belong to a government-approved redress scheme. In May 2015, a further requirement was introduced requiring agents to display all relevant landlord and tenant fees, the redress scheme they belong to and whether they belong to a client money protection scheme, both in-store and on the company's website. On 1 April 2019, the requirements were updated again, requiring letting agents and property managers to be

members of a government approved client money protection scheme if they hold client funds. At safeagent we operate one of the government approved client money protection schemes.

To assist councils in regulating the private rented sector and effectively utilising these enforcement powers, we developed the NALS Effective Enforcement Toolkit. Originally published in June 2016, the toolkit has been updated in conjunction with London Trading Standards and is currently undergoing a further review. The latest toolkit can be downloaded free of charge from our website: https://safeagents.co.uk/wp-content/uploads/2018/12/07618_NALS_EnforcementToolkit_Web.pdf

Should you wish to discuss any aspect of this consultation response, please do not hesitate to contact me. Can you also please confirm the outcome of the consultation exercise in due course.

Isobel Thomson Chief Executive

Written Submission

Prompted by the TH newsletter attached, I wanted to feed back my experience on the Selective Licensing Scheme.

I'm an owner/occupier of a flat in XXX at the XXXX edge of the zone. If it had not been for the introduction of the zone, I would have considered renting out my flat or at least a room in it.

One of the aims of the scheme was to reduce crime & anti-social behaviour in the area. My experience has been that both have gone UP since the scheme was introduced, rather than down. In other words, if the scheme has had any effect at all, it has been to increase both problems, specifically:

- (a) there is noticeably more graffiti along Cheshire St,
- (b) there have been an increased number of break-ins to XXXXXX to cut away and steal bikes.

We have good security (boundary walls, CCTV cameras & FOB-controlled gates) and report the crimes but the thefts continue. I'm not a bike owner but my safety is at risk if gangs break in.

Please consider whether the introduction of the SLZ has contributed to this increased problem, perhaps by moving an existing problem here from elsewhere in the borough.

Many thanks

Written Submission

Thanks for the attached . What is not clear from the report is how effective the licensing scheme has been to identify rogue landlords/tenants , and what corrective steps have been taken to address any issues. The ranking system given is unfortunately too vague to gauge the licensing effectiveness. Obviously if everyone has a gas and electric safety certificate, and any one with criminal records identified are a big step forward.

Also how are private owners addressed who live with tenants. Are they in scope for licensing ?

London Borough of Tower Hamlets

14th January 2021

Dear Sir or Madam,

Selective Licensing Proposal

The National Residential Landlords Association (NRLA) exists to protect and promote landlords' interests in the private rented sector.

The NRLA would like to thank the council for the opportunity to respond to the now-closed consultation and submit our comments to the proposals.

The NRLA believes that local authorities need a healthy private rented sector to compliment the other housing areas. This provides a variety of housing types and can be flexible around meeting the residents who live and want to live in the area and the landlords in the area. The sector is regulated, and enforcement is an essential part of maintaining the industry from criminals who exploit both tenants and landlords.

We believe that any regulation of the private rented sector must be balanced. Additional regulatory burdens should focus on increasing landlords' professionalism, improving the quality of the PRS stock by driving out criminal landlords.

Main objections

Criminal Activity

The proposal does not consider rent-to-rent or those who exploit people (both tenants and landlords). Criminals will always play the system. For instance, there is no provision for landlords who have legally rented out a property that has later been illegally sublet. The license holder can end the tenancy (of the superior tenant, the subtenants have no legal redress) and support the local authority in criminal prosecution. Often, landlords are victims, just as much as tenants. What support will the council provide for landlords to whom this has happened? Will the council support an accelerated possession order?

The overcrowding issue is complicated for a landlord to manage if it is the tenant that has overfilled the property. A landlord will tell a tenant how many people are permitted to live in the property, and that the tenant is not to sublet it or allow additional people to live there. Beyond that, how is the landlord to manage this matter without interfering with the tenant's welfare? Equally, how will the council assist landlords when this problem arises? It is impractical for landlords to monitor the everyday activities or sleeping arrangements of tenants. Where overcrowding does occur, the people involved know what they are doing and are criminals, not landlords. The council already has the powers to deal with this.

Changes to Section 21

The NRLA also concerns how a future scheme will interact with the current government's intentions on eliminating section 21. The change to how tenancies will end and a move to a more adversarial system, meaning landlords will become more risk-averse to take tenants that do not have a perfect reference and history,

Tenancy Management

Licensing is introduced to tackle specific issues, with many of these issues related to the council's tenants. The main challenge for local authorities is to work with all the parties involved and not squarely blame one group, e.g. landlords. At the commencement of a tenancy, the landlord outlines the tenant's obligations concerning noise (and other matters such as waste disposal, compliance with relevant laws, and consideration for their neighbours).

The landlord can manage a tenant only to the extent of their mutually agreed contract for living in the rented property, not for the tenant's activities in the street outside the property for matters should as parking spaces, noise complaints or fly-tipping/waste disposal. The ending of a tenancy will be a method for a landlord to resolve an allegation- this will not resolve the issue of high tenancy turnover; it will merely exacerbate it.

Waste management in tenancies

Often when tenants are nearing the end of their contract/tenancy and are in the process of moving out, they will dispose of excess household waste by a variety of methods. These include but not limited to, putting waste out on the street for the council to collect. This was hoping to get their deposit back and made worse when the council does not allow landlords access to municipal waste collection points. Local authorities with many private rented properties need to consider a strategy for collecting excess waste at the end of a tenancy in place of selective licensing.

Conclusions and alternatives

The NRLA advocates using council tax records to identify tenures used by the private rented sector and those landlords in charge of those properties. Unlike discretionary licensing, this does not require self-identification by landlords, making it harder for criminal landlords to operate under the radar and continuing to provide a low standard of housing.

It would be a more effective method of targeting these criminals and rooting them out of the sector using existing enforcement powers granted by the Housing Act and the Housing and Planning Act 2016 and generate funds for the council via this method instead of licencing fees. The NRLA believes that local authorities need a healthy private rented sector to balance the other housing areas. This provides a variety of housing types and can be flexible around meeting the needs of both residents and landlords in the area. The sector is regulated, and enforcement is an essential part of maintaining the industry from criminals who exploit landlords and tenants. An active enforcement policy that supports good landlords is crucial as it will remove those who use others and create a level playing field. It is essential to understand how the sector operates as landlords can often be criminal activity victims with their properties exploited for illicit purposes.

Furthermore, the council should consider if the scheme is approved providing an annual summary of outcomes to demonstrate to both tenants and landlords' improvements of behaviour and the impact of licensing on the designated area over the scheme's lifetime. This would improve transparency overall.

The NRLA has a shared interest with Tower Hamlets' borough in ensuring a high-quality private rented sector but disagrees that a selective licensing scheme is the most effective approach to achieve this aim.

Yours Sincerely,

Policy Officer
National Residential Landlords Association