

# Consultation on selective licensing of private rented property in Southend

## Appendix 6: Written responses to consultation (separate document)

### Written responses from organisations

#### Response from ARLA Propertymark

January 2021

#### Background

1. ARLA Propertymark is the UK's foremost professional and regulatory body for letting agents, representing over 9,500 members. ARLA Propertymark agents are professionals working at all levels of letting agency, from business owners to office employees.
2. Our members operate to professional standards far higher than the law demands, hold Client Money Protection and we campaign for greater regulation in this growing and increasingly important sector of the property market. By using an ARLA Propertymark agent, consumers have the peace of mind that they are protected, and their money is safe.

#### Executive Summary

3. In consideration and evaluation of the evidence presented by Southend-on-Sea Borough Council for the proposed selective licensing scheme, ARLA Propertymark's position is summarised in the following points:
  - We do not support Selective Licensing schemes, as they are not an effective method of driving up standards in the private rented sector.
  - In line with the UK Government's advice to local authorities for property licensing, Southend-on-Sea Borough Council should avoid commencing a scheme unless its administration will not conflict with latest government advice regarding the COVID-19 outbreak.<sup>1</sup>

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<sup>1</sup> <https://www.gov.uk/government/publications/covid-19-and-renting-guidance-for-landlords-tenants-and-local-authorities>

- We are concerned about the lack of information in the consultation regarding costs for enforcement. Unless the Selective Licensing scheme has additional resources for enforcement, criminal operators will continue to ignore their legal responsibilities and avoid the scheme which is designated to target them, penalising lawful landlords and agents with additional cost burdens.
- Landlords and letting agents have little influence over their tenants in order to manage anti-social behaviour. This is a law enforcement issue and landlords and letting agents must be provided with support in combatting this.
- We welcome the recognitions in the evidence base that waste management and anti-social behaviour management is not the sole responsibility of the landlord.
- We welcome the introduction of officers to deal with anti-social behaviour and other issues, however we think this approach could be focused on without Selective Licensing.

### General concerns

4. ARLA PropertyMark does not believe that Selective Licensing schemes are an effective way of promoting higher quality accommodation in the private rented sector. The schemes are often poorly resourced, and consequently Selective Licensing schemes become an administrative exercise that penalises compliant landlords and allows rogue operators to continue functioning under the radar. Enforcement and prosecution remain low where the schemes operate, doing little to improve the minority of substandard properties in the private rented sector, which licensing schemes aim to target.
5. Many licensing schemes fail due to the lack of adequate resources needed to undertake the necessary enforcement activity. Due to the EU Services Directive,<sup>2</sup> the fee to apply for a property licence cannot exceed the cost to process the application, this means that the cost of enforcing the schemes must come from elsewhere. Councils operating discretionary licensing schemes have often indicated that the schemes cost more to operate than the funding generated from licence fees, such as in Blackpool.<sup>3</sup>
6. Licensing schemes heavily focus on the administration involved, often directing local authority staff away from enforcement to process applications. We know that Councils have indicated

<sup>2</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32006L0123>

<sup>3</sup> <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/housing-communities-and-local-government-committee/private-rented-sector/oral/7774.html>

that processing a single application can take between 15 minutes and one hour. This can be incredibly time consuming and costly when thousands of properties require licensing.

7. Often, the rogue landlords that the schemes are created to target continue to operate under the radar. Already compliant landlords pay their licensing fees, funding the administration of the scheme, while more than often those providing poor housing ignore their legal requirements.
8. The Housing and Planning Act 2016<sup>4</sup> allows civil penalty fines levied for offences in the private rented sector to be retained by the local authority for further enforcement. Research conducted by the Housing, Communities and Local Government Committee in April 2018<sup>5</sup> highlighted that local authorities on the whole rarely issue landlords and agents with penalties. Existing licensing schemes have demonstrated that only a small number of prosecutions ever occur, with 50 per cent of all prosecutions in 2016-17 coming from Newham Borough Council out of 33 boroughs with discretionary licensing across all of England. Consequently, we would argue that the issue does not lie with existing legislation, rather the lack of enforcement. Local authorities pinpoint lacking enforcement as a product of stretched resources. Although this should have been remedied with the introduction of the Housing and Planning Act 2016, many local authorities do not exercise their powers to bring additional resources into enforcement of the private rented sector.
9. ARLA Propertymark believes that instead of introducing further Selective Licensing schemes, local authorities should adopt a collaborative approach with letting agents, landlords and professional bodies to tackle issues within the private rented sector. This approach recognises and rewards landlords and agents that already adhere to good practice and enables local authorities to better target their resources on effective intelligence-led enforcement.

### **Covid-19 concerns**

10. ARLA Propertymark is concerned about the impact of Coronavirus on agent's business costs and overheads. To this end, members are alarmed that a number of Councils are ignoring guidance issued by the Ministry of Housing, Communities and Local Government which says that where local authorities are in the process of introducing non-mandatory licensing

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<sup>4</sup> <http://www.legislation.gov.uk/ukpga/2016/22/contents/enacted>

<sup>5</sup> <https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/440/440.pdf>

schemes, but these are not yet in force, they should consider pausing these at an appropriate point, in line with the advice on proactive and reactive work. The requirement for applications to still be submitted and fees paid will place additional pressure on the sector in four ways. Firstly, tenants will likely see the cost of licensing passed on to them via rent increases. Secondly, if landlords who cannot afford the license fee decide not to pay and remove their property from the market, tenants will be forced to seek new homes, placing people at risk and spreading rather than stemming the pandemic. Thirdly, with little or no rents being paid on properties, landlords are not able to fund new license fees at this time, leaving them with the choice of criminal liability, or evicting their tenants. Fourthly, with agents furloughed or continuing to work from home they are unable to access relevant paperwork and documentation to complete licensing scheme applications and process fees. Councils who are pursuing the implementation of licensing schemes are being socially irresponsible as it needlessly puts vulnerable people at risk of being infected. In this unprecedented situation landlords and agents are not able to comply with the requirements of the scheme and Council resources are unlikely to be able to effectively enforce them.

11. The UK Government are encouraging local authorities to take a common-sense, pragmatic approach to landlord licensing enforcement during these unprecedented times. On 1 June 2020, the UK Government published updated *Coronavirus (COVID-19) Guidance for Landlords and Tenants*. The Guidance advises landlords who have property in an area subject to Selective or Additional Licensing that local authorities should consider pausing the introduction of non-mandatory licensing schemes where this will allow limited resources to be focused where they are most needed.

12. Local authorities that already have landlord licensing schemes in place have been instructed by the UK Government to:

- Contact landlords who are waiting for licences to be determined to explain potential delays.
- Take individual landlords' circumstances into account where licence fee payments may have been delayed due to the current situation.
- Prioritise high-risk licensable properties if this is necessary to protect vulnerable tenants and target imminent risks to health.
- Continue as usual for non-mandatory licensing schemes which are already in place but, as with all enforcement, take a pragmatic and common-sense approach to enforcement action.

13. Where schemes are in the process of being introduced but are not yet in force the UK Government have advised local authorities to consider:

- Pausing the process completely wherever practicable until current restrictions are lifted and/or assessed that it is safe and reasonable to continue.
- Extending relevant parts of the process such as the consultation period or the date of the commencement of the scheme to a more suitable time.
- Avoiding, wherever possible, commencing a scheme unless its administration will not conflict with latest government advice regarding the COVID-19 outbreak.

### **Scheme operation**

14. Sufficient numbers of staff will be needed to ensure that the scheme runs timely and effectively. Southend-on-Sea Borough Council have not indicated how many staff will be recruited to police the scheme. In the interests of transparency, we think that these figures should have been made available so that interested parties could assess whether the numbers are adequate. Southend-on-Sea Borough Council in the evidence base talk about an online application system, however they do not mention an alternative. We think it is important there is a paper-based application system to accommodate some landlords who may struggle with an online system, or may not have an internet connection.

15. Southend-on-Sea Borough Council should ensure that the online application system can deal with a large influx of applications. Technical issues such as website crashes could result in applicants having to begin the process multiple times, or even making multiple payments for a single application.

### **Poor housing conditions**

16. Southend-on-Sea Borough Council knows that many landlords of private rented properties are 'good' landlords and provide quality accommodation and a good standard of management. The evidence base states that 'unfortunately, there are a significant number who continue to let out poor quality properties or do not manage their properties well' and therefore this necessitates the scheme. We are concerned that landlords of properties that have poor housing condition will not be inclined to apply for a licence, or rectify the condition of their property, in order to be eligible to be granted a licence. Instead, landlords with properties already up to standard will apply and foot the bill for enforcing against rogue operators with substandard properties. Given our experience of these schemes we can advise that despite

the best of intentions, the schemes always penalise compliant landlords, leaving rogue landlords to operate under the radar. Instead, we would urge Southend-on-Sea Borough Council to step up efforts to increase the number of accredited landlords given that is recognised in the evidence base that they do operate to higher standards. The evidence base specifically states that Selective Licensing will lead to ‘an increase in good landlords and an elimination of rogue landlords’, however our experience in this area shows the opposite effect happens as decent landlords struggle to afford the license, while rogue landlords avoid the costs and gain a competitive advantage.

### **Anti-social behaviour**

17. One aspect of the evidence base we do agree with is the recognition by Southend-on-Sea Borough Council that, ‘A tenant’s behaviour is equally as important as a landlord’s in securing improvements within our local communities’ and the Council ‘therefore intend to work closely with occupiers to ensure they understand their responsibilities as a tenant and as local residents’. Southend-on-Sea Borough Council pledges to ‘discuss tenant responsibilities as detailed in their tenancy agreement (i.e. expected behaviour, reporting of repairs, refuse storage and disposal etc.) as well as offering any general and specific support required to ensure the tenant can successfully sustain their tenancy.’ We think this is an important recognition, because ultimately only tenants can be responsible for their own behaviour and generally all Councils should be taking steps like this to inform them of their responsibilities while also deploying anti-social behaviour officers in problem areas.
18. Southend-on-Sea Borough Council offer access to private sector solutions officers. According to the Council ‘This officer is on hand to offer support for the duration of the tenancy and will, where possible offer support and advice for the landlord and tenant, therefore assisting to prevent rent arrears/ and addressing any ASB issues that may arise’. We think this is an important and effective strategy which will work to address issues of anti-social behaviour and should be focused on separately, rather than implementing Selective Licensing. In our experience dedicated officers working on anti-social behaviour have made a great impact in areas where there are issues. For example, anti-social behaviour officers operating in Liverpool City Council have reduced instances of anti-social behaviour.
19. Southend-on-Sea Borough Council state in the evidence base that ‘If ASB is being carried out within the immediate vicinity of the property, and is being caused by the occupiers of it, then it would be reasonable to expect a landlord to ensure that those persons are not conducting

themselves in such a way that is adversely impacting on the local community'. We think it is beyond the authority of landlords or letting agents to control poor behaviour especially with such burdensome requirements. We see no reason as to how Selective Licensing will make any impact in this area. Additionally, licence holders are unlikely to be equipped to resolve issues associated with a tenants' mental health or narcotic/alcohol abuse where associated with anti-social behaviour. Moreover, where licence holders feel an obligation to address the anti-social behaviour of their tenants, this will likely result in the tenant being evicted unless support measures are put in place. Evicting tenants due to anti-social behaviour will cause further displacement of tenants throughout the local authority and beyond rather than solving the underlying issue.

### Existing enforcement powers

20. Up to June 2015, there were 145 laws with over 400 regulations that landlords need to abide by to legally let a property in England and Wales.<sup>6</sup> Legislation on residential lettings is amended regularly with new laws introduced frequently. Consequently, local authorities are already equipped with a sufficient toolkit in order to drive up standards in the private rented sector. Despite this, local authority enforcement levels are low in the private rented sector – with successive laws being passed, but not enforced.

- a. The Housing Act 2004<sup>7</sup> introduced property licensing, management orders and the housing health and safety rating system (HHSRS).
- b. The Redress Schemes for Lettings Agency Work and Property Management Work Regulations 2014<sup>8</sup> made it mandatory for letting and management agents in England to belong to one of the government-approved redress schemes.
- c. The Consumer Rights Act 2015<sup>9</sup> requires letting agents to prominently display their fees online and in their office, as well as making it clear if they are a member of a Client Money Protection (CMP) scheme.
- d. The Deregulation Act 2015<sup>10</sup> brought about added protection for tenants against retaliatory eviction where they had reported a genuine complaint for the property. This Act also prohibits landlords and agents from serving an open-ended eviction notice at the start of a tenancy and added requirements for serving a Section 21.

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<sup>6</sup> [http://www.propertychecklists.co.uk/downloads/20170508\\_1](http://www.propertychecklists.co.uk/downloads/20170508_1)

<sup>7</sup> <https://www.legislation.gov.uk/ukpga/2004/34/contents>

<sup>8</sup> <https://www.legislation.gov.uk/ukdsi/2014/978011116821/contents>

<sup>9</sup> <http://www.legislation.gov.uk/ukpga/2015/15/contents/enacted>

<sup>10</sup> <http://www.legislation.gov.uk/ukpga/2015/20/contents/enacted>

- e. The Smoke and Carbon Monoxide Alarm Regulations 2015<sup>11</sup> required landlords to install and test smoke alarms on each storey of their property. Carbon Monoxide alarms are also required in every room with a solid fuel burning appliance.
- f. The Assured Shorthold Tenancy Notices and Prescribed Requirements Regulations 2015<sup>12</sup> made issuing a 'How to Rent'<sup>13</sup> guide to all tenants a legal requirement.
- g. The Housing and Planning Act 2016<sup>14</sup> introduced a range of measures that seek to target the business of criminal landlords. The Act was brought about to incentivise and bring additional resource to local authorities in order to drive up standards in the private rented sector. This includes extended rent repayment orders, tenancy deposit data sharing, banning orders, civil penalties and a database of rogue landlords and property agents. Also included was enabling powers to enforce electrical safety standards and for mandatory CMP.
- h. The Homes (Fitness for Human Habitation) Act 2018<sup>15</sup> places requirement on landlords and agents to ensure that a property meets the Housing Health and Safety Rating System (HHSRS) at the beginning and throughout the duration of a tenancy. The Act also gives rights to tenants to take their property manager to court where HHSRS is breached.

21. We have seen further legislative change targeting the private rented sector. The Tenant Fees Act 2019 banned most charges made by letting agents and landlords to tenants, as well as capping deposits.<sup>16</sup> Consequently, we would argue that the issue does not lie with existing legislation, rather the lack of enforcement. Local authorities pinpoint lacking enforcement as a product of stretched resources. Although this should have been remedied with the introduction of the Housing and Planning Act 2016, many local authorities do not exercise their powers to bring additional resources into enforcement of the private rented sector. We acknowledge that there are some local authorities that are proactive with enforcement in the private rented sector, such as Newham Borough Council – however, this is not the case for most local authorities. Figures released under the Freedom of Information Act highlighted that almost six in ten Councils had not prosecuted any landlords in either 2016 or 2017, and more than 80 per cent of Councils prosecuted fewer than five landlords.<sup>17</sup> In contrast to these

<sup>11</sup> <https://www.legislation.gov.uk/ukdsi/2015/9780111133439/contents>

<sup>12</sup> [http://www.legislation.gov.uk/uksi/2015/1646/pdfs/uksi\\_20151646\\_en.pdf](http://www.legislation.gov.uk/uksi/2015/1646/pdfs/uksi_20151646_en.pdf)

<sup>13</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/723773/How\\_to\\_Rent\\_Jul18.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/723773/How_to_Rent_Jul18.pdf)

<sup>14</sup> <http://www.legislation.gov.uk/ukpga/2016/22/contents/enacted>

<sup>15</sup> <https://services.parliament.uk/bills/2017-19/homesfitnessforhumanhabitation.html>

<sup>16</sup> <https://www.gov.uk/government/collections/tenant-fees-act>

<sup>17</sup> <https://www.theguardian.com/society/2017/oct/28/rogue-landlords-enjoy-an-easy-ride-as-councils-fail-to-prosecute>



figures, Newham Borough Council accounted for 331 landlord prosecutions during this time period.<sup>18</sup>

22. Southend-on-Sea Borough Council are aware of some of these existing powers, for instance the evidence base mentions that ‘new powers include the extension of Rent Repayment Orders, the ability to impose Civil Penalties up to £30,000, Banning Orders, the introduction of a data base for rogue landlords/property agents and the introduction of a tougher “fit and proper person” test for landlords’. We urge Southend-on-Sea Borough Council to make more effective use of these powers, because the national picture suggests that most Councils do not take advantage of the wide range of powers they already have. Moreover, Southend-on-Sea Borough Council make reference to ‘The Housing Act 2004 introduced the Housing Health and Safety Rating Scheme (HHSRS) which allows local authorities to inspect privately rented properties to ensure the condition of those properties do not have an adverse effect on the health, safety or welfare of tenants or visitors to those properties.’ Again, we welcome this awareness and believe that these existing enforcement powers are a more effective route to improvement in the PRS, rather than Selective Licensing.

### **Collaborative approaches**

23. ARLA Propertymark believes that instead of introducing further property licensing, Southend-on-Sea Borough Council should adopt a collaborative approach with letting agents, landlords and professional bodies to tackle issues within the private rented sector. Indeed, the consultation discusses the officers which are intended to work collaboratively with landlords and tenants. This approach recognises and rewards landlords and agents that already adhere to good practice and enables local authorities to better target their resources on effective intelligence-led enforcement. We believe that Southend-on-Sea Borough Council is open to working collaboratively as stated in the evidence base, ‘The Selective Licensing team will also work closely with partner agencies (including the policy and fire authority, community safety teams, community and voluntary services, and other housing providers) to ensure a joined approach to tackling and resolving neighbourhood specific issues.’ We think that such an approach could be effective on its own, without the need for Selective Licensing and would bring up standards, rather than adding extra costs to decent landlords.

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<sup>18</sup> Ibid

24. Homestamp<sup>19</sup> in the West Midlands is an example of a collaborative approach. The initiative combines local authorities, private rented sector bodies such as ARLA Propertymark, universities, Police and Fire services. Homestamp considers and responds to regional and national issues affecting the sector alongside providing information and training for landlords, addressing potential issues before they arise.
25. Up until March 2020, ARLA Propertymark was a co-regulation partner with Liverpool City Council.<sup>20</sup> The scheme allowed the Council to effectively target their resources and rewarded ARLA Propertymark agents already adhering to high standards. Landlords who opted to use our members received a discount on licensing fees. We were pleased that Liverpool specifically mentioned ARLA Propertymark and the positive contribution co-regulation has had on the sector. We agreed with Liverpool City Council's reasons for the collaboration with ARLA Propertymark: *'The rationale for the initiative was that co-regulated properties would generally require less active regulation by the Council, thereby reducing its investigation and enforcement costs'*. Furthermore, Liverpool City Council noted that: *'The achievements of the first scheme in addressing poor housing conditions and property management have helped to address the Council's wider strategic objectives of addressing low housing demand'*. To this end, we would invite Southend-on-Sea Borough Council to collaborate with us, and other bodies to deliver a similar approach to the previous Liverpool scheme, given that it can deliver results with less resources.
26. The London Rental Standard ran from 2014-17. ARLA Propertymark was appointed as one of the accrediting bodies to the scheme by the former London Mayor. The voluntary set of minimum rules separated out agents and landlords performing their duties to a high professional standard, allowing scarce local authority resources to be directed towards inadequate landlords and agents.

## Waste management

27. ARLA Propertymark has previously been part of LEDNET (London Environment Directors' Network) Group that worked with Resource London and other sector stakeholders to produce a tool kit of best practice for waste management in private rented property.<sup>21</sup> The

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<sup>19</sup> <https://homestamp.com/>

<sup>20</sup> <https://liverpool.gov.uk/business/landlord-licensing/liverpools-landlord-licensing-scheme/fees-discounts-and-exemptions/>

<sup>21</sup> <https://resourcelondon.org/resources/toolkits/guide-improving-waste-management-domestic-rented-sector/>

recommendations are backed up by case studies and good practice examples. A total of six sections are covered in the guide including: communications, collaboration, tenancy agreements, waste collection service provision and policies, licencing, and enforcement. As a result, we do not believe that licencing landlords will simply change tenant behaviour and improve waste and recycling rates in private rented property in Southend Southend-on-Sea.

28. Furthermore, Southend-on-Sea Borough Council should avoid attaching any waste management duties on landlords. Other Council consultation have stated that the licence holder must ensure that gardens, yards, and other external areas are cleared of rubbish, debris and accumulations and are cleared between tenancies. Here we have asked, what happens where the receptacles are located in communal areas (such as blocks of flats) which are outside of the landlord's ability to control? Would they be in breach of their licencing conditions without any ability to rectify the situation? We also think that should landlords comply with waste management responsibilities as a licence condition they would be in breach of the tenant's 'quiet enjoyment' and could also be criminally prosecuted for harassment. A landlord is not allowed to enter the curtilage of a rented property without the tenant's consent during a tenancy.
29. The evidence base states that 'Licencing will help to tackle environmental nuisance (such as noise, waste accumulations in yards and incidents of fly tipping in the streets and alleyways) as the proposed property inspections and contact with tenants will help to identify the source of problems and facilitate opportunities to provide tenants with advice about their responsibilities'. We agree that property inspections can help tenants to manage their waste, however we do not think that Selective Licencing is necessary to do this and is a wasteful administrative exercise. Instead, the council could identify high areas of problem spots and talk to tenants without the need of a license.
30. We do believe that Southend-on-Sea Borough Council should provide the landlord with the written information they wish the landlord to distribute to tenants rather than expecting the landlord to produce it themselves following advice. Communication and education are key to reducing waste and improving recycling.

### **Proposed area**

31. While we do not agree with Selective Licencing in any case, for the discussed reasons we do think that a narrower approach is preferable, rather than a city-wide approach. The

consultation proposes licensing mainly in Milton, Kursaal, Victoria and parts of Chalkwell, on the principle grounds relating to anti-social behaviour, poor property conditions, deprivation, and crime. It is estimated to account for 19.7% of the private rented market in Southend-on-Sea Borough Council, which is certainly preferable to licensing the whole area. In our experience Selective Licensing schemes have been over burdensome for local authorities due to the resources required to manage the scheme. To this end, we urge Southend-on-Sea Borough Council to take this into consideration and either reconsider the proposals in their entirety or keep the scheme as small as possible to prevent overstretch.

### **Enforcement in Southend-on-Sea Borough Council**

32. The evidence base states that ‘Where enforcement action is needed then this shall be carried out by the Council’s Private Sector Housing enforcement team and not the Selective Licensing officers.’ However, it does not state exactly how many officers will be employed, or how much it will cost. We think that in the interests of transparency the Council should have published these details in order for all parties to be able to make an informed assessment of the scheme.
  
33. The evidence base also states that ‘It is expected that compliant landlords will apply for the relevant licence shortly after the designation, *however if necessary*, the Council will introduce a proactive enforcement programme to identify unlicensed properties’. We think it is alarming that given the faith the Council places in Selective Licensing it will only enforce the scheme ‘if necessary’. This makes the scheme seem particularly weak because ultimately prosecutions are what change behaviour, taking improper houses off the market and sending a warning to other unscrupulous landlords. Unfortunately, no matter how good the intentions of the scheme, resources mean that there will never be many prosecutions, so decent landlords foot the bill for the license, while those in violation of the terms avoid detection, staying under the radar. Any scheme must have effective enforcement and significant numbers of officers to make the checks, otherwise it will not make any difference.

### **Fee Structure**

34. The Council state that the proposed licence fee has been worked out at £668.00 for each property, the fee will be payable in two parts. While the fee is not hugely excessive on its own, when taken in combination with the other costs landlords face, this is likely to place additional financial pressure on landlords. To this end, local Councils must recognise that the private rented sector has already been heavily impacted financially in recent years based on the

phasing out of tax relief on mortgage interest for landlords, the additional Stamp Duty Land Tax surcharge on buy-to-let property and the Tenant Fees Act 2019. However, the ongoing repercussions of the pandemic means that landlords costs have increased significantly, and many landlords can no longer make ends meet. Taken together these costs may become so restrictive that it may no longer be profitable for many landlords to continue to operate. Another implication is that the costs of the fee are likely to be passed onto tenants, through higher rents.

35. We think that there should be discount for letting agents who belong to an accredited body and in particular members of ARLA Propertymark. For instance, Propertymark launched in February 2017, combining five different associations into a single brand. The five associations (ARLA, NAEA, NAVA, ICBA and APIP) were dedicated to promoting the highest industry standards for over 50 years. Our members join and seek to become Propertymark Protected voluntarily to demonstrate transparency and ensure they are at the forefront of developments in the industry in accordance with our Conduct and Membership Rules.<sup>22</sup> We regulate individual members of Propertymark and companies which fall within the jurisdiction of the different divisions. Propertymark regulates a company (legal entity) when it has a PPD - Principal (sole trader), Partner (partnership or LLP) or Director (limited company) who is a member of a division and is active in a business area relevant to the member's work. There are eight main company obligations. Firstly, all members need to pay the levy to join our Client Money Protection scheme. Propertymark is one of the six government approved schemes for Client Money Protection. Secondly, members need to provide an Accountant's Report completed by a chartered/certified accountant or complete a client money 'Health Check'. Thirdly, members need to provide evidence that they have appropriate cover for Professional Indemnity Insurance. Fourthly, it is a requirement for all members to belong to a government-approved independent redress scheme. Fifthly, if applicable to a members' business Propertymark requires evidence that the company is registered with HMRC for Anti Money Laundering purposes. Sixthly, Propertymark require a company declaration form for each company (legal entity) that a PPD is legally responsible for. Seventhly, requirements to obtain members' Information Commissioner's Office (ICO) registration number as regulations require every organisation or sole trader who processes personal information to pay a fee to the ICO, unless exempt. Eighthly, PPDs are required to follow The Property Ombudsman's Chartered Trading Standards Institute (CTSI) approved Codes of Practice.

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<sup>22</sup> <https://www.propertymark.co.uk/working-in-the-industry/member-requirements/>

36. In addition to a discount for accreditation, if Southend-on-Sea Borough Council decide to go ahead with licensing then we believe that they should further support landlords and letting agents by providing a discount for properties which go above the legally required EPC rating levels, which are currently a minimum of EPC E.<sup>23</sup> The UK Government have recently consulted on Improving the Energy Efficiency of Privately Rented Homes,<sup>24</sup> but landlords have little access to funding outside of their own income in order to make high-cost energy efficiency improvements to their properties. Given the importance of helping combat climate change and the fact that Southend-on-Sea Borough Council has declared a Climate Change Emergency, the Council must support all sectors to combat climate change but also ensure everyone has access to warm and energy efficient homes.<sup>25</sup> To this end, Southend-on-Sea Borough Council should look to incentivise landlords and support them to improve the energy efficiency of their property.

#### **Southend-on-Sea Borough Council considered alternatives to Selective Licensing**

37. The consultation sets out several alternatives to licensing such as accreditation, enforcement of housing standards, management orders, private sector leasing schemes, and raising landlord awareness. The document concludes that 'The ultimate sanction is that the responsibility of managing a property can be removed from them (with a management order)', and therefore Selective Licensing is the preferred option. However, our assessment of Selective Licensing schemes across the UK is that they rarely improve conditions for tenants and instead decent landlords pay the fee, while rogue landlords continue to operate under the radar. We think alternative collaborative approaches have a much higher record of success and Southend-on-Sea Borough Council should investigate these approaches in more detail.

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<sup>23</sup> <https://www.gov.uk/guidance/domestic-private-rented-property-minimum-energy-efficiency-standard-landlord-guidance>

<sup>24</sup> <https://www.gov.uk/government/consultations/improving-the-energy-performance-of-privately-rented-homes>

<sup>25</sup> <https://democracy.southend.gov.uk/ieDecisionDetails.aspx?AllId=8652>

## Eastern Landlords Association response 27 November 2020 12:40

Dear Madam,

I am the Chairman of the Board of Directors for the Eastern Landlords Association. Our members are based throughout the UK, but particularly in East Anglia. I am writing to you to make representations on behalf of our members who will be affected by the proposed Selective Licensing Scheme in Southend. The scheme will also have an impact on tenants, owner-occupiers and house prices. Our overarching concerns about this proposal are listed below.

Due to the ongoing pandemic I request that you delay this consultation by several months. Inspections of properties will not be able to go ahead while the current Tier system is in place and as there is a 2 year back log on the issuing of licences for HMOs it appears that Southend Council currently lack the capacity to introduce any additional licensing; which incidentally, has been scrapped in other areas, e.g. Liverpool as it had no impact on anti-social behaviour, drug use etc.

On the behalf of the ELA I also propose that good landlords, those that are members of SEAL and the ELA are rewarded, not penalised, for their high standards and for being a member of an organisation that expects this of them. SEAL and Southend council have had a longstanding good working relationship and many of the “new” proposals are based on an agreement between the council and SEAL that already exists.

### Over-arching concerns about the proposed Selective Licensing in Southend:

- The Consultation document itself seems biased and has data inaccuracies
- **2011 Census data** has been used so that **the scheme does not have to go to Secretary of State, as it will be under the required 20% of housing stock**, which is highly misleading
- **No evidence** that negative behaviour is caused by ‘PRS Residents’ and not Owner Occupiers and Council & Social Housing Tenants
- HMO licensing has been very slow in operating in this area in the past two years (despite good Landlords paying their fees)
- HMO licensing is already in force (this does not affect HMOs)
- Council has enforcement powers but is not using them (**596 complaints of PRS properties in 2017-18 and just 12 improvement notices issued**)
- Anti-social behaviour is not a Landlords responsibility to tackle
  - Concern that Tenants will feel harassed by their landlords once SL imposed.
  - 24 hrs notice required before going to the property, tenants entitled to quiet enjoyment of their homes
- Section 21 is going. Evicting tenants is already difficult and will become more so
- Waste management will be difficult for Landlords to control. Tenants are adults and responsible for their own actions and behaviour.
- **There are streets and wards that have anti-social behaviour and waste problems that have not been included in the scheme, why?**
- **There are areas that do not have these problems, that have been included, why?**
- Landlords and Letting Agents had a very positive working relationship with the Council in previous years (as did SEAL), however, **there has been a changeover of council staff and Landlord Forums have not been held.**
- Original objectives will not be met
- Budget for taking enforcement action on rogue landlords who will not license their properties:  
‘Good’ landlords will end up paying/being responsible and ‘Bad’ landlords will continue to operate below the radar, Good landlords will be the ones paying for this scheme

- Social housing is not included in the licensing scheme
- Why are landlords paying for the administration of this scheme (why not out of council purse, Police budget, etc)
- Concern for Tenants: Landlords will start selling up, resulting in increased homelessness Rents will be raised (to cover cost of the licensing fee)
- **No named concrete evidence of where this scheme has been effective**
- **This scheme does not address owner occupied poor property conditions**
- All the issues identified in the Consultation Paper are not as a result of poor housing, e.g. an unhealthy lifestyle due to lack of healthy diet/exercise. Tenants are adults are make their own life choices.
- **Owner occupiers property values will decrease. Purchasers prefer to not buy in the SL areas. Some mortgage lenders, (residential and Buy To Let), prefer not to lend in SL areas.**

The ELA will work closely with its members in Southend and all others who will be affected by this scheme to support and assist them in every way possible.

I look forward to your response.

Your sincerely,

***Charles Clarke***

**Chairman of the Board of Directors  
Eastern Landlords Association**

***Angie Gill***

**Office Manager  
Eastern Landlords Association**







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Company No. 09371007

Date: 18 December 2020

## **Response from The Home Safe Scheme Ltd to the proposal by Southend-on-Sea Borough Council to introduce Selective Licensing**

We wholeheartedly support the proposals by Southend-on-Sea Borough Council to introduce a new Selective Licensing Scheme and would formally like to express our interest in being your delivery partner. I have detailed below some background information about Home Safe and the delivery partner approach to Selective Licensing that we have developed. This also includes some details specific to this proposal, which we would appreciate the opportunity to meet and discuss.

I would also like to draw your attention to the 2019 MHCLG Independent Review of the Use and Effectiveness of Selective Licensing. Sections 8.15-8.16 refer to The Home Safe Scheme (but not in name) and give a positive mention with a recommendation to consider using at the planning stage and although not 100% accurate in their understanding they do get the general concept.

<https://www.gov.uk/government/publications/selective-licensing-review>

Please also find attached an independent review commissioned by Liverpool City Council which speaks positively about Home Safe and this approach (easiest way to find is to do a search for 'Home Safe' - the bullet points on page 8 and the third bullet point on page 21 are worth noting).

### **1. Introduction and background**

- 1.1 The Home Safe Scheme Limited (Home Safe), with professional knowledge of the private rented sector and landlord culture particularly, works in partnership with Local Authorities to deliver the objectives of Selective and Additional Licensing – raising standards and changing landlord behaviour, in a way that Local Authorities alone have traditionally found difficult to do.
- 1.2 We are the originators of this approach, developing the concept with Doncaster Metropolitan Borough Council through 2014 and are currently working in partnership with 3 Local Authorities on 4 schemes covering designations in Doncaster Borough (1 Selective and 1 Additional), West Lindsey District (1 Selective) and Great Yarmouth Borough (1 Selective).
- 1.3 The Home Safe concept was developed to provide licensing support enabling Local Authorities to maximise the outcomes of any licensing scheme whilst providing both benefits and support to their landlord community, particularly in areas subject to Selective and

Additional Licensing. Our Directors have both public sector Local Authority and private sector landlord experience, including former representatives of the National Landlords Association.

- 1.4 We provide support and development to engaging landlords whilst working with the licensing and enforcing Local Authorities who can focus their efforts on non-engaging and non-compliant landlords. Working in partnership with Local Authorities and private landlords to raise standards in the private rented sector, improving communities, improving tenant experience, saving tax-payers money and protecting private investment.
- 1.5 We are happy to attend an interview and deliver a presentation on this approach along with answering any questions.

## **2. What it's not!!**

- 2.1 This approach is not an alternative to licensing and does not replace or dilute Local Authority powers who remain as the licensing and enforcing authority throughout just as they would if licensing in the traditional way.

## **3. How it works**

- 3.1 Upon designation landlords can either apply for a licence direct with the Local Authority or from the Local Authority once they have joined the Home Safe scheme. If a Local Authority is using a delivery partner, we believe it makes sense to encourage landlords to use that vehicle otherwise the perception could be that there are two schemes in operation which could lead to confusion.
- 3.2 If landlords choose this route, they will need to set up a Direct Debit and pay a monthly membership subscription with the intention that over 5 years they will pay little or no more by following this route (one-off up-front payments have been requested in other Local Authority areas and will be considered). As part of their application to join, landlords will need to submit the certificates and self-declarations to Home Safe as they would if applying for a licence direct with the Local Authority (all agreed with the Local Authority). If acceptable Home Safe will confirm to the Local Authority who can complete the process in terms of any further checks they want to conduct before issuing the licence at a discounted rate as the time taken for them to process this way is less. Home Safe will also collect the licence fee on behalf of the Council and forward on monthly (or an agreed frequency other than monthly).
- 3.3 All Managing Agents nominated by scheme member landlords to manage properties in the scheme area will need to provide evidence of their Fit & Proper Person status and that they are members of an approved Redress Scheme.
- 3.4 Once a member of the scheme, and in receipt of their Local Authority issued licence, any issues regarding the property, landlord or tenant, are referred to Home Safe (notwithstanding the Local Authority could enforce immediately if it so chooses). Home Safe will work with the licence-holder, their member, to resolve the issue whilst compiling the evidence should it result in Local Authority legal action. This will take no longer in time than if the Local Authority were to resolve and all timescales are agreed at the outset and enshrined in a contract between the Local Authority and Home Safe. This leaves the Local Authority free to focus on the more non-engaging, non-compliant part of the sector where enforcement action can be more efficiently focused and more effective.

- 3.5 Membership Terms and Conditions are clearly laid out to members, along with a code of practice, maintenance mandate and local charters to deal with specific problems such as ASB, waste, overcrowding, etc., (please see the Home Safe website at [www.thehomesafescheme.org.uk](http://www.thehomesafescheme.org.uk)).
- 3.6 Home Safe then offers support and development for licence holders to compliment the more robust legislative approach taken by our Local Authority partners. Where necessary we will work with Local Authorities to provide the evidence required for enforcement action.
- 3.7 If at any time, for whatever reason (such as cancelling their Direct Debit or in breach of their membership T&Cs) licence-holders cease to be members of the Home Safe scheme the licence they obtained through that membership lapses (other than where they have sold the licensed property) and they must re-apply directly to the Council for a licence to be able to continue to legally rent out their property or properties. We recommend this is included in the licence conditions for the avoidance of doubt.
- 3.8 Home Safe will conduct an agreed number of property inspections for the duration of the designation by deploying our team of trained HHSRS inspectors to inspect all scheme properties. We are committed to using local inspectors where they are available. Inspection reports are emailed to scheme members upon completion of the inspection. Any issues raised are graded with a high, medium or low priority (consistent with HHSRS) and the membership maintenance mandate gives strict timescales to respond to these follow-up actions all of which are agreed with the Local Authority.
- 3.9 The follow-up actions are managed by Home Safe who currently work to the following timescales:  
 High Priority issues – submit an agreed plan of action within 3 days.  
 Medium Priority issues – submit an agreed plan of action within 10 days.  
 Low Priority issues – submit an agreed plan of action within 20 days.
- 3.10 An agreed plan of action is confirmation, within the above timescales, that the licence-holder/scheme member will rectify the defects raised using competent tradespeople within an immediate or reasonable timescale agreed with Home Safe.
- 3.11 Once agreed, the plan of action will be managed further by Home Safe with the licence-holder/scheme member required to ‘confirm’ satisfactory closure of Medium Priority issues whilst providing ‘evidence’ of satisfactory closure of High Priority issues.
- 3.12 In the event that a member becomes in breach of their Terms and Conditions, then a breach rectification process will be activated. An example of a breach could be a member failing to provide Home Safe access to the property to conduct an inspection, failing to provide a Plan of Action (POA) following an inspection, in either 3, 10 or 20 days (depending whether High, Medium or Low priority), Home Safe not receiving confirmation and, where applicable, evidence of the POA being completed on or before the agreed date, or for a member cancelling a Direct Debit.
- 3.13 Once a member is deemed to be in breach of their T&Cs a breach management administration fee of £25 plus vat will be added to the members account, to be collected at the end of the following calendar month and this fee will continue to be charged on a monthly basis until the matter is resolved, in order to cover the additional administration costs of managing the breach. This also serves as an effective deterrent to a member being in breach, or staying in breach, but the fee is not collected until the end of the

following month from the breach occurring giving plenty of time to resolve. All matters in breach are shared with the Local Authority who can simply monitor the situation, advise Home Safe of their preferred course of action or step in and take enforcement action.

- 3.14 Action by the Local Authority may lead to the member losing their fit and proper person status and could consequently lead to the termination of their membership with Home Safe and therefore an application for a new licence will need to be made directly to the Local Authority. At any point, if the member contacts Home Safe and advises that the issue is resolved and any required evidence is provided, then any future dated breach management administration fees will be cancelled immediately and the breach process will come to an end. It is therefore in the members best interest to avoid a breach situation occurring, or, if it does, to resolve it swiftly.
- 3.15 The first 18 months to 2 years of a designation concentrates on issuing licences and bringing properties up to an acceptable standard thus encouraging better property management. Thereafter, whilst inspections continue, the focus can move to making a real and lasting difference in communities by delivering local charters to address the worst problems, such as ASB, waste management or tenancy management and sustainment. These charters are also agreed with the Local Authority to address their specific issues.
- 3.16 A contract between the Local Authority and Home Safe is put in place from the outset with key performance indicators to ensure the scheme objectives are met if not exceeded. As with any contract, where there are reasonable grounds, the Local Authority can terminate this and revert to the traditional form of Selective Licensing.
- 3.17 Home Safe can report, at any time, on the number of High, Medium and Low priority issues found during an inspection programme, how many inspections have been conducted, how many have a failed access issue, how many issues have been resolved and the time taken to do so.
- 3.18 Home Safe has an IT facility in place, a cloud-based project management platform, shared with the Local Authority whereby relevant officers can escalate issues direct to our team, simply, efficiently and with an audit trail, if the property in question is registered with Home Safe. This also works well for the member landlord as the team can liaise quickly with them, point out the potential licensing breach and then guide them towards a plan of action to resolve the issue that has been raised by the Local Authority.
- 3.19 The flow-charts at appendix 1 explains the process for joining and at appendix 2 for dealing with serious property hazards.

#### **4. Costs**

- 4.1 There is no cost for Local Authorities to Home Safe for using this delivery partner service.
- 4.2 As the Local Authority are still the Licensing (and Enforcing) Authority landlords have a choice of whether they apply for a licence direct to the Local Authority, as with traditional schemes, or whether to first join Home Safe and apply for their (Local Authority issued) licence through Home Safe. However, as stated previously, if using a delivery partner, we believe it makes sense to encourage landlords to use that vehicle otherwise the perception could be that there are two schemes in operation which could lead to confusion.

- 4.3 Local Authorities have different objectives that will require different levels of Home Safe resource, for example on the number of inspections they want or how we manage follow-up actions from inspections, but we are committed to providing a service that closely matches the Local Authority licence fee for landlords.
- 4.4 The legislation only permits Local Authorities to charge a licence fee commensurate to the costs of running the scheme and not to make a profit. This fee is made up of processing the application, producing and issuing the licence and thereafter monitoring and managing compliance. If Home Safe processes the application and thereafter monitors and manages compliance then the Local Authority licence fee is justifiably lower than a licence direct with the Local Authority. Home Safe's monthly subscription fee covers our role in processing the application and thereafter monitoring and managing compliance. Home Safe and the Local Authority need to understand and agree the respective fee structures which will be similar to each other in total and we note the proposed licence fee in your consultation document is £668.00 in total for each licence.
- 4.5 A major benefit to landlords, in respect of costs, of joining Home Safe is that we will accept monthly subscriptions over the licence period thus spreading costs and helping with their cashflow. Local Authorities, justifiably, have traditionally charged a one-off up-front licence fee, which the legislation permits.

## 5. Where it works and headline statistics

- 5.1 Home Safe developed this concept and worked with Doncaster MBC on their first-ever Selective Licensing scheme, in Hexthorpe, with 237 members and 416 properties. The scheme came into force on 1<sup>st</sup> July 2015 and expired on 30<sup>th</sup> June 2020. Doncaster MBC published a year 1 review which reported that after the first 12 months of the scheme noise complaints reduced by 35%, nuisance complaints by 44%, housing complaints by 25% as well as a 20% reduction in reports of unkempt properties. There is a link that will open the report on the Council's web page at <http://www.doncaster.gov.uk/services/business-investment/selective-licensing-and-section-3>, on page 9 details the 'Added Value from the Home Safe Approach to Selective Licensing'.
- 5.2 Indeed, the MP for Hexthorpe, the Rt Hon Dame Rosie Winterton DBE, mentioned this scheme in a House of Commons debate on 28<sup>th</sup> November 2016 when she said "Is the Secretary of State aware that, as part of the neighbourhood plan for Hexthorpe in my constituency, a Selective Licensing system was introduced for private landlords, which reduced all types of antisocial behaviour by between 20% and 45%?"
- 5.3 Unfortunately, due to staff turnover, by the end of the scheme all those involved at the outset had been replaced and the understanding of the concept and how it should work was lost. A key lesson here is that the Local Authority must continue to work with the delivery partner and as such Home Safe now has a dedicated local Scheme Manager for each designated scheme to act as the liaison with the Local Authority.
- 5.4 Overall however the scheme was judged to be a success and the area improved as a result but we feel the improvements could have been greater and a lot of lessons have been learnt from this first scheme.
- 5.5 Doncaster Council are currently consulting on a follow-up scheme in the same area, to commence mid-2021, and have asked Home Safe to submit a response to the consultation on how they can provide the delivery partner service for the proposed follow-up scheme. Doncaster Council have stated they want the focus this time to be on ASB and waste

management, less on property condition, so we are developing processes and initiatives to address these different challenges.

- 5.6 In February 2018 Doncaster MBC designated their second scheme, in the area of Edlington, again using Home Safe as their delivery partner. To date there are 94 members and 156 properties and Home Safe continues to be the Council's delivery partner.
- 5.7 Doncaster MBC have also designated an Additional Licensing scheme, coming into force on 1<sup>st</sup> October 2018, and again using the services of Home Safe as their delivery partner.
- 5.8 Home Safe are also working with West Lindsey District Council in the delivery of their Selective Licensing scheme in Gainsborough, which expires on 18<sup>th</sup> July 2021, currently with 297 members and 541 properties.
- 5.9 On 7<sup>th</sup> January 2019, Great Yarmouth Borough Council's Selective Licensing scheme came into force using Home Safe as their delivery partner for a scheme with an estimated 1,630 properties. Prior to the Covid-19 pandemic interrupting activity 1,060 inspections had been completed raising a total of 2,009 High Priority issues (4,123 issues in total). 1,251 High Priority issues have been resolved and the average time taken to close a report was 46 days. 3 inspections in the 5-year period have been agreed and it is anticipated, as we have seen in other areas, that fewer High Priority issues will be found on the subsequent inspections but different issues will be found suggesting that ongoing effective property management is an issue to be addressed.
- 5.10 By this time Home Safe have refined their operation and use of IT, particularly for monitoring works arising from inspections. The whole operation is evolving but the importance of Local Authorities being prepared to take enforcement action at the appropriate time has never diminished, indeed, it is fundamental to this approach.
- 5.11 From 1<sup>st</sup> November 2018 GYBC are also using Home Safe as their mandatory HMO application service partner where we will process all new and renewal applications and forward completed applications and fees collected so they can issue the mandatory HMO licences. This is purely an application-only service however, unlike the Selective Licensing service which includes all the on-going support and development opportunities and property inspections.
- 5.12 The B&Q TradePoint Card is available as a membership benefit to all Home Safe members. During the 5-year Hexthorpe designation the B&Q spend in their Doncaster store amounted to an average spend of £1,125 per property licensed to a Home Safe Member. This is notwithstanding some spend will have been for personal use but a list of all store areas where Home Safe members are using their card shows the 3 designated areas are by far the highest spending stores. The 2019 year-end total Doncaster spend by Home Safe members was £88,000, Gainsborough/Lincoln £30,000 and Great Yarmouth £22,000 (where inspections did not begin until September 2019).

## **6. Procurement of delivery partners**

- 6.1 Every scheme we have been involved in, indeed every Local Authority we have spoken to, has mentioned the issue of procurement. Doncaster and West Lindsey District Council took the view that this is precisely why you consult – to learn about best practice and new innovative approaches. Furthermore, they held the view that there was no need to conduct a time-consuming procurement exercise as:

- The Council wasn't paying anything for the service.
- They were reasonably confident there was no market to test.
- They left it open for any other such provider to submit an expression of interest with strict criteria of what was needed to ensure they were getting genuine responses (to date there have been no other responses submitted to any Local Authority). The criteria used by DMBC, WLDC and GYBC is shown at appendix 3.

6.2 West Lindsey District Council went even further and advertised on their web site that they preferred that all landlords become members of Home Safe to obtain their licence. Great Yarmouth Borough Council went further still and actually consulted on landlords becoming members of Home Safe to obtain their licences as they were aware of this approach before the consultation began and shaped their consultation around this.

6.3 In the designation report following the consultation, dated 13<sup>th</sup> September 2018, they wrote "The RLA objection to only having one Delivery Partner, though this is the basis on which the vast majority of contracts are awarded by any organisation, ensuring best value, service, consistency and avoiding confusion for all parties, as happens where there are multiple contractors. The assertion that there is no competition to be the Delivery Partner is incorrect as page 13 of the consultation document states: "The contract will be awarded as a 'Concession', rather than through procurement, as the Delivery Partner will not be paid anything by the Council. Great Yarmouth Borough Council welcomes any competent party with an interest in being the Service Delivery Partner to submit an application for the Concession."

6.4 They also wrote "The Council understands that stakeholders may have concerns that working with a Delivery Partner could be a privatisation of services, and at a considerable increased cost, due to a profit-making motive. However, this is not an existing Service, and so it has not been privatised, nor jobs moved to the private sector. Equally, where Delivery Partners have worked within schemes, they have not been vast organisations profiteering off of the Public Sector, rather a smaller organisation, with a social conscience, with limited profits."

## 7. Summary

7.1 Finally, by way of summary, I would like to point out the benefits of adopting this approach and, as mentioned earlier, would appreciate the opportunity to meet and discuss further if you have any questions or just require further clarifications.

### 7.2 Filtering

This partnership approach will provide a genuine opportunity to support and develop designated parts of the private rented sector whilst enabling the use of legislative powers and resources more efficiently and effectively. This would be in a more targeted manner allowing a focus of resources directly against the willingly bad, un-cooperative and non-complying landlords who will all have had a chance to change.

### 7.3 Local Authority costs

The revenues received from effective and efficient enforcement action (due to Home Safe being a filter) will ensure the scheme does not run at a loss and be a burden to the local taxpayer. There is no cost from the Local Authority to Home Safe.

### 7.4 Landlord costs

Landlords will get the opportunity to pay monthly instalments, as opposed to a one-off up-front cost, and obtain a licence from the Local Authority at a reduced cost due to the time taken for them to process the licence being less. Landlords should be required to acquire

their licence through the delivery partner and by doing so will become members of the delivery partner.

#### 7.5 **Local Authority retention of powers**

It is important to remember that the Local Authority powers are not diluted in any way and they remain the licensing and enforcing authority but, in this way, are able to offer support and development, through Home Safe, to those landlords that request it.

#### 7.6 **Accountability and Scrutiny of Home Safe as Delivery Partner**

The relationship between the Local Authority and Home Safe needs to be a contractual one including key performance indicators and the need for Home Safe to periodically attend Local Authority management meetings, such as Overview and Scrutiny, to provide updates, report progress and be open to scrutiny.

#### 7.7 **Legislation compliance**

As Great Yarmouth Borough Council noted in their report approving the use of a Delivery Partner . . . . The Housing Act 2004, section 80 (3) (b) requires Local Authorities to consider "that making a designation will, when combined with other measures taken in the area by the local housing authority, or by other persons together with the local housing authority, contribute to the improvement of the social or economic conditions in the area." The proposed approach is Selective Licensing combined with other measures taken, e.g. the Delivery Partner approach with 'other persons', and we consider that this will be partnership working at its best.

#### 7.8 **MHCLG observations regarding a Delivery Partner approach (An Independent Review of the Use and Effectiveness of Selective Licensing, 2019)**

In respect of licence applications received through the Delivery Partner . . . . "the burden on the authority administrative team is reduced since they no longer have to deal with incomplete or incorrect applications".

In respect of property inspections . . . . "The partner agency then carries out inspections, typically conducting 3 separate inspections of each property over the five-year period. Where problems are noted, revisits occur, and the authority becomes involved only when there is a failure to correct the issue. After each inspection an electronic report is generated with a summary page of recommendations, and photographic evidence of corrections made by the landlord can be submitted electronically where appropriate. The benefits of such a scheme is that it keeps costs down, reduces administrative burdens, and ensures that inspections are continually progressing" . . . . and . . . . "authorities using a delivery partner consistently report positive outcomes, so it may be worth consideration by an authority at the planning stage".

MEL Research, who conducted the Council's consultation, also spoke positively about the Delivery Partner approach, in their 2019 review of selective licensing for Liverpool City Council.

#### 7.9 **Local presence**

We firmly believe in having a strong local presence wherever we are working to not only create local employment, through inspectors and a Scheme Manager, but also because it makes sound operational sense to be present in those areas. This is of course subject to availability of the right people at the right time.



#### 7.10 **Increased local spend in B&Q and other building suppliers**

The B&Q TradePoint Card is available as a membership benefit to all Home Safe members. During the 5-year Doncaster designation the B&Q spend in their Doncaster store amounted to an average spend of £1,125 per property licensed to a Home Safe Member. This is notwithstanding some spend will have been for personal use but a list of all store areas where Home Safe members are using their card shows the 3 designated areas are by far the highest spending stores. The 2019 year-end total Doncaster spend by Home Safe members was £88,000, Gainsborough/Lincoln £30,000 and Great Yarmouth £22,000 (where inspections did not begin until September 2019).

#### 7.11 **Council reputation**

The last scheme Southend-on-Sea Borough Council consulted upon resulted in the self-regulation approach offered by SEAL. This did not prove successful and the Council needs to be careful to avoid a similar mistake this time. It would also be commonplace for there to be little confidence in the PRS that the Council has the understanding of the PRS or the resources to run a scheme with the same credibility that Home Safe will, particularly on the amount and frequency of property inspections – for all properties (subject to access – for which Home Safe has a process culminating in the member being in breach for failed access). For example, the scheme in Great Yarmouth using Home Safe, has 3 inspections in the 5-year designation.

Kind Regards,

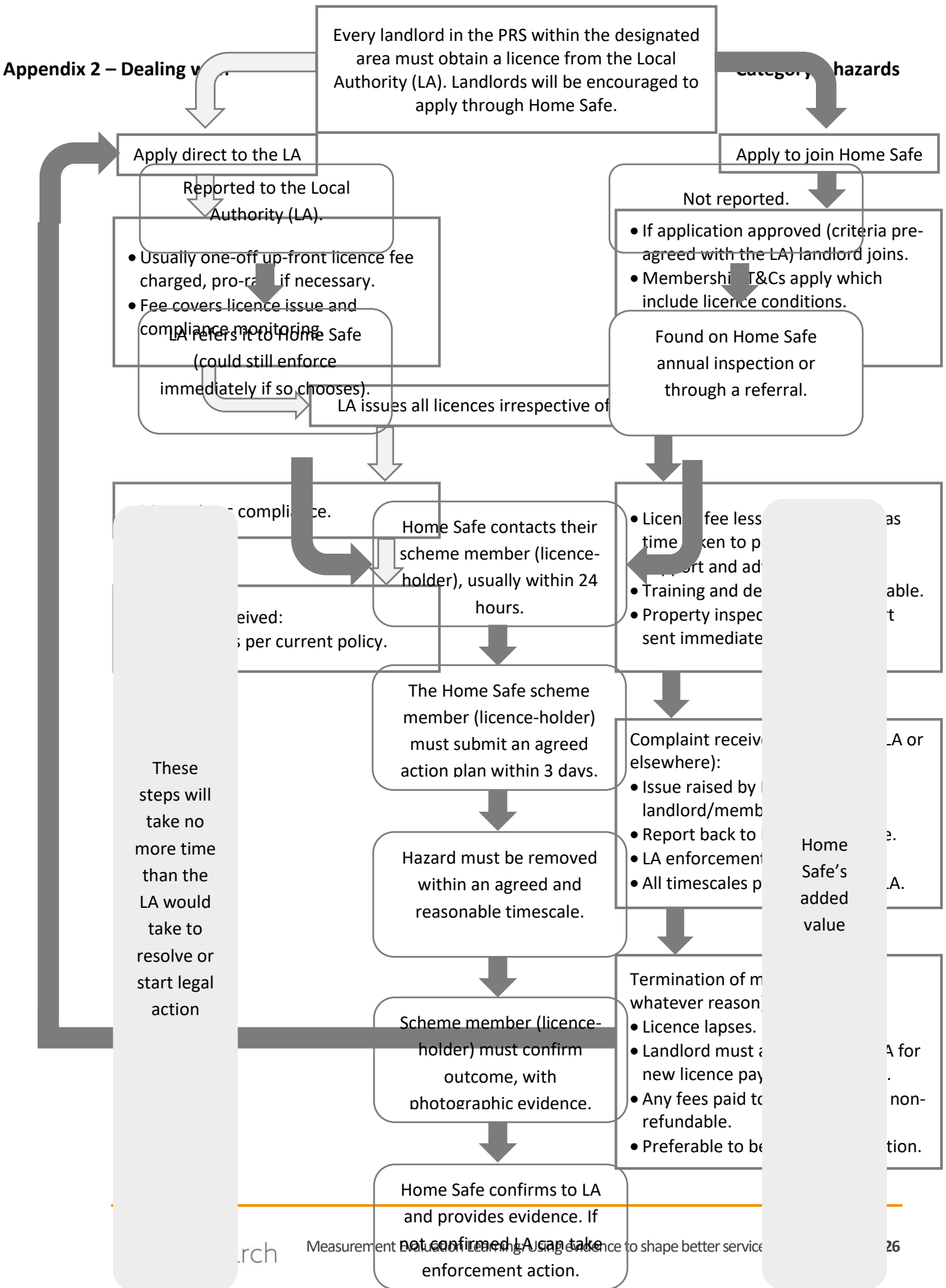


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## Appendix 1 – Licence process and issue



### Appendix 3 – Delivery Partner criteria

Any company wishing to be a Delivery Partner will need to apply to the Council’s Regulation and Enforcement Team (or equivalent).

The application will need to satisfy the following criteria:

- Submit application pack stating suitability and proposals for approval and inspection-based compliance monitoring of scheme members.
- Provide details of all persons that are proposed to work on the scheme.
- Provide details of any privately rented property interests (ownership and management) within the designated area of all persons proposed to be working on the scheme, including that of immediate family members.
- Min. 2-year proven track record in property management within the Private Rented Sector as these proposals relate only to the PRS.
- Minimum 2-year proven track record in the delivery of similar schemes with other Local Authorities.
- Provide details of arrangements for Data Protection and obtaining a Data protection licence.
- Demonstrate resource levels to support the scheme.
- Deliverable online with a support mechanism for scheme members and Local Authority.
- Demonstrate ability to meet required workflow set by the Council’s Regulation and Enforcement Teams.
- Ability to deliver supporting information in a multi lingual format as required.
- Evidence of suitable insurance to indemnify the Council.
- Completion of Declaration of Interest form (Council template).
- Provide at least 2 professional business references.
- Sign a Delivery Contract with the Council.

On receipt of the application the following initial checks will be made:

- DBS check (highest level as may involve working with vulnerable people) for all working on the scheme.
- Fit and Proper Person Check for all working on the scheme which would include; finance check/company history, Enforcement history (Council against the applicant), Potentially Violent Persons (or equivalent) register check, Housing Benefit/Council Tax fraud check, etc.
- If appropriate a company viability check.
- Due diligence check.
- Attendance for interview.
- Confirmation that the Delivery Partner will not be approving themselves as a licence holder.

The above vetting process needs to confirm suitability, in terms of sector knowledge, experience, skills and attitude and that the scheme objectives can be met. Any applicant successfully completing the above steps would be invited to attend an interview. The interview will require the applicant to present how they will ensure the aims and objectives of Selective Licensing will be met. This must be inspection based with at least annual inspections (or otherwise agreed with the Local Authority).

Upon completion of the above application the Head of Service for Regulation and Enforcement and portfolio holder for Enforcement (or equivalents) will authorise and confirm the decision. Once a delivery partner has been approved, they will need to sign a Delivery Contract with the Local Authority. To ensure a consistent approach to delivery, whilst maintaining standards, only one delivery partner per designation will be chosen.

## National Residential Landlords Association response January 2021

### Introduction

The National Residential Landlords Association (NRLA) exists to protect and promote the interests of private residential landlords.

The NRLA would like to thank Southend Council for the opportunity to respond to the consultation. We are happy to discuss any comments that we have made and develop any of the issues with the local authority.

The NRLA seek a fair legislative and regulatory environment for the private rented sector, while aiming to ensure that landlords are aware of their statutory rights and responsibilities.

### Summary

The NRLA believes that local authorities need a healthy private rented sector to compliment the other housing in an area. This provides a variety of housing types and can be flexible around meeting the needs of both the residents that live and want to live in the area and the landlords in the area.

The sector is regulated, and enforcement is an important part of maintaining the sector from criminals who exploit landlords and tenants. An active enforcement policy that supports good landlords is important as it will remove those that exploit others, and create a level playing field. It is only through an effective enforcement policy that a licensing scheme will be successful.

If a scheme that is proposed were to go ahead, it is important if the council could publish the full results, annually. The number of landlords prosecuted; enforcement notices served etc per year against the inspections would give confidence to the sector that the council is taking this seriously.

It is important to understand how the sector operates as landlords who are often victims of criminal activity with their properties being exploited.

Having considered the evidence presented, as well knowing the area very well and having undertaken our own evaluation of the circumstances faced by landlords, tenants and residents of Southend, a number of questions are raised:

- In following Hemmings and the Gaskin court cases, the fee is split which we welcome, and is assigned to the individual who makes the application. It cannot be used to support another landlord. Having worked on the Gaskin case, it is clear that the monies paid by a landlord clearly now coming under the service directive. Can the council guarantee part B monies paid by a landlord are apportioned to the individual landlord and works done in connection to the license?
- The documentation provided fails to indicate what additional funding will be available to support the introduction of licensing. This is a concern around issues identified and how adult social care and children's services will be involved as many tenants have mental health, alcohol, or drug related illnesses. How do landlords' access this for their tenants especially around ASB?
- The council fails to say how it will prevent malicious claims of poor housing being made, which could result in tenants losing their tenancies. More than one inspection will be required. This will be especially true with mixed communities living in the area.
- The council should outline how the proposal will tackle rent-to-rent and subletting, or even Airbnb. These are all increasing in the county. Support for landlords is required, and we

would hope the council will support the private rented sector where problems arise.

Clarification on these points will create confidence in any scheme that is delivered, along with the set aims by the local authority.

The NRLA will judge the scheme against the criteria that the council is proposing the scheme, a drop in ASB. We are not opposing the schemes nor are we supporting it either, as we need to understand how the local authority is going to deliver against what it is proposing.

We believe that any regulation of the private rented sector must be balanced. Additional regulatory burdens should focus on increasing the professionalism of landlords, improving the quality of private rented stock and driving out the criminals who act as landlords and blight the sector. These should be the shared objectives of all the parties involved, to facilitate the best possible outcomes for landlords and tenants alike. Good practice should be recognised and encouraged, in addition to the required focus on enforcement activity.

The landlord is to manage the tenancy not the occupants. The law is clear, landlords do not manage their tenants; they manage a tenancy agreement. If a tenant is non cooperative or causing a nuisance a landlord can end the tenancy, they do not manage the individual. I hope the council will make it clear in the report that they will support the landlord in the ending of the tenancy and support an eviction if an allegation of ASB is made, especially under the Renters Reform Bill proposals.

## Consultation

Licensing is a powerful tool. If used correctly by Southend Council, it could resolve specific issues, as has been demonstrated. We have historically supported/worked with many local authorities in the introduction of licensing schemes (additional and selective) that benefit landlords, tenants and the community.

Many of our members are disappointed that the council has decided to run the consultation for the minimum period during a global pandemic. Although we welcome the use of MEL Research which shows the local authority is following a process that is open and transparent.

## Costs

While any additional costs levied on the private rented sector runs the risk of these being passed through to the tenants. We welcome the local authority has looked at a cost in a weekly/monthly basis, with a delivery partner. This is supportive of landlords and will help with the cash flow of many members. The introduction of licensing post Covid 19 will have an impact on cash flow for many landlords, and tenants, monthly payments will help in this.

A joined-up coordinated approach within the council will be required. Additional costs in relation to adult social care along with children's services and housing will be incurred if the council's goal is to be achieved. How will landlords feed into the system if they suspect a tenant is at risk? What support will be put in place so a landlord can support a tenancy where a tenant has mental health, alcohol, drug issues or they have problems and need support. The NRLA works with many local authorities on this. The NRLA would be keen to work with Southend council in the development of best practice that works in other local authorities e.g. Leeds, Brighton.

## Criminal Activity

In addition, the proposal does not take into account 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, as you are removing inspections which were successful. This is especially true with properties that have been converted into small HMO's, the landlord does rent the property as an HMO, but it is sublet illegally as an HMO. The license holder can end the tenancy (of the superior tenant, the sub tenants have no legal redress) and support from the local authority in a criminal prosecution would be helpful in this situation. But what is the process for landlords, it would help if the council could document how this would work before a scheme was implemented. 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, when the local authority identifies ASB?

The issue of overcrowding is difficult 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 take place, the people involved know what they are doing and that they are criminals, not landlords. The decision to have three inspections will deter some criminals and the delivery of this will show the council is taking the matters seriously.

## Tenant behaviour

Landlords are usually not experienced in the management of the behaviour of tenants, and they do not expect to. The contractual arrangement is over the renting of a property, not a social contract. They do not and should not resolve tenants' mental health issues or drug and alcohol dependency. If there are allegations about a tenant causing problems (e.g., nuisance) and a landlord ends the tenancy, the landlord will have dispatched their obligations under the selective licensing scheme, even if the tenant has any of the above issues.

This moves the problems around Southend, but does not actually help the tenant, who could become lost in the system, or worst moved towards the criminal landlords. They will also blight another resident's life. There is no obligation within selective licensing for the landlord to resolve an allegation of behaviour. Rather, a landlord has a tenancy agreement with a tenant, and this is the only thing that the landlord can legally enforce.

We would like clarification on the council's policy in relation to helping a landlord when a section 21 notice (Renters Reform Bill was proposed in the Queens speech) is served? If the property is overcrowded or the tenant is causing antisocial behaviour, as per what the council says in the consultation. What steps will the council take to support the landlord? It would be useful if the council were to put in place a guidance document before the introduction of the scheme, to outline its position regarding helping landlords to remove tenants who are manifesting antisocial behaviour. This could then be given to tenants at the start of a tenancy so they are aware of the process. We are willing to work with Southend council in the development of this.

## Energy

The government have consulted on moving the energy performance of buildings to an EPC C from 2025, this will be a significant step in a short space of time. This will have a large impact on the housing sector, with many struggling to get to this point. We would like to see a strategy from the council building on selective licensing approach to energy efficiency such as in Great Yarmouth. The inspections should also take into account the energy performance of the buildings and look to use LAD funding to deliver community improvements.

## Changes to section 21

We also have concerns over how a scheme will interact with the current government consultation on Section 21, the Renters Reform Bill. The change to how tenancies will end and a move to a more adversarial system, will mean landlords will become more risk adverse to take tenants that do not have a perfect reference and history. As already indicated, we would be willing to work with the council and develop a dispute resolution service which we have with other local authorities.

### Tenancy Management

We would also like to see the council develop a strategy that includes action against any tenants who are persistent offenders. These measures represent a targeted approach to specific issues, rather than a blanket licensing scheme that would adversely affect all professional landlords and tenants alike, while leaving criminals able to operate covertly. Many of the problems are caused by mental health or drink and drug issues. Landlords cannot resolve these issues and will require additional resources from the council, these should be outlined before a scheme starts and how a landlord can access them.

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 putting waste out on the street for the council to collect. This is in hope of getting their deposit back, this is made worse when the council does not allow landlords access to municipal waste collection points. Local authorities with a large number of private rented sector properties need to consider a strategy for the collection of excess waste at the end of tenancies. We would be willing to work with the council to help develop such a strategy. An example is the Leeds Rental Standard, which works with landlords and landlord associations to resolve issues while staying in the framework of a local authority.

### Current law

The findings from the Gaskin case, shows that just as part A of a license is person specific so is part B. Equally you cannot use the income for cross support, but it has to be focused on the individual who has paid it. Thus, clarity from the council on how the money is going to be spent where, would give confidence to landlords that the council is supporting landlords in tackling anti-social behaviour. The use of delivery partner would support this clarity.

With a landlord currently has to comply with over 130 pieces of legislation, and the laws with which the private rented sector must comply can be easily misunderstood. A landlord is expected to give the tenant a 'quiet enjoyment' of the property. Failure to do so could result in a harassment case being brought against the landlord. The law within which landlords must operate is not always fully compatible with the aims of the council. For example, a landlord keeping a video record of a tenant could be interpreted as harassment.

## **Property and Commercial Enterprises (PACE) Ltd response Mon 23/11/2020 11:40**

Hello

Martin is currently on furlough and we do not have the resources at the moment to participate in this. Please tell the council that letting agents and landlords have got quite enough of their plate with the pandemic, the cladding scandal, evictions being banned and the other changes to electrical safety and energy performance that have all happened in one year. How they expect us to devote time to this, and landlords to spend even more money, I cannot get my head round.

We are seeing a continuing mass exodus of private landlords due to the unceasing increasing burden in regulation and costs. I hope the council have a plan for that. Perhaps they could pick on another industry for a while and give landlords and agents a chance to recover.

**Crystal Horwood, MARLA, MNAEA**

Chief Executive

Property and Commercial Enterprises (PACE) Ltd





## SOUTHEND COUNCIL'S SELECTIVE LICENSING PROPOSALS

### A RESPONSE TO THE CONSULTATION FROM SAFEAGENT - JANUARY 2021

#### INTRODUCTION

**safeagent** [www.safeagents.co.uk](http://www.safeagents.co.uk) is an accreditation scheme for lettings and management agents operating in the Private Rented Sector (PRS) **safeagent** firms are required to:

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

Firms must provide evidence that they continue to meet **safeagent** criteria on an annual basis, in order to retain their licence. The scheme operates UK wide and has 1500 firms with over 2500 offices.

**safeagent** is an accredited training provider under the Rent Smart Wales scheme and meets the requirements for training for agents under the Scottish Government Register. Recently, we have been approved by Government as an approved Client Money Protection scheme.

#### **IMPACT OF CORONAVIRUS (COVID 19)**

**safeagent** is currently calling for new property licensing schemes in the Private Rented Sector (PRS) to be placed on hold, to free up resources in the wake of the Coronavirus crisis.

**safeagent** says licensing schemes not already in force should be delayed now and reviewed again in due course This approach is two-fold; to ensure focus on maintaining core services through what lies ahead and to discourage non-essential property inspections that could add to community spread of the virus.

**safeagent** has requested:

- the Secretary of State to impose a moratorium on approving any new licensing schemes
- Local Authorities to impose a moratorium on making any new additional and/or selective licensing scheme designations
- any scheme designations made, but not yet in force, to be withdrawn
- any proposed licensing consultations not already underway to be delayed for a similar period of time.

This is because the lettings industry, and the millions of tenants reliant upon it, remains under immense pressure. In this context, now is not the right time to implement new property licensing schemes that will necessitate thousands of extra property inspections. We are not anti-licensing but at this time would prioritise urgent measures in response to Coronavirus. It seems likely that the limited resources in local government, and the expertise offered by Environmental Health Officers, will need to be re-focussed on maintaining key public services to support the wider public health agenda. It is important that the lettings industry, central and local government work in close collaboration to tackle the challenges.

We are mindful of the guidance published by the government at [Guidance for local authorities - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/guidance-for-local-authorities). At paragraph 8.2 of the Q&A, this states that:

*“Where local authorities are in the process of introducing selective or additional Houses in Multiple Occupation licensing schemes, but these are not yet in force they should:*

- *continue to take a pragmatic approach and continue/commence work on licensing having regard to local circumstances*
- *...be prepared to pause the process completely where it is not safe and reasonable to continue or if it will conflict with latest government advice regarding the COVID-19 outbreak”*

There is further relevant guidance at paragraph 2.26 of the document [Guidance for landlords and tenants - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/guidance-for-landlords-and-tenants)

As of May 2020, agents have been able to re-open. We know that, as long as they can work safely, agents are keen to get back to work. During the November 2020 lockdown:

- Renters & homeowners have been able to move
- Removal firms and estate and lettings agents have been operating
- Viewings and valuations of residential properties to buy and rent have continued
- Tradespeople have been able to enter homes.

However, this has not been a return to business as usual and has required agents to adapt processes, to ensure that Government COVID-19 guidelines are followed whilst keeping themselves, their staff and tenants safe. At the time of writing, the impact the return to another national lockdown, remains unclear. As a result, we remain of the view that this is the wrong time to divert efforts towards licensing.

Notwithstanding the above, we are pleased to be able submit a detailed response to your licensing proposals. This is set out below.

## **SAFEAGENT AND LICENSING**

**safeagent** is supportive of initiatives such as Selective Licensing, providing they are implemented in a way that takes account of the Private Rented Sector (PRS)'s own efforts to promote high standards.

**safeagent** believes that positive engagement with voluntary schemes and the representative bodies of landlords and agents (such as **safeagent**) is essential to the success of initiatives such as Selective and Additional Licensing. We are mindful that the operational problems associated with lack of such engagement have been highlighted in House of Commons Standard Note SN/SP 4634 <https://publications.parliament.uk/pa/cm201314/cmselect/cm>

The same note sets out how important it is for licensing schemes to avoid being burdensome. We believe that promoting voluntary schemes, and offering discounted licence fees to accredited landlords and agents, can help to achieve this. Voluntary schemes often require members to observe standards that are at least compatible with (and are often over and above) those of licensing schemes. We believe, therefore, that if Southend Council were to allow discounts based on membership of **safeagent** (as well as other similar bodies) implementing and policing the licensing scheme would ultimately be less costly and more effective, allowing resources to be concentrated in the areas where they are most needed.

This is a commonly accepted approach by many English Local Authorities. We would further point out that, in Wales, the Welsh Government has recently recognised the importance of membership of specified bodies such as **safeagent** and is offering discounted fees to members as a consequence <https://www.rentsmart.gov.wales/en/>

## **PROMOTING PROFESSIONALISM IN THE PRS - THE ROLE OF AGENTS**

**safeagent's** engagement around the country, with various local authorities, suggests that lettings and management agents have a key role to play in making licensing, accreditation and other, voluntary regulatory schemes work effectively. Agents tend to handle relatively large portfolios of properties, certainly when compared to small landlords. They tend, therefore, to be in a position to gain an understanding of licensing based on wider experience. They become expert in trouble shooting and ensuring that the balance of responsibilities between the agent and the landlord is clearly understood. This, amongst other things, can help to prevent non-compliance due to misunderstandings about local licensing arrangements.

**safeagent** ensures its members maintain certain operational standards, have Client Money Protection arrangements in place, keep separate client accounts and comply with their legal obligation to be a member of a redress scheme. We also provide training. All this can be of assistance to councils who are trying to drive up standards in the PRS.

Although agents are now required to belong to a government approved redress scheme, display their fees and publish their mandatory client money protection status, our experience to date suggests local authorities face challenges in enforcing these standards. Membership of bodies such as **safeagent** can reduce the need for the local authority to use its formal, legal powers in these areas.

**Furthermore, safeagent firms have a key role to play in helping to avoid the occurrence of widespread evictions, following the expiry of the COVID-19 eviction ban.** Lettings and management agents are uniquely placed to offer mediation and negotiation between tenants and landlords.

In a survey of **safeagent** firms across England, agents were asked about the proportion of landlords who have been sympathetic and willing to help tenants affected by COVID-19, by offering rent reductions or payment plans. 47% of firms said 75-100% of their landlords were willing to help, showing a high level of support for tenants to allow them to stay in their homes. Agents can provide the important service of setting up payment plans, as well as collating and holding the confidential evidence needed at all stages of the process.

## **SOUTHEND COUNCIL'S PROPOSALS - SPECIFIC ISSUES**

### **Partnership Working with Lettings and Management Agents**

We would urge Southend Council to work closely with accredited lettings & management agents to ensure that the regulatory effort associated with the licensing schemes is focussed on the greatest risks. The highest priority should be tackling rogue landlords and agents, not policing the compliant.

Many rogue landlords and unaccredited agents operate “under the radar”. Resources should, therefore, be directed towards these serious cases. There is danger that too much time will be spent on those properties and landlords where an existing, reputable agent is best placed to ensure compliance with license conditions.

We would urge the council to fully recognise the compliance work reputable agents carry out as part of their day to day work. We would also suggest that the Council work closely with accredited agents to proactively seek out and identify unlicensed properties.

### **Selective Licensing Fee**

A fee of £668 seems unreasonably high. Furthermore, there appear to be no discounts available for members of recognised accreditation bodies such as **safeagent**. We would request, therefore, that Southend Council list **safeagent** as a recognised accreditation body, and offer a fee discount to:

- Agents who are members of **safeagent** (where the agent is the licence holder)
- Landlords who engage agents that are members of **safeagent** (where the landlord is the licence holder)

We would suggest that this is justified because **safeagent** members and the landlords who engage them are less likely to be non-compliant and that, as a result, there would be reduced costs to the council. We would also suggest that **safeagent** membership mitigates the need

for compliance visits to be carried out by the council. For example, the timing and content of inspections could be risk based, recognising that the risk of non-compliance is much lower in the case of properties managed by **safeagent** agents.

To sum up, the council will have fewer concerns about the management, use, condition or occupation of the property where a **safeagent** member is managing it.

### **Fee Waiver – Tackling Homelessness**

We are pleased that, in promoting prevention of homelessness, the *“council recognises that a good quality and well managed private sector can provide a viable, alternative housing offer”*

We note that *“the Council’s Housing Solutions team engages with landlords on a regular basis and offers a range of potential interventions to either prevent or relieve homelessness. These include the use of Rent Deposit Scheme and/or the use of financial initiatives such as Discretionary Housing Payments, landlord financial incentives to secure homes in the private rented sector”*. We are supportive of these measures.

In light of this, as a further incentive, we would suggest that, in cases where a private landlord is assisting the Council to achieve the aims set out in its Homelessness & Rough Sleeping Strategy, by offering permanent accommodation to fulfil homelessness duties, license applications should be accepted without any fee being payable.

Furthermore, this approach could become more structured if the council were to enter into partnership arrangements whereby lettings agents source properties for council referrals of homeless people or those at risk of homelessness. **safeagent** is currently working on a model whereby a “Social Lettings Agency” is created through links to one or more established local agents. This is an alternative to the traditional approach whereby entirely new voluntary sector entities need to be set up. We would be happy to discuss this model with the council at any time.

### **Licensing Period and Changes in License Holder**

We note that *“a licence would be valid for five years (up to the expiry of the scheme)”* We also note that *“there are no refunds for licences that are created part way through the 5-year term before the scheme ends”*

We are concerned that this means that any “new” licence holder applying part way through the designation period would be required to pay the full fee. This is unfair and makes licenses granted later in the designated period poor value for money. In these cases, we believe the fee should be charged “pro-rata”.

This issue is highlighted in the government report “An Independent Review of the Use and Effectiveness of Selective Licensing” (MHCLG 2019)

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/833217/Selective\\_Licensing\\_Review\\_2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/833217/Selective_Licensing_Review_2019.pdf)

This report describes how *“Most licence fees do not take any account of the remaining time of the licensing designation. This can lead to landlords being required to pay the full cost five-year of licensing even if there is only a short time remaining before the designation expires (with no option to “carry over” where re-designation is intended). This negatively impacts on relationships with landlords, who perceive this as manifestly unfair. **This issue can be partially mitigated by making the enforcement portion of the licence fee payable on a pro-rata basis”***

Charging of full fees for part periods is also anti-competitive, as it can add cost to the process of engaging or changing a license holding managing agent. Specifically, we often see cases where a reputable agent has to take on management of the property and the license, when there has been a history of management and/or compliance problems. We would suggest that, in cases where an agent has to step in as licence holder/manager, where problems have been identified during the designated period, the licensing fee should again be charged “pro rata”.

### **Proposed Licensing Area**

We welcome the targeted nature of the licensing proposals.

### **LICENCE CONDITIONS**

In our detailed comments below, we point out some of the areas where compliance with key standards is an inherent part of the **safeagent** scheme. These are the areas where we think promotion of **safeagent** membership through license fee discounts could ultimately save the Council money, as well as increase the take up of voluntary accreditation.

### **Tenant Referencing**

We are supportive of the requirement to obtain references for prospective tenants. **safeagent** is actively involved in promoting good practice in tenant referencing. We would be happy to discuss our work in this area with the Council.

### **Tenancy Management**

**safeagent** agents are expected provide and fill in a tenancy agreement on behalf of the landlord. they will always make sure the terms of the tenancy are fair and help the tenant to understand the agreement.

They will always provide clear information to the tenant about any pre-tenancy payments and what these cover. They will explain any requirement for a guarantor and what the guarantor role entails.

At the end of a tenancy, they will always serve the tenant with the correct period of notice as set out in the tenancy agreement.

Under **safeagent’s** service standards, agents are required to take a deposit to protect against possible damage. They are required to explain the basis on which the deposit is being held and the purpose for which it is required, as well as to confirm the deposit protection arrangements. When joining **safeagent**, agents are asked to provide details of the number and value of the deposits they have registered with the scheme.

Agents are asked to authorise **safeagent** to contact the scheme to verify this information.

During the course of a tenancy, **safeagent** agents will check the condition of the property and draw up a schedule to outline any deductions to be made from the tenant's deposit. They will return the deposit in line with timescales and processes required by the statutory tenancy deposit schemes.

**safeagent** agents are also required to:

- have a designated client account with the bank
- operate to strictly defined Accounting Standards
- be part of a mandatory Client Money Protection Scheme.

These requirements provide additional security for client monies held, over and above the requirements of the Southend licensing scheme. Again, this is an area where increased **safeagent** membership would be of benefit to the Council and local tenants.

### **Licence Conditions Relating to the Property**

We welcome Southend Council's drive to improve property standards. We believe that **safeagent**'s standards go a long way to ensuring compliance with license conditions.

Under **safeagent**'s service standards, **safeagent** agents are expected to visit any property to be let with the landlord and advise on any action needed before letting the property. This includes any repairs and refurbishments needed to put it into a fit state for letting. They will also go with possible new tenants to view unoccupied property. Tenants can, therefore, be confident that **safeagent** agents have provided advice to the landlord concerning any repairs or refurbishments which are necessary.

**safeagent** agents are expected to explain both the landlord's and the tenant's the rights and responsibilities. To guard against misunderstandings, they will arrange for the preparation of a schedule of the condition of the property.

**safeagent** agents are required to ensure that tenants are provided with copies of safety certificates on gas and electrical appliances before they commit to the tenancy. They will provide details of the condition of the property, plus a list of its contents. The property will have undergone all required safety checks on furnishings, and gas and electrical services.

Thereafter, **safeagent**'s standards require agents to carry out property inspections periodically, as agreed with the landlord, in line with normal good practice. **safeagent** and our firms would anticipate inspections to be carried out every 6 months as a minimum, to identify any problems relating to the condition and management of the property. In line with common practice, records of such inspections would contain a log of who carried out the inspection, the date and time of inspection and issues found and action(s) taken. Under a licensing scheme, this information could be shared with the council in an appropriate format.

Tenants will be fully aware of access arrangements. **safeagent** agents are expected to arrange in advance a time for access, in order to inspect the condition of the property in accordance with the tenancy agreement. **safeagent** agents will arrange to have routine maintenance work carried out, up to a limit agreed with the landlord. The agent will refer expenditure above that limit to the landlord.

### **Training**

We would welcome any proposal that agents who are license holders should undergo training. We would ask that Southend council list **safeagent** as an “equivalent recognised landlord accreditation body”.

Membership of **safeagent** means that agents already have access to an extensive training package, engagement with which should reduce the need for the local authority to intervene. Although not a *condition* of **safeagent** membership, **safeagent** offers accreditation through an online foundation course as well as qualifications such as BTEC Level 3 in Lettings and Management practice.

**safeagent** offers training to those who have been involved in lettings and management for some time as well as those who are just starting out. Training is available for principals of firms as well as employees. Thus, **safeagent’s** Virtual Learning Environment (VLE) is designed to cater for a wide range of professional development needs. Training is easily accessible and can be undertaken when it suits the trainee. Any candidate completing the **safeagent** Foundation Lettings Course successfully also has the opportunity to use the designation '**safeagent qualified**'. **safeagent** Foundation Lettings Course (Wales) is also approved training recognised by Rent Smart Wales, the Welsh Government’s regulatory body as meeting the requirements for agents to have complying with their licensing requirement.

One advantage of this approach is that it makes it easy to ascertain (through on-line monitoring) that participants have in fact undertaken the required training, prior to or immediately after accreditation. Modules available cover:

- Pre-tenancy issues
- Responsibilities and liabilities
- Setting up a tenancy
- During a tenancy
- Ending a tenancy
- General law concepts, statute vs contract
- Relationships
- Obligations
- Process
- Considerations for corporate tenants
- Continuing Professional Development (CPD)

In addition, **safeagent** provides mini online courses designed to cover a number of elements in more detail, as appropriate to the learner's role, include topics such as:

Assured Shorthold Tenancies (ASTs)
Client Money
Consumer Protection Regulations (CPRs)
Deposits
Disrepair
Electrical Appliances & Safety
Gas Appliances & Safety



Houses in Multiple Occupation (HMOs)
Housing, Health & Safety Rating System (HHSRS)
Inventories and schedules of condition
Joint Tenancies
Notice Requiring Possession

We would further suggest that discounted fees for **safeagent** firms would provide an incentive to positive engagement with training that is fully compatible with the requirements of the licensing scheme.

### Anti-Social Behaviour

For our members, dealing with actual and perceived anti-social behaviour in the PRS is a day to day activity. However, in general, we have concerns about the assumed link between the amount of PRS accommodation in the neighbourhood and the incidence of ASB.

There may be some *correlation* between incidences of ASB and the prevalence of PRS accommodation on the area. However, correlation does not equate to *causation*. The *causes* of ASB are many and varied. It is not, in our view, reasonable to expect agents and landlords to play a disproportionately large part in tackling them.

Furthermore, we would strongly advise against any proposals which imply a parity of approach between the PRS and the social rented sector. Social landlords are publicly funded (and regulated) to develop and manage housing on a large scale. Their social purpose brings with it wider responsibilities for the communities in which they work. As private businesses, PRS landlords and their agents, whilst having clear responsibilities to manage their properties professionally, cannot reasonably be expected to tackle wider social problems.

### Fit and Proper Person Test - Suitability of Licence Holder

All principals, partners and directors of a **safeagent** firm are asked to make the following declaration on application:

*– “I confirm that: for a period of 10 years prior to this application I have had no conviction for any criminal offence (excluding any motor offence not resulting in a custodial sentence) nor have I been guilty of conduct which would bring the Scheme or myself into disrepute; I am not an undischarged bankrupt nor is there any current arrangement or composition with my creditors; I am not nor have I been a director of a company which has within the period of 10 years prior to this application entered into liquidation whether compulsory or voluntary (save for the purpose of amalgamation or reconstruction of a solvent company) nor had a receiver appointed of its undertaking nor had an administration order made against it nor entered into an arrangement or composition with its creditors; nor have I at any time been disqualified from acting as a Director of a company nor subject to a warning or banning order from the Consumer Markets Authority or the Department for Business, Enterprise and Regulatory Reform.*

*If I am subject to any current claim or am aware of any impending claim for professional negligence or loss of money or if I have been the subject of any investigation by the Consumer Markets Authority and/or local Trading Standards Office, full details of the*

*circumstances are set out in a report enclosed with the application; all information provided by me in connection with this application is, to the best of my knowledge, correct"*

We believe this certification is broadly in line with Southend council's licensing conditions and is another example of where promotion of **safeagent** membership through discounts could help to ensure compliance.

## **Complaints**

All **safeagent** firms are required to have a written customer complaints procedure, available on request. Our guidance sets out how the first step for complainants is to ask the firm they are dealing with for a copy, which will outline the method by which they can seek to resolve any issues.

In line with statutory requirements, all **safeagent** members must also be members of a recognised redress scheme. Firms are required, at the request of the complainant, to refer the complaint to a redress scheme once their in-house procedure has been exhausted. They are also required to comply with any award determined by the redress scheme, within the timescale prescribed.

Under co-regulation schemes elsewhere in the UK, **safeagent** has undertaken to review any complaints that have been adjudicated upon by any of the redress schemes. Under such an arrangement, **safeagent** can report to the Council on the number of complaints reaching this stage and on the adjudications made. Non-compliance with a redress scheme's adjudication would eventually lead to disqualification of the agent from **safeagent**. We would be happy to come to a similar arrangement with Southend.

## **MEASURING THE SUCCESS OF THE SCHEME**

We believe that regular information on implementation of the scheme should be made available in a clear and consistent format. Reports to local landlord and agent forums, representative bodies and other stakeholders should include at minimum:

- The estimated number of private rented properties that require licensing under the selective or additional licensing scheme
- The number of applications received in respect of these properties
- Progress in processing (granting, querying or refusing) the licence applications received
- Analysis of the reasons for any queries or refusals and the extent to which remedial action is identified and taken as a result
- Analysis of the outcomes of ongoing inspections and the extent to which remedial action is identified and taken as a result
- Progress reports across the whole 5 year period covered by the scheme.

This should help to enable the Council to work in partnership with landlords, agents, representative bodies and other stakeholders to ensure the success of the scheme.

## CONCLUSION

It seems to us that many of the licencing requirements in the Southend scheme highlight how important it is for landlords to work with reputable agents such as **safeagent** members. Offering a discount to licence holders who work with a **safeagent** accredited agent would help to promote this.

**safeagent** would welcome a collaborative approach with Southend Council, based on shared objectives. We believe that agents who are members of a recognised body are more likely to embrace Selective and Additional Licensing and less likely to generate complaints or breaches of their licence. Discounted fees for **safeagent** members would be a significant incentive to positive engagement by agents. In return, the Council would experience reduced administration and compliance costs.

## CONTACT DETAILS

### **safeagent**

Cheltenham Office Park  
Hatherley Lane  
Cheltenham  
GL51 6SH

Tel: 01242 581712 Email: [info@safeagentcheme.co.uk](mailto:info@safeagentcheme.co.uk)

## APPENDIX 1 – COMPATIBILITY OF SAFEAGENT SERVICE STANDARDS WITH TYPICAL SCHEME CONDITIONS

Example Scheme Conditions	SAFEAGENT Service Standard Requirements
Fees	SAFEAGENT promotes complete transparency in agency fees. Members provide landlords with a statement of account as often as agreed.
Rent Liabilities and Payments	SAFEAGENT agents collect the rent and pass it on every month or as otherwise agreed. The agent will keep a separate clients' account to hold all monies.
Contact Details	SAFEAGENT agents are expected to respond to tenant and other legitimate enquiries in a timely manner. Up to date contact details will enable them to respond to tenants' requests for maintenance or repairs which might in some cases have to be referred to the landlord for approval.
State of Repair	SAFEAGENT agents visit the property with landlords and advise on any action needed before letting the property. This includes any repairs and refurbishments needed to put it into a fit state for letting. They will also go with possible new tenants to view unoccupied property. Tenants can be confident that SAFEAGENT agents have provided advice to the landlord concerning any repairs or refurbishments which are necessary.
Access and Possession arrangements	SAFEAGENT agents will visit the property periodically during the course of the tenancy as often as agreed with the landlord. Tenants will be fully aware of access arrangements. At the end of a tenancy, they will always serve the tenant with the correct period of notice as set out in the tenancy agreement.

Example Scheme Conditions	SAFEAGENT Service Standard Requirements
Repairs and Maintenance	SAFEAGENT agents will arrange to have routine maintenance work carried out, up to a limit agreed with the landlord. The agent will refer expenditure above that limit to the landlord.
Access, Cleaning and Maintenance of Common Parts	SAFEAGENT agents will arrange in advance a time for access to the property in order to inspect the condition of the property in accordance with the tenancy agreement.
Level of Facilities	SAFEAGENT agents ensure that tenants are provided with copies of safety certificates on gas and electrical appliances before you commit to the tenancy. They provide details of the condition of the property, plus a list of its contents. The property will have undergone all required safety checks on furnishings, and gas and electrical services.
Deposits	SAFEAGENT agents provide and fill in a tenancy agreement and take a deposit to protect against possible damage. They will explain the basis on which it is being held and the purpose for which it is required
References	SAFEAGENT agents choose a tenant in a way agreed with the landlord, taking up references or checking the tenant's rent payment record.
Complaints & Dispute Handling	SAFEAGENT agents explain both the landlord's and the tenant's the rights and responsibilities. To guard against

Example Scheme Conditions	SAFEAGENT Service Standard Requirements
	<p>misunderstandings, they will arrange for the preparation of a schedule of the condition of the property.</p> <p>During the tenancy, they will arrange to check the condition of the property and draw up a schedule to outline any deductions to be made from the tenant's initial deposit. They will return the deposit as soon as possible, less any appropriate deductions.</p>

## SEAL Response to the closing date of the Consultation on the Proposal for Selective Licensing

Dear Councillors and Officers,

SEAL (South Essex Alliance of Landlords, Letting Agents and Tenants) represents 20 Agents and 53 Landlords managing over 7,000 properties in the Southend Borough and has consulted with informed Members and our leading associations, the NRLA (National Residential Landlords Association) and the ELA (Eastern Landlords Association). We have already, along with the Associations mentioned, asked for an extension or pause of the closing date of the SL Consultation as we need more time to form a supporting proposal that will prove strongly successful for our town.

SEAL has begun to build trust with the Council Officers leading the project, and is developing points of wide agreement, which need researching and consulting with Members and Officers to arrive at a formal proposal to get the best structure for our town. A structure that will turn the negatives of an SL scheme into positives. Please see the attached flyer sent out to Residents of some of the proposed SL areas titled 'Renters face Higher Rents'. These are the points we need to deal with in order to make any scheme work, and we are researching how this can best be done.

In our most recent Zoom meetings with Larissa Reed we have discussed and generally agreed or outlined to explore:-

1. A revised scheme is needed - **AGREED**
2. The scheme needs to be mandatory - **AGREED**
3. A priority is an efficient well trained ASB 'SWAT Team' to liaise and educate - **AGREED**
4. The fees and additional budget mentioned in the proposal need to be transparent on a monthly/quarterly basis as does the operational structure (who does what) – **AGREED/EXPLORE**
5. SEAL should be involved in decision making through regular monthly/bimonthly meetings and build on the successful connections and operations made previously by SEAL – **AGREED/EXPLORE**
6. Explore a SEAL Passport Scheme similar to Stockton-On-Tees PLuSS, whereby SEAL members are inspected and monitored by SEAL – rewarding good compliant landlords. We need to explore with the council how this would work and data sharing from SEAL to the Council on non-compliant landlords, regular auditing of SEAL, administration activities, etc. – **AGREED/EXPLORE**
7. Swift contact with Steve Moore, Larissa's replacement - **DONE**
8. We need to seek out successful schemes UK wide to learn and incorporate findings – **ALREADY EXPLORING.**

As can be seen, we have all come a long way in a few very difficult weeks, and the SEAL Project Leaders and the Council Officers need a few weeks more to forge an inspiring structure to support the Council's Proposal. We all need to ensure that the emerging scheme is as successful as possible for the town, as soon as possible, and the researching of sound information from across the UK needs more time in order to provide strong foundations for that success.

Yours Faithfully,

Mandie Adams (Project Coordinator, ELA Representative)

Callum Stevens (Associate Project Coordinator)

Judith Codarin (Secretary)

## SEAL Flyer 11/1/21

### Renters Face Higher Rents!! Properties Devalued by £30-£50,000!!

Southend on Sea Borough Council has recently opened a Consultation on Selective Licensing to tackle anti-social behaviour (ASB), poor property conditions, high crime levels and deprivation. It appears to be stigmatising good tenants, suggesting those living in the selective licensing areas are solely to blame for anti-social behaviour - not taking into account that we are a seaside town with many visitors (some of whom engage in littering and anti social behaviour). The proposed scheme would require landlords to pay for a license fee costing at least £668 per property for 5 years. However, it is not just landlords who will be affected by the Selective Licensing scheme, it is also Tenants and Owner Occupiers. You need to be aware of:-

- **RENT INCREASES** - other areas in England have seen rent increases when these schemes came into force. Landlords will need to recover the Selective Licensing fee and associated compliance costs by passing it on to the tenant.
- **HOMELESSNESS INCREASES** - Tenants risk losing their homes. Landlords are already subject to many costs and regulation and Landlord confidence in the rental sector is Low with a quarter of Landlords in polls intending to sell their properties. Southend Council acknowledge that homelessness will likely increase due to the scheme, and their emergency homelessness costs will rise even further.
- **PROPERTIES DEVALUED** - owner occupiers have their home at risk of being devalued by £30,000 to £50,000 (quote from local agents) in an area that becomes stigmatised as being an area of deprivation, crime or ineffective waste management (e.g. fly tipping, littering).
- **MORTGAGE LENDERS HESITANT TO LEND** - at a time when Lenders are already decreasing the amount of mortgages/loans available, this situation will be worsened. Either the Lenders will be resistant to lending, with strict criteria, or will not lend at all.
- **STIGMATISING CERTAIN RESIDENTS** - Residents in proposed areas face becoming stigmatised and unfairly blamed for causing anti-social behaviour. Unusually, the scheme's focus omits Social Housing Tenants and Owner Occupiers, who could be equally responsible for displaying anti-social behaviour and littering/flytipping.
- **STIGMATISING CERTAIN STREETS** - There appears to be a lack of careful thought given to the list of streets included in the scheme, with some affluent roads being affected and other roads excluded that have higher levels of anti social behaviour.
- **POWERS TO DEAL** - Southend Council have all the powers to deal with their issues of concern, i.e. Anti Social Behaviour and Waste Management, which residents already pay for.



- **INNEFFECTIVENESS OF THE LICENSING SCHEME ON A STAND ALONE BASIS** - the Ministry of Housing summary declared that the effectiveness of Selective Licensing can be limited when implemented in isolation. Schemes work better as an associated pool of initiatives.

SEAL agrees with the aims and objectives of the proposal, and wishes to formulate a scheme alongside the Council to tackle these issues and improve the streetscene to benefit our Community.

SEAL facebook page <https://www.facebook.com/sealsouthend> we look forward to hearing from you.

You can lobby your Councillor to make sure your views are heard. Contact details can be found at <https://democracy.southend.gov.uk/mgMemberIndex.aspx>

You have until 11<sup>th</sup> January 2021 to reply to the Southend Council Consultation on <https://yoursay.southend.gov.uk/selective-licensing-southend>. Be aware that the Questionnaire and the Consultation documents are biased and hence should be treated as such.

We are fully supported by the Eastern Landlords Association (ELA)  
<https://www.easternlandlords.org.uk/>

## Anonymised written responses from individuals

E 10/01/2021 17:46

The Housing Act 2004 and the amendments in 2015 permit local authorities to designate an area for selective licensing for five years; but must first they **must** demonstrate the evidence for their concerns, look at **alternative approaches** and **consult widely**.

Indeed the Government's own 2019 review of licensing projects across the country emphasizes that "the importance of thorough consultation was stressed by numerous stakeholders"

Consultation - The Act requires local authorities to engage in meaningful consultation with those likely to be affected by the prospective designation (including landlords, tenants and letting agents). I would suggest that the consultation exercise Southend Council have engaged in does not meet this criterion. The fact that no public consultation meetings could take place will have put many at a disadvantage by excluding those who are not internet savvy. Many (myself included) only heard about the licensing proposal and that a 3<sup>rd</sup> Zoom consultation was to take place a few hours before the event. I was fortunately free and I did take part; however there were not many attendees and I was ill prepared at such short notice. I didn't have the opportunity to ask the questions which I would now be in a position (having done a lot of background research) to do.

Southend and their agent Arc4 by using the 2011 census figures to determine the level of private rented housing are working with very out of date statistics and the Government review mentions this fact, "outside of the Census, detailed or reliable information on the privately rented sector at any local geography is difficult to obtain". This will have a detrimental impact on the figures used to substantiate the criteria for "quintile" scoring. If more up to date statistics were to be used it would I am sure paint a very different picture. It might even upset the figure currently relied upon as currently being under 20% of the total privately rented stock and also the figure of 19% privately rented in the area to be designated. More up to date figures might require a referral to The Secretary of State – perhaps this is why this is being rushed through ahead of the next census which is due in May – only 2 months after the projected decision date? Use of such old figures seems at least careless if not perverse or devious.

The 3 areas which are designated as the worst performing are all, unsurprisingly, on the edge of Southend's town centre. This is where you will find a high number of pubs and late night entertainment venues such as discos, the new university and its accommodation, plus the late opening take away food venues that support a number of these operations. These establishments are all potential catalysts for higher anti social behaviour and crime levels, which will naturally but unfairly impact on the statistics used to justify the selection of particular areas for inclusion in the scheme.

These 3 wards also have a lot of council housing - particularly high rise tower blocks which historically have serious tenant problems. Indeed I know from personal experience that council workers are not allowed to enter some of these blocks as a lone worker – they had to attend "double handed" for staff safety reasons! These tenants and their behaviour are not the responsibility of private landlords but are the responsibility of the Southend council. Therefore it is highly likely that the statistics for anti social behaviour are heavily influenced by these occupants on whose behaviour the anticipated upgrade in standards of private landlord management would have no impact.

In paragraph 2.24 the document claims that “poorly managed properties result in unacceptable levels of anti social behaviour” but there is no evidence to support this causation. In paragraph 2.26 the document talks about tackling crime and ASB as a key priority for Southend but no link is shown between those issues and poor property management.

The Government review also indicated that “when implemented in isolation, the effectiveness of selective licensing is often limited. Schemes appear to be more successful as part of a wider, well planned, coherent initiative with an associated commitment of resources – a finding entirely consistent with the aims of the Housing Act.”, and further “The extent to which a scheme is integrated into wider local strategies appears to play a key role in its effectiveness”

One of my concerns with Southend’s proposal is that although mention is made of engaging with other services in their documents no examples are provided of how this will work and indeed more importantly where the additional funding required for what (if the statistics are accurate) will be a large scale project is to come from. Also many of the additional costs cannot be set directly against the licence fee (e.g. landlord training, tenant support, and no doubt an increase in workload for the legal department).

Further the Government review states “it is often the case where there is high crime, deprivation or ASB, licensing brings to light social problems such as addiction, depression, alcoholism, mental health issues, unemployment, overcrowding, modern slavery etc. Where there is an increase in the number of these cases being brought to the authority’s attention, this puts added pressure on the departments responsible for supporting these individuals. If the departments are not sufficiently resourced, there is a risk that this support becomes less available, and the underlying social factors that contribute to the decline of an area are consequently not dealt with appropriately.” Would Southend be ready and fully able to meet any additional demand on services? Sadly, I suspect not!

As a result of these factors, effective wider regeneration schemes will also require some resourcing from the general fund to support activities beyond the licensing component, even when the licence fee covers the costs of administration and enforcement in full .

One of the key concerns and thus reasoning behind the justification (according to the Arc4 data) for a licensing system in these wards is the age of a large number of the properties and thus a correlation with poor levels of property condition. However there is no provision in the Housing Act which would allow the council to include anything in the license conditions to address poor property conditions and the 2018 Court of Appeal case *Brown v Hyndburn BC* confirms this. So the council will have to continue to rely upon the numerous powers that it currently has to deal with this problem.

The Government review also says that “obtaining a designation is a significant undertaking; and should be a power only engaged after proper consideration of all alternative options.” What evidence is there that there have been robust and meaningful endeavours to meet this requirement?

A further reason highlighted by Southend is that it has “a higher proportion of households classified as overcrowded compared with the East of England. Increased mortality rates, tuberculosis, respiratory conditions and childhood meningitis can all be linked to overcrowded conditions.” There may be a general link to support the above but I receive updates from PHE and the figures (NOIDS) for the Southend area do not indicate a problem with TB or Meningitis etc.

I have been a landlord for a few years yet I have only become aware of SEAL in the context of this consultation. I have used a letting agent in the past but was not made aware of the organization,

which I may have been interested in joining. Many other small landlords are probably in the same position so it is not helpful to base assumptions on the input or otherwise from SEAL. I am a responsible landlord and have taken on tenants who would not meet the criteria for most landlords, e.g. no reliable reference or deposit available having moved from the local refuge; others have been in receipt of benefits – another no no for many landlords. If the taking of references were to be required (and I appreciate that this condition is mandatory where selective licensing applies) such potential tenants might have to be turned down.

The Government guidance says that selective licensing is about “improving management standards” where there is a “SORE NEED” (and other approaches would be inadequate or ineffective.) Southend’s consultation document describes selective licensing merely as “an additional tool”. It says “a key outcome for the project” is better management...but that should be the sole outcome. The “aims” the council specifies (Para 7.2) are far wider than management standards and the link between management standards and those aims is hypothetical and unsupported by evidence. The hassle for compliant landlords would be considerable and I suggest it would be more cost effective for the council and less burdensome for such landlords to focus attention on known problem cases.

In paragraph 16.2 under the heading “Risks” the council brushes aside the likelihood of rental increases by saying it will keep the licence fee as low as possible. However this is totally unrealistic for low value properties where the projected fee in many cases will exceed a month’s rental income and will have to be passed on.

With regard to the proposed draft licensing conditions, my comments (using the numbers in the draft are as follows:

1 I do not consider this to be a matter of improved management or any business of the authority

4 (b) Why place this burden on landlords? All other citizens have to find this out for themselves.

4 (c) The licence document is between the council and the landlord and should be confidential to them. It is no business of the tenant.

5 - 24 hours is too tight – I suggest 7 days

8 The second sentence constitutes an unnecessary burden and is unreasonable.

9 The words “capable of causing” are far too wide and vague and should be deleted. Garden tidiness and what is inconsiderate are a matter of subjective judgement and should be deleted. Domestic abuse and use of drugs are not necessarily anti social and should be deleted.

10 (c) After “the licence holder must” it would be much better to put - make reasonable endeavours to.

10 (d) Similarly I suggest “reasonable” instead of “all necessary”.

11 (a) I suggest deleting “to identify any problems relating to the property” and “any issues identified”. These phrases are too vague and wide.

13 (f) I suggest the whole phrase in brackets be deleted. It is onerous and may be unreasonable for a small landlord who would do the job himself.

20 (a) In the second sentence I suggest inserting “so supplied” after “pillows”

21 See comment on 4 (b) above: this should be deleted.

22 (d) I suggest this be deleted: it could create an unfair burden.

**Email Mon 11/01/2021 14:18**

Dear Adam

Thank you. If I had heard the news today before I sent the document I would have added a couple of additional points.

Local authorities are apparently in dire straight financially and having to make cuts in many areas as a result of Covid and other matters. Against this background it is surprising that Southend would contemplate a far reaching, new venture, with an unknown financial outcome.

Perhaps you could kindly add this point to my original thoughts.

Kind regards

## Email S 07/01/2021 14:42

Feedback on the proposal to selectively licence certain PRS landlords.

1. I feel that PRS landlords are being given the entire responsibility for any problem areas, given that council, Housing association and charity properties are excluded.

2. Personally as a responsible landlord I STRONGLY OBJECT to paying what is effectively a supra level of joint management fee, in a pool of landlords, who by your arguments, contain a high number of inexperienced or irresponsible landlords.

I don't want to pay for 'hand holding' and advice giving to new landlords.... I pay my own agent for that, and expect others to as well, or to pay you, not for me to subsidise it. I also don't want to pay for you dealing with rogue landlords, I expect fines given to them to pay for it.

3. If such a scheme were valuable, I would suggest a farer cost distribution would be a smaller registration fee, to cover appropriate landlord status and inspection (if you really feel it is necessary to inspect properties that have never attracted complaints). Also, landlords of multiple properties need only one appropriate person investigation.

The remainder of costs should be obtained from fees/fines to those landlords who merit more of your attention, fees payable by those who need your support... and not paid for by those of us who are doing a good job already. Cost and fees/ fines should be set to balance.

It is quite inappropriate to take high fees from the majority, so that you don't have worry about getting appropriate restitution from the actual trouble makers. it may be more difficult, but it is farer.

Please acknowledge receipt of this email.

Yours faithfully

### **Email A Mon 11/01/2021 09:03**

The problem with this is. All Landlord need to be licensed because a bad landlord you will find major problems. So make all landlords licensed. And then you can hold them to account when faced with. Anti-social behaviour.

The amount of illegal evictions will go down property's would be kept in better care. Not just licenced they should also be forced to have a what was known as a ENHANCED CRB CHECK



**H Wed 09/12/2020 10:36**

Totally not required. All my portfolio in the affected areas will be sold. The council can house the tenants

**AL 23 November 2020 13:45**

RE [property address]

I am the owner of the above which I divided into 5 self contained flats in 1982

Because I have always looked after my tenants and keep the property well maintained providing decent accommodation, my tenants are mostly long term and all very good citizens. Throughout the past 38 years there has never been any anti social behaviour of any kind as my owner/occupied neighbours, including Victoria Residential Home directly opposite, could testify. Examine police records over the past 40 years and you will not find even the smallest misdemeanour regarding my property.

In my view this proposal is not in fact truly selective, it is by its very nature discriminatory, one side of an arbitrarily drawn line good, the other perceived as bad and requires a punitive "tax". Has anyone in Southend Council pushing for this to be passed even considered that it could create "ghetto zones", the very opposite of the stated intentions. Why would any prospective Landlord with good intentions invest in these zones? Why would any law abiding decent tenants want to reside in these designated "bad areas". Southend Council know the police know the rented properties inside and outside these proposed zones whose landlords let properties fall into disrepair and who allows anti social behaviour to proliferate.

If the council really wants to curb this very real problem then be truly selective, select these known culprits and properties, don't smear good landlords and good pocket areas with this crude, broad discriminatory tarred brush.

It's not by accident that [property address] has provided good tenants with decent accommodation for almost 40 years, it's because I have been a good landlord. Why not ask my tenants about their Landlord and their accommodation.

Flat 1 for over 15 years – [personal details remove]. Flat 2 for over 7 years – [personal details remove]. Flat 3 for over 20 years – [personal details remove]. Flat 4 for 3 years – [personal details remove] and Flat 5 for 10 years – [personal details remove].

If there is anyone in Southend Council who can explain to me, without using meaningless platitudes, how my payment of £3,340 for this first license for [property address] can improve by one iota my exemplary record over 38 years I would be very interested to meet them.

**R Sun 15/11/2020 12:24**

Dear Sir/Madam,

I trust this email finds you well.

I am writing to you to express my most utmost objections to the requirement for obtaining the licence as a private landlord. My property is in [property address] which is a well managed private Estate. Furthermore, my property is managed by a local Estate agency called HOPSON and occupied by a tenant who is a nice retired gentleman . The property is in an immaculate condition . So I fail to see why I should apply for this licence. This is a blanket and indiscriminate scheme unfair to some landlords such as me.

Could you therefore please advise that given the above am I still legally required to obtain this licence ?

Awaiting your reply

Kind regards

**R Fri 08/01/2021 15:40**

Hello,

Here is my response to the consultation on SL in Southend. As the consultation closes on Monday, I did not want to take it to the wire. Sadly, I have not had a response to the FOI request and so my response is not fully complete. As I have no more time at the moment I hope you find my viewpoint helpful.

Regards, R

Fri 08/01/2021 15:40

Response to consultation on Selective Licensing in Southend – 8/1/21 A. Summary of Key Points: 1. Given we are in a global pandemic with the associated health and severe economic consequences, this is not the time to introduce or conclude consultation on selective licensing. 2. Due to Covid-19 the Council have been unable to reply to an FOI request asking how current powers have been used over the last 5 years (HA 2004 and H&P Act 2016). At the very least the consultation period should be extended beyond 11/1/2021. 3. The symptoms of ASB are societal, and not just related to one issue or location. 4. There will be unintended consequences which the Council have started to be explored at Section 16. In particular: Rent Increases: A LL will not necessarily absorb the licence cost and not increase rents. An advance payment of £668 per property is a significant amount, particularly at this time. There are financial pressures both on tenants and landlords. Displacement: The PRS landscape is rapidly changing. The economic consequences of Covid19 (unpaid or part rent), future regulation within the Rent Reform Bill expected 2021/22, investment so that current rental properties meet EPC Band C by 2025 (regulatory requirement) and further potential tax changes in the Budget 2021 are putting significant burdens on LLs. A significant proportion of LLs rent just one property (59% reported by Shelter), but this scheme could be the final straw. If the sector suffers from LLs selling, and remains unattractive to further investment, there is a perfect storm brewing which may leave an acute shortage of rental properties in Southend. The Council will have to pick up the pieces. 5. The DRAFT license conditions at Appendix C and the narrative at Page 60 requires LLs to take effective action against ASB in “the locality”. An AST relates to a property and boundary in which the LL has a contract with the tenant. I raise questions about the lawfulness of the additional AST wording, what is defined as “locality”, and if it has been tested in Court. In Leeds, the Council have apparently advised tenants that if they are evicted from PRS due to ASB they will not automatically be socially rehoused – this would support the LL and make the tenant clear on the implications. 6. It is recognised that SL cannot work in isolation and will require support from other parts of the Council. There is a real perception that SL simply brings significant burdens to LLs, and increases costs - £668 for a 5 year licence - for little return. It is important not to raise false expectations on the benefits as it may not be possible to fulfil in future years due to pressures on Council budgets. I am therefore asking for a more detailed 5 year costed plan showing deliverable functions, costs/resources/performance measures. This will show LLs, tenants and Council decision makers the complete costed SL proposal. 21-1-8 - Response to SL Consultation B. Comments/Questions from Proposal: Appendix C: The DRAFT license conditions at Appendix C state that the following must be included in the Tenancy Agreement (TA). “Nuisance and Anti-social Behaviour: Not to cause, or allow household members, or visitors to engage in anti-social behaviour, which means any conduct causing or capable of causing a nuisance or annoyance to the landlord, other occupiers, neighbours or people

engaging in lawful activity within the locality. (Examples of anti-social behaviour include failure to control dogs or children, leaving gardens untidy, not properly disposing of rubbish, inconsiderate use of the property, as well as more serious problems such as noise, violent and criminal behaviour, domestic abuse, the supply and use of controlled drugs, and intimidation, harassment or victimisation on the grounds of a persons’ race, sex (gender), sexual orientation, disability, age, religion or belief, pregnancy or maternity status, socioeconomic status).” (a). The AST relates to the property and boundary and I question if the term “within the locality” is reasonable to include in an agreement. From reading Page 60 the Council is expecting the LL to enforce ASB behaviour by tenants or their visitors outside the rented property or boundary. This would not be a reasonable expectation of the LL and I question if the current wording would hold up in Court. Question 1: Has this been drafted by Property Lawyers, and ever tested in Court? What is defined as “locality”? Leeds Council have apparently made it clear when introducing SL that should tenants be evicted from PRS due to ASB they will not automatically be rehoused using social housing. This robust support to the PRS LL is a good example of direct action. Question 2: Will the Council support this approach? The Anti-social Behaviour, Crime and Policing Act 2014 defines anti-social behaviour, but the definition in the Housing Act 2004 seems to highlight the difficulties in defining ASB. (b). In quantifying ASB, I note the Council has used two sources: • Police Recorded ASB data for 2018-2019 within Southend on Sea; and • Council’s ASB data I appreciate collecting data sets can be quite challenging. The Police data is here for Southend 2018- 2019 - <https://data.police.uk/>. However, after filtering for ASB, it says “on or near a location”. Question 3: I question if the data used in the consultation also includes ASB which has nothing to do with tenants and properties (a) within the PRS sector, or (b) from the actual location given Southend is a seaside resort. Para 6.6. SL is limited in effectiveness when implemented in isolation. 11.5 discusses options including Enforcement of housing standards; Management orders; Driving Up standards; LL Accreditation Scheme; Targeted Action Area. 21-1-8 - Response to SL Consultation Question 4: Do the Council intend to mandate a LL accreditation scheme in Southend? If so, it should be explicit and not implicit in the proposal. SL cannot work in isolation. This is the conclusion from the MHCLG review and the Council recognise this. However, from 15.2 it is difficult to see the boundary between what the selective licensing partner will do, and how other parts of the Council will interface. Question 5: In order for the Council, Landlords and Tenants to have a complete overview of the cost of the SL proposals and the crucial support identified would you provide a matrix showing: (i) The functions and costs of the delivery partner; (ii) What functions the Council are required to support the SL proposal, the current resources, and additional resources required; and (iii) A plan over 5 years (the licence period) setting out what the Council is to deliver and how success will be measured. Para 13.5. Licensing officers will provide advice to tenants during inspections. “The property inspection visit will also provide an opportunity to discuss tenant responsibilities as detailed in their tenancy agreement (i.e. expected behaviour, reporting of repairs, refuse storage and disposal etc.) as well as offering any general and specific support required to ensure the tenant can successfully sustain their tenancy”. Question 6: This does not appear to be in the specification at Appendix A – Delivery Partner? Para 14.9. If a LL decides to sell or exit the sector the license fee will not be refunded on a pro-rata basis. This is unreasonable. Car tax, Insurance and many other upfront costs are refunded Question 7: Can the Council clarify the rationale behind this? Para 22. Review Question 8: When is it envisaged the proposed designation will be reviewed? 21-1-8 - Response to SL Consultation C. Alternatives to SL: Overview: • There is a need in the current environment to devise an alternative which is Simple, Transparent and Affordable. • The current SL proposal should be paused until we better recover from the pandemic. With the Renter’s Reform Bill on the horizon, the Council should wait to see if there is any impact from the Bill. • Council Tax returns could in the interim be used to create a register of PRS rented properties and landlords – This

would update the 2011 Census data with the information updated annually. Up to date data would better inform actual size of PRS. The Council should prioritise the areas identified by the proposed SL designation to undertake the following: Poor property conditions - The Council already have adequate powers and must continue to use them. Retaliatory evictions are illegal, and areas identified by the proposed SL designation to be:

- Mailshot with tenants encouraged to report poor property standards;
- This to be followed up by a series of meetings encouraging poor standards to be reported; and
- Develop an 0800 hotline and online portal to report concerns. If poor standards are identified by the Council, this would prevent retaliatory eviction(s) and sanctions available to take against Landlords who do not meet statutory requirements. Significant and persistent problem caused by anti-social behaviour – This is complex and far too simplistic to think SL will resolve.

- The Council to work more closely with the Police. ASB is Priority 2 in the 2020 Police and Crime Commissioners Plan – Page 18;
- Areas identified by the SL consultation to be the focus of more visible Policing – Priority 1 of the PCCP's 2020 plan;
- Discuss with the PCC adding an additional precept to support ASB priority locations in Southend ;
- Provide an advice/support contact for LLs to support more complex cases where ASB occurs in the rented property, or boundary. For example in Leeds where SL has been introduced the council have apparently made it clear that should tenants be evicted from PRS due to ASB they will not automatically be rehoused using social housing; and
- Council to review their resourcing to the Community Safety Partnership for ASB outside the property and boundary

21-1-8 - Response to SL Consultation High levels of deprivation - These are societal, and it would be far too simplistic to suggest SL will resolve. However, the action under property standards will be a start. High levels of crime – Closer working with the Essex Police and Crime Commissioner Roger Hirst. Central Government are committed to more police resources. There are 503 additional Police officers planned for Essex by Spring 2021. Police should use the proposed SL designation to target more visible policing. Landlord Engagement - Council to actively engage with Landlords – SEAL, All Landlord Associations with a view to increasing membership - The report at Page 5 Para 2.4 cites a lack of membership as being the reason for not SEAL not fulfilling expectations.

8 January 2021

**H Email Thu 19/11/2020 15:56**

Question. What can I expect to receive in return for my licence fee and in the event that I became a bad landlord instead of a responsible one .. what actions would be taken against me ? ..

Thank you

**R Monday, January 11, 2021 2:14 am**

Dear Councillors and officers,

May I firstly comment on the timing of the proposed Selective Licensing Scheme. Right now, people, including landlords are dealing with sickness, loss of staff, loss of income, rent arrears, increased borrowing, and the deaths of friends and family. Is this really the time to add to the costs of landlords and tenants?

Landlords have had to deal with the recent introduction of the S24 Landlord/Tenant tax, where interest on borrowings are no longer deductible for tax purposes. There has been new legislation introduced to improve properties and management of properties which has come at a cost for most Landlords who own older properties, most of whom will not be eligible for grants. EPC rating requirements have increased and will increase again in the next year or so with even more costs. HMO's already pay a license fee and many small landlords have struggled to meet these financial demands in the Southend area where many properties are around 100 years old. Adding a further licensing scheme at this stage, when rents aren't being paid and finding decent tradesmen is an impossibility as all the good trades are working for the larger more established landlords and other businesses. I only have three properties (buildings) left as I move towards retirement, one of which owes me around £10K in rent as the tenant is self employed and has struggled to pay and keep his family. I also am a self employed landlord and not entitled to any of the governments Covid aid. This scheme should definitely not be introduced until the Covid Pandemic is under control and people have returned to work and can afford to pay rent again.

Renters have been misled as to how this scheme will help. They have been sold improved standards, cleaner streets and less anti social behaviour. How exactly can a landlord who now has to operate as a social worker, help tenants manage their money, become a customs officer, doing checks on right to reside, now to be expected to be responsible for peoples behaviour when the police themselves can do little about it and there is no deterrent for the tenants themselves. Currently we can't evict anyone whatever they do as the courts are so full delays are running to years not months! Landlords are people too. An almost impossible task is being set by the proposed Selective Licensing objectives. Sadly there is no mention in any of the sales pitch that the tenants will pay for it all in increases in rents. Most of my tenants would probably continue with the slow gradual improvements that take place each year and not have to have a large leap in rents to cover further changes. Will DSS payments increase to cover the payments for those tenants too?

1. More than anything we require more homeless hostels in the form of studio flats/ container flats/caravan sites to keep people off the streets. Landlords should not be forced to accept homeless people/DSS as there is no support for when these people cannot pay or when there are mild mental health/drugs/alcohol problems as is often the case with homeless. Rents are stopped if someone misses an appointment. Should landlords really be penalised for a tenants lack of timekeeping or lack of desire to attend a jobseekers interview?
2. If any body other than the council should be in charge of Landlord Compliance it should be SEAL who have negotiated with the council, and have set up meetings to inform Landlords and mediate between both the council and Landlords.



3. Landlords cannot be held responsible for Anti Social Behaviour in any neighbourhood. Police struggle to control it and Landlords have no legal powers in this situation whatsoever. Evictions are long and lengthy affairs, and costly.
4. More should be done to tackle non compliant landlords ie those who do not belong to any association, who often are not even registered with the council or SEAL. Bad landlords who overcrowd their properties etc.
5. Why are landlords expected to pay for all this when powers already exist within the council to place orders upon properties for improvements. The council DOES have enforcement powers already. Add to the council tax as everyone is going to benefit from the proposals.

As you can no doubt see I am totally not in favour of the scheme whatsoever. Money for this scheme would be better spent recruiting more housing enforcement officers within the council and on providing cheap warden assisted accommodation for the homeless, giving good references for those who are genuinely suited to living in the normal PRS environment. Tax and Council tax should be used to cover this as everyone benefits.

Abolishing S21 notices is a drastic action which will lead to misery of thousands of people, landlords and tenants alike as landlords will no longer be able to remove undesirable tenants eg noisy, dirty or with drug or alcohol issues. People who enter into a 6m AST know that it is a short term agreement, which by arrangement can be extended. Most of the people who live in this type of accommodation are students, young people who have yet to put down roots, and people working abroad or at least away from their regular homes. There is a need for this type of accommodation. Not everyone wants to live in a place forever, but often need short term security that a B n B cannot offer. There should at the very least be a register of bad tenants held by either the council or some body so that as part of the referencing process a landlord doesn't unwittingly end up with the tenant from hell as I myself have done this year. Landlords are known to give positive references to get rid of bad tenants so there should be somewhere to get an independent and honest review. You cannot get credit without a Credit rating, and the same should apply to renters. There should be a renter rating with scores for how the property is cared for, how rents are paid and how the tenants behaves and any other comments. The same could apply to landlords. Any negative reviews should be verified in both cases. A council SWAT team could deal with this nationwide

I do not agree with selective licensing – it isn't necessary. The council and police already hold all the necessary powers to enforce all current and future legislation. I do not agree with abolishing S21 as it gives a Carte Blanche to every selfish tenant with no care for fellow tenants or their landlords. However, I fear that both of these things will happen as landlords are sitting ducks. If so at least introduce a fair system where landlords are not penalised for the actions of their tenants. Funding should be by other means, but if it must come from Landlords then at least take it in monthly increments over the 5 years not all at once in advance!!! Most of all wait until Covid is under control and people have money again to afford these changes.

**10 January 2021 at 20:18:01 GMT**

Dear Councillors,

As you know, Southend Council is suggesting to introduce a Landlord Licensing Scheme for the Milton, Victoria and Kursaal wards. The consultation period for this scheme ends on Monday, 11 January 2021.

I am a private tenant in one of these wards, and have sent the attached response to Southend Council's consultation to the independent organisation, MEL Research, who are carrying out this consultation on behalf of the council.

In summary, I am opposed to the scheme because I think the Housing Act of 2004 gives the council quite enough powers to tackle unsafe property conditions, poor property management and anti-social behaviour. I am also opposed to, and personally insulted by, Southend Council's attempt to establish a correlation between the private rented sector and anti-social behaviour. Please peruse the attached response for further details.

Please note that S is not my real name. I have sent my response anonymously because I don't wish to experience any repercussions from Southend Council. I am, however, a real person and happy to respond to any questions you may have by email.

With kind regards,

S

## Southend on Sea

### Response to Consultation on licensing private rented property in Southend

Dear Sir/Madam,

Thank you for sending me the questionnaire for your consultation on licensing private rented property in Southend on Sea. Apart from the fact that you are planning to implement this scheme in the middle of a pandemic, when many people (including tenants and private landlords) are struggling financially and have enough problems to deal with already, I take issue with a number of points you are making.

#### **“Improving standards” and existing powers**

You claim that there are “issues associated with private renting, including unsafe property conditions, poor property management and anti-social behaviour”, and that your “Landlord Licensing Scheme” will “improve standards in these properties, protect residents, and address antisocial behaviour (ASB).

May I point out that Southend Council already has an in-house Private Sector Housing Team, with powers to serve legal notices to landlords, requiring necessary work to improve or make the property safe. According to the council’s website, these powers affect the following areas:

- fire safety
- ineffective or lack of heating
- damp and mould growth
- trip and falling hazards
- dangerous or defective electrics
- overcrowding
- structural stability
- inadequate ventilation
- inadequate lighting
- water supply
- drainage

Your document “Selective Licensing Scheme Proposal And Supporting Evidence Base” states that the scheme would enable the council to carry out inspections, and that it “could use a service delivery partner option, which would enable the Council to focus its resources on enforcement.”

However, the same document informs me

*“The Housing Act 2004 introduced the Housing Health and Safety Rating Scheme (HHSRS) which allows local authorities to inspect privately rented properties to ensure the condition of those properties do not have an adverse effect on the health, safety or welfare of tenants or visitors to those properties. Where necessary the Council will serve statutory enforcement notices to ensure that conditions are improved.”*

In other words, you already have powers to inspect privately rented properties, and to serve enforcement notices.

Your document “Selective Licensing Scheme Proposal And Supporting Evidence Base” also states (on p. 91) that

*“The Housing Act 2004 introduced additional discretionary powers for Local Authorities to deal with properties which are causing a problem of ASB, deprivation, crime and poor property conditions. ...*

*These orders have to be authorised by the Residential Property Tribunal and their effect is to transfer all management responsibilities and rent collection to the local authority for one year. If there is no improvement in the situation after one year, a Final Management Order can be put in place which lasts for five years.*

*This power is useful for rare cases of individual properties where it is clear that one or more occupiers are causing the ASB which is a serious problem in the area and the landlord is not taking the appropriate action to combat this problem.*

*This power has not been deemed to be suitable to deal with the ASB in the areas proposed for Selective Licensing as the ASB cannot be attributed to an individual property or select group.”*

In other words, you already have powers to tackle ASB, deprivation, crime and poor property conditions. The last sentence makes it clear that the ASB cannot be attributed to an individual property or select group, so why are you claiming that private tenancies are the cause of ASB? There is no evidence for this claim.

With regards to your claim that sometimes it is impossible to take action because tenants fear “revenge evictions” if they complain, I am told that in 2017/2018 Southend Council received 596 complaints relating to the condition of private rented homes, but served just 12 improvement notices. Clearly tenants *are* reporting problems, regardless of the threat of “Section 21” notices.

### **Bias against private tenants**

Your document “Selective Licensing Scheme Proposal and Supporting Evidence” states:

*2.15 Whilst private rented housing is a tenure of choice in all of the borough’s wards, in some areas of our borough the concentrations are significantly above the national and borough average and with this comes other problems.*

*2.24 ... Too often poorly managed properties result in unacceptable levels of antisocial behaviour, which can be damaging to local neighbourhoods if not dealt with. ...*

And, later:

*“Wards such as Milton, Kursaal, Victoria and a small part of Chalkwell as well as Leigh are known to have several ASB issues. This is usually due to a higher proportion of privately rented accommodation within such areas.”*

Are you seriously claiming that private tenancies are the cause of crime and antisocial behaviour? This does not correspond with my own 30-years’ experience as a private tenant, and there is nothing in your documentation that proves any direct correlation between private tenants and ASB either.

Your document states (on p. 63) that, between 2017 and 2019,

*“... the wards of Milton, Kursaal and Victoria recorded considerably higher incidents than the rest of the Southend. The ASB in the three wards alone accounts for more than 50% of the ASB reported in the whole borough.”*

And later:

*“... the LSOAs with the highest levels of recorded ASB are mostly found within Milton, Victoria, Kursaal. This is consistent with the fact that these three wards have the higher concentration of privately rented properties.”*

No, it's consistent with the fact that Milton, Victoria and Kursaal constitute the town centre of a popular seaside resort, with plenty of pubs, bars and restaurants and a fair stretch of the seafront with its amusement arcades and yet more pubs and bars. Considering this very obvious fact, it is hardly surprising that there is a high incidence of ASB in these wards. At the same time, the people frequenting Southend's town centre, pubs, bars, restaurants and amusement parks – whether they're from Southend or from further afield - do of course greatly contribute to the financial prosperity of Southend.

It seems highly likely that the ASB is caused by visitors to this “party zone” rather than local residents. I dare say that, rather than be the cause of ASB, local residents are more likely to be fed up with it. You wouldn't blame the residents of London's Soho for the localised ASB that occurs there on a regular basis, so why would you blame Southend residents for ASB occurring in their town centre? And why would you only blame the minority (private tenants) but not the majority (owner occupiers) of residents?

How do I know the majority of residents are owner occupiers? It's in your document (on p. 27):

*“The percentage of PRS in Milton for the six LSOAs is averaged at 50.4%, followed by Kursaal with the five LSOA average of 41.9%, followed by Chalkwell at 49.3%, Westborough averages 37.7% and Victoria wards 36.7%. It should be noted and Leigh and Prittlewell both have one LSOA each with a high concentration of PRS.”*

In other words, the majority of residents in the respective areas are actually NOT private tenants, but owner occupiers. Yet you are blaming the minority of private residents for the localised anti-social behaviour. Once again, there is no evidence whatsoever that the ASB is caused by private tenants, only that it occurs in an area where there is a higher percentage of privately rented flats – and a large part of that area happens to be Southend's town centre.

Landlords already have the power to evict tenants if their behaviour is anti-social and it is occurring within the curtilage of the rented property. And as, according to your own documents, most of the private tenancies in the respective wards are Assured Shorthold Tenancies, their landlord can easily serve them with a Section 21 notice and ask them to vacate the property. Assured Shorthold Tenancy Agreements already contain a clause that enables landlords to end the tenancy if the tenant has broken any of their obligations in the Agreement, which include “Not to cause a nuisance” (i.e. “Not to do or keep anything in the Property which might be a nuisance or which might annoy the landlord or any neighbours or which might cause damage to the Property”).

### **Concerns about your Licensing Scheme**

There are a number of concerns I have about Southend on Sea's planned scheme:

- You are expecting landlords to provide information about their tenants to the council, including “tenants' references”. I value my privacy very much, and as far as I know you already have all the information you need about me for the purpose of paying my council tax and getting on the electoral register. I strongly object to providing my references to the council.
- Based on my own experience of a “Landlord Licensing Scheme” (see below), such schemes tend to encourage perfectly good landlords to sell up. Our previous landlord wasn't the only one who

decided on that course. A number of other flats in the same building were also sold after the licensing scheme was introduced. I know for a fact that they were not rented out again, but sold to owner occupiers who then moved in themselves. “Landlord Licensing Schemes” do not encourage people to become landlords, due to the administrative nightmare they present. But they are “freeing up” properties for sale. This is likely to push tenants into less desirable areas. Perhaps that is what you want?

- It is also not clear whether your scheme is going to include freeholders / leaseholders who are renting out their property on a temporary basis, e.g. via Airbnb or as holiday lets.
- Your scheme will make landlords responsible for their tenants’ behaviour. That’s like making a car rental company responsible for their customers’ traffic offences. As I have pointed out earlier, you already have powers to tackle anti-social behaviour.

### **No financial profit – really?**

You claim that “The Council is not permitted and does not intend to seek or make a financial profit for licensing”. This unfortunately doesn’t ring true. It is no secret that the council has experienced massive government funding cuts over the past ten years. Of course you must find ways to recuperate these funding cuts, and I believe this scheme is one way of doing so, either directly through the scheme or by making your in-house Private Sector Housing Team redundant and outsourcing their work to a “delivery partner”.

Let’s look at the figures. According to your own document (“Supporting Evidence Base”), the number of rental units in the respective wards is 12,530. If each of their landlords pays a £680 license fee for each of these properties, we arrive at a figure of £8,520,400. Divided by five years, we arrive at a figure of £1,704,080 per year. And I’m sure the plan is to charge landlords roughly the same amount again to renew their licence after 5 years. That’s a nice little earner. Somebody is going to make money, but it certainly won’t be the tenants who will eventually have to carry the cost for your scheme, as private landlords are bound to pass it on to them.

It is no coincidence that the wards selected for this scheme are the ones with the highest percentages of privately rented properties in Southend. They present the greatest opportunity to raise money through this scheme.

### **Focus on tenants’ rights instead**

Rather than creating the administrative nightmare of a “Landlord Licensing Scheme”, why not focus on tenants’ rights, and enforce them? Here are a few suggestions:

- Lobby against unfair evictions. Currently, “Section 21” notices enable landlords to boot tenants out without a reason. (NB - In April 2019, the government promised to abolish “Section 21”, but still hasn’t published the Renters Reform Bill to change the law)
- Prevent landlords from cancelling a tenancy agreement unless they (or their family members) wish to occupy the property themselves, or the tenant has breached the tenancy agreement.
- Extend the notice period to three months for both sides, six months for landlords after a 5-year tenancy, and nine months for landlords after an 8-year tenancy.
- Implement a rent freeze, or at least a rent cap. For example, you could prevent landlords from increasing rent by more than 20 percent within a period of three years.

- Make deposits more affordable. Right now it costs an average of £1,088 to put down a deposit on a new home to rent. This is a huge amount of money, especially when tenants probably have a similar sum already locked away in a deposit for the home they're leaving. "Deposit passporting" would give tenants access to some money from their current deposit to put towards the next one.
- Work with established organisations. Generation Rent ([www.generationrent.org](http://www.generationrent.org)) provides a whole list of organisations at [https://www.generationrent.org/organisations\\_we\\_love](https://www.generationrent.org/organisations_we_love).

### **My personal experience with Landlord Licensing Schemes**

I have been directly, and negatively, affected by another council's landlord licensing scheme. We used to live in a furnished flat in central London, which we rented from a private landlord who we had an excellent relationship with. The few times we had any problems (e.g. with the boiler, the fridge or the washing machine), the landlord got on the case immediately. They religiously sent their trusted plumber every year to check on the gas boiler, update the gas safety certificate and – eventually – install a brand new boiler. While they did increase the rent three times during the 18 years of our tenancy, they kept it low (compared with market prices) because they knew that, if they increased it by too much, we would be unable to afford it and would have to move – and they would have lost excellent, reliable tenants.

Then the council decided to introduce a "Landlord Licensing Scheme". As it turned out, the licensing scheme became the direct cause for the end of our tenancy. For starters, it was purely online based. Our landlord was elderly and didn't have a computer or internet connection, meaning they were unable to complete the online registration or find out more about the scheme, as they had only received a letter telling them to register online. They then found out that they had to pay a higher "registration fee" because they had asked for the paper version of the form (and all relevant documents) to be sent to them by post. When they finally received the paper version, they were shocked by the amount of documentation that was required. Eventually they decided that they were unable to deal with this administrative nightmare and put the flat on the market.

As a result we had to find a new flat within only two months. Our new landlord has dispensed with the lettings agents' services as property manager and now manages the property themselves. We are both extremely happy with this outcome, and I doubt that anything could possibly be improved by our landlord signing up for your scheme.

### **Summary**

**I strongly object to the introduction of a "Landlord Licensing Scheme", for the following reasons:**

- There is no need to set up a "Landlord Licensing Scheme" to tackle unsafe property conditions and poor property management in the private rented sector. The council already has sufficient powers to tackle these issues.
- The scheme would do nothing to tackle unsafe property conditions in the homes of owner occupiers, who represent the majority of residents in the respective wards.
- There is no need to set up this scheme to tackle crime anti-social behaviour. The council, and the police, already have sufficient powers to tackle both issues.

- The council claims that there is a correlation between private renting and anti-social behaviour. There is no evidence to support this claim. The council's attempt to portray private tenants as the cause of crime and ASB is shameful.
- If the council wishes to help tenants, it should focus on preventing unfair evictions, implement a rent cap and actually deal with tenants' complaints.

Sincerely,

A resident and private tenant in Southend-on-Sea



**Email S, 19 November 2020 17:04**

Hi

It's so naïve to think that tenants will conform to any anti-social behaviour order within the tenancy agreement:-

They are supposed to pay the rent on time and DON'T

They are not supposed to have pets and DO

**So may I kindly ask please tell me why you think that they will adhere to this?**

I LOOK FORWARD TO HEARING FROM YOU. . . .

## Email from T 13 November 2020 17:24

**Subject:** Fwd: Proposed private landlord selective licensing

Dear Sir/Madam

Please see below and add this to your questionnaire that I have posted to you.

All I want recorded is that I as a private landlord believe the whole process of selective targeting of post codes with rules that apply to one area and not to another is completely unfair.

I have taken this matter up with the leader of Southend council and with my MP and will be seeking independent legal advice. He even agrees that they would have preferred to apply to all wards in Southend but the framing of the Housing Act makes that not possible. So the leader of Southend Council has confirmed this whole process is not their ideal solution and yet I am expected to agree with it.

A box that simply says strongly agree or disagree with a comments box is nowhere near sufficient for a process like this.

Please confirm that the entirety of my complaint is included as opposed to the tick box exercise with small comment box.

Please confirm

----- Forwarded message -----

Email From: T

Sent: 13 November 2020 13:45

To: council <[council@southend.gov.uk](mailto:council@southend.gov.uk)>

Subject: Proposed private landlord selective licensing

Dear Sir/Madam

I have completed your questionnaire on the above proposal.

I am not even sure legally you can penalise landlords in a certain area over another area.

I have a extremely well maintained property in what you designate as an "ASB" area I already will be paying close to 2000.00 pounds a year in service charge/ Ground rent have obtained the EICR report and have done everything to ensure my tenant has a first class flat to live in.

Now you are proposing to penalise me, if you go ahead with this selective penalisation based on a rough idea that a certain ward is worse than another I will not only consider a legal challenge I will arrange for Landlords to get together and contact the local press to publicise the unfairness of targeting all landlords on what you judge as a bad area.

How can it be right a landlord who is not as conscientious as myself who may treat tenants badly in a

“good area” will not be subject to paying the exorbitant figure you specify in registration and compliance fees and yet the tenant will be mistreated yet I am treating my tenants correctly but because of a post code am expected to pay.

In basic fairness this scheme must be applied to all wards of Southend and wouldn't that reduce the fees from landlords as there would be more contributions from the whole area. In effect you are discouraging reputable landlords from investing in the selective wards by arbitrarily introducing additional costs.

I expect your reply and if this proposal is not radically amended will take further action as I am pretty sure that penalising one group of people in one area under basic legal principles is entirely unjustifiable.

I await your response.  
Sent from my iPad

**Email from P Wed 30/12/2020 14:38**

Dear Sir/Madam

I am a single property Buy to Let Landlord.

I wonder if the licensing would be for people like me or those with 2 or more properties.?

It's just that with keeping in line with tenants needs I have frozen my rent since 2016.

I dont want to put the rent up but if Licensing goes ahead for me as a single property owner I would consider selling as costs for Gas Safety and now Electrical safety tests are eating into any profit already - please confirm if this could be set for those with multiple properties who use it as a business income only? I only kept my flat because it was so good I didnt want to sell it in case my son needs it one day. I rent it out for a small fee which covers the mortgage / costs / maintenance and management company. Leaving none left.

## P email 2-12-2020

Dear Mrs. Faith Addy

Many thanks for your e mail regarding the above.

I have lived all my life in Southend, my family lived in the area now known as Thorpe Bay for 200 years. I safely played in the streets around our house in Hartingdon Road in the 1940s. General housing conditions were very basic, so I know only too well the degradation our town has suffered due to anti-social behaviour and Landlords who have no care for their property or tenants. I have watched with growing sadness at successive authorities inability to stop or even curb this blight on our town. If the Council truly believe a license for Landlords would help, I would not object.

I do however, strongly object to zoning. Wherever experts have drawn lines on maps to separate this, from that, it is discrimination we all know the negative ramifications of that. I have been a Landlord in Southend since 1971. I always abide by a few maxims including keep property well maintained and carry out repairs immediately. Look after tenants, never allowing disruptive/anti social behaviour.

A note regarding your detailed missive, I did not actually suggest Landlords would be forced out, I asked why would a future Landlord with good intentions invest in a perceived "bad area". Also whoever considers a fee of £3,340 for one house and one Landlord not a "punative policy" must be on a different planet than I. I suppose I would get expert advice from the Council's Egg Sucking Department to tell me where I have been going wrong!

There is always room for improvement and everyone can make mistakes, even Southend Council.

I have given the proposals outlined in the Council's proposed licensing of private rented property.

In my personal view as an existing private landlord it would be much simpler and more effective for the Council to licence all private rented properties through authorized licensed letting agents.

In my view and experience this would be much more uncomplicated and more costable.

I consider the Council's own properties and HMO's are not without considerable problems at this present time and just as problematic as the private sector.

Please also find enclosed a document you may find of interest and very relevant.

Yours faithfully  
an existing private landlord.

## R letter 10-12-2020

10<sup>th</sup> December 2020

Dear Councillor

**Re: Selective Licensing**

As you are no doubt aware Southend on sea Borough Council is carrying out a consultation to introduce Selective Licensing in the borough.

I attach a number of questions you may wish to ask as even though the government are encouraging local authorities to take a common sense pragmatic approach to landlord licensing during these unprecedented times and financially worrying Southend Council is pushing ahead with this consultation. On 1<sup>st</sup> June the government published updated Coronavirus Guidance for landlords and tenants stating that local authorities should consider pausing the introduction of non-mandatory licensing schemes where this will allow limited resources to be focused where they are most needed.

Where schemes are in the process of being introduced but are not yet in force the government have advised local authorities to consider pausing the process completely wherever practicable until current restrictions are lifted and / or assessed that it is safe and reasonable to continue.

Extending relevant parts of the process such as the consultation period or the date of the commencement of the scheme to a more suitable time. Avoiding wherever possible, commencing a scheme unless its administration will not conflict with latest government advice regarding Covid-19 outbreak which is very much an ongoing matter of concern.

As a resident in the Milton Ward and a managing agent and landlord I have always worked with the council with any issues that may arise. I also personally own properties within the proposed Selective Licensing area and have worked out this will cost me £18,704.00 – HOW IS THIS APPROPRIATE OR FAIR?

The council has failed to advise residents and council tax payers that HMO accommodation and Social Housing will not be included within the Selective Licensing proposal. The council has also not advised landlords of this consultation and have only advised the residents including home-owners and renters – why have they not informed landlords of this proposed scheme??

As we enter high-unemployment and possibly large recession next year this cannot be a good time to implement such a scheme.

*Many landlords do not live in the selective licensing areas!*

### SELECTIVE LICENCING QUESTIONS:

1. How much money will the council collect considering they are charging £668 per property – they must have the statistics covering rental properties within the borough?
2. Most anti-social behaviour is caused from occupants of shared accommodation and not self-contained flats i.e., HMO's whereby furniture / rubbish is often left in front gardens and large groups of people causing excessive noise and disturbance. These HMO properties / Landlords are already licenced and therefore Selective Licensing will have no impact on these properties
3. Some other boroughs who previously instigated Selective Licensing have since cancelled the same due to this having had no proven impact on the area – why does Southend Council believe that this will have an impact on our town?
4. Landlords must provide Energy Performance Certificates, Gas Safety certificates, electrical condition reports, smoke alarms and carbon monoxide detectors prior to any property being let. This far exceeds any requirements for homeowners!
5. Why have the council used population statistics from 2011? Since this date, the population within the town centre has escalated greatly. Is this because when a local authority wish to introduce a Selective Licensing scheme that effects more than 20% of the geographical area of the local housing authority or more than 20% of the private rented homes in the local housing authority they must seek approval from the Secretary of State? The proposal appears biased and has factual and data inaccuracies.
6. Why are the questions contained within the Consultation Licensing form presented in a way that will make most people (in the whole Borough and not just the proposed Selective Licensing areas) respond in a way that will favour the councils Selective Licensing application? No mention that HMO's are already licenced, and that Selective Licensing will have no effect on these properties.
7. Do you not think Landlords will increase rents to cover this extra cost which will have a negative impact on those already struggling to pay rent.
8. Why are social housing providers not included in the scheme including all the high-rise blocks in the centre of the town where there are a high proportion of drug related issues.
9. A number of enforcement powers already exist – why do the council believe that Selective Licensing will improve this?
10. We understand Southend Council received 596 complaints relating to conditions of private rented homes in 2017 / 2018 but served just 12 improvement notices – please explain.
11. Why have Southend Council taken over 2 years to issue HMO Licenses? Do they have the resources / manpower to deal with this property?
12. Why has only a small area been selected as this seems unfair for many Landlords and maybe a borough wide Selective License should be considered at a considerably reduced cost to all Landlords?
13. Part of the Selective Licensing fee is to confirm that a Landlord has no criminal convictions therefore why would this element of the fee need to be charged each time assuming a Landlord owns more than one property?
14. On the information leaflet issued by Southend on Borough Council what support for landlords will be given and what budget has been set aside for landlords?
15. The council has already earmarked £50,000 to fund the launch of Selective Licensing which seems a high cost to push this through without giving the full facts i.e., HMO's will not be included.
16. Has the council considered that some mortgage lenders may not lend on properties that are in a Selective Licensing area assuming there must be deprivation, anti-social behaviour etc. this is why a full borough wide license should be considered.
17. The government are encouraging local authorities to take a common sense pragmatic approach to Landlord Licencing during these unprecedented times and that local authorities should consider pausing the introduction of non-mandatory licencing schemes.